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INSTITUTIONAL DYNAMICS AND IMPACT ON CAPITAL FORMATION:
EVIDENCE FROM NAMIBIA AND TANZANIA

BY

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Declaration

This thesis is submitted under the University of the Witwatersrand Regulations for the award of Doctor of Philosophy by research. I confirm that the work submitted is my own work and that appropriate credit has been given where reference has been made to the work of others.

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Signature: 

Date: 5 September, 2012

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Dedications

This is dedicated to my beloved grandparents, Henock and Antonia Iyambo, and to my father Bernhard Zaaruka and my mother Amalia Tjijorokisa.

Abstract

The purpose of this thesis is to examine the impact of institutions on fixed capital accumulation over time in two developing countries, both former German colonies: Namibia and Tanzania. This is motivated by two recent underpinning theories: the new institutional theory, which views institutions as fundamental determinants of economic outcomes and income variations among countries (the institutional hypothesis); and the theory of irreversible investment under uncertainty, which emphasis the impact of uncertainty on investment and capital-stock accumulation.

The first part of the thesis deals with the measurement and definitions of institutions. Empirical measures of political and economic institutions have been previously produced; however, most cover short periods of time. The short time span of the institutional indices makes them practical in cross-countries and panel studies, rather than in country-specific studies. The importance of country-specific studies is underscored by the notion that different historical paths led to different ways of organising economic activities and political structures, yielding the differences in economic development across countries. To overcome this challenge, this thesis presents a database on institutional measures for Namibia and Tanzania for the period 1884 to 2009. These indicators are used to assess the nature of political and economic institutional transformation from the colonial legacy to the modern outcome, using Namibia and Tanzania as a natural experiment.

Relying on archival information on formal laws in Namibia and Tanzania, the thesis constructs institutional indicators that are de jure in nature representing political freedom, property rights and judicial independence. These allow for the assessment of rules the game, rather than outcome. The formal codification of rights and freedoms is of little significance if those rights cannot be enforced. Therefore, the de facto element is also considered through the construction of separate indicators on political instability and judicial independence. A clear theoretical framework on each indicator provides the selection and combination of each sub-component. A meaningful composite measure is based on the techniques of principal components and factor analysis.

The thesis argues that despite changes in colonial identity in these countries (i.e. German, then British or South African), the broader framework of institutions remained partly the same, particularly in the case Namibia. It is true that, with the attainment of independence in Namibia, many institutions did change, particularly in the areas of political freedom, and judicial and political instability. Measures such as property rights, on the other hand, are slow to change. However, the overall long-lasting effect of these colonial institutions on economic outcomes remains an empirical question. Similarly, the case of Tanzania reflects the notion of institutional persistence as the country continued to undermine political freedom even after the attainment of independence. Tanzania is among the few countries which adopted a constitution without a bill of rights at independence.

Also, the new indicators for both countries, while covering a long time period (1884–2009), correlate fairly well with some of the widely used institutional indices produced by Freedom House and the Heritage Foundation.

The second part of thesis establishes the impact of institutional variables on capital accumulation in Namibia and Tanzania, applying the Johansen Vector Error Correction Model (VECM) technique. The data span for Namibia is from 1923 to 2009, and that for Tanzania is from 1946 to 2009. The findings highlight the importance of uncertainty (political instability) in explaining capital accumulation over time in Namibia. The results also show that other institutional variables are important in explaining uncertainty. Rising levels of property rights and political rights lower political instability in Namibia.

The empirical evidence for Tanzania indicates the importance of property rights in explaining capital accumulation over time. The most interesting result is the importance accorded to the judicial independence, which showed a positive correlation to gross domestic product (GDP). It is also shown that other institutional variables (property rights and political rights) have a positive correlation to judicial independence. A further finding is that uncertainty (political instability) has a negative effect on economic development over time in Tanzania.

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List of Acronyms

ADF	Augmented Dickey-Fuller
AIC	Akaike's Information Criteria
ARDL	Autoregressive Distributed Lag
BERI	Business Environment Risk Intelligence
CBS	Central Bureau of Statistics
EFW	Economic Freedoms in the World
FH	Freedom House
GDP	Gross Domestic Product
GFCF	Gross Fixed Capital Formation
GNI	Gross National Income
HF	Heritage Foundation
ICRG	International Country Risk Guide
IMF	International Monetary Fund
NIE	New Institutional Economics
OLS	Ordinary Least Squares
PP	Phillips–Perron
PSS	Pesaran, Shin and Smith
SA	South African
SADC	Southern African Development Community
SBC	Schwartz Bayesian criteria
SSA	Sub-Saharan Africa
TIC	Tanzania Investment Centre
UK	United Kingdom
VECM	Vector Error Correction Model

Chapter 1

1.1 Introduction

Explaining income variation across countries remains one of the most important research question in the field of economic growth and development. Recent debate has witnessed a shift away from purely looking at traditional (proximate) determinants of economic growth to considering deeper, fundamental (ultimate) determinants of growth. The proximate determinants are conventionally held to refer to capital accumulation, labour and technology, among others. The two most notable hypotheses being postulated as fundamental causes of economic growth are the geography and the institutional hypotheses.

The geography hypothesis underscores the force of nature as the main source of income variation across countries. It is argued that geography may determine the technology available to a society, particularly in agriculture, and this is linked to the country's location in facilitating the import of investment goods. Geography may also affect growth through the level of productivity because of fundamental geographic reasons, such as differences in productivity between temperate and tropical agriculture, and differences in endemic health conditions. The main contributions to this line of enquiry include the work of Myrdal (1968), Diamond (1997), Gallup et al. (1998) and Sachs (2001).

The institutional hypothesis, on the other hand (which constitutes the thrust of this thesis), focuses on humanly devised constraints (rules of the game) that influence long-term economic performance. One main assumption under the institutional hypothesis is that of institutional persistence. Several mechanisms that make the persistence of institutions plausible have been pointed out in the literature[1] and these, to a greater or less extent, can be related to the Namibia and Tanzania case studies. According to Acemoglu et al. (2001), in areas where Europeans showed strong settlement patterns, they created institutions characterised by strong protection of property rights and efficient enforcement of contracts. Acemoglu et al. (2001) argued that these

[1] See North (1997), Davis and North (1971), Acemoglu et al. (2002) and Acemoglu and Robinson (2006); among others.

institutions have persisted over time and they continue to influence economic performance after independence. La Porta et al. (1998) showed that the colonisers' identity, through the various judiciary institutions they set up, has an effect on current institutions across former colonies. This notion underscores the country's experience under the early period of colonisation as a fundamental key determinant of current income levels.

Namibia and Tanzania, like many other developing countries, find themselves at the heart of these debates. Although they might be distinct in many aspects of economic development, they share important commonalities. Both were colonised by Germany, and then handed over to other countries through the League of Nations mandate system. Article 22 of the Covenant of the League of Nations and the different mandate agreements led to the classification of dependent territories as A,[2] B and C mandates[3] according to the degree of involvement of the mandatory and the corresponding degree of self-governance (Matz, 2005). Tanzania was handed to Britain under a category B mandate,[4] while Namibia came under the mandate of the Union of South Africa under category C.[5] Of the German colonies in Africa; these were the only ones with sizeable German populations, which underscore the presence of significant European settlement in these countries.

Considerable work in the empirical growth literature has therefore placed institutions at the centre stage in explaining long-run economic growth[6] and its determinants. The studies that have recognised and made contributions in terms of institutional measurement within the domain of

[2] These included the former Ottoman Empire colonies and were deemed to "have reached a stage of self-determination where their existence as independent nations can be provisionally recognised subject to the rendering advice and assistance by a mandatory until such time as they are able to stand alone"(Matz,2005).
[3] The classification of the territories had far-reaching consequences on the outcome of the right to self-government of the territories.
[4] Comprised of German territories which were deemed to require a greater level of control by the mandatory power for preparations towards to self-determination.
[5] It is generally argued that Category C mandates come closest to colonial rule, due to the far-reaching powers of the mandatory (See Matz, 2005). According the mandatory agreement, the former German colonies were to be administered under the laws of the mandatory as integral portions of its territory.
[6] Notable in this contest has been the work of Acemoglu et al. (2001; 2004); Hall and Jones (1999); La Porta et al. (1998, 1999); Beck et al. (2001, 2006)

long-run economic growth include Fedderke et al. (2001); Knack and Keefer (1995); Gwartney and Lawson (1996); Kaufman et al. (1999); Jaggers and Marshall (1995) and Bollen (1980, 1990). This has led to the construction of a number of indicators that proxy institution in the form of institutional quality (enforcement of property rights), characteristics of political regimes (elections, constitutions, and executive powers), and political instability (riots, strikes, coups, civil wars).

As part of the broader debate on institutions and economic growth, some literature focuses on the link between institutions and capital accumulation. This is based on the fact that sustained economic growth, particularly in Africa, will require a substantial capital formation. The recent investment literature suggests that the economic and political instability suffered by many African countries can pose a formidable obstacle to the take-off of capital formation (Serven, 1997). Serven (1997) argues that a great part of weak investment performance in sub-Saharan Africa is explained by weak institutions, such as lack of property rights and political instability. If investment is costly or impossible to reverse, investors have an incentive to postpone commitment and wait for new information in order to avoid costly mistakes.

This value of waiting can be quite considerable in highly uncertain environments. As a consequence, uncertainty can become an investment deterrent, a notion that is supported by an increasing amount of empirical evidence. One of the arguments put forth through the institutional hypothesis is that the enforcement of property rights and contracts determines the incentives to invest in capital (North, 1981). Poorly enforced property rights create a wedge between the marginal product of capital and the rate of return that can be privately appropriated by investors.

The theoretical link between democratic institutions, economic performance and capital accumulation remains an empirical problem and thus has led to two main strands of theoretical analysis of the relationship with different outcomes. The first strand of literature emphasises that quality institutions might help promote economic growth (Przeworski and Limongi, 1993; Clague et al., 1996). The argument is that democracy might reduce uncertainty and raise private investment.

The counterargument states that broadened political participation might lead to deterioration in economic performance (Huntington, 1968; Olson, 1982). The main theoretical support is that broader participation might generate increased pressures for redistribution, thus lowering allocative efficiency.

Theoretically, there is a great deal of agreement in the definition of institutions and the institutional role in explaining economic development. However, there is much less agreement on how to measure institutions empirically (Glaeser et al., 2004; Arndt and Oman, 2006; Kurtz and Shrank, 2007(a) & 2007(b); Voigt, 2007), posing a challenge for empirical work. Firstly, long-run measures of institutions do not exist to permit rigorous tests of hypotheses such as institutional persistence, particularly for developing countries such as Namibia and, to some extent, Tanzania. Virtually all the evidence of the effect of institutions on economic performance is derived within a short-term framework[7] of analysis, thereby limiting the ability to test the long-run effect.

Secondly, new difficulties have arisen from the development of measures for institutions based on the judgments of ‘‘experts’’. According to Glaeser et al. (2004), the standard measures are outcomes, rather than the inputs required by the theory. This has led to measures of institutions used in the growth literature being volatile, uncorrelated with constitutional constraints, and closely correlated with short-run government policies and election outcomes.

Given the systematic divergence in growth per capita over a long period among many developing countries and the possibility of country heterogeneity,[8] long-time series are crucial for explaining the differences in growth trajectories evident in many developing countries. An alternative approach is to consider constructing long time series of indicators of a de jure and a de facto[9] nature to allow for testing the effect of institutions on countries' economic growth over time.

[7] Generally, the coverage is the late 1960s and 1970s, which typically overlap with the post-independence period of many developing countries.

[8] According to Durlauf et al. (2001), the approach of entering institutional quality measures in regression imposes strong homogeneity assumptions: all countries are assumed to have identical aggregate production functions. See also studies by Fedderke et al. (2011), Dawson (2007), and Minier (2007) that have addressed the parameter heterogeneity and institutions.

[9] This captures the enforcement component of the institution definition i.e. the realization on the ground.

Therefore the methodological challenges of measuring institutions are worth investigation, which is conducted in part one of this thesis.

Numerous studies that have focused on the effect of institutions on economic growth strongly support the indirect effect that institutions have on economic growth via the capital accumulation channel (Dawson, 2007). Given this indirect channel, there has been a growing interest in the determinants of capital formation in developing countries, in the light of the past poor performance that has characterised African economies in general. This thesis draws on the new investment theory and its nexus with new institutional economics, and the second part examines the effect of institutions on capital accumulation in Namibia and Tanzania.

1.2 Objectives of the study

The study has two key objectives. The first objective is to examine the nature of the institutional environment in Namibia and Tanzania for the period 1884 to 2009. This is done through the construction of institutional indicators, i.e. property rights, political rights and civil liberties, judicial independence and political instability. The aim is to explore whether it is possible to find institutional persistence from colonial times up to the present via institutional design. The distinct trajectory in colonial powers in Namibia and Tanzania constitutes a unique natural experiment. The thesis contributes to the existing growth empirics, in several ways. It delivers to growth economists useful datasets to assess how institutions shape economic development in Namibia and Tanzania.

The second objective is to examine the effect of institutions on capital accumulation in Namibia and Tanzania. This is based on country-specific time-series data. The focus on moving to country studies is motivated by the fact that in future, when put together; they might be able to provide guidance on which specific institutions have larger effects on the economy and what the overall effect might be.[10]

[10] See Woodruff (2006) for a general discussion on institution measurement at country level.

The two countries chosen are both members of the Southern African Development Community (SADC), and also coastal countries. However, their economic classification differs significantly, according to the World Bank. Namibia is classified as an upper-middle-income country, with a gross national income (GNI) per capita of $4270 in 2009, while Tanzania is a low-income country with a GNI per capita of $490 in 2009. However, they do have a few other things in common. Both were colonised by Germany, and then handed over through the League of Nations mandate system, Tanzania to Britain and Namibia to South Africa, before gaining their respective independence. Despite the differences in the political and economic trajectories of these two economies, they manage to attract almost equal shares of investment.

1.3 Organisation of the thesis

The thesis comprises of two main parts, accounting for seven chapters. The first chapter serves as the introduction.

The first main part of the thesis then focuses on the measurement and definitions of institutions as presented in chapter two which deals with the theoretical framework of constructing institutional indices. Chapter three then applies the theoretical framework and the construction of institutional indices for Namibia. Chapter four presents the construction of institutional indices for Tanzania. The period covered is 1884 to 2009 for both countries.

The second part of the thesis contribute to the literature by carrying out a detailed time-series study that explicitly introduces indicators of institutions and investment determinants in the context of a developing country, with Namibia and Tanzania as specific case studies. Chapter five present the capital formation literature review and the underlying theoretical and empirical models used in the thesis. Chapter six presents the institutional dynamics and capital formation analyses for Namibia and Tanzanian, respectively.

The thesis conclusion and policy recommendations are presented in chapter seven.

Chapter 2

2.0 Measuring Institutions

2.1 Introduction

The thesis evaluates the nature of institutions that characterise Namibia and Tanzania in the form of property rights, judiciary systems and political rights for the period 1884 to 2009. This is done through the construction of de jure and de facto indicators of property rights, political rights and civil liberties and judicial independence, using legislation as an indication of the rules of the game (see North, 1990). The lengthy time period is chosen following the suggestion by Kaufman et al. (2003) that the likelihood of observing significant changes in institutional variables substantially increases with the length of time under consideration (see for example Gwenhamo et al.,2008;Fedderke et al.,2001).

Namibia has been subjected to colonialism for a period of over a century, and in line with the foundations of New Institutional Economics[11], the colonial legacies are traceable in most institutional indicators, even after 18 years of independence. Namibia's colonial record starts first with German Empire's protectorate in 1884 which ended with defeat of Germany in the First World War in 1915. The 30 years of German colonial rule termination, initiated yet another new phase of colonial history with more profound and longer term effects under the South Africa, lasting for 75 years, before an independent Namibia in 1990.

Despite the similarities and continuities assumptions between the two colonial regimes, dissimilarities and discontinuities are observed in many laws[12] that were passed during the period under review. Namibia gained her independence from South Africa in 1990, with a government committed to multiparty democracy. The period from 1990 to 2009 is marked with peaceful and declared free and fair elections.

[11] See the work of North (1990); Acemoglu et al. (2001; 2002; 2004) and La Porta et al. (1998; 1999).
[12] These laws will be used to constitute formal measures of institutions in line with North's definition of 1990 in chapter 3 and 4.

Tanzania's, like Namibia colonial history started in 1884, when large tracks of land were granted to members of the Society for German Colonization (James, 1971). This led to the establishment of German Administration over Tanzania in 1891, which lasted until 1918, when Germany renounced all rights over her colonial possessions in favour of the Allied powers. Great Britain was given the right to administer Tanganyika in 1919, while the official mandate was conferred in 1922 by the League of Nations under category B. Tanzania mainland (Tanganyika) became independent from Britain in 1961, with a government committed to building a socialist society. The year 1964, saw a formation of the United Republic of Tanzania, between Tanzania mainland and Zanzibar.[13] Politically, Tanzania operated under a single-party system from 1965 until 1992, when a transition to multiparty democracy occurred.

The thesis traces the genesis and the developmental transformation of institutional framework in Namibia and Tanzania from 1884 to 2009, using various legislations promulgated during the period under review. The legal foundations of most the institutional indicators are traceable in many laws, in the form of acts, ordinances, proclamations and Administer General (AG) Proclamations because legislative authority over South West Africa and Tanganyika vested in various different offices and bodies at different points in the country's history.

Using the technique of principal components and factor analysis in aggregating the composite indicator, guided by the conceptual framework as developed by Fedderke et al. (2001), the thesis constructs institutional measures for Namibia and Tanzania separately. This thesis contributes to the growing institutions-growth empirical literature by providing alternative indices of political freedoms, property rights, judicial independence and political instability for Namibia and Tanzania for the period 1884-2009.

The relevant literature is reviewed, followed by the methodology which is employed for the construction of the present indices in chapter 3 and 4.

[13] The focus is on institutional framework as shown in mainland Tanzania. This is due to the fact that Zanzibar maintains a separate judiciary and a House of Representatives which acts as a Parliament for Zanzibar. Furthermore, the legal system in Zanzibar is derived from a distinct history from the mainland and combining these two systems would be overambitious and might result in unfair treatment to the subject under review.

2.2 Literature review

2.2.1 Theoretical framework

The recent debate has witnessed a shifting away from purely looking at traditional (proximate) determinants of economic growth to deeper fundamental (ultimate) determinants of growth.[14] Three strands of competing literature have emerged in the study of fundamental determinants of long-run economic growth. A first strand of literature argues that geography is the dominant factor in determining a sustained level of economic growth in the long run. According to the geography hypothesis, countries that are located in zones that are disadvantaged by the climate, quality of soil, or the prevalence of diseases, were originally and remained poorer than those favoured by geography. Cited papers in this literature include Myrdal (1968), Diamond (1997) Gallup, Sachs and Mellinger (1999), Sachs (2001, 2003), and Olsson and Hibbs (2005).

A second strand of literature emphasises participation in international trade as a growth-inducing factor leading to unconditional convergences of income between poor and rich countries. This is attributed to the work of Sachs and Warner (1995) and Frankel and Romer (1999).

A third strand of literature puts emphasis on the role of institutional changes as a critical determinant of long-run economic growth. Acknowledgment of the importance of institutions for economic development has been posited in the growth literature since the writing of Adam Smith, and more recently by Douglass North and Robert Thomas, who observed that factors such as capital accumulation or innovation "are not causes of growth: they are growth" (North & Thomas, 1973, p.2; North 1987, 1990). The theory has its roots in the work of Ronald Coase (1937, 1960), which connected neo-classical theory, transactions costs and institutions. Coase (1960) argued that zero transactions-cost conditions lead to a market solution that maximises income irrespective of the institutional arrangement. North (1987) argued, however, that transaction costs are pervasive and, as such, institutions matter.

[14] The proximate determinants are conventionally held to refer to capital accumulation, labour and technology, while ultimate determinants are institutions, legal and political systems, socio-cultural factors, demography and geography.

A useful framework for thinking about what institutions are and how they can best be measured is provided by North (1990). According to North (1990: 3) institutions are "human devised constraints that structure human interactions composed of formal (law and regulations) and informal (sanctions and customs) rules and they are devised by human beings to create order and reduce uncertainty in exchange". Three fundamental elements can be deduced from North's definition. Firstly, institutions consist of formal constraints devised by human beings to shape human interaction, such as the statute of laws, common laws and regulations. Secondly, the informal rules or unwritten rules (represented through culture, traditions, and norms of behaviour) are transmitted within the society and imposed by society itself. Thirdly, enforcement mechanisms play a crucial role in ensuring that institutions are effective in order to create order and reduce uncertainty.

Hall and Jones (1999)[15] revived the modelling of institutions as deeper determinants, with the recent institutions-versus-geography debate being accredited to the work of Acemoglu et al. (2001, 2002 &2005). The institutional hypothesis explains the long-run differences in economic development across countries by lasting differences in the quality of endogenously generated institutions. Acemoglu et al. (2002, 2005) argue that Europeans adopted very different colonisation policies in different colonies, resulting in diverse institutions today. In places where they could not settle due to high mortality rates, they tended to set up extractive institutions[16] to oppress the native population and facilitate the extraction of resources in the short run. In places where they faced low mortality rates, the colonisers set up favourable institutions for their own future benefits. These institutions persisted over time and tend to explain much of the differences in economic development across countries.

The broad aim of this review is to look closely at the measurement of institutions. The main motivation for this interest is that despite the emphasized importance of institutions, measuring of institutions remains a critical question.

[15] Earlier empirical studies linking institutions and economic performance include the work of Kormendi and Meguire (1985), Scully (1988), Barro (1996), and Engerman and Sokoloff (1997), among others.
[16] These institutions did not introduce protection for private property, nor did they provide check and balances against the government.

2.2.2 Empirical literature review

2.2.2.1 Measures of political and economic institutions

The way that empirical institutional measures are categorised is important for interpreting their effects. The institutional framework, as provided for in the definition by North (1990), comprises both formal and informal constraints. From this widely cited definition, good institutions are viewed as establishing an incentive structure that reduces uncertainty and promotes efficiency, hence contributing to improved economic performance.[17]

(i) Property rights indicators

In the literature, property rights are often argued to have the greatest effect on economic growth.[18] However, the quantification and operationalisation of property rights has proved to be challenging. Nevertheless, this has not stopped researchers from creating indices to measure property rights. The most frequently used indicator of property rights is provided in the compilations of the Economic Freedom Index by the Frazer Institute. According to Gwartney et al. (1996), an index of economic freedom should measure the extent to which legally acquired property is protected and individuals are engaged in voluntary transactions. This indicator was based initially on objective quantifiable variables in most of its components, in the form of macroeconomic indicators, while omitting key elements of law and regulations affecting economic freedom.

However, this has been corrected in Gwartney and Lawson (1997) and subsequent publication of the data sets for 1997-2000; additional components on legal and regulatory elements have been added to the data sets. Since 2000, the Fraser Institute has been looking at 38 components which are divided into five major components to rate the countries[19] on a scale of zero to ten on an annual basis. A score of ten means a country is the most free, and a score of zero means a

[17] See North (1991) for a general discussion.
[18] See North (1990, 1991) and North & Thomas (1973).
[19] By 2006, Tanzania was rated 79 of 141, with a score of 6.5.

country is the least free. Ratings are available for some countries since 1970 (at five-year intervals).

Another database that provided an indicator of property rights protection is the Heritage Foundation (see Johnson et al., 1995). The degree to which property rights are guaranteed is scored between one (very high) and five (nonexistent). Unlike the Fraser Institute, the property rights index is reported as a separate score and it is available annually since 1996.

A longer time run of property rights is provided by Fedderke et al. (2001) for South Africa dating back as far as 1950 and spanning up to 1997, while recently Gwenhamo et al. (2008) provided a similar index for Zimbabwe, Fedderke and Garlick (2010) for Malawi and Lourenço Jr et al. (2010) for Zambia. This is based on the legal statutes that govern immovable property.[20] For the purpose of this study, the key point to note is that all of the proxies used in constructing property rights are broadly defined,[21] while the focus of this study is specifically on the right to own immovable property and the qualities of these rights.

(ii) Political rights and civil liberties indicators

While the property rights indicators experience some deficiencies, recent developments in political economy have quantified political institutions. Despite the availability of several empirical measures of political institutions, there is however no universal agreement among scholars on the ways of empirically measuring political freedom or political democracy. Among the indices are quantitative measures of political rights and civil liberties produced by Freedom House on an annual basis since 1972, for almost 165 countries. The political rights measure looks at a number of issues that allow for degree of political competition and permit people to choose their leaders freely. The civil liberties measure on the other hand considers measures of the rule of law and judiciary independence. Each right is scaled from 1 (free) to 7 (not free).

[20] The concept of property rights is based on the Honore's definition of 'full liberal ownership' as adopted by Waldron (1988).
[21] Except for work by Fedderke et al. (2001) and Gwenhamo et al. (2008).

Another data set is the Polity IV database popularised by the work of Gurr (1975) and Jaggers and Gurr (1995). The main variables captured are institutionalised democracy, which signals the existence of institutions or procedures through which citizens can express their political preferences meaningfully, and the institutionalised autocracy index, which signals an autocratic state in which competitive political participation is suppressed or prohibited. These data are available for few independent states for the period 1800-2007.[22] Most countries are included in the sample upon attainment of independence status.

The Database of Political Institutions (DPI) compiled by the Development Research Group of the World Bank is among the latest developments on political indicators. Beck et al. (2001) present the database and demonstrate its use. The database covers around 177 countries for the period 1975-2006[23] and it contains a variety of variables mainly measuring aspects of the political system and electoral rules. The major categories are the chief executive variable, looking at years in office, the chief executive's party affiliation; electoral rules looking at the type of the voting system and whether or not elections are affected by fraud. Others are measures of the political party fractionalisation index, indices of checks and balances and federalism.

(iii) Judicial Independence Indicators

This is the least-considered indicator compared to the previously discussed indicators. This is partly due to the difficulties of measuring and defining the concept. A couple of researchers have published several criteria or variables the judiciary must meet, based on specific laws or procedures, to constitute judicial independence (La Porta et al., 2004; Feld and Voigt, 2003), while others focus mainly on the concept of the rule of law (Kaufmann et al.,2009) and courts' dispute-resolution mechanisms (Djankov et al., 2003).

The literature or measurements that focus on the number aspects of judicial institutions mostly agree that a truly independent judiciary has three main characteristics. First, there is clear

[22] Data on Tanzania are available from 1961 to 2007.
[23] Tanzania data are available from 1975 to 2006.

separation of the judicial system from other branches of government. Second, the judicial system is impartial; i.e. the judicial decisions are not influenced by the judge's personal interest in the outcome of the case. This also includes the idea that judges are not selected primarily because of their views, but on merit. Lastly, judicial decisions, once rendered, are respected.

The work of La Porta et al. (2004) covered the power and reach of the judicial system for 71 countries in a single database in 2004. The measure of judicial independence is based on two factors: (i) whether judges of the highest courts have life tenure, and (2) whether judicial decisions are a source of law.

Closest to the current work is Feld and Voigt (2003), which provided a de jure and de facto judiciary independence index that covered the 77 countries for the year 2000. The de jure indicator comprises twelve variables, including life tenure and appointment by professionals. The de facto indicator is composed of eight factors; including the average length of actual judicial services and how often laws relating to courts have been changed. These indicators are available cross-sectional only.

The work of Djankov et al. (2003), on the other hand, focuses on measures of dispute resolution in courts. The study provided the legal origin and legal formalism index for 109 countries for the year 2000. The legal formalism index is made up of seven broad aspects, including the use of professional judges as opposed to lay judges and self-representation, and the need to make written as opposed to oral arguments at various stages of the process.

The rule-of-law dimension which constituted one of the components of the governance indicators compiled by the World Bank (Kaufman, Kraay, & Mastruzzi, 2005, 2009, and Kaufman, Kraay, & Zoido-Lobatón, 1999) is a perceptions-based indicator. This captures the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police and the courts, as well as the likelihood of crime and violence. This variable is available annually for 2002 to 2008, although data exist for 1996, 1998 and 2000.

It is clear from the above discussion that most of the available indicators either represent a snapshot at a point in time or are cross-sectional in nature, thus limiting their usefulness in single-country time-series empirical work.

(iv) Political Instability Indicators

Many different variables have been employed to reflect the concept of political instability in literature. While there have been several attempts to construct a single indicator, there is no universal agreement among scholars given the dimensionality embodied in the concept of political instability. Therefore, a number of data sets exist which provide many indicators that can be used as possible proxies of political instability. This includes among others the Banks (1971) Cross-Polity-Time-series, which includes variables measuring civil protest (general strikes, riots and anti-governmental demonstrations), politically motivated aggression (guerrilla warfare, assassinations and purges) and political regime instability (coups d'état and revolutions). The data coverage for Namibia starts from 1980, while Tanzania is covered from 1961.

The other source of political instability proxy data are major rating services such the International Country Risk Guide (ICRG henceforth), which covers political risk evaluations. The commonly used indicators are government instability, internal conflicts, external conflict, military in politics, religious tensions and ethnic tension. The indicators are available on an annual basis starting from 1984.

The Database of Political Institutions by Beck et al. (2001) also offers indicators that can be used as political instability proxies. These include indicators such as polarisation and tenure of the chief executive. The database covers around 177 countries for the period 1975-2006.

2.2.3 A Framework for the evaluation of measurement of institutions

Recent debates question the manner in which institutions are defined and measured. According to Glaeser et al. (2004), the frequently used measures of institutions[24] do not abide by the definition of institutions as postulated by North (1990). Glaeser et al. (2004) argued that most of these indices do not capture the formal constraints. Instead, these variables tend to measure outcomes. As such they do not meet the criterion of permanency that North refers to.

Similarly the work of Arndt and Oman (2006), criticise the World Governance Indicators as developed by Kaufmann et al. (2003). Their arguments are that the World Governance indicators lack comparability over time. Kurtz and Shrank (2007) additionally express their concerns with regard to subjectivity in the construction of the World Governance Indicators. Their argument is that these indicators are perception-based measures of governance and highly correlated with each other.

As a way forward, the work of Voigt (2007: 23) makes a proposal on how to measure institutions empirically. According to Voigt (2007: 23), the measures of institutions should be precise, objective and take into account de jure as well as de facto elements. By doing so, the definition of North (2006) is embraced. The current study aligns itself with this argument and attempts to limit the common outlined problems by constructing measures that are de jure in nature based on formal legislation. These allow for the assessment of the rules of the game, rather than outcome. To minimise the influences of the authors' biases, multivariate techniques are used to compile the overall indices.[25] Separate de facto indicators are constructed using observable statistical data.

2.3 Methodology

The study employs techniques and methods that minimise problems as outlined in section 2.2.3 of this paper. Fedderke et al. (2001) argue that in order to avoid outcome-based measures and to develop measures in line with North's definition, detailed analysis of formal legislation ought to

[24] Glaeser et al. (2004) cite the International Country Risk Guide (ICRG), The World Governance indicators and Polity IV data sets.
[25] See the discussion in the next section on the techniques employed.

be used. This involves annual ratings of the status of rights based exclusively on formal legislation in constructing the de jure position in the evolution of property rights, political and civil liberties, and the judicial system. The application is to Namibia and Tanzania during the period 1884-2009. The formal codification of rights and freedoms is of little significance if those rights cannot be enforced. Therefore the study constructed defacto judicial independence indicator which are of relevance to political freedoms, property rights and judicial independence indices. Also, the political instability index also serves to separate the formal de jure political and civil rights from their de facto realization.

In view of Voigt's argument the study constructs two indices postulating the ex ante position or de facto position in the independence of the judiciary and political stability. To limit the subjectivity concerns, the actual outcomes of unwritten rules using statistical datasets are employed.

2.3.1 Technique and the method

The construction of indices is much like mathematical or computational models. According to Nardo et al. (2005), the robustness of any index depends as much on the craftsmanship of the modeller as on universally accepted scientific rules for encoding. The construction of indices generally involves four steps, i.e. the development of a theoretical framework; scaling and rating; weighting and aggregation; and verification (McGranahan et al., 1972), steps which are applied in this thesis.

2.3.1.1 Development of a clear theoretical framework

The first step in constructing the composite indicators is the development of a clear theoretical framework which provides the basis for the selection and combination of each sub-component into a meaningful composite measure. The following institutional indicators based on the accepted definitions are constructed for the period 1884-2009.

(i) Property rights indicators

Demsetz (1967) defines property rights as the liberty or permission to enjoy benefits of wealth while assuming the costs which the benefits entail. Our indicator is constructed with particular reference to immovable property. This covers all legislation passed that affects the issue of immovable property, with special reference to land rights in Namibia and Tanzania.

The ideal set of property rights will comprise of the following seven incidents, based on Honore's definition of "full liberal ownership" as adopted by Waldron (1988) and used by Gwenhamo et al. (2008).

1. Right to possess: The owner at his own discretion is allowed to posses and dispose of his property.
2. Right to use: An owner is allowed to use his/her property at his/her own discretion, without contradicting the law.
3. Right to manage: An owner is allowed to manage his/her property at his/her own discretion without interference – in case of leaseholds.
4. Right to capital: The right to use property in financial transactions, including as collateral. Also includes the freedom to use of property for sublet and rent to earn capital.
5. Right to security: Ownership is protected from expropriations and interference by others.
6. Incident of transmissibility: An owner can transfer the rights to a specific person. This includes the right to sell, or give away, or mortgage, or buy or inherit.
7. Liability to execution: An owner could be held liable for liabilities emanating from his property which injuriously affect others.

The understanding is that any interference with any of these bundles of rights may restrain the freedom that can be enjoyed from the property. The fact that in rural Africa a lot of land is not privately owned but rather people have user rights or may be allocated land by chiefs is not what most commonly used measures of the security of property rights are pickup up. This form of property rights is however important for economic incentives and development in Africa.

(ii) Political freedom

This measure is composed of indicators of political rights and civil liberties based on theoretical dimensions of a contemporary liberal democracy advanced by Jaggers and Gurr (1995). The political rights indicators are based on the degree to which individuals in a state have control over those who govern. The civil liberties indicator measures the rights of the individual, including freedom of expression, assembly, association and religion. The following key features are evaluated in accordance with the written laws:

1. Voting Rights/ Franchise: This refers to universal suffrage where the right to vote is not restricted by race, gender, belief, wealth or social status.
2. Freedom of Association: The right of individuals who share similar interests to come together and form organisations that represent their interests and views.
3. Freedom of Assembly: These uphold the right to peaceful assembly and limit the use of force by authorities in controlling the assemblies.
4. Freedom of Expression: The right to freedom of expression upholds the rights of all to express their views and opinions freely. This also includes media freedom.
5. Extension of Arbitrary Executive Power: This deals with constitutional provisions that limit and exclude the use of discriminatory discretionary powers vested in the executive in the applications of laws.
6. Freedom of Movement: The right of movement and the right to reside in an area of choice within the territorial boundaries of the relevant polity.
7. Independence of the judiciary and Legislature: This relates separation of power between the executive, judicial and legislative branches of government.
8. Academic Freedom: The right to freely teach or learn without unreasonable interference from authority. This also encompasses the right to access any institution of education irrespective of race, gender, belief, wealth or social status.
9. Government Secrecy/ indemnity: Deals with the applications of laws that act to conceal information to the public.
10. Due process of law: Is based on the principle that the government must respect all of the legal rights that are owed to a person according to law. This calls for protection of individual persons from the state.

11. Freedom of religion: Freedom of belief and freedom of worship.
12. Others: is a residual category that captures all rights and freedom relating to political freedom that cannot be classified under any of the specific dimensions. One key right relates to labour repression which was quite important during the colonial period of Namibia and Tanzania, and other African countries in general.

(iii) Judicial independence[26]

The judicial independence index reflects the independence enjoyed by legal enforcement institutions, here proxied by the judges, in passing their judgement (Feld et al., 2003). It is important to recognise the differences between the independence of the judiciary and political freedom as measured in this study. The Political freedom index has to do with whether or not political and civil rights are guaranteed, while judicial independence is about ensuring that citizens of that country are treated fairly and political and civil rights are protected. The judiciary plays an oversight role to ensure liberal democracy. To achieve the oversight role, the judicial independence relies on the principle that judges must decide cases fairly and impartially, relying only on the facts and the law.

The conceptual framework for assessing judicial independence captures the dynamics that encourage or impede judicial independence. This framework consists of two parts. The *first part* focuses on the influence of the legal foundations as provided for in the legislation over the judicial system. This forms the de jure measure of the judicial system. Based on Feld et al. (2003), these are summarised by five broad categories assessed to highlight the status of the de jure judicial independence.

1. Establishment of courts according to law (constitutional separations of power from arms of government in law).
2. Appointment procedures, including compensation

[26] For the purpose of this thesis the judicial independence and the independence of judiciary is used interchangeably to mean the same concept.

3. Impartiality: Judicial decisions are not influenced by the judge's personal interest in the outcome of the case. Judges selections are based primarily on merits and not on their political views or affiliations.
4. Access to Courts and Courts record: The people rely on courts to protect their access to justice and to protect their legal rights; public access to court information.
5. Judicial Accountability: Ability to do what is right, for instance, the ability of high courts to reverse erroneous lower court decisions on appeal. Enforcement of ethical standards and administrative rules between judges and their peers.

The *second part* examines the factual implementation of various unwritten constraints that influence and control the judiciary. This indicates the de facto indicator focusing on actual country experience. The approach is guided by the work of Feld et al. (2003), whose eight variables are summarised and accessed in these five broad categories for indication of the de facto judicial independence status.

- Number of judges removed from office (includes reassigned duties such as ambassadorship, etc.)
- Number of times the court's decision is over-ridden by other branches (Contempt of Court)
- Annual number of corrupt judicial officials who either are arrested or whose cases are dismissed or reprimanded. This reflects judicial corruption (bribery) which tends to undermine the impartiality of the judicial process within the court system.
- Number of harassed judicial personnel; this includes issues of verbal and physical attacks directed towards judges due to rulings that are unpopular with some cliques.
- Incidence of side-stepping the judiciary

(iv) Political instability:

This constitutes socio-political unrest and disturbance; the choice of the sub-components is guided by the work of Fedderke et al. (2001).

1. The number of politically motivated arrests per year
2. The number of political parties and publication banned per year

3. The number of declarations and renewals of states of emergencies per year
4. Incidents of war-related armed attacks on the general public per year
5. Township strikes and riots

2.3.1.1 Scaling and rating of indices[27]

According to Booysen (2002), scaling of indices entails the ordering of subcomponents/variables in some meaningful way. This entails the transformation of variables into ordinal scales. Accordingly, the scaling entails the reading of enacted legislation to translation into numbers. Relying on the scaling categories in Fedderke et al. (2001) as reference point, the conventional linear scaling transformation method[28] is applied. The composite indices are scaled from 0-100, with 100 representing an ideal state or type of rights being guaranteed under the respective composite index. In terms of the sub-components, the raw points are awarded using scales, which together aggregate to a hundred score.[29] This process entails some inter-subjective judgements.

(a) Property rights indicators

It is argued that property is a general term for the rules that govern people's access to and control of things like land, natural resources, the means of production and also inventions and other intellectual products. These systems of rules are assumed to exist in any society to avoid conflict and ensure cooperation, production and exchange. The common property arrangements are common property and private property and thus form core of this study. Guided by the normative ideal criteria, the rating instrument is based on list of seven incidences of rights as discussed in section 2.3.1.1.

[27] This is relevant for the construction of the de facto indicators due to the use of qualitative data.
[28] This requires points of reference relative to which indicators can be scaled (Drewnoski, 1972). A minimum and a maximum value are usually identified for each of the variables.
[29] The sub-component weights are adopted from the work of Gwenhamo et al. (2008), to maintain comparability in the datasets and these reflect the intersubjective judgements due to the independent verification by experts.

The initial weights are derived from the work of Gwenhamo et al. (2008), which followed a Delphi technique in soliciting the appropriate weights. The right to possess are scaled from 0-20, the right to use, right to capital, right to security and right to transmit are scaled from 0-15. The right to manage and liability to execution are scaled from 0-10 (see table 2.1). Based on the weights, the following rating criteria are developed within the paper to guide the readers on the outcome of the rating the pieces of legislation.

Table 2:1 Property rights index: scaling matrix

Description of scales	0-10	0-15	0-20	0-100
Full protection by law; all seven incidence of rights are protected.	10	14-15	18-20	88-100
Property protection by law; incidence of rights are protected.	8-9	11-13	15-17	75-87
Property protection by law; very few incidence of rights are not guaranteed	6-7	8-10	11-14	51-74
Partial protection of property rights by law; few incidence of rights are guaranteed, weak property expropriations	4-5	5-7	8-10	38-50
Minimal protection by law; Property expropriations are possible, unwritten customary laws, verbal treaties	2-3	2-4	3-7	13-37
All rights are curtailed; Properties are subject to full expropriation	0-1	0-1	0-2	0-12

Source: authors' breakdown

Scores are awarded to various sub-components using varying scales. A lower score indicates an enactment of legislation that curtails the liberty or permission to enjoy the property, while the opposite is true for a higher score. Summing[30] across all incidences gives a total score of 100, representing an ideal set of property rights being guaranteed under the respective tenure index.

(b) Political freedom

The rating instrument is based on the twelve key features covering both notions of political rights and civil liberties. Based on the work of Gwenhamo et al. (2008), eight of the sub-components were scaled from 0-10, yielding a total of 80 raw points. This category includes voting rights,

[30] Factor analysis technique was used in obtaining the component weights contribution into the single composite indicator.

freedom of association, freedom of assembly, freedom of expression, the extent of arbitrary executive power, government secrecy or indemnity, due process of law and freedom of movement.[31]

The other four categories were scaled from 0-5, and these include academic freedom, religious freedom, independence of the judiciary and the legislature[32] and a residual category. The following scaling matrix (see table 2.2), is compiled to guide the outcome of the rating instrument.

Table 2:2: Political freedom index: scaling matrix

Description of scales	0-5	0-10	0-100
Fully developed liberal democracy with recognitions of all rights	5	10	88-100
Entrenched procedural justice and freedom of association and assembly	4	8-9	75-87
Considerable scope for procedural justice; reasonable scope for political and social associations	3	6-7	51-74
Degree of arbitrariness in governmental action is more constrained	2	4-5	38-50
High degree of arbitrariness in state action; exclusive franchise arrangements and discriminative laws	1	2-3	13-37
Indicative of de jure totalitarian state	0	0-1	0-12

Source: authors' breakdown

Raw points are awarded to the various sub-components based on scales, whereby an increase in the score indicates a move toward contemporary liberal democracy, and a decrease in the in the score indicates a move away from the ideal.

(c) Judicial independence (de jure)

The rating instrument is based on five factors that serve as guiding principles in ensuring the formal (de jure) independence of the judiciary (see table 2.3). Due to the importance of both the high and lower courts in the countries under review, the five indicators were evaluated at both levels, thereby leading to ten sub-components. In this paper, these sub-components enjoy equal

[31] The freedom of movement is increased to a 10-point scale due to the importance of the right for Tanzania due to colonial history.

[32] It should be noted that in the paper of Gwenhamo et al. (2008), this sub-component was initially given a 10-point scale. The different treatment in this paper is to limit its influence on the specific indicator, to avoid a web of association with the judicial independence indicator.

weighting of 10-point scale. Summing across all sub-components[33] gives a total score of 100, representing an ideal state of judicial independence.

Table 2:3 Judicial independence (de jure) index: scaling matrix

Description of scales	0-10	0-100
A full Constitutional seal off the judicial from the influence of other branches. Fully structural protection of judicial personnel by the Constitution with regard to tenure and remuneration.	10	88-100
Constitutional separation of powers; Professional appointments of some judicial officers.	8-9	75-87
	6-7	51-74
Some degree of separation with some procedural and substantial restrictions on the judiciary embedded within the laws / Constitutions.	4-5	38-50
Limited separations between arms of government; No clear appointment procedures.	2-3	13-37
Lack of separations between arms of government; no proper function courts; lack of judicial professionals	0-1	0-12

Source: authors' breakdown

(d) Judicial independence (de facto)

This index relates to the de facto measure of the independence of the judiciary. The idea is to capture the quantitative information as reported through the variety of materials ranging from newspapers to political magazines as well as governmental and non-governmental reports.[34] Information on some sub-components is seldom available due to non-reporting of certain activities, particularly the sub-component judicial corruption. In order to standardise the sub-components, five scales are compiled in table 2.4.

[33] The importance of certain components over others in the overall composite index was determined through the use of factor analysis to minimise the authors' biases.

[34] The index is based on verifiable facts and not on subjective evaluations.

Table 2:4 Judicial independence index (de facto): scaling matrix

Subcomponents	Scaling Criteria
Annual number of judges reassigned	0 = None ; 1 = 1 case ; 2 = 2 Cases ; 3 = 3 cases ; 4 = more than 3 cases
Annual number of contempt of Court cases	0 = None ; 1 = 1 – 2 cases ; 2 = 3 to 4 cases; 3 = 5 to 6 cases 4 = more than 6 cases
Annual number of corrupt judicial officials cases (Arrested or dismissed or reprimanded)	0 = None ; 1 = 1 – 2 cases ; 2 = 3 to 4 cases; 3 = 5 to 6 cases 4 = more than 6 cases
Number of unfair verbal / physical attacks on Judicial officials	0 = None ; 1 = 1 case ; 2 = 2 Cases ; 3 = 3 cases ; 4 = more than 3 cases
Number of Incidence of side-stepping the judiciary (use of other informal courts)	0 = None ; 1 = 1 – 2 times ; 2 = 3 to 4 times ; 3 = 5 to 6 times; 4 = more than 6 times

Source: authors' breakdown

(e) Political instability

Some episodes of instability have effects that are disproportionate to their fatalities. In order to standardise the variables, five scales for recording annual magnitudes for each variable are discussed in table 2.5.

Table 2:5 Political instability index: scaling matrix

Subcomponents	Scaling Criteria
Annual number of political fatalities including genocides	0 = less than 100 fatalities ; 1 = 100 – 1000 fatalities ; 2 = 1000 to 5000 fatalities ; 3 = 5 000 to 10 000 fatalities ; 4 = more than 10 000 fatalities
Annual number of politically motivated arrest	0 = less than 10 arrest; 1 = 10 – 25 arrest ; 2 = 25 to 50 arrest ; 3 = 50 to 100 arrest ; 4 = more than 100 arrest
Township strikes and riots (number of demonstrators involved)	0 = less than 100 demonstrators; 1 = 100 – 500 demonstrators ; 2 = 500 to 1000 demonstrators; 3 = 1000 to 5000 demonstrators; 4 = more than 5 000 demonstrators;
Number of political parties and publications banned per year	0 = None ; 1 = 1 – 2 parties or publications ; 2 = 3 to 4 parties or publications; 3 = 5 to 6 parties or publications ; 4 = more than 6 parties or publications
Number of declarations and renewals of state of emergencies per year	0 = None ; 1 = 1 – 2 times ; 2 = 3 to 4 times ; 3 = 5 to 6 times; 4 = more than 6 times

Source: authors' breakdown

2.3.1.3 Weighting and aggregation of index components

The study relies on multivariate techniques by applying principal component analysis and factor analysis, which present an empirical and relatively more objective option for weight selection (Ram, 1982; Slottjie, 1991). Principal component analysis is applied to the de facto indicators while the factor analysis is used in obtaining the components weights contribution into the single composite indicator for all de jure indicators. The two concepts are related but not identical.

In the principal components analysis, the components are weighted with the proportion of variance in the original set of variables explained by the first principal component of that particular component. According to Ram (1982), the technique has the advantage of determining the set of weights that explains the largest variation in the original component.

Factor analysis assigns the largest weights to the indicators that have the largest variation, independently of prior views on their economic importance. These properties are particularly desirable in order to minimise the inherent subjectivity in the construction of indicators. In this way, the authors' biases are kept to a minimum.

2.3.1.4 Checking of robustness and validity of the composite indices

Composite indices also need to be validated. The common used measure of validity is the use of statistical correlation with other such measures[35]. The thesis relies on the Spearman's rank correlation coefficient, which is appropriate for ordinal measures.

2.3.2 Data sources

The data used to construct the de jure institutional measures relied mainly on primary sources. Detailed pieces of legislation with regard to land, political rights and civil liberties were obtained from the Colonial Gazette and Statutes of Tanzania and Namibia respectively. This was mainly

[35] See Arat (1991) and Fedderke et al. (2001), among others.

obtained from the National Libraries and National Archives of the two countries under review and cover mainly period of colonial authority. The post-independent period, pieces of legislations are obtainable from the Tanzanian and the Namibian Parliamentary data bases respectively.

The construction of de facto indicators, i.e. political instability and independence of judiciary, relied on archival materials ranging from newspapers to political magazines. The other sources of such information include the human rights groups and NGO reports both in Tanzania and Namibia.

2.3.3 Anticipated caveats

The thesis recognises a number of caveats that are inherent in long-period studies such as this one, particularly when it involves the development of composite indicators and data gathering.

Coherence and continuity: The period under review is characterised by major changes such as changes in colonial powers, World War I and II, and a protracted period of socialism for Tanzania and a suppressive apartheid era in Namibia. The issue of commensurability arises given the longer period to be covered, particularly given the dynamic changes in the socio-economic and political situations that underscore these countries.

Reliability: This underscores the issues of conformity in interpretation of historical meaning of different rights. Of particular concern to Namibia is the dichotomy in the application and interpretation of rights that was very markedly different for different racial structures[36].

[36] See Fedderke et al. (2001) on the exposition of this issue, and Namibia being a colony and latter incorporated as a fifth province into South Africa was subjected to some extent to the laws and interest of the former South Africa regime.

Chapter 3

3. Indicators of political and economic institution in Namibia: 1884-2009

3.0 Introduction

This chapter presents the interpretation of property rights, political freedoms and political instability indices for Namibia for the period 1884 to 2009.

3.1 Property rights in Namibia

The nature of property rights in Namibia has evolved over a number of years and is presently an outcome of the land tenure system implemented during both the German and South African colonial times; and as inherited and partly modified after independence in 1990. Namibia is largely a pastoral country; only relatively small areas in the north are suitable for crops. The pre-colonial period was characterized by traditional pastoral systems and individual property rights on land were almost non-existent. The pastoralists and their stock ranged widely over the semi-arid rangelands in response to the varying availability of water and grazing. In the pastoral system, most chiefdoms or political institutions were loosely based on the number of their stock and their ability to defeat neighbouring tribes to gain water and grazing rather than the need to assign land to individual or families within their own tribes (Werner, 1998). The Ovambo kingdoms in the northern part of Namibia, however, enjoyed centralized decision and resource allocation powers.

The concept of non-freehold tenure sometimes referred to as customary land rights, applied to black owned communal and resettlement land. Many conflicting views exist on the existence of land ownership during the pre-colonial period and in Africa in general. Based on the discussion in James et al (1973), the study assumes the existence of rights of occupancy in the pre-colonial period as part of African traditional culture exercised in the unwritten customary laws. Due to a lack of unwritten laws, customary land ownership was and it is still regarded as an inferior form of ownership in many parts of Africa (Peter, 1997). For instance the lack of written title deeds

and customary laws in Africa marginalized the majority of the blacks during the colonial regime, with the passing of formal laws, due to difficulties in proving individual ownership.

On the other hand the colonial period between 1884 and 1990 was characterized by measures of ensuring secure property rights under the freehold tenure system, mainly granted to whites and transnational corporations to the detriment of the blacks or non-whites of Namibia. A number of restrictions of rights to immovable property in Namibia were instituted along racial lines and legalised under a variety of laws. This created dualism in land ownership as expressed in the four main systems of land tenure, freeholds (private), state land, non free hold (customary land) and leaseholds systems. The post independence land rights ownership in Namibia reflects the colonial tenure system.

3.1.1 Outcomes of rating

Due to differences in the nature of tenure systems in Namibia, the rights held were not of the same character. As such the liberty or permit to enjoy benefits, were different across the tenure systems. Therefore, the development of a single property rights indicator would not be reflective of the limitations to property rights enjoyed by different holders. The paper therefore first introduces two property rights indices reflecting the freehold and non-freehold tenure systems, respectively. Then, a composite based on this two tenure system is constructed taking into account the methodological difficulties involved in creating a single index in such environment. The work of Fedderke et al (2001) and Gwenhamo et al (2008), suggest an approach to this problem, by creating a single property right indicator based on the proportions of land available to the different tenure systems, and or the population distribution between racial groupings.

To maintain comparability between the indices in this thesis with the above-mentioned studies, three composite indices of property rights were constructed. The first was based on proportions of land available to the two tenure systems; the second was the population distribution between different racial groupings. The final was based on applying the factor analysis techniques to sub-components under two tenure systems to obtain an objective weight contribution of each component. The resulting scores by sub-components were aggregated into a single property rights indicator by weighting each sub-component according to its relative contribution.

Figure 3-1 Sub-components of property rights index (freehold tenure):1884-2009

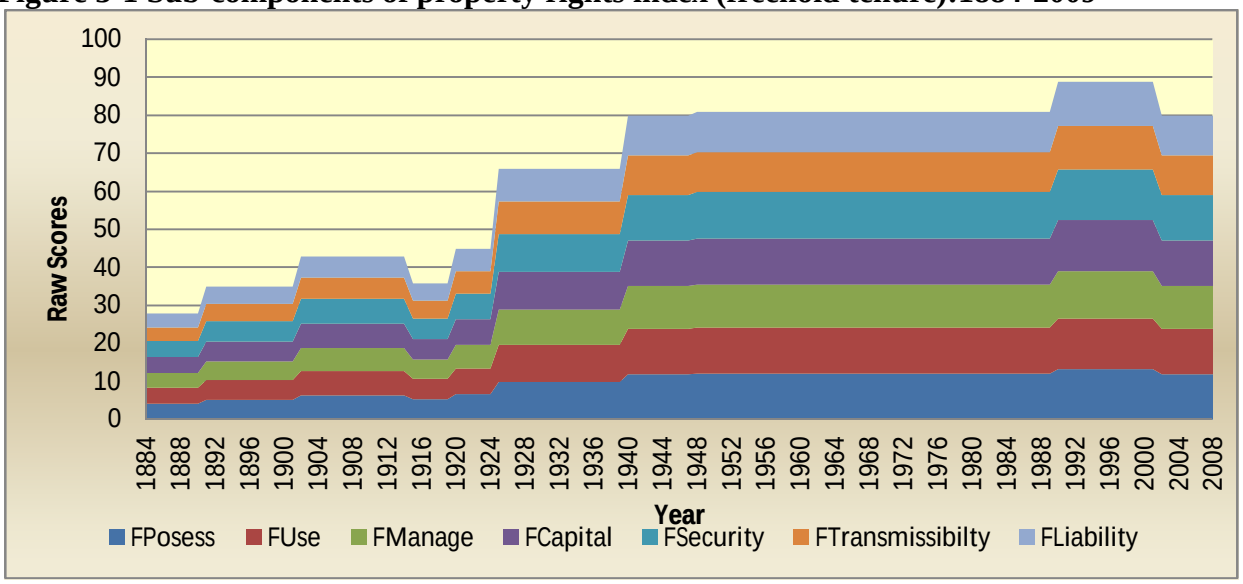
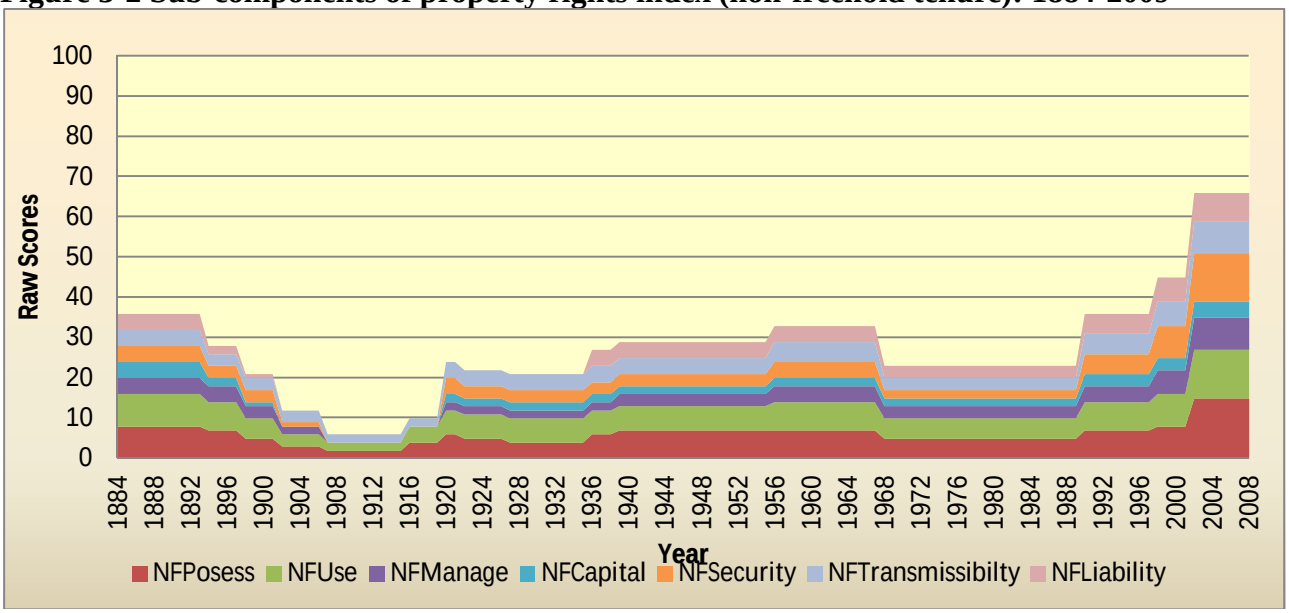


Figure 3.1 presents the sub-components of freehold tenure system, whereas the resulting aggregated freehold tenure index is shown by figure 3.3 below. The non-freehold tenure system property rights index sub-components are plotted in figure 3.2. The graph is cumulative showing how each of the components contributes to the overall index as plotted in figure 3.3.

Figure 3-2 Sub-components of property rights index (non-freehold tenure): 1884-2009



The discussion below presents the two tenure system indices (freehold and non-freehold) before reporting the composite indicator results for Namibia.

3.1.2 Freehold versus Non-freehold tenure system in Namibia

The differences in the qualities of rights in freehold against non-freehold tenure system was introduced with the application of formal laws in 1891 (figure 3.3). The passing of these formal laws guaranteed protection of individual property for European settlers to the detriment of the local black Africans. Furthermore, legal instruments were enacted to provide colonial authorities with properties that in turn were allotted and registered under ownership of the white minority. For example, the Land Acquisition of Real Estate's Imperial Ordinance of 1 September 1895 declared all land as crown land, and vested in the German Empire.

The period between 1904 and 1915 marked the beginning of the significant persistent divergence in security of rights in the freehold as compared to non-freehold tenure system. At least two reasons can explain this observed trend: the type of ownership under the two tenure system and the massive land expropriations that took place during this period. First, the written legislation such as the Land Rights Ordinance of the Emperor in 1902 and Land Rights Ordinance of the Governor of 1910 conferred legal ownership only to white settlers through land titles (deeds) registration, while blacks were served with verbal occupational rights. Second, the passing of the Sequestration of Natives Movable and Fixed Property Imperial Order of 1905 (December 26), which was applied between 1905 to 1908 fuelled land expropriations owned by the black Africans in the greater part of Namibia which later became to be known as the Police zone. The legislation made provisions for full expropriation of all land under the occupation of all blacks who took part in the uprising in Namibia.[37] Accordingly, under the German law for the period between 1907 and 1915, blacks in the southern and central parts of Namibia were prohibited from occupying land and owning large live-stock.

The divergences in the security of rights in freehold and non-freehold tenure system continued throughout the entire period of South African occupation from 1920 until 1990. This was mainly due to the fact that the new legislation passed during the period strengthened all types of ownership rights under the freehold tenure system. The marginal improvements observed in the

[37] The uprising culminated in genocide between 1904 and 1908 in Namibia.

non-freehold tenure system were merely in the form of occupational rights which were minimally restored for the landless blacks' class which was a product of the German administration.

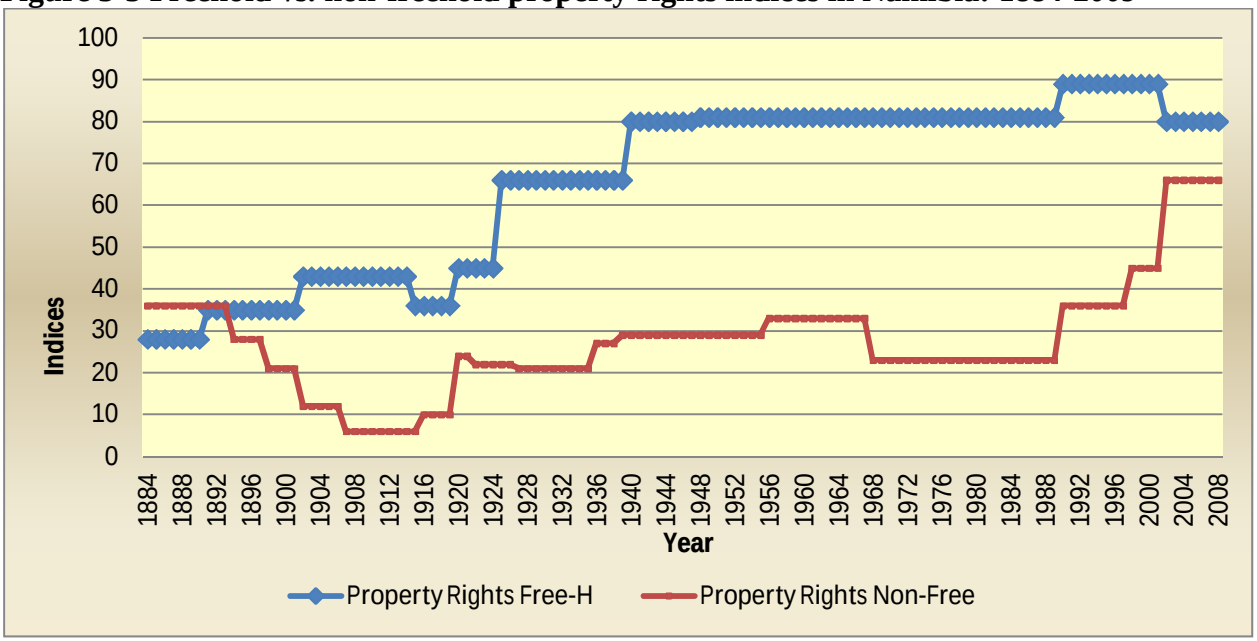
The initial period of South African occupation between 1920 and 1924, marked a disproportional improvement in both tenure systems. The freehold tenure system index was strengthened with the introduction of legislation such as the South African Land Settlement Act of 1912 as amended in 1917 and in 1920. Among other things, the Land Settlement Proclamation 14 of 1920, made provision for the establishment of Land Board in order to strengthen and manage allocations of farms under the free hold tenure system. This was followed by the establishment of a Land Bank in 1921, which provided farmers under the freehold tenure system with much needed capital to invest in their operations. This led to further consolidation in the structure of land ownership in the freehold tenure.

The 1920s saw a slight improvement in the non-freehold tenure index due to the Crown Land Disposal Proclamation 13 of 1920, which made provision for the proclamation of native reserve for the use of land-less black African. The South African regime only conferred occupational rights on the black Africans and confined their land holding to the designated black reserve or communal land. The rights enjoyed under this system were very limited as compared to the freehold tenure system. This was observed through regulation such as the Native Reserve regulation of 1924 which imposed a limitation on the number of stock to be owned and grazing fees on all stock grazed in the reserve or communal land.

Between 1926 and 1948 the legal framework concentrated on the improvements and security of rights under the free hold tenure system with minimal or no focus on non freehold tenure system. Among others things, the period between 1926 and 1936 witness the consolidation of laws that enhances the financial assistance in land settlement under the freehold tenure system and further protection of title rights thereby improving the security of property rights under this system. Of particular importance is the Land settlement Consolidation and Amendment Proclamation no.310 of 1927, which made provision for the establishment of the land board with a view of acquiring more land for allotments to overseas applicants on behalf of the government. The Farmer's

Special Relief Proclamation no.18 of 1934 provided for advances of livestock to certain farmers affected by drought to enable them to continue or resume farming.

Figure 3-3 Freehold vs. non-freehold property rights indices in Namibia: 1884-2009



The period between 1940 and 1948 saw further improvements in the rights to occupy and ownership under the freehold with enactment of the Land Settlement Act of 1940 and Land Settlement Proclamation no.310 of 1948. These two pieces of legislation made provisions for the granting of temporary grazing licenses to more settlers and conversion of the temporary grazing licenses into full ownership of the land, respectively. By the end of this period, almost all crown land in Namibia had been allocated, and the property rights were firmly secured under the freehold tenure system.

Given that the majority of black Africans were confined to the newly created reserves or communal land during the early 1920s, the quality of rights in non-freehold tenure remained largely unchanged during the entire period of the South African colonial regime. The marginal improvements noticeable in 1936, 1939 and 1956 are merely increases in the coverage of occupational rights additional land added to native reserve through the Development Trust Act 18 of 1936; Native Trust Proclamation No.23 of 1939 and Native Reserve Ordinance No.4 of 1956. The year 1968 witnessed the introduction of the homeland policy in Namibia through the

adoption of the Development of Self Government for Native Nations Act no. 54 of 1968[38]. The Act made provision of segregation based on racial and ethnic groupings and a large number of blacks were to be relocated from their ancestral land to newly formed homelands. This marked a second land expropriation in the history of Namibia, although less severe than that of 1905 to 1908. This concluded most pertained issues regarding property rights under the South African regime, no major legislations were issued until 1990.

The adoption of the Republic Constitution in 1990, which guarantees protection of all rights including property rights, improved the status of both tenure systems. The year 2002 marked a changed in the two tenure system as measures of addressing the persistent divergences were initiated. Fundamental change in the formal structure of rights in the non-freehold tenure system came in 2002, twelve years after independence with the passing of the Communal Land Reform Act no. 5 of 2002. For the first time in the history of Namibia recognizable ownership under customary land rights is documented and acknowledged and extended for the natural life of the holder. On the other hand, the right to own and security under freehold tenure were threatened in 2002 with the buying of land for resettlement purposes from foreign absentee landlord under the Agricultural (Commercial land reform) Act no. 13 of 2002.

3.1.3 Interpretations of the property rights in Namibia

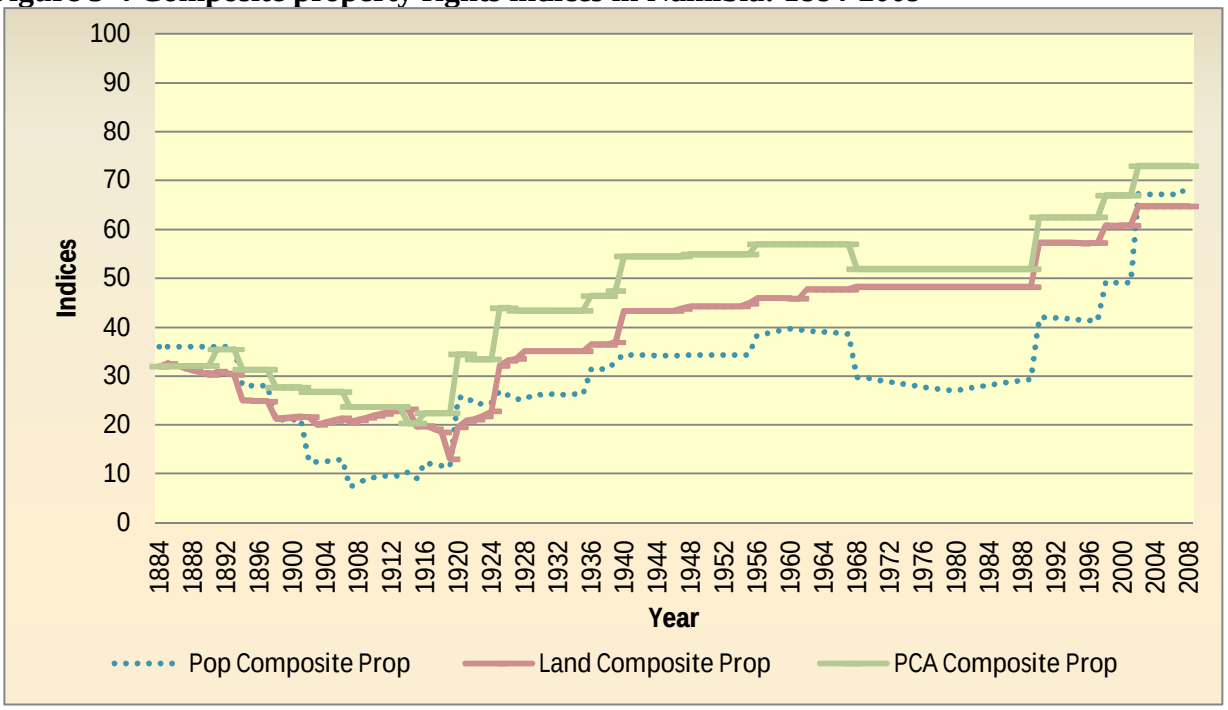
This review is based on the composite property index (PCA Composite prop) derived using factor analysis due to its objectivity, which is plotted below (figure 3.4). The trend in the quality of property rights index (PCA Composite prop) in Namibia emerge from a very low protection based on informally written rules, governing the interaction between blacks and whites. Securing of property rights were ensured through customary laws under which Chiefs traded with the European settlers. The period 1890-1900 signified the notable change in the property rights index, as Germans settlers intensified land acquisition through the implementation of formal laws in favour of white settlers.

[38] This based on the recommendation of the Odendaal Commission which was published in 1964.

Deterioration in the status of property rights occurred between the periods 1904 to 1908, the period 1915-1918, and the period 1968 to 1990 (figure 3.4). Although Namibia remained under repressive occupation until 1990, the process of land expropriations from the blacks was virtually concluded during the period between 1904 to 1908 under the following laws: Expropriation of Lands and Arbitration Clauses Proclamation of 1902; Land Expropriation Ordinance of the Emperor of 1903; The Expropriation of land of dissident tribes, Imperial Ordinance of 1905 and Crown Land Disposal Ordinance of the Imperial Chancellor of 1907.

All these legislations made provisions for full expropriations of all land under the occupation of all blacks who took part in the uprising which led to a genocide war in Namibia. Accordingly, under the German law for the period between 1907 and 1915 blacks or blacks in southern and central part of Namibia were prohibited from occupying land and owning large live-stock.

Figure 3-4 Composite property rights indices in Namibia: 1884-2009



The decline of the composite property index in 1915-1918 was due to the outbreak of World War I of 1914, which caused a structural break in property rights as landlords mainly from the freehold tenure system renounced their titles rights in favour of new South African landlords.

The period from the 1920-1960s saw an improvement in the status of property rights index, more pronounced for freehold tenure system and to a lesser extent in the non-freehold system. The sections on the two tenureship systems already discussed the reason behind the nature of this institutional framework. It should be noted, however, that the African blacks under the South African administration were allocated limited occupational rights on smaller sizes of land. This, however, was an improvement compared to the situation of non-occupational rights that prevailed in southern and central part of Namibia after the genocide in 1908 until 1920.

Between 1968 and1990, the property rights index deteriorated, mainly due to the introduction of homeland policy through the adoption of the Development of Self Government for Native Nations Act no. 54 of 1968. The Act made provision of segregation based on racial and ethnic groupings. The realisation of independence in Namibia in 1990 brought hope to many Namibians with regard to restoration of land ownership rights. Notable improvements are realised in 1996 and 2002 with the introduction of the land resettlement programme and communal land reform, respectively.

In summary, the legal land instruments passed during the Namibian colonial period from 1884 to 1990, served two purposes i.e. provision of properties and protection of already earned or acquired properties by the white settlers. The process of land expropriations from the blacks was completed in the first stage of the colonial period under the German regime and has persisted until today. The South Africans upheld the institutional framework by enclosing the blacks into smaller sizes of pieces of land known as the reserve or homelands. Finally, the Namibian democratic government is making rather a slow progress in addressing the disparity in land or property rights distribution, although they are generally firmly secured under the law.

3.2 Political freedom in Namibia

In large parts of Africa and especially among the pastoralist society of Namibia, the pre-colonial political systems were highly decentralized with law-making, social control and allocation of resources carried out by local entities such as lineage groupings and homestead communities. According to Legesse (2000; 1973), this type of system normally guaranteed consensual

decision-making arrangements due to its ability to curb the concentration of power in an institution or a person. Likewise, in other parts of Namibia as in Africa, centralization and concentration of power in the hands of the leaders also existed.

The advent of colonial authority in Namibia in 1884 introduced a highly organised form of government that exerted foreign colonial authority over the black Africans. The German colonial period was marked by forcible restructuring of political and social relations by means of legalised dispossession of property (Bley, 1971) and the creation of labour coercive system through the introduction of pass laws and curfews.

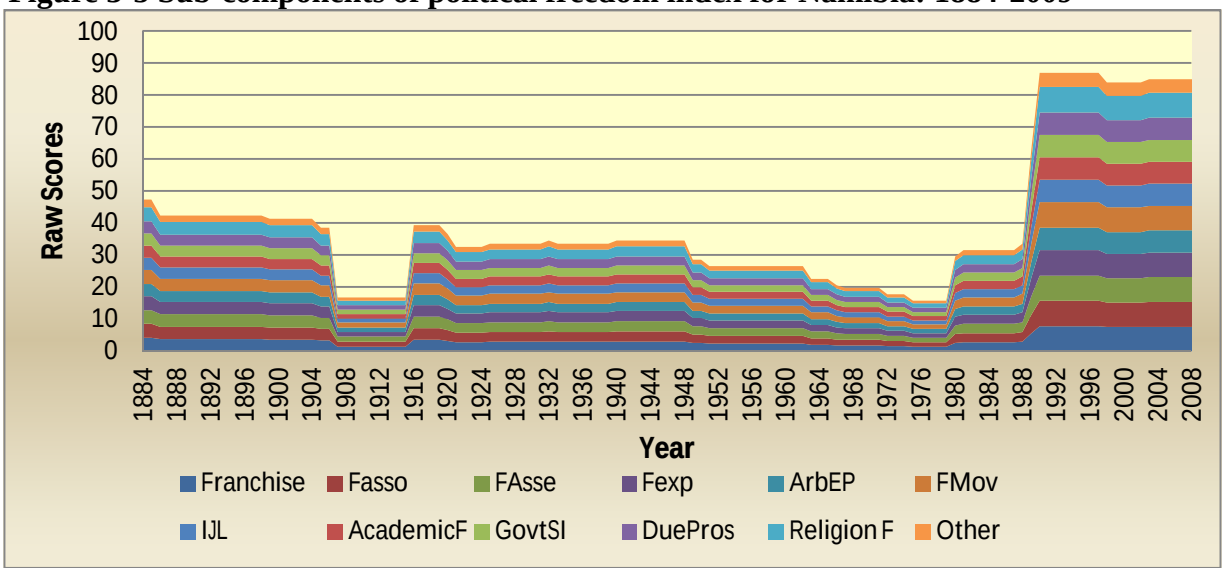
The South African administration retained the repressive general framework of the German forced labour system with minor modifications. Upon confirmation of the mandate, the South African regime introduced a more rigorous system of control which lasted until the late 1980s. The major focus was on the control of movement of all blacks in the territory and the control of blacks in urban areas. With the introduction of the apartheid regime in South Africa in 1948, racial segregation intensified whereby fundamental political and civil rights of the black Africans were curtailed and minority rule by whites was maintained until 1990 when Namibia gained its independence.

Due to the long period under review by this study, issues of commensurability arise. From 1884 to 2009, Namibia went through various complex phases of political regimes, and it is thus impossible to assume a unified political system. Important synthetic observations can nevertheless be made from the observed data.

3.2.1 Outcome of rating

The three dimensions of contemporary democracy as measured by the Freedom House indices are evaluated as a single index in the study. Unlike other indices in this arena, this index is based on the formal rules and as such does not establish the de facto position of the freedoms as specified within the legislation.

Figure 3-5 Sub-components of political freedom index for Namibia: 1884-2009

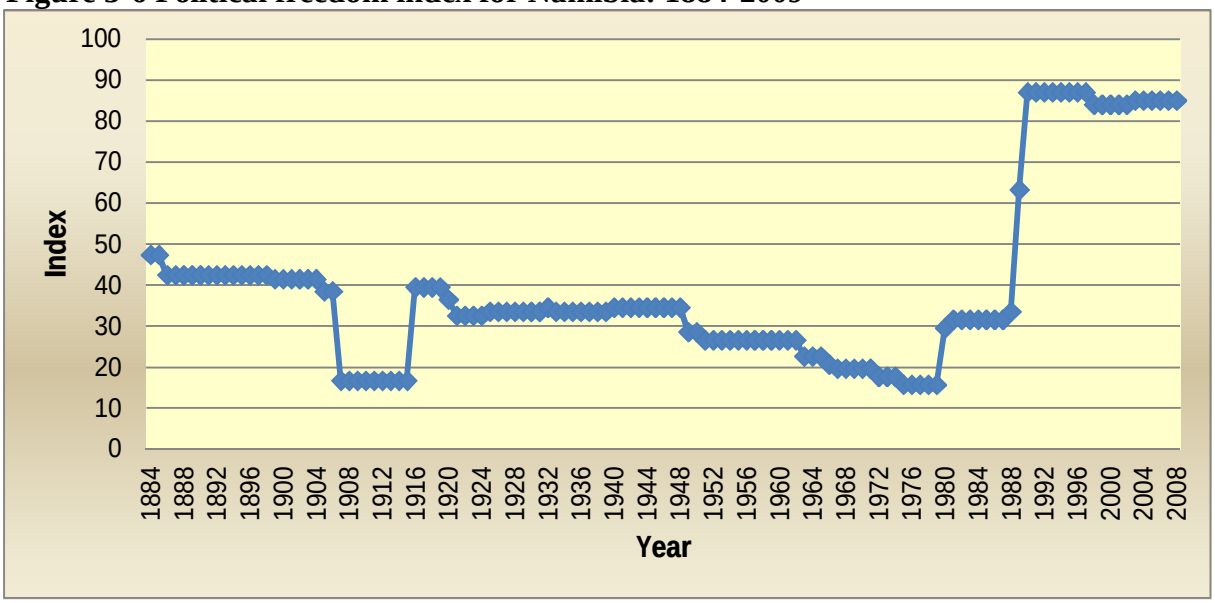


The sub-components weights were adopted from the work of Gwenhamo et al (2008) and the outcome of the sub-components ratings are depicted in figure 3.5. The discussion below presents the composite political freedom index as shown in figure 3.6. The aggregation into a single composite was accomplished by the use of principal factor analysis technique.

3.2.2 Interpretations of the political freedom in Namibia

During the period under review, Namibia experienced a steady decline in the quality of political freedoms from 1896 with the proclamation of the Criminal Jurisdiction over the Natives Ordinance of the Imperial Chancellor. This decline is witnessed throughout until 1980, when slight improvements in terms of formal structure of the law were experienced. The marked improvement in 1989 is a result of the first democratic general election held on 11 November. The major overall improvements are witness in 1990 with the adoption of the Namibian Constitution of 1990 which provides for multiparty democracy and a bill of rights.

Figure 3-6 Political freedom index for Namibia: 1884-2009



The year 1899, witnessed the establishment of the first self-government for the white settlers and henceforth set the legal basis that impinged on fundamental political and civil rights of black Africans for the next century. The deterioration in the institutional framework reflected the notions of sovereignty derived from the European system of states and a direct exploitation of black Africans.

The first severe deterioration in the quality of political and civil rights is observed between 1902 and 1915 (figure 3.6). This was manifested through the legislation of the Emigration of the Natives Ordinance of 1902 and Pass Law Ordinance of 1907, which restricted the movements of the blacks in Namibia. The Pass Law Ordinance of 1907, among others stipulated that all blacks above the age of seven should be registered and carry a metal badge around the neck as a pass. A provision was made for any white person to arrest a pass-less black man and handover to the police. The same period witnessed repressive labour system stifling personal freedom of the blacks with the adoption of the Contracts of Service Ordinance of the Governor of 1907. The ordinance calls for registration and employment of every male whose age is above seven years. Other constraints on individual freedom were perpetuated through laws such as the Prohibition of Mixed Marriages Act of 1905, which served to prohibit sexual relations across the statutorily defined racial boundaries.

The period 1915 to 1919 marks a slight improvement in the formal rights, largely on the revision of the Masters and Servants Ordinance in 1916, and then again in 1918. The revision raised the age limit for compulsory labour of blacks from age seven to 14 years. It made provision for centralised control and punishment of offences under these laws. Further the practice of "fatherly correction" (whereby white employers had the right to beat their servants) and flogging was outlawed.

The improvements in formal rights for the majority of the black Africans were transitory as more stringent laws for the control of movements, assembly and expression were enacted. This included the Suppression of Vagrancy and Idleness Proclamation no.25 of 1920 and the Pass Law Proclamation no. 11 of 1922. These were reinforced by the Natives (Urban Areas) No. 34 of 1924 and the Natives (rural) Regulation of 1924. Universal suffrage was denied through the provision in the first South West Africa Constitution Act no.42 of 1925. The Act made provision for the establishment of an all white Legislative Assembly and Executive Committee elected by the white electoral community.

In terms of formal structure of the law, the situation remained largely unchanged from 1925 to 1948, despite some introduction of some few new laws and amendments to existing legislations. This is followed by deteriorations in formal rights observed during 1949 through to 1980. The period is underscored by a passing of discriminative laws that extended and specified more fully the arbitrary power of the executive. First, the year 1949 witnessed a de facto incorporation of Namibia into South Africa, through the amendment of the South West Affairs Constitution Act no.23 of 1949. The whites of Namibia were given direct representations in the South African Parliament. Then a stream of laws were enacted in the South African Parliament and made applicable to Namibia. Included in this legislation were Riotous Assemblies and Suppressions of Communism Act no.15 of 1954 and no.17 of 1956.

There is a further worsening in formal rights again in 1966 and the subsequent year with the passing of the Suppressions of Communism Act of 1966 and the Terrorism Act of 1967. These pieces of legislation authorised detention without charge for an indefinite period and provided for the death penalty for persons convicted of terrorism. More repressive laws were enforced in

1970s throughout Namibia. Included in this volume of laws are the Proclamation R17 of 1972, The Internal Security Act of 1976, Proclamation AG9 of November 1977, Proclamation AG26 of April of 1978 and Proclamation AG50 of 1978. In all this legislation, a general ban is placed on all meetings, applied curfews at night and provisions for the detention and deportation of persons considered a threat to the SA authority.

The amendment to the South West Africa Constitution Act 95 of 1977 saw the abolishment of Namibian representation in the South African Parliament in 1977. A slight change in the legislation occurred in 1980 with the passing of the Representative Authorities Proclamation AG8 of 1980 which made provision for second tier governmental authorities based on ethnic division of Namibia. A few amendments and repeal to laws were made with a view of improving the extension of arbitrary power of the executive. These include the Abolition of Racial Discrimination Act no.10 of 1980 and Abolition of Racial Discrimination Act No.21 of 1981. These pieces of legislation mainly removed the restrictions on use of public amenities based on race. All other repressive legislations, however, remained intact.

The marked improvement in 1989 is a result of the first democratic general election held on 11 November. The major overall improvements are witnessed in 1990 with the adoption of the Namibian Constitution of 1990 which provides for multiparty democracy and a bill of rights (figure 3.6). Furthermore, the Racial Discrimination Prohibition Act no.26 of 1991, makes all certain acts of racial discrimination and apartheid a criminal offense and punishable by law. The first amendment to the Republic Constitution in 1998 which made provision for the first President of Namibia to hold office for three terms showed some degree of extension of arbitrary executive power. There has been, however, no major attack on the quality of rights, in terms of the formal structure of political and civil freedoms in Namibia since Independence in 1990.

3.3 Judicial independence[39]

Prior to the establishment of colonial rule in many parts of Africa, likewise in Namibia there was no central machinery for the administration of justice, and therefore the practice of settling disputes was not uniform.

The German colonial period, saw a formalisation of judicial institutions that was characterized by a dichotomy. The court system was developed along racial lines and thus provided for a different structure of administration of justice between whites and black Africans. In the case of whites clear separation of powers between the executive and judiciary existed, while in the case of blacks the division was non-existent. The local administrative authorities under District Officers exercised civil, criminal and contentious jurisdiction over the blacks.
The South African colonial authority saw a clear separation of the judiciary from the executive power by law. The administration procedures, however, remained dichotomise as the judiciary tended to adhere to racial laws passed by the legislative, until the abolishment of these laws during the post- independence period.

3.3.1 Outcomes of rating

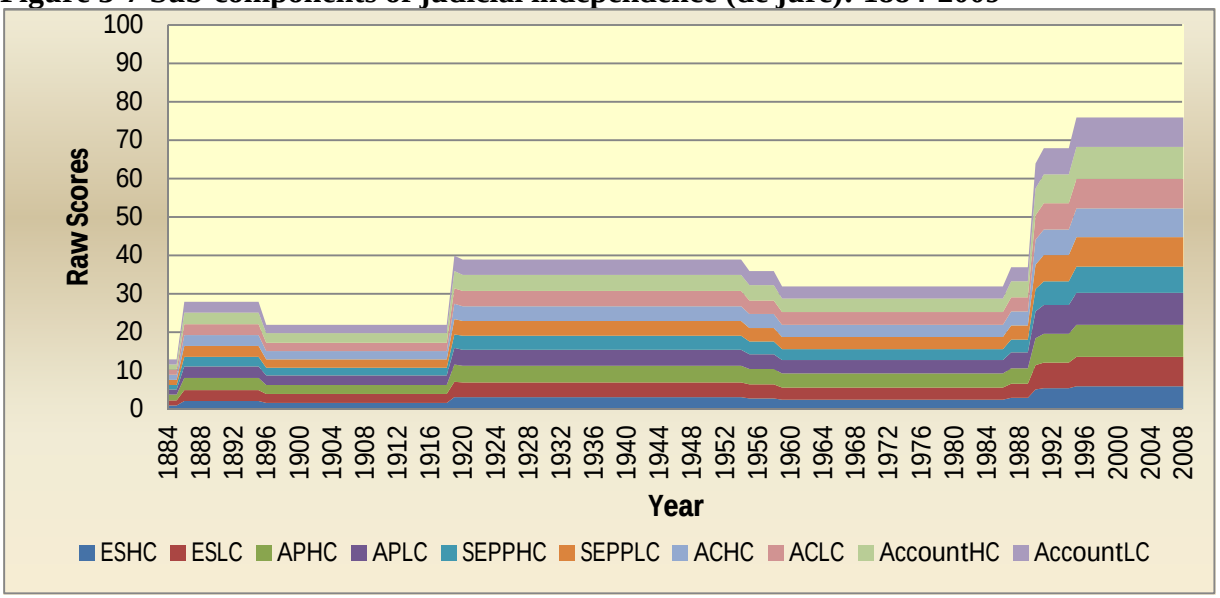
It should be noted that for the purpose of the de jure indicators, the study relied on formal structural guarantees of independence of the judiciary as specified in the law, without ascertaining the degree of judicial independence de facto.[40] It is irrelevant to this indicator whether or not interference took place or not. Due to colonial history in Namibia, the construction of realistic measures of independence of the judiciary should encompass both consideration of the Higher and Lower courts, as the majority of the black African had access only to Lower Courts. This is shown in figure 3.7 below. The resulting index is based on initial

[39] For the purpose of this study the judicial independence and the independence of judiciary is used interchangeable to mean the same concept.

[40] This is captured in the de facto measure of the Independence of the Judiciary discussed in the next section under 3.4 of this paper. The idea is to separate the two to allow for close scrutiny of the measures as they portray two different realities in general.

equal weighting of the sub-components and then combined together using the factor analysis to reduce subjectivity in the indicator.

Figure 3-7 Sub-components of judicial independence (de jure): 1884-2009



3.3.2 Interpretations of the judicial independence index (de jure)

One of the main characteristics of traditional communities' judicial institutions was collective responsibility either in the centralised or the decentralised system. As such, the separation of powers and checks and balance were virtually non-existent.

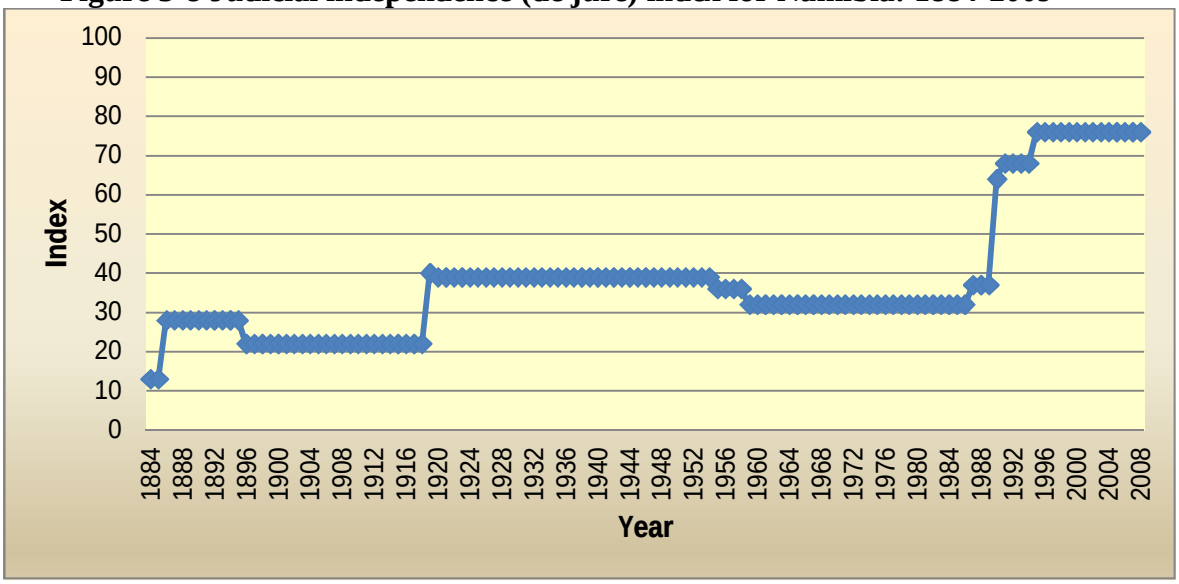
Despite the lack of separation of powers, all other measures were present such as access to tribal authority, representation procedures and respect and uphold of decisions.

As a result, the introduction of the German Law for the protection area in 1886 saw the first attempt in the separation of powers, between the various branches of government. This was rather weak given that the broader sections of the society were served by a combined system in the Lower Courts. The Criminal Jurisdiction over the Natives' Ordinance of the Imperial Chancellor of 1896 compromised the impartial in practise of the judicial system (figure 3.8).

A slight improvement was noticeable in 1919 with the passing of the Administration of Justice Proclamation No.21 of 1919. The proclamation provided for the establishment of High and Lower courts in Namibia and the application of Roman Dutch law. The Appellate Division Act No.12 of 1920, however, placed the appeals of High Court of Namibia under the jurisdiction of the Appellate Division of the Supreme Court of South Africa thereby denied Namibians impartiality. Their fate was left to be determined in another country as the court sitting were taking place in Pretoria, South Africa. Although the, SWA Constitution Act No.42 of 1925 underscored a clear separation between the executive, legislative and judicial authorities. The judicial matters, however, remained one of the reserved issues under the direct jurisdiction of the Union of South Africa.

The period between 1920 until the late 1940s witnessed a rather stable formal structural protection of the independence of the judiciary (figure 3.8). Judges enjoyed security of tenure and of salary and courtrooms were generally open to the public throughout the period under the South African regime. The legal system, however, only served the white minority who had working knowledge of the law and also excluded the black majority from any meaningful education system and the legal profession.

Figure 3-8 Judicial independence (de jure) index for Namibia: 1884-2009



Deteriorations in the independence of the judicial framework were witnessed as from 1948 throughout to 1990 as the National Party government directly sought to undermine the judiciary.

One such an early attempt was application of Appellate Division Quorum Act of 1955, which made provision for the President to appoint additional judges to higher court to sit in cases concerning the validity of an Act of Parliament. These created a bench where judges would be more likely to approve, or at least tacitly accept, apartheid laws.

Further declines are witnessed in 1959, when the Namibian High Court was merged into that of South Africa with the application of the Supreme Court Act no. 59 of 1959. According to the Act, the Namibian High Court became part of the provisional division of the Supreme Court of South Africa. This subjected Namibia to all application of apartheid laws which among others things affected appointment and tenure system of judicial personnel. Blacks were denied membership to bodies such as the Pretoria Bar whose members were heavy utilised by the National Party government in the appointment of judges as from the 1950s.

Apart from intervening in the judicial administration the South African government passed laws that affected the black majority in Namibia and by upholding these laws the formal judicial framework compromised its independence away from executive or legislature. This practise underscored the parliamentary supremacy over the legal system.

The period from 1985, witnessed a change in the Supreme Court of South West Africa/Namibia as they started questioning some of apartheid laws application in Namibia with the adoption of Proclamation R101 of 1985. This marked a major departure from the earlier period as the country prepared for transition to independence. It should be, however, noted that interim government sought refuge in the Appellate division of South Africa to uphold the draconian laws which were in contradiction of the Proclamation R101 of 1985.

A large improvement in formal judicial independence institutional framework was realised with the adoption of Namibian Constitution in 1990 which created the judiciary as one of the main organs of the state. Article 78, (1) (2) and (3) of the Republic of Namibia Constitution of 1990 provide for the establishment of the judiciary and its independence, consisting of the Supreme Court, a High and Lower Courts.

In 1991, the Attorneys Amendment Act no. 17 of 1991 and the Admission of Advocates Amendment Act no. 19 of 1991 were amended to allow Namibian who obtained legal

qualification from other University than South African's Universities to practice law in Namibia. More improvements are witnessed in 1992 with the establishment of the Labour Court which belonged to the Superior Courts of Namibia with the adoption of the Labour Act no.6 of 1992 (figure 4). The Act also established the District Labour court which is the hierarchy of the lower courts. The composition of judges and acting judges were to be determined by the Judge President thereby limiting any interference from the other arms of government directly.

A further improvement was observed in 1995 with the adoption of the Legal Practitioners Act, 1995 (Act 15 of 1995) which made provision for the merging of the advocates and attorneys profession. This reduced legal cost and improved access to legal representation without being referred from the attorney to obtain services of an advocate who is an expert in a specific field of law.

The formal structure of judicial independence in Namibia has been amplified to join the ranks of countries which have explicit declaration of judicial independence in their constitution. This is important in countries which had elevated the Constitution to be supreme law of the land.

3.4 Judicial independence (de facto)

3.4.1 Conceptual framework

The conceptual framework for assessing judicial independence is capturing the dynamics that encourage or impede factual judicial independence. The judiciary plays an oversight role to ensure liberal democracy. To achieve the oversight role, the judicial independence relies on the principle that judges must decide cases fairly and impartially, relying only on the facts and the law.

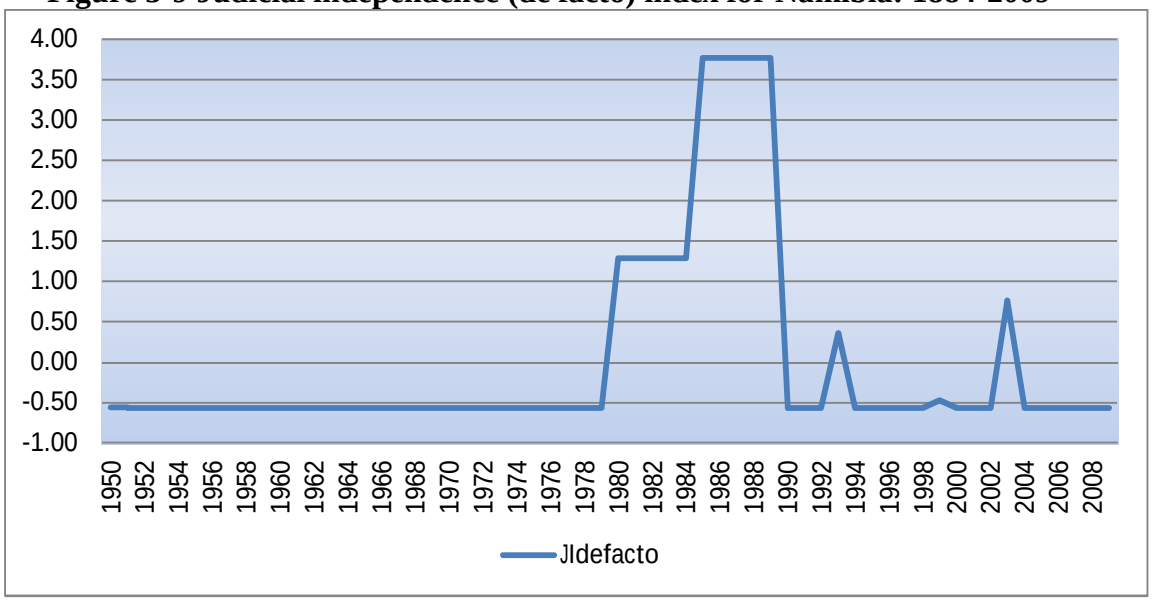
To assess de facto judicial independence, five sub-components have used. Each of the five sub-components were standardised to takes on values between 0-4, where a greater value in this instance indicates a constraint of the degree of Judicial Independence. The index is constructed by applying the method of principles component analysis on the sub-components.

3.4.2 Interpretations of the judicial independence (de facto) index[41]

The period between 1950 and 1985, shows a little movements in the index as the judiciary was highly intertwined with executive and legislative. Under colonial rule the judiciary largely acted as an instrument of administration rather than protecting the people and overseeing the exercise of executive power. There are no reported cases of judgments invalidating repressive legislation, thereby rendering the judicial to be seen as independent. There were no contempt of court cases and judicial harassment as the two organs represented the same ideology.

The period from 1985, witnessed a change in the working between the two branches of the state. With judicial defending few cases in the application of apartheid laws, the executive sought to undermine its working by side-stepping the judiciary. This included the formation of para-militia groups[42] that took the handling of justice in their own hands.

Figure 3-9 Judicial independence (de facto) index for Namibia: 1884-2009



[41] Due to the limited reliable data on sub-components of this index, the period of coverage is from 1950 to 2009.

[42] This refers to formation of the koevoet or crow bar by the governing regime in Namibia in 1980s.It should be noted that the formation of this group is not whole attributable to the above illustrated event, but also is due others factors which are beyond this study.

Since 1990, the judges in Namibia have enjoyed a relative independence in passing the decision. Cases of contempt of court are very rare and judicial bribery is not prevalent which has become evident in many developing countries upon attainment of independence.

A slight movement is noticeable in 2004, when attacks on unpopular ruling by a High Court in the case of treason were attack by some members of the ruling political party. In the case of Namibia it appears that the de jure nature of Judicial Independence as formally guaranteed in the Namibian Constitutions is factually enjoyed.

3.5 Political instability

3.5.1 Conceptual framework

The measure of instability developed in this study captures various dimensions of social unrest and disturbances. According to Alesina and Perrotti (1996), one may argue that when instability reaches high levels, social unrest disrupts market activities and increases economic uncertainty. In the past the Namibian political economy was underscored by social unrest as opposed to executive instability. This study, therefore adopts the social unrest approach in measuring political instability.

The inclusion of sub-components in the indicator is based on the work of Fedderke et al (2001) to maintain a fair level of comparisons. In addition, township riots and strike was added as sub-components given the multitude occurrences of this event in Namibia. The index is constructed by applying the method of principal component[43] to the following sub-components:

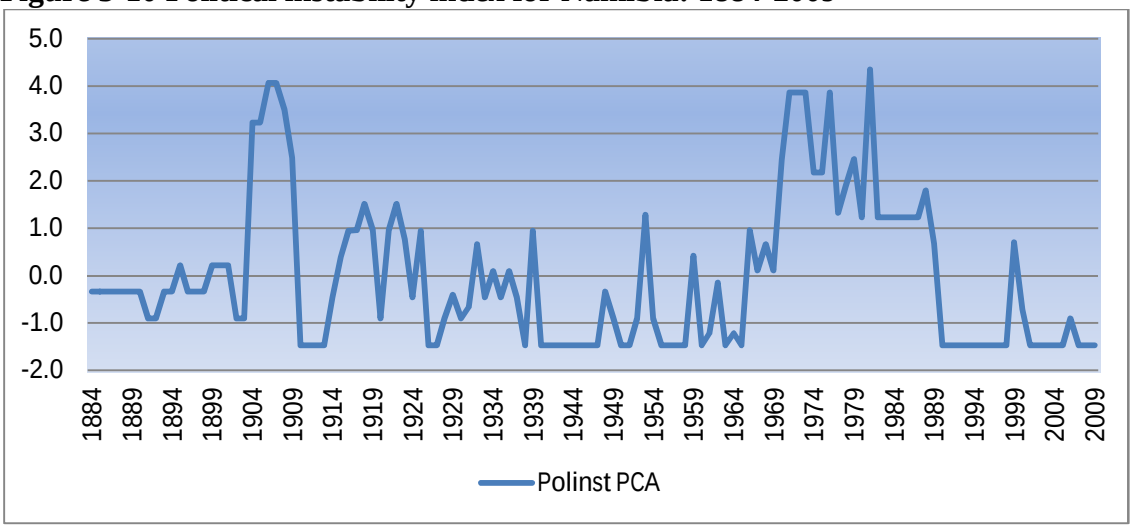
1. The number of politically motivated arrests per year
2. The number of political parties and publication banned per year
3. The number of declarations and renewals of states of emergencies per year
4. Incidents of war-related armed attacks on the general public per year
5. Township strikes and riots

[43] This technique is chosen to overcome the uncertainty surrounding the appropriate weighting of the components as expressed in the work of Fedderke et al (2001) and Gwenhamo et al (2008).

3.5.2 Interpretations of political instability index

High episodes of political and social instability occurred as early as 1904 to 1908, an uprising that led to the genocide in Namibia (figure 3.10). The next peak is witnessed in 1915 as Namibia was subject to war-related armed attacks due to the World War I. The declared state of emergencies in 1915 lasted until 1918.

Figure 3-10 Political instability index for Namibia: 1884-2009



The 1922 and 1925 instability is attributable to rebellions amongst the Bondelswart ethnic group of Warmbad and the Rehoboth unrest respectively. The 1940 and 1950s witness the formation of a number of African nationalist parties opposing the minority white rule economic and political domination through petitions to the United Nations. The mid-1960s signifies the commencement of serious hostilities in the country. This intensified during the period 1970s up to the time of independence in 1990. The year 1999 witnessed further political unrest due to attempted secessionist attacks in the Caprivi region.

3.6 Comparative analysis

In this section, two types of comparative analyses are undertaken. First, a comparison is made between the newly constructed indicators for Namibia with other measures widely used in the literature. The second comparison focuses on the evolution of three countries'[44] formal

[44] This includes Namibia, Tanzania, and South Africa and the datasets was constructed along the same dimension.

institutional frameworks. The analysis seeks to disclose how historical associations among these countries have changed over time. A comparison is made between Tanzania[45] and Namibia. This is motivated by the fact that these countries shared a close alignment of the initial legal frameworks under the German regime. Due to their institutional frameworks historical ties, direct comparison between Namibia and South Africa[46] is made.

3.6.1 Comparison of new indices

3.6.1.1 Namibia formal institutional framework

Table 3.1 shows the non-parametric Spearman correlation coefficients for the new series of formal institutional indices and the widely used indicators of political freedoms and property rights in Namibia. The sign of the spearman correlation coefficient (r) indicates the direction between variables. The value of the coefficient varies between -1 and +1; with r = 1 indicating a perfect positive correlation, r = -1 indicating a perfect negative correlation and r = 0 indicating no correlation between the variables concerned. As the values moves towards 0, the relationship between the variables is weaker.

Table 3:1Spearman correlation coefficients for Namibia

Indices	**The New Constructed Indices**				**Freedom House indicators**		**Heritage Foundation Index**	**Fraser Institute index**
	NAM-Prop	**NAM-Polfree**	**NAM-JI de jure**	**NAM-Pol Inst**	**Polfree-FH**	**Civil-FH**	**Prop -HR**	**Prop-FR**
NAM-Prop	1.00							
NAM-Polfree	0.18*	1.00						
NAM-JI de jure	0.73**	0.34**	1.00					
NAM-Pol Inst	-0.43**	-0.39**	-0.36**	1.0000				
Polfree-FH	-0.32	0.36	-0.56**	-0.0044	1.00			
Civil (FH)	-0.62**	0.47*	-0.59**	-0.1393	0.62**	1.00		
Prop -HR	-0.58*	-0.45	0.00	0.0000	-0.70*	0.31	1.00	
Prop-FR	0.17	-0.48*	0.67**	0.3303	-0.68**	-0.39	0.52	1.00

Notes: * denotes significance at 5 %;** denotes significance at 1 % level

[45] The Tanzania data is obtained from the work of Zaaruka et al. (2011).

[46] The South African data is derived from the work of Fedderke et al. (2001).

The property rights index is compared to the Heritage Foundation and the Fraser Institute indices of property rights. There is a correlation between the constructed property rights index (Nam-Prop) and the Heritage Foundation property index (Prop-HR) with a coefficient of -0.58 and statistically significant at the 5% level. The negative sign between these indices is due to inverted scale. The Fraser Institute index (Prop-FR) is poorly correlated with a coefficient of 0.18 and statistically insignificant. This might demonstrate the assessment of alternative rights measures based on de jure factors as argued by Glaeser et al (2004).

The political freedom index is compared to the Freedom House indices of political freedom and civil liberties, which runs from 1989 -2008. The newly constructed Political Freedom index (Nam-Polfree) is poorly correlated with the Freedom House political freedom (Polfree-FH) with at a coefficient of 0.37 and statistically insignificant, while a statistically significant correlation is detected between the Political Freedom index and the Freedom House civil liberties (Civil-FH). The negative sign between these indices is due to inverted scale.

When comparing the new indices, there is a low and insignificant correlation of 0.18 between Property rights index and the Political Freedom index. The correlation between property rights index and political instability (Nam-Inst) is -.0.43 and statistically significant. The judicial independence (Nam-JI de jure) maintains a weak correlation with the political freedom and political instability with correlation coefficients of 0.34 and -0.39 respectively. This confirms the differences in the forms of rights.

3.6.2 Evolution of formal institutional framework

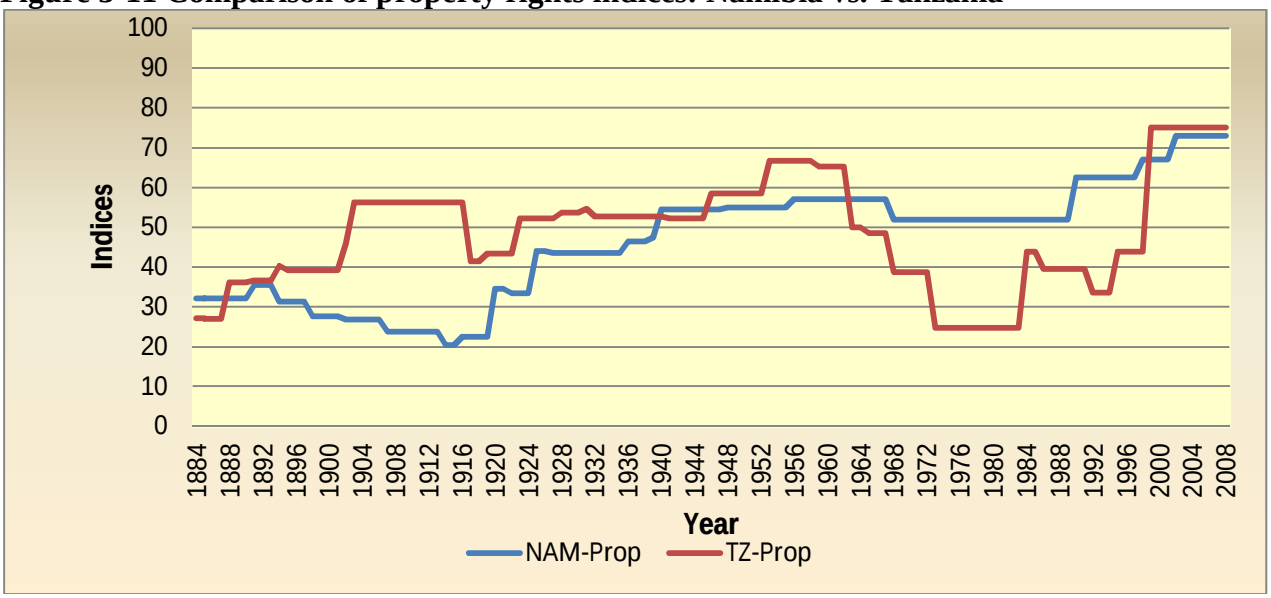
3.6.2.1 Namibia and Tanzania

Figures 3.11; 3.12 and 3.13 depict the status of property rights; political freedom and judicial independence de jure indices for Namibia and Tanzania respectively.

(i) Property rights index

The status of property rights in Tanzania fared comparatively better than in Namibia from the early 1900s to the early 1960s. There are two possible explanations for this. The first relates to the type of economic activities that were undertaken in these countries. The second relates to German responses to wars that took place in the 1900s.

Figure 3-11 Comparison of property rights indices: Namibia vs. Tanzania



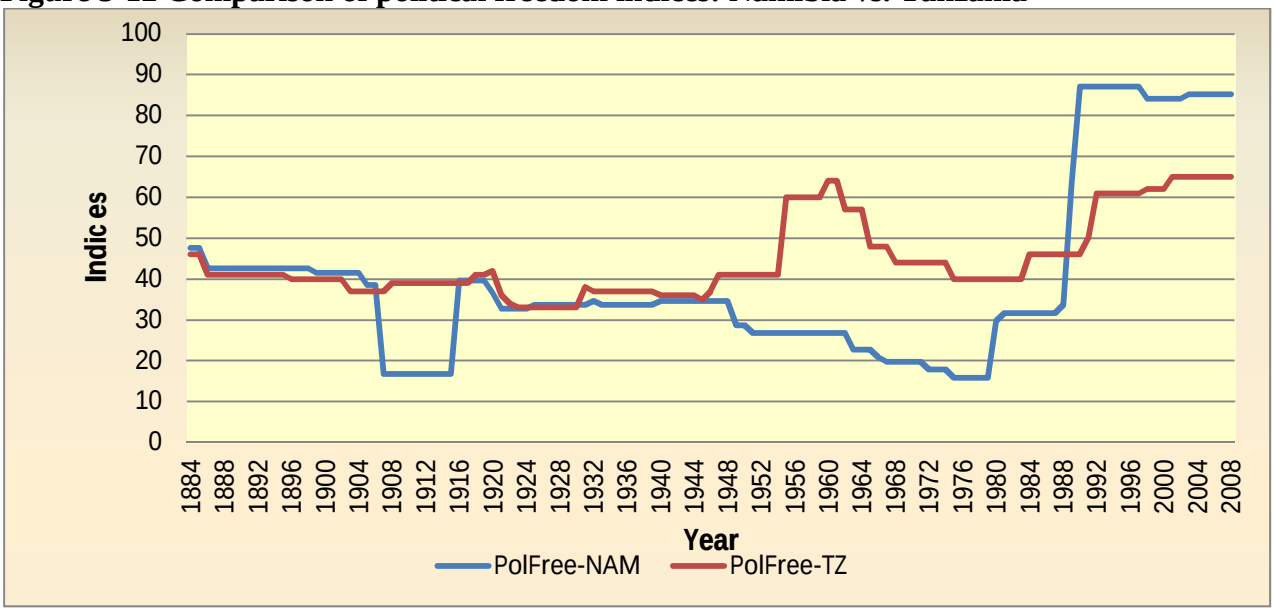
A majority of the Tanzanian population practiced crop cultivation and proof of ownership for blacks could be shown through effective occupation. Namibia, in particular the central and southern part which experienced a great deal of western influence, was occupied by pastoral and semi-pastoral communities for whom proof of ownership was difficult. Secondly, after the period of the internal wars, the German colonial power issued various pieces of legislation to expropriate land in Namibia, thereby causing an irreversible deterioration in the status of property rights in Namibia.

Tanzania ratings started deteriorating in the mid-1960s under the new socialist government, as individual ownership was virtually extinguished. The only improvements came after 1984 and 1999 with the introduction of the new laws which addressed the issues surrounding bills of right and customary land rights respectively.

(ii) Political freedom indices

With regard to political freedoms, the two countries seem to be more at par. However the extreme harsh laws, i.e. the pass law and the contract law of 1907 in Namibia, compromise Namibian freedoms severely. Generally, under the period of colonialism, political freedoms were equally stifled in the two countries. The improvement in Tanzania in 1961 was quite short lived as the situation reversed, with the declaration of the one-party state under the post-colonial government.

Figure 3-12 Comparison of political freedom indices: Namibia vs. Tanzania

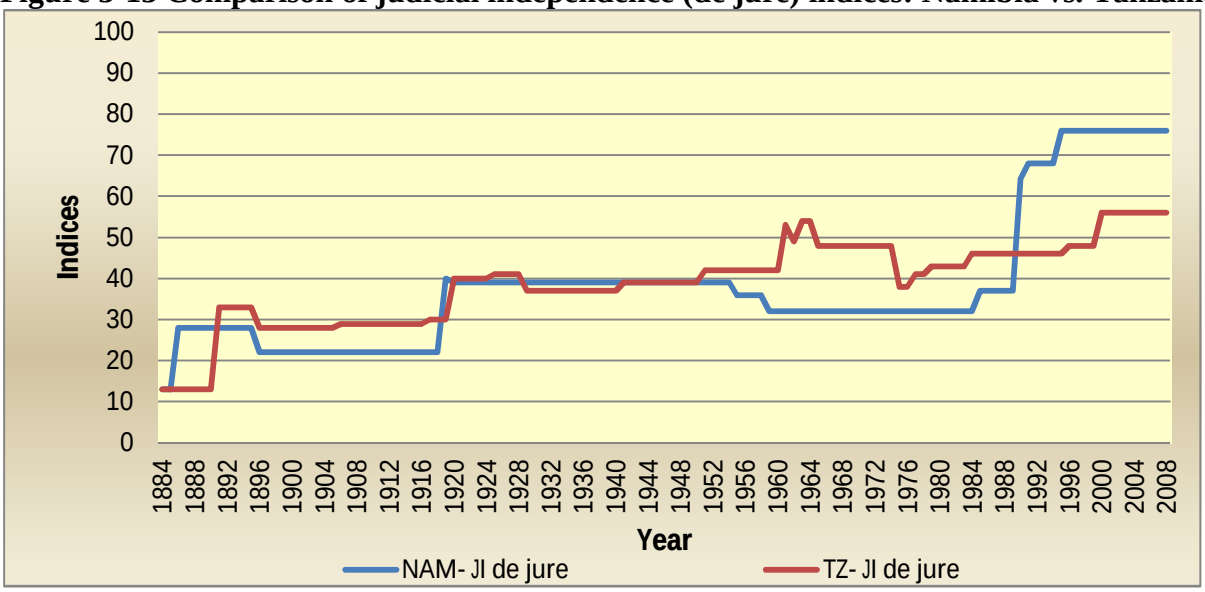


In Namibia, the deteriorating trend could be ascribed to the application of the apartheid doctrine in the late 1940s. However, since independence in 1990, political freedoms are legally better respected than in Tanzania.

(iii) Judicial independence de jure indices

The judicial independence framework statuses of the two countries appear to be at parity both under the German colonisation period and the respective British and South Africa regime for Tanzania and Namibia.

Figure 3-13 Comparison of judicial independence (de jure) indices: Namibia vs. Tanzania

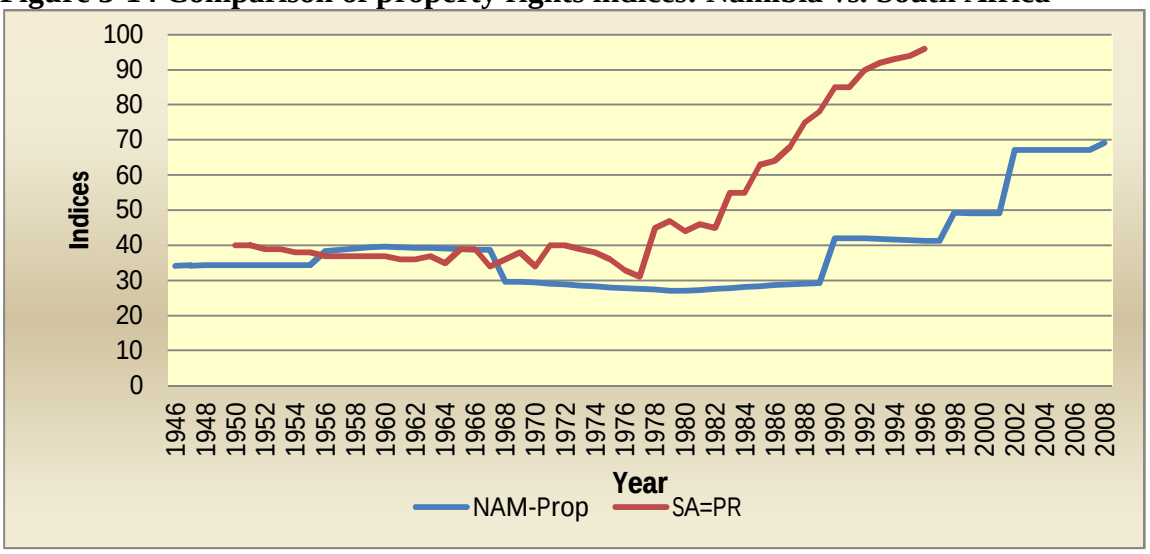


Since the 1960s, with Tanzania gaining independence, a divergence is noticeable, but is not carried out in full. This is due partly to the notion of supremacy of the party over the arms of government. Namibia experienced strong improvements in 1990 with the adoption of the Constitution, which enshrined the independence of the judiciary.

3.6.2.2 Namibia and South Africa

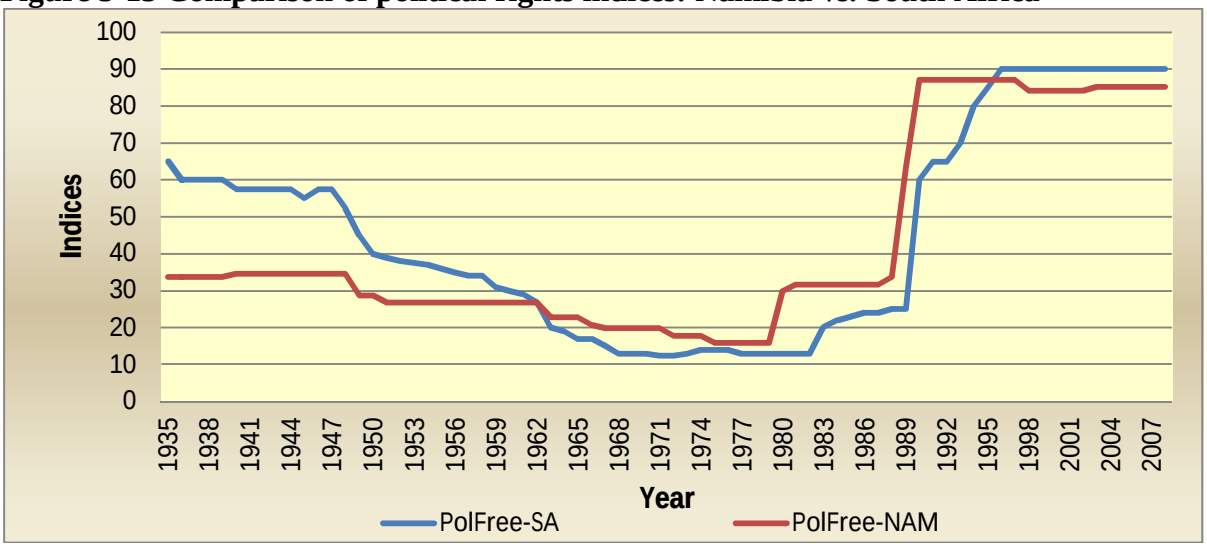
Figures 3.14 and 3.15 show the status of property rights and political freedom indices for Namibia and South Africa. The status of property rights between the two countries shows some good degree of association from the mid-1940s till mid-1970s due to application of apartheid legislation. The situation improved significantly in South Africa in the early 1980s onwards with the repeal of black discriminatory laws. Noticeable improvements in the case of Namibia are only seen after independence in 1990. It should be noted however, that the Namibian government has been slow in addressing issues related to property rights i.e. land issues in Namibia, hence the bigger divergence in the status of property rights between the two countries.

Figure 3-14 Comparison of property rights indices: Namibia vs. South Africa



The political freedoms however remained at par during the period under review. Namibia for first time showed a slightly better measure in the mid-1960s and this could be party explained by the interference of the United Nations in running of the mandate of South Africa over Namibia. There were some delays in the application of repressive laws to Namibia, while the period from 1977, shows the abolition of Namibian seats in the South African parliament. The period 1980-1989 gave the Namibian Legislative Council powers to make its own laws on all matters. Some repressive laws were repealed in preparation for the country transition to democratic rule.

Figure 3-15 Comparison of political rights indices: Namibia vs. South Africa



3.7 Conclusion

The main purpose of the chapter is to present new long time series of institutional characteristics for Namibia. In measuring of institutions, the thesis used written rules in line with accepted definition of formal institutions being postulated in the literature. This led to institutional indicators that are de jure in nature representing property rights, political freedom and judiciary independence for Namibia covering a long period from 1884 to 2009. The de facto element is also considered through the construction of separate indicators on political instability for the period from 1884 to 2009 and judicial independence defacto covering the period 1950 to 2009. The new indicators while covering a long time period (1884-2009), correlate fairly well with some of the widely used institutional indices produced by the Freedom House and the Heritage foundation.

The cross-country comparisons between Namibia and Tanzania reveal a comparable pattern in political freedom and judicial independence both under the German colonial administration and subsequently, under the British colonial administration over Tanzania and the South African colonial administration over Namibia. The property rights patterns however, remain divergent between the two countries under the German colonial rule. The comparison between the Namibia and its former coloniser i.e. South Africa shows a similar close pattern in terms of political freedom and property rights for most of the period. The early-1980s, witness huge improvements in property rights in South Africa, while Namibia improved slowly over time.

Another feature of the study, covering this long period underscores the notion of persistence in institutions. The paper argued that despite changes in colonial regimes, the broader framework of institutions remained partly the same. This is reflected in the institutional framework such contract labour system and pass laws which were applicable during the German era and upheld by the next regime. In Namibia, the expropriation of land during German colonial administration led to creation of smaller size land units known as reserve for the African blacks. The smaller sizes of unproductive land could partly explain the problem of income inequality in Namibia today.

Chapter 4

4. The nature of the institutional framework in Tanzania 1884-2009

4.0 Introduction

This section discusses the interpretation of property rights, political freedoms and political instability indices for Tanzania for the period 1884-2009.

4.1 Property rights in Tanzania

The nature of property rights that evolved over a number of years in Tanzania is an outcome of the land tenure system implemented during both German and British colonial times, and modified after independence by the socialist government and again by the new democratic government in 1992. This led to four distinct major transformations in the land tenure system as identified in the subsequent paragraphs (see James, 1971; Fimbo, 1992; Kironde 2004):

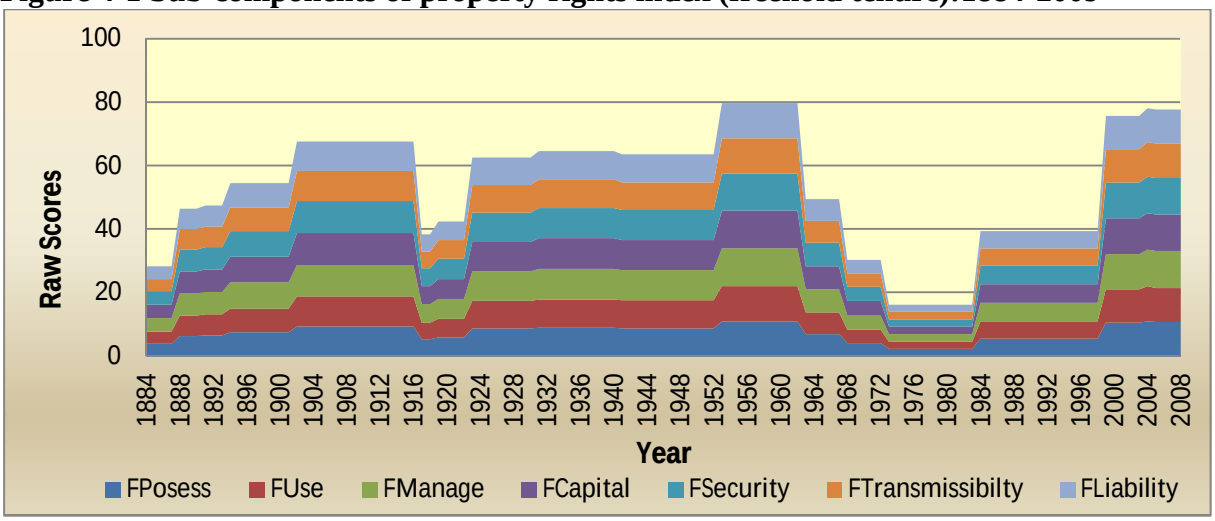
1. The introduction and promotion of plantation agriculture under German administration introduced the formal distinction between the freehold tenure and non-freehold land system in the country. Prime agricultural land was generally allocated in freehold titles, to white settlers. All arable land which was at the disposal of the chiefs or indigenous communities was vested in the German Empire and could be alienated by the Governor.
2. The system of all arable land holding continued to change under the British Administration, whereby all rights over land were placed under the control of the Governor. The rights of occupancy were introduced in the country and in 1928 it was re-defined to include the rights of black African in land holding.
3. The third transformation was introduced in the post-independence period, when all freehold titles were converted into leaseholds, thereby abolishing the freehold tenure system created under German occupation. A new tenure emerged known as the Ujamaa village or collective ownership land rights. Compulsory acquisition of black African land by the government and land disposition was prevalent as the controlling power of chiefs over land was rendered obsolete after independence in 1963; and

4. The final transformation started in 1984, with the introduction of a Bill of Rights in the Constitution of 1977 that provided for the protection of land ownership. The 1999 Land Act no.4 and Village Act no.5 re-introduced the concepts of the communal land village, as well as individual and family land ownership.

4.1.1 Outcomes of rating

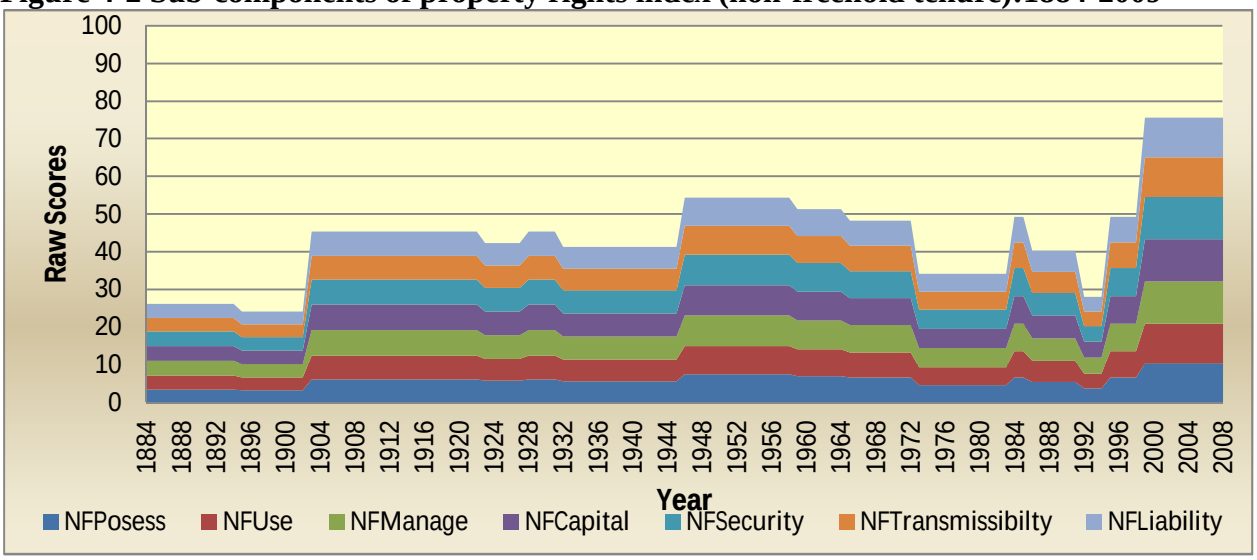
Due to the distinct time periods that characterised the history of Tanzania, a single property rights indicator would not reflect the differences in rights enjoyed by different holders. The evaluation of the security of rights over property was undertaken separately for the two different tenure systems, i.e. the freehold tenure system and the customary or non-freehold tenure system. An attempt was made to construct a single indicator using a multivariate technique.[47] The discussion begins with the evaluation of the freehold and non-freehold tenure systems, before focusing on the single composite indicator of property rights in Tanzania. Figures 1 and 2 present the sub-components of the freehold tenure system and customary or non-freehold tenure system, respectively.

Figure 4-1 Sub-components of property rights index (freehold tenure):1884-2009



[47] In the case of Tanzania it is impossible to obtain figures based on racial groupings since 1960, due to the Census design. Therefore, the composite index is based on factor analysis.

Figure 4-2 Sub-components of property rights index (non-freehold tenure):1884-2009



4.1.2 Freehold versus non-freehold tenure system in Tanzania[48]

The distinction between the qualities of rights in freehold against non-freehold tenure systems was introduced as early as 1895, through the introduction of formal laws regulating land rights in Tanzania. The passing of the Imperial Decree regarding Creation, Acquisition and Conveyance of Crown land in 1895 recognised the conveyance of ownership or lease through issued title deeds for settlers, while the proof of ownership for blacks was recognised through effective occupation. Black Africans therefore were defined to have occupational rights on the land.

The period between 1903 and 1915 witnessed a noticeable improvement in both tenure indices (see figure 4.3). This was due to the Imperial Ordinance of 1902 and Land Registration Ordinance of 1903, which formalised land registries for whites and blacks respectively. It should be noted, however, that registration of land for black Tanzanians was only permissible as long as it was located within the boundaries of the communities or villages. The period between 1917 and 1920 marked a decline in the status of the property rights index in the freehold tenure system, as all German-owned properties were transferred to the Custodian of Enemy Property[49]

[48] The terms "customary tenure system" and "non-freehold tenure system" are used interchangeably in this study.
[49] It was a British colonial department that was empowered to appropriate property in Tanzania owned by German nationals.

through proclamation no.5 of 1917. The Land (Assessment of Compensation) Act of 1919, however, instituted compensation to the affected owners.

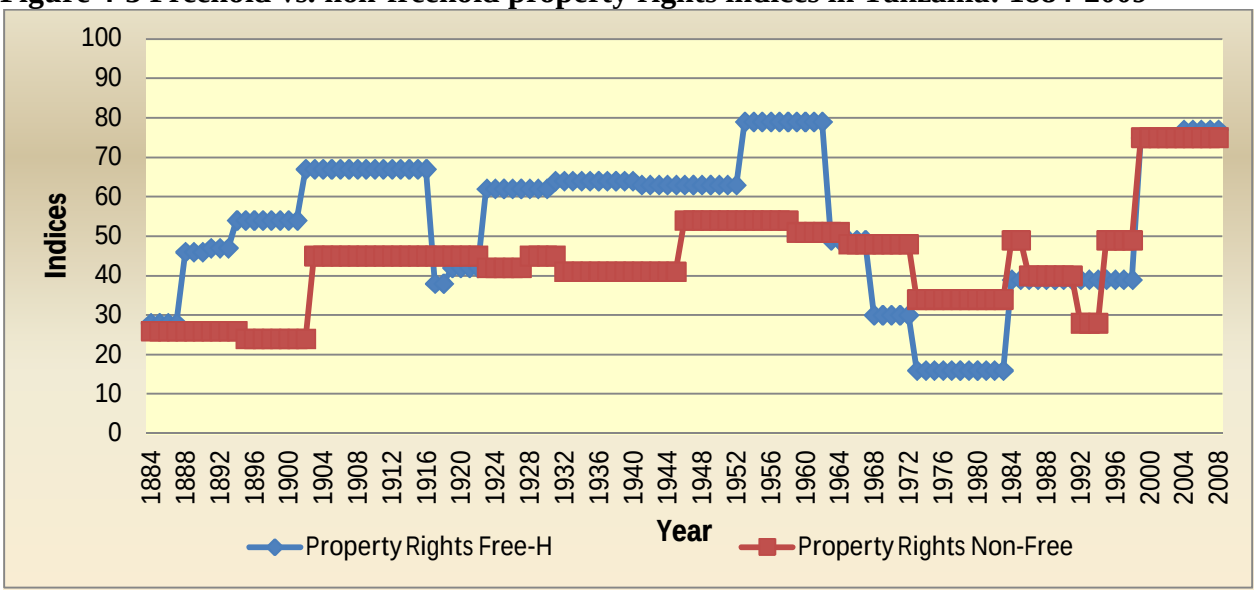
During 1923 to 1928, an improvement in the freehold tenure system was witnessed, due to the passing of Land Ordinance No. 3 of 1923 and Land Registry Ordinance no.15 of 1923. Both ordinances recognised and allowed for registration of freehold titles held dating back from the German era. All freehold titles that were granted by the German administration continued to exist. On the other hand, a slight improvement in the security of rights in non-freehold tenure came in 1928 with the application of the Land Ordinance of 1928, which accorded the status of deemed right of occupancy for the black Africans.

The difference in the quality of rights between the two tenure systems between 1926 and 1945 is mainly on account of colonial state intervention on the rights of use and management through regulations, orders and by-laws imposed on black Africans. The by-laws were made through so-called native authorities who were established by the Governor under the Native Authorities Ordinance no.8 of 1926. The native authorities were empowered to make orders in terms of land cultivation and failure to obey resulted in a fine or imprisonment. Other pieces of legislation which restricted the ability of individuals to use the property included the Native Coffee (Control and Marketing) Ordinance no.26 of 1937 and the Native Tobacco (Control and Marketing) Ordinance no.39 of 1940. These Ordinances prescribed stringent measures governing sowing, planting, cultivation and preparation to modify farming habits of black Africans. In 1946, the Declaration of the Trusteeship Agreement, under Article 8, which guaranteed the respect and the protection of Africans' customary land rights, signified some improvement under the non-freehold tenure system.

The improved status of rights under the freehold tenure system continued in the 1950s under the British Administration, while a systematic decline in the non-freehold tenure was observed. The enactment of the Land Registration Ordinance no. 36 of 1953 strengthened the rights under freehold tenure system. The act made special provision for all granted rights to be registered, including former German titles of absolute ownership. This act repealed and replaced all earlier ordinances. However, all forms of ownership held dating back to the German period were

recognised. On the other hand, the application of the National Parks Ordinance of 1959 weakened the rights under the non-freehold tenure system. The ordinance made provision to extinguish customary land rights formally in all areas declared to be national parks.

Figure 4-3 Freehold vs. non-freehold property rights indices in Tanzania: 1884-2009



With independence in 1961, the Socialist government made land ownership and control its major pre-occupation. This resulted in a major deterioration in both the security of rights in the non-freehold and freehold tenure systems. The period between 1963 and 1974, served a major blow to rights under the freehold tenure system, while heavy attacks on non-freehold rights was witnessed between 1973 and 1992.

In 1963 the first deterioration in the status of property rights under freehold tenure as a result of the enactment of Freehold Titles (Conversion) and Government Leases Act no.24 of 1963 was witnessed. The act converted all estate into government leases for 99 years, thereby limiting the perpetual time frame of interests in land. It should be noted that this law did not include expropriation of land. The nationalisation of properties, between 1973 and 1974, led to a further decline in the status of the property rights index under freehold tenure. Specific laws such as the Coffee Estates (Acquisition and Re-grant) Act of 1973 and the Sisal Estate (Acquisition and Re-grant) Act of 1974 gave effect to that.

The passing of the Nyarubanja[50] Tenure (Enfranchisement) Act no.1 of 1965, which was enacted to abolish future holdings in nyarubanja tenure, introduced the systematic decline in the non-freehold tenure system. The act provided for land to be expropriated from landlords and to be offered to tenants. This was further re-enforced through the Customary Leaseholds (Enfranchisement) Act no.47 of 1968. A deterioration of the status of non-freehold tenure property right index in 1973 resulted from the enactment of the Rural Farm Lands (Planning and Utilization) Act no.14 of 1973. The act made provisions for government to seize land for planning purposes.

The adoption of the Bill of Rights in 1984, by amending the Constitution of 1977, marked improvements in both indices. The Bill of Rights guaranteed for the first time in the history of Tanzania the right to possess and the protection of acquired property in accordance with the law. The non-freehold tenure system however, continued to be attacked as the Government enacted by-laws to extinguish customary land rights in certain parts of Tanzania in 1986 (see figure 4.3). These by-laws continued to be extended to other parts between 1987 and 1989. The biggest blow to the status of properties held under the non-freehold tenure system came in 1992, when the Government sought to extinguish customary tenure under the Land Tenure (Established Villages) Act no.22 of 1992. This was however ruled unconstitutional and removed in 1994 from the statute book by the Court of Appeal of Tanzania.

Furthermore, improvements in both indices are also noticeable in 1999 with the new Land Act no.4 and the Village Act no.5 of 1999, which repealed the Land Ordinance of 1923 and other colonial laws. The new Land Act makes provision for increased security of tenure, increased possibilities of disposition such as inheritance, selling and sub-leasing.

4.1.3 Interpretations of the property rights index

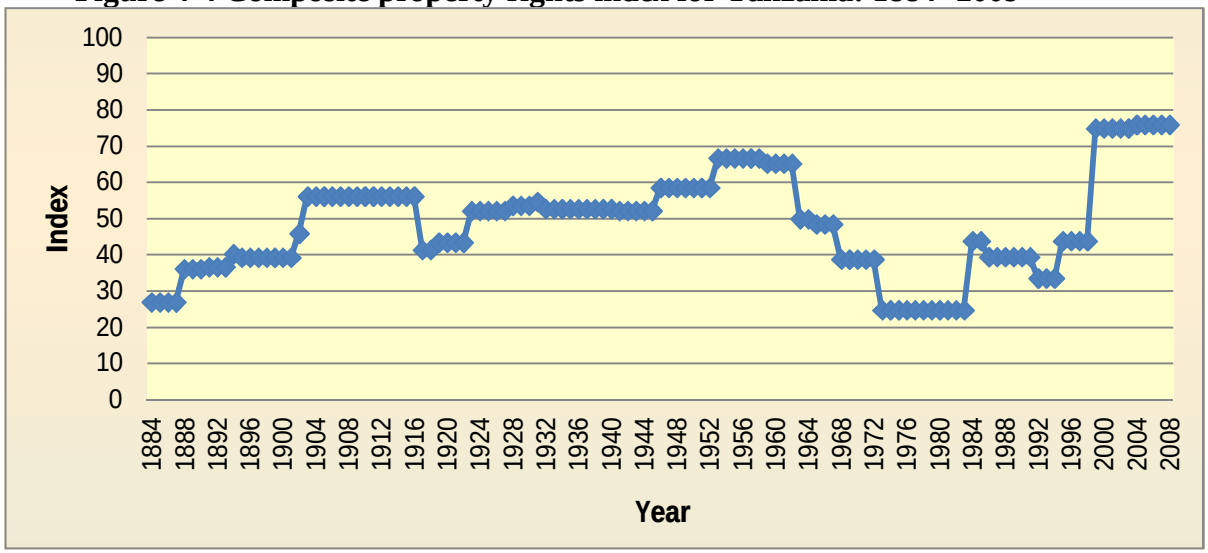
Factor analysis was used to obtain a single indicator of property rights. The technique placed a 51 percent weight contribution on freehold tenure, while the customary tenure system accounts

[50] The nyarubanja system was a feudal kind of land holding in some parts of Tanzania, whereby one person (within the tribe) owned a large tract of land (called Nyarubanja) which was partitioned and rented out to tenants.

for 49 percent in the single composite (see figure 4.4). This is expected, given that most laws passed affected the two systems equally with special reference to the period after independence in 1961. The analysis is based on the composite property index, which represents the nature of the property rights framework for the rest of the study, as plotted in figure 4.4.

Changes in the property rights index are observed as early as 1891, with the passing of the land acquisition imperial ordinance of 1891, which proclaimed that the colonial government had the right to own all un-owned land within the German spheres of interest in German East Africa. This was reinforced in legislation, through the Crown Land Ordinance of 1894, which declared that all land in German East Africa was un-owned, unless proof of documentation could be presented. In the case of blacks, proof of ownership could be shown through effective occupation.

Figure 4-4 Composite property rights index for Tanzania: 1884 -2009



The period 1903-1915, witnessed a slight improvement in the institutional framework due to changes in laws that allowed land registration for whites through the Imperial Ordinance of 1902 and the Land Registration Ordinance of 1903. However, the commencement of World War I led to a decline of the property rights index as freehold title rights belonging to German nationals were deemed enemy property and renounced in favour of the Custodian of Enemy Property according to Proclamation no.5 of 1917.

The period 1923-1960 saw an improvement in the status of the property rights index. Of particular interest was the introduction of the right of occupancy system in Tanganyika. The Land (Amendment) Ordinance no.7 of 1928 formalised the customary land rights, which were defined as a right to use and occupy land. Improvements were observed in 1946 and the period 1953-1960, due to the declaration of the trusteeship agreement and the introduction of a number of land registries ordinances respectively (see figure 4.4). The initial period after independence in 1961 saw the adoption of most colonial laws with the substitution of the word "President" for the word "Governor" in the application of Land Ordinance of 1923 and its amendment in 1928. Therefore, the power of granting land became vested in the President of the United Republic of Tanzania.

The year 1963 marks the start of deterioration in the status of property rights, a trend that lasted for almost 16 years (see figure 4.4). This was realised through the introduction of the Arusha declaration and the subsequent nationalisation policies that were enacted during the period 1967-1983. This resulted in severe declines in formal ownership rights under the freehold tenure system as well as massive loss of customary land rights in favour of the Ujamaa Villages or government communal villages. The 1970s were arguably the most significant period of deterioration in the formal structure of the property rights index due to an attack on both the freehold tenure and customary tenure system.

Improvements in the status of property rights were witnessed with the amendment of the 1977 Constitution in 1984, with the introduction of the Bills of Rights, which guaranteed for the first time in the history of Tanzania the right to possess and the protection of acquired property in accordance with the law. Furthermore, improvements are also noticeable in 1999 with the new Land Act no.4 and the Village Act no.5 of 1999, which repealed the Land Ordinance of 1923 and other colonial laws.

4.2 Political freedom in Tanzania

The difference between the German and British administration can be classified into the nature of the system they had i.e. Native policy or direct rule versus Indirect rule (Austen, 1968). Before

1896, the German military administration was exercising a great deal of diplomacy by peacefully negotiating with black Africans. The period 1896-1906 introduced a forced change on black Africans' traditional structures. The Germans exercised their authority with disregard and contempt for existing local structures and traditions. The British Colonial Administration ruled indirectly through African leaders, as a way of reconstructing the institutions existing before the German rule (Iliffe, 1979).

The post-independent political developments in Tanzania are characterised by three distinctive events, which affected political and economic institutional formation. First, there was a declaration of a one-party state in 1965, after multi-party elections prior to independence in 1961. Secondly, the departure from parliamentary supremacy to party supremacy in 1975 compromised the functioning of all other arms of government. Article 3 of the Interim Constitution amendment called for all political activities in Tanzania to be conducted by or under the auspices of the party. The final event is the transition to multiparty democracy in 1992, which witnessed the restoration of multi-party political democracy. Tanzania is among the very few countries at independence which had adopted a constitution with no bill of rights (Martin, 1974; Shivji, 1990).

4.2.1 Outcomes of rating

In assessing the quality of political freedom in Tanzania, the base is the period before 1884, in which customary law only was applicable. This is contrasted with the period of imperialism which followed, with codification and the application of German law to the territory from 1886 until 1920. Afterwards, the period that followed witnessed the application of common law under the British Foreign Jurisdiction Act, and lasted until 1961, when Tanzania gained its independence. Given the long period of coverage, the manner in which rights are conceived and defined change; hence the indicators should be treated with caution.

Figure 4-5 Sub-components of political freedom index for Tanzania: 1884-2009

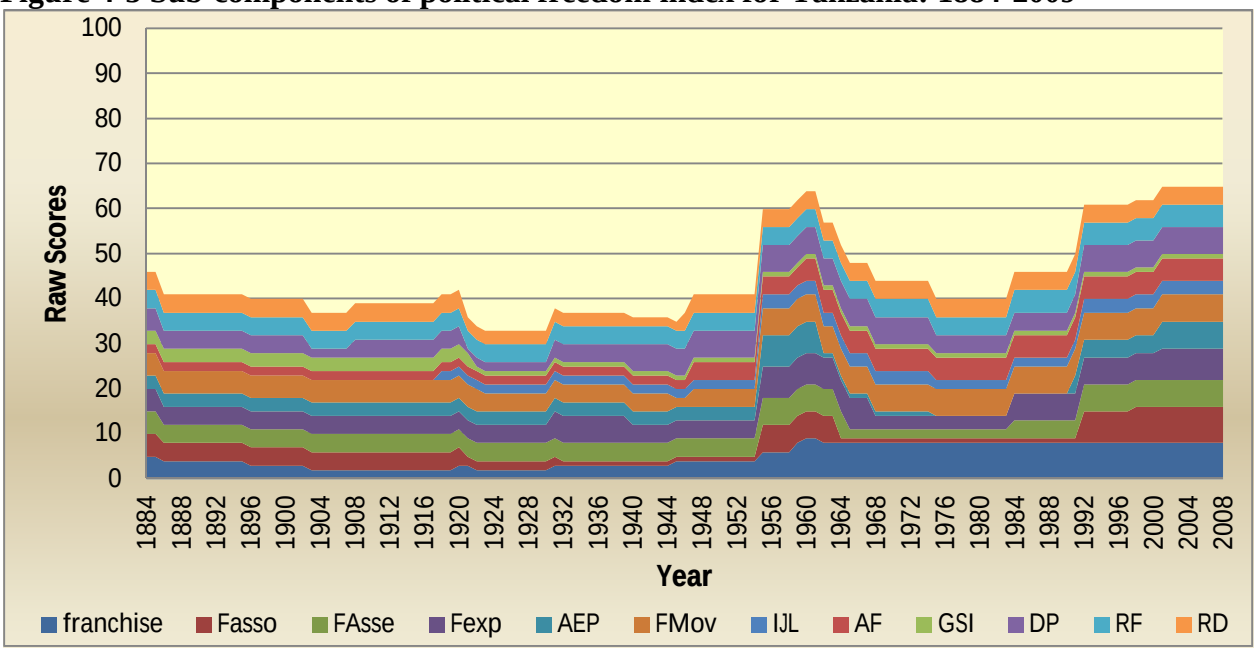


Figure 4.5 plots the sub-components of the political freedom index. The figure shows how each of the 12 categories adds to the overall index. Figure 4.6 presents the composite political freedom index and is discussed next.

4.2.2 Interpretations of the political freedom index

The presence of colonialism in Tanzania was introduced by the passing of the protectorate law of 1886. The stream of laws passed between 1895 and 1903, impinged on the fundamental political and civil rights of black Africans in the quest of consolidating a European elite base on the prevailing political and social structure in Tanzania. The electoral franchise and legislative functions were strictly limited to the Europeans (whites) through the provisions of the Governor's Council Ordinance of 1903 and the Native Jurisdiction Order of 1896. The Council Ordinance made provision for the establishment of an advisory body to the Governor and its composition was limited to the white community only. Minimal improvements in the quality of the political freedom index are noticeable between 1908 and 1913 (see figure 4.6). This is mainly on account of the Germany Tanganyika Memorandum, which recommended the review of the corporal punishment orders that paved the way for the passing of the Civil Procedure Code of 1908. The Code specified ways and procedures of conducting civil cases in an orderly manner.

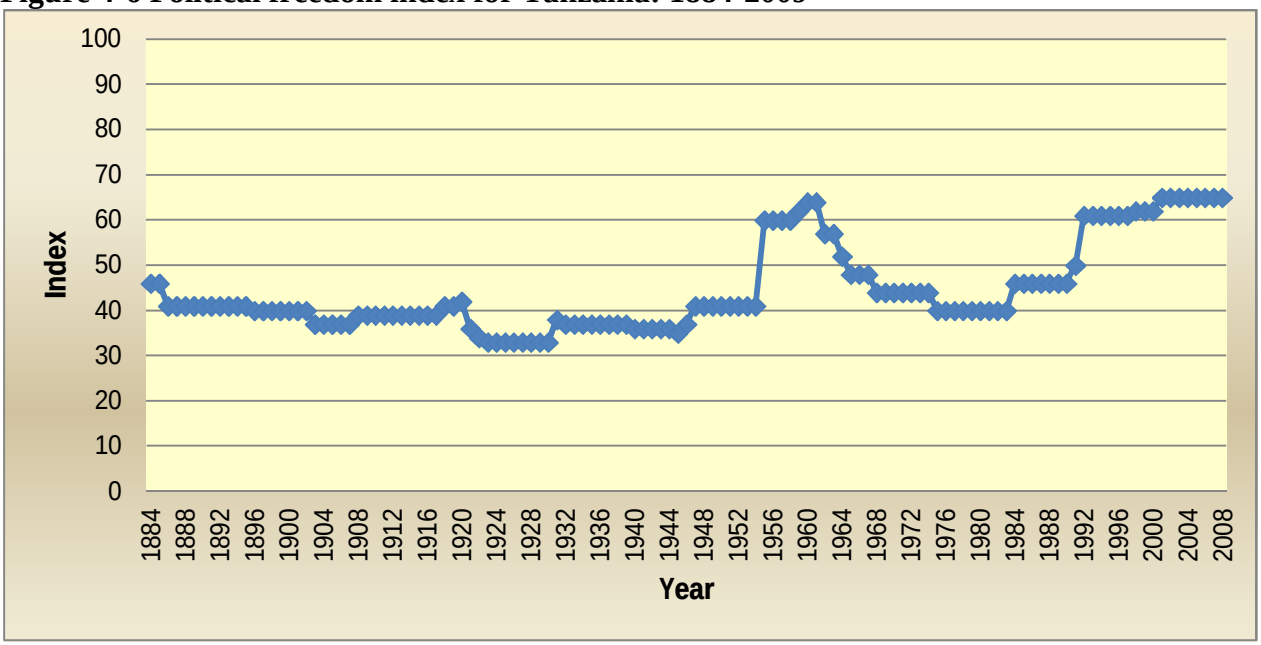
The initial British occupation period saw enhancement in the formal structure of rights with the passing of the Whipping Regulation dated October 5, 1918. The Whipping Regulation made provision for corporal punishment to offenders exceeding 12 strokes to be approved by the lower courts rather than police officers. The application of the Criminal Procedure Code as applied in India in 1919, however, compromised due process of law and the independence of the judiciary, as the charges against the accused were not framed by the police until the magistrate had heard all the evidence for the prosecution.

The period 1921-1935 was characterised by a decline in the quality of the political freedom index, with the passing of stringent laws that stifled the political and civil rights of the majority of black Africans. Freedom of movement, association and due process of law were stifled during this period due to the enactment of legislation such as Destitute Person's Ordinance no.1 of 1923. The ordinance made provisions for the control of movement of unemployed blacks through imprisonment or deportation. Furthermore, due process of law was highly compromised with the passing of the Deportation Ordinance of 1921-cap38. The ordinance gave the Governor wide discretionary powers to deport a person from one point to another within the country to ensure peace and order.

Other lists of stringent laws were Collective Punishment Ordinance no.24 of 1921, Official Secrets Ordinance no.10 of 1922, Master and Native Servants Ordinance no.32 of 1923 and its subsequent amendments in 1926, 1928 and 1931. The Trade Union Ordinance no.23 of 1932 imposed restrictions on the conduct of trade unions within the territory, thereby compromising the right to association and assembly during the period under review.

The decline in the political freedom index continued further in the period between 1936 and 1945. More rights-curtailing laws passed during this period were the compulsory military and other service ordinance no.23 of 1940, amendment to the Master and Native Servant no.29 of 1941, which made a provision for penalty for breach of contract by the servant. The Penal Code Ordinance no.21 of 1945, section 176 criminalized vagrancy thereby curtailing the freedom of movement within the territory.

Figure 4-6 Political freedom index for Tanzania: 1884-2009



The period between 1946 and 1959 saw a slight improvement in the political freedom index on the back of waves of strike movements in most parts of Tanzania. There was noticeable improvement in the employment rights of many workers with the introduction of the Master and Native Servants (Recruitment) Ordinance of 1946. The Worker's Compensation Ordinance no.41 of 1949 provided for the compensation to workers for injuries suffered in the course of their employment. The Employment Ordinance Cap.366 of 1957 consolidated all laws relating to labour and regular conditions of employment. This marked the end of an era of the Master and Servants laws. During this period, laws were enacted which sought to increase enfranchisement of black Africans and introduced an equal representation in the legislative council. The laws included, among others, the National Assembly (Powers and Privileges) Ordinance Cap359 of 1955 and the Territorial Election Ordinance of 1959.

The inception of independence in 1961 manifested slight improvements in the structure of formal political rights in Tanzania. The slight improvement followed the enactment of Education Ordinance no.37 of 1961, which repealed discrimination laws in the provision of education in Tanzania. The Local Government Elections (rural areas) Act of 1962 enhanced the enfranchisement of rural black Africans. The process of improvement in the formal structure of rights was not fully carried over as Tanzania adopted a constitution without a bill of rights. Laws

that curtail personal freedom which were passed during the colonial era, therefore, were upheld and other new legislation mimicking the old laws were enacted, in case of repeals. The new laws included the Preventive Detective Act no.60 of 1962, which in greater extent was similar to the Deportation Ordinance of 1921, which was still applicable. The ordinance gave the President powers to arrest and indefinitely detain without bail any person considered dangerous to the public order or national security. More additional powers of detention were provided under the Regional Commissioners Act of 1962 and Area Commissioners Act no.18 of 1962. These acts permitted regional and district commissioners to arrest and detain for 48 hours, persons who might disturb public tranquillity.

Freedom of assembly and the right to organise which was enjoyed a few years before independence lasted only until 1964. The introduction of the National Union of Tanganyika Workers (NUTA) Act of 1964 banned independent trade unions. The period from 1965 to 1975 saw a steady decline in the formal structure of rights, with the formalisation of a one-party system via the Interim Constitution Act no.18 of 1965. A variety of laws were passed which stifled the freedom of association and assembly such as the Cooperative Societies Act no.27 of 1968, which curtailed the activities of cooperative unions. The Police Force Ordinance Act no.13 of 1972, section 40, required permits to be obtained in order to hold meetings or to organise processions.

The formal structure of rights worsened further between 1975 and 1985, with adoption of the supremacy of the party over the other arms of government. This was implemented through the Interim Constitution Amendment Act no.8 of 1975, which called for all functions of all organs of the state to be performed under the auspices of the party. This severely extended the arbitrary exercise of executive power, and hence decreased the independence of the judiciary and legislative and the due process of law. This status quo was further reinforced in the year 1977, through the adoption of the Permanent Constitution of 1977.

The enactment of the Bill of Rights in 1984 into the Permanent Constitution of 1977 marked the beginning of a new era in the formal structure of political rights in the history of Tanzania (see figure 4.6). The amendments to the Preventative Detention Act no.2 of 1985 and Deportation Act

no.3 of 1991, provides some evidence of partial control on arbitrary actions of the state. The discriminatory Deportation Ordinance of 1921 was repealed in 1991. The introduction of multiparty democracy via the Political Parties Act no.5 of 1992 and Constitution Amendment Act no.2 of 1992 signified a turning point in the quality of formal political freedom in Tanzania.[51] The enactment of the Commission for Human Rights and Good Governance Act no.7 of 2001 is another improvement in the formal political rights. In terms of the formal structure of political and civil freedoms (de jure), Tanzania is making progress in undoing restrictions on political freedom.

4.3 Judicial independence in Tanzania

Different traditional judicial institutions for administrating justice existed prior to the colonial era (Court of Appeal of Tanzania, 2004). These differed from one society to another, depending mainly on whether the society was centralised. Centralised and non-centralised societies differed in the way they ran their judicial institutions. However, despite these differences, both types of societies applied procedures[52] characterised by mediation, conciliation, arbitration and compromise.

The start of the German colonial period in 1884 marked the beginning of the disintegration of the traditional judicial institutions and their replacement by an adversarial system of dispute settlement. With the introduction of imperialism, the traditional legal system began to weaken, thereby establishing ground for the functioning of the imposed German colonial legal system. The British mandate of 1919 entrenched a colonial state in Tanzania by imposing British laws received directly from England and those adopted from India. During the colonial period, three forms of institutions were created, i.e., organised colonial government; appointment of chiefs as local leaders and the creation of regular courts headed by salaried magistrates. At independence, most of the imposed and imported foreign laws, institutions and procedures were retained and many others were created (Seidman, 1969; Peter, 1997; Shivji, 2004).

[51] The study accepts that despite the introduction of multiparty competition in Tanzania, the legacy of the one-party state is still lingering until the opposition party is able to achieve a significant presence in the legislature.
[52] For a detailed discussion on the operations of judicial institutions, in both centralised and non-centralised pre-colonial societies in Tanzania, see the work of the Court of Appeal of Tanzania, 2004.

4.3.1 Outcomes of rating

It should be noted for the purpose of the de jure indicators, that the study relied on formal structural guarantees of independence of the judiciary as specified in the law, without ascertaining the degree of judicial independence de facto.[53] It is irrelevant to this indicator whether or not interference took place or not. Due to colonial history in Tanzania, the construction of a realistic measure of judiciary independence should encompass both consideration of the Higher and Lower courts, as the majority of black Africans had access only to Lower Courts. The resulting index is combined using factor analysis.

Figure 4-7 Sub-components of judicial independence (de jure) index: 1884-2009

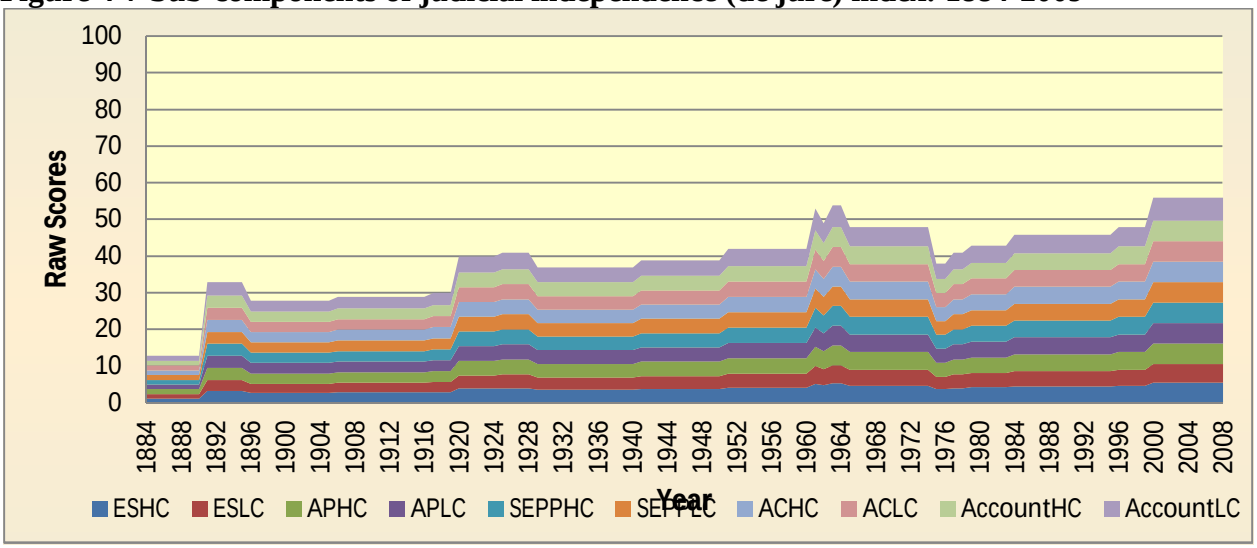


Figure 4.7 plots the sub-components of the de jure judicial independence index. The figure shows how each of the 10 categories adds to the overall index. Figure 4.8 presents the composite de jure judicial index and it is discussed next.

4.3.2 Interpretations of the judicial independence index

The German East Africa Company which governed the protectorate from 1884 to 1890 had no ability to set up administrative machinery different from the local conditions on the ground.

[53] This is captured in the de facto measure of the Independence of the Judiciary, discussed in the next section under 5.5 of this paper (to be added). The idea is to separate the two to allow for close scrutiny of the measures as they portray two different realities in general.

Notable changes are observable as from 1891 (see figure 4.8), when German colonial government took direct administration of German East Africa. The German Ordinance of 1891 established two types of courts: District Courts and the Superior Court, both of which had jurisdiction over Europeans and applied pure German laws. The ordinance did not address the law and procedures in matters involving black Africans. The decree of the Chancellor of State regarding the exercise of Criminal Jurisdiction and Disciplinary Powers over the Natives, dated 22 April 1896, confined the exercise of justice to local administrative authorities. The combination of the executive and judicial functions meant that the majority was condemned to executive justice in which impartiality and fair play could not be guaranteed.

Impartiality for black Africans improved slightly with the passing of the Decree of the Governor no.105 of 1906, with regard to the Administration of Criminal Jurisdiction over Natives. The decree made improvements in the administration of corporal punishment and repeal rules regarding the implementation of corporal punishment dated 1 June 1896 (see figure 4.8).[54]

Article 22 of the Covenant of the League of Nations gave Britain a mandate to administer German East Africa after the First World War. The development of administration of justice, however, remained dualistic, tracing the German colonial legacies in the British Era. Article 17 and 22 of the Tanganyika Order in Council of 1920 established the High Court and Subordinate Courts charged with the administration of justice according to English law. The Courts Ordinance of 1920 also established a parallel structure to the Subordinate Courts, known as the Native Courts, to hear cases concerning black Africans only. Noticeable improvements came in 1925 with the Native Courts Proclamation of 1925, which developed black Africans' courts according to law by vesting the appellate and supervisory powers under the High Court.

A decline in the independence of the judiciary is noticeable in 1929, with the passing of the Native Court Ordinance of 1929, which gave the Provincial Commissioner extensive supervisory powers over Native Courts. The Ordinance of 1929 enhanced the role of the executive arm of the colonial state in the administration of justice with respect to black Africans. The Ordinance

[54] This induces a slight separation of powers between the various arms of government or governing authority.

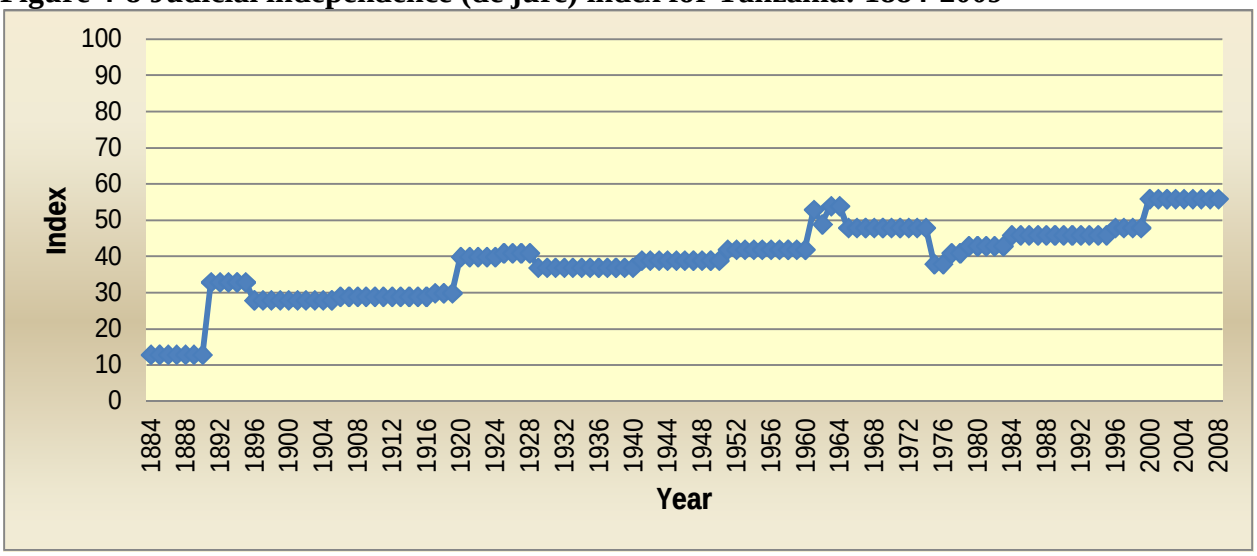
further took away the powers of the High Court to supervise and hear appeals from the Native Courts. The passing of Subordinate Courts Ordinance No.13 of 1930, which repealed and replaced the Courts Ordinance of 1920, did not make any radical change to the existing court system. The administrative officers still maintained their presiding roles over the courts. There was no formal separation of the executive and the judiciary at lower levels. The only notable change was the introduction of the court of the Resident Magistrate.

A marked improvement in judicial independence is observed in 1951 with enactment of the Local Courts Ordinance of 1951. The ordinance introduced a policy of separation of the judiciary and the executive in the former Native Courts; however a link with the High Court remained non-existent. The initial post-independence period signified a substantial improvement in the de jure independence of the judiciary, with the adoption of the Independence Constitution of 1961. Stability of judicial tenure and broad-based appointment procedures were ensured through Article 58 of the Constitution. The Chief Justice was to be appointed by the Governor-General on the advice of the Prime Minister. Power to appoint the other judges of the High Court was vested in the Judicial Service Commission. Further improvements were instituted through the Local Courts (Amendment) Ordinance of 1961, which re-integrated the Local Courts with the High Court.

This improvement was short lived, as the adoption of the Republic Constitution in 1962 conferred the power to appoint all judges in the High Court to the President. According to the provision of the Constitution, the judges who were non-citizens were to serve on contract. The appointments of judges by the President were reinforced in the Interim Constitution Act no.43 of 1965.[55] The year 1963, however, marked a major improvement in the Lower Court with the passing of the Magistrates' Act of 1963, which created a single hierarchy of courts based on a three-tier system. This Act abolished race as a test for jurisdiction of courts. Section 29 of the Act barred the appearance of legal or paralegal professionals before a Primary Court, as these courts were presided over by people with no formal legal training.

[55] The Act empowered the President to appoint the Chief Justice; other judges were also appointed by the President in consultation with the Chief Justice.

Figure 4-8 Judicial independence (de jure) index for Tanzania: 1884-2009



The adoption of the Interim Constitution Amendment Act no.8 of 1975 compromises the working of the judicial system. According to the amendment act all functions of the State, including the judiciary, were to be performed under the auspices of the party. This gave party supremacy over all other organs of the state. The adoption of the Union Constitution in 1977 marked minimal improvements in the formal structure of the judiciary. According to the Constitution of 1977, the President appoints the Chief Justices and other judges of the High Court after consultation with the Judicial Service Commission. Security of tenure was also strengthened, as the office of a judge could not be abolished and a judge could be removed from office only for inability to perform the functions of the office and on recommendation from tribunal investigation.

Improvements in the formal structure of judicial independence are noticeable in 1979[56] due to the passing of the Union Constitution Amendment Act No. 14 of 1979. The Act made provision for the establishment of a Court of Appeal of Tanzania.[57] This changed the court administration that existed since 1961, as the overall administration was now vested in the Court of Appeal.

[56] The study recognises the widespread deteriorations in the working of the judiciary system from about 1970 onwards that led to the appointment of the Msekwa Commission in November 1974. This is captured in the de facto index.

[57] This replaces the Court of Appeal for East Africa which was done away with, due to the collapse of the East African Community in 1977.

Noticeable improvements in judicial independence are witnessed in 1984 with the adoption of the Bill of Rights Constitution, vide Act no.16 of 1984. This improved the impartiality and accountability of the judges under the adversarial system. On the other hand, the passing of Basic Rights and Duties Enforcement Act No.33 of 1994, which deals with hearings related to constitutional, human rights and civil rights issues, might be viewed to compromise the impartiality of the High Court as the quorum provision caused delays in many cases.

The last decade marked some improvements aimed at reforming the administration of justice and strengthening judicial independence in Tanzania. The Pensions (Additional Retirement Benefits to Specified Public Officers) Order of 1996 gave judges and justices of appeal several rights on their retirement which improved impartiality among judges to dispense justice without fear. This was similarly reinforced in 1999 with the passing of the Public Service Retirement Benefits Act, 1999, which provides a new package for judges of the High Court of Tanzania, Justices of Appeal and the Chief Justice. The adoption of the Commercial Court Act of 1999 was observed as another improvement in access to court by the business community. The Act provides for judicial resolution of business disputes in the country.

The year 2000 marked significant improvements in the formal structure of judicial independence with the adoption of the 13th Amendment to the Constitution, which eventually entrenched the independence of the judiciary (see figure 4.8). According to Article 107B of the Constitution, all courts of law in the performance of their work of dispensing justice, shall be independent and shall only be required to follow the Constitution and the laws of the country. Other pieces of legislation that enhanced the judicial independence are the Attorney General Act of 2004; the Judicial Service Act of 2005 and the Judges (Remuneration and Terminal Benefits) Act of 2007.

Tanzania is making major strides in ensuring the institutional framework of judicial independence. Major accomplishment are noticeable in the High Court and Court of Appeal, while leaving the other levels of the judiciary, which feed into these higher sections of the judiciary, still in disarray. The issues of appointment procedures including tenure and remuneration, as well as adequate facilities, remain a stumbling block in the lower courts.

4.4 Judicial independence (de facto)

4.4.1 Conceptual framework

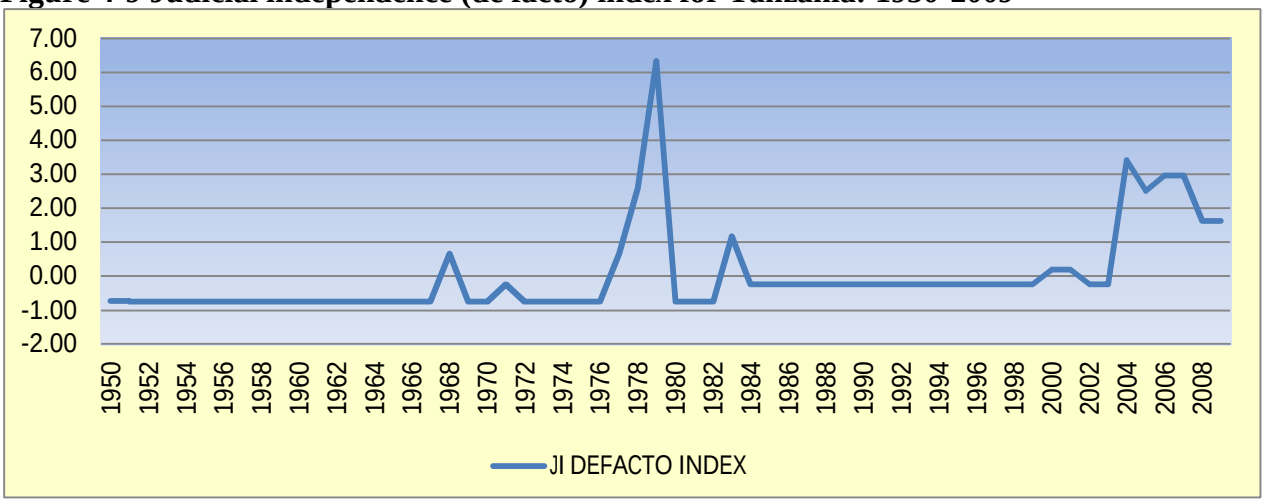
The conceptual framework for assessing judicial independence is capturing the dynamics that encourage or impede factual judicial independence. The judiciary plays an oversight role to ensure liberal democracy. To achieve the oversight role, the judicial independence relies on the principle that judges must decide cases fairly and impartially, relying only on the facts and the law.

To assess de facto judicial independence, five sub-components have been used. Each of the five sub-components were standardised to take on values between 0-4, where a greater value in this instance indicates a constraint of the degree of judicial independence. The index is constructed by applying the method of principal component analysis.

4.4.2 Interpretations of the judicial independence (de facto) index[58]

The lack of protection and oversight role by the judiciary during the colonial period might be interpreted in this case as an independent efficient judicial system. Their integrity, however, was compromised as they were viewed by the majority of the citizen as another tool of oppression.

Figure 4-9 Judicial independence (de facto) index for Tanzania: 1950-2009



In the post-independence period, similarities unfortunately persisted in a different form. The dominant power of the executive persisted, as marked by high episodes of contempt of court

[58] Due to the limited reliable data on sub-components of this index, the period of coverage is from 1950 to 2009.

cases between the late 1960 and early 1980s (see figure 4.9). The substantial power of the President during this period hampered proper functioning of the judiciary. Furthermore, poor funding and poor training of judicial officials led to widespread judicial corruption. Although earlier data on this component are hard to come by, the period from the year 2000 onwards, witness a serious crackdown on corrupt judicial officials.[59]

4.5 Political instability index

The lack of unified political institutions among African rulers during the pre-colonial era caused a situation of political tension amongst these units. In-fighting over territorial dominion continued throughout until the arrival of colonial powers. This marked a shift in focus towards a new threat posed by the presence of colonial powers (Kimambo, 1969; Duignan, 1977; Iliffe 1979).

4.5.1 Interpretations of the political instability index

Figure 4.10, shows that peaks in political and social instability occurred in 1906, the period 1940-1955, and the period 1977-1984. Despite the uprising in the 1880s against the colonial power, the major active resistance is witnessed in 1906 with the uprising of the Maji-Maji war.[60] According to Iliffe (1979), the Maji-Maji rebellion was an explosion of African hatred of European rule. This is viewed as the last attempt to destroy the colonial order by force.

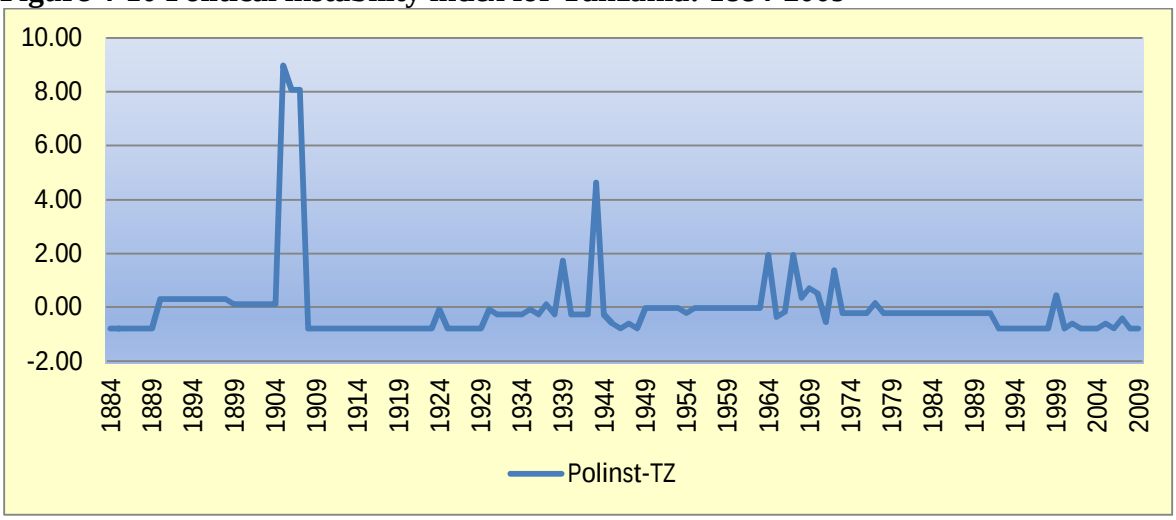
In the period between the 1920s and the 1940s, Tanzania enjoyed relative stability, while rebellious activities were brewing underground. This culminated in the wave of workers' resistance between 1940 and 1955. The post-independent period is marked by two major factors contributing to increased political instability during the period 1967-1983. First, the lack of a bill

[59] This is a rather difficult sub-component to measure – as it shows two dimensions of the subject matter. It indicates the corruption level prevalent in the judicial system which compromises the judiciary independence. On the other hand, reporting and dealing with the corruption cases indicate the cleaning of the system and thereby should lead to an improvement in the judicial system.

[60] This represents the single most violent event in the history of mainland Tanzania.

of rights in the Constitution and the formation of a single-party system gave the state the power to detain and harass more people who opposed the party authority.

Figure 4-10 Political instability index for Tanzania: 1884-2009



Second, the enactment of the Preventative Detention Act in 1962, gave the state powers to detain people even if the security of the state was not at risk. This included a variety of cases in the process of the implementation of the Ujamaa Collective farms project during the late 1960s and early 1970s. Social problems such as cattle rustling incidences in 1967 were solved through detentions and deportation laws on orders from the President. It should be noted that mainland Tanzania had remained relatively stable since 1985. However, political violence was experienced in the semi-autonomous island of Zanzibar and Pemba during the 1990s.

4.6 Comparative analysis

In this section, two types of comparative analyses are undertaken. First, the newly constructed indicators are compared with other measures widely used in the literature. The second comparison focuses on the evolution of two countries'[61] formal institutional frameworks. The analysis seeks to disclose how historical associations among these countries have changed over time. A comparison is made between Tanzania and Zimbabwe[62]. This is to get insight on the formal institutional frameworks under the British colonial regime.

[61] This includes Tanzania and Zimbabwe and the datasets were constructed along the same dimension, while the comparison with Namibia is discussed in thesis under section 3.6.2

[62] Data are obtained from Gwenhamo et al. (2008).

4.6.1 Comparison of new indices

4.6.1.1 Tanzania formal institutional framework

Table 4.1 shows the non-parametric Spearman correlation coefficients for the new series of formal institutional indices and the widely used indicators of political freedoms and property rights in Tanzania. The sign of the spearman correlation coefficient (r) indicates the direction between variables. The value of the coefficient varies between -1 and +1; with r = 1 indicating a perfect positive correlation, r = -1 indicating a perfect negative correlation and r = 0 indicating no correlation between the variables concerned. As the values moves towards 0, the relationship between the variables will be weaker.

The correlation between the constructed property rights index (TZ-prop) and the Heritage Foundation property index (Prop-HF) is -0.73 and statistically significant at the 1% level. The correlation with the Fraser Institute property rights index (Prop-Fr) is weak and insignificant with a coefficient of 0.25. A general observation is that the Fraser Institute index is available for Tanzania from 1980 and is very volatile, while the actual passing of land legislation was not so frequent. These again come to demonstrate the differences between the de jure and de facto institutional measures.

Table 4:1 Spearman correlation coefficients for Tanzania

	Newly constructed Indices for Tanzania				**Freedom House**		**Heritage Foundation**	**Fraser Institute**
	TZ-Prop	**TZ-Polfree**	**TZ-JI-de jure**	**TZ-Inst**	**Polfree-FH**	**Civil-FH**	**Prop -HF**	**Prop -FR**
TZ-Prop	1.0000							
TZ-Polfree	0.0806	1.0000						
TZ-JI-de jure	0.1726	0.6286**	1.0000					
TZ-Ins	-0.4061**	-0.2321**	-0.5228**	1.0000				
Polfree-FH	-0.8581**	-0.8445**	-0.7927**	0.8096**	1.0000			
Civil -FH	-0.8183**	-0.9002**	-0.7471**	0.7971**	0.8888**	1.0000		
Prop -FH	-0.7303**	-0.9621**	-0.8473**	-0.5979*	0.7303**	0.8758*	1.0000	
Prop-FR	0.2484	0.1321	0.1860	-0.1709	-0.4228	-0.1345	-0.1654	1.0000

Notes: * denotes significance at 5 %, ** denotes significance at 1 % level.

The political freedom index is compared to the Freedom House indices of political freedom and civil liberties. The newly constructed Political Freedom index (TZ-Polfree) is strongly correlated with Freedom House political freedom (Polfree-FH) and Freedom House civil liberties (Civil-

FH), with correlation coefficients of -0.84 and -0.90 respectively, and both statistically significant at the 1% level. The negative sign between these indices is due to inverted scale.

When comparing the new indices, there is a low and insignificant correlation of 0.08 and 0.17 between the property rights index with the political freedom index and the judicial independence index (TZ-JI-de jure) respectively. This confirms the differences in the forms of rights. The correlation between the property rights index and political instability is -.0.40 and statistically significant. The judicial independence and political freedom bond well with a significant correlation of 0.62, while there is weak relationship between political freedom and political instability, with a correlation of - 0.23.

4.6.2 Evolution of formal institutional framework

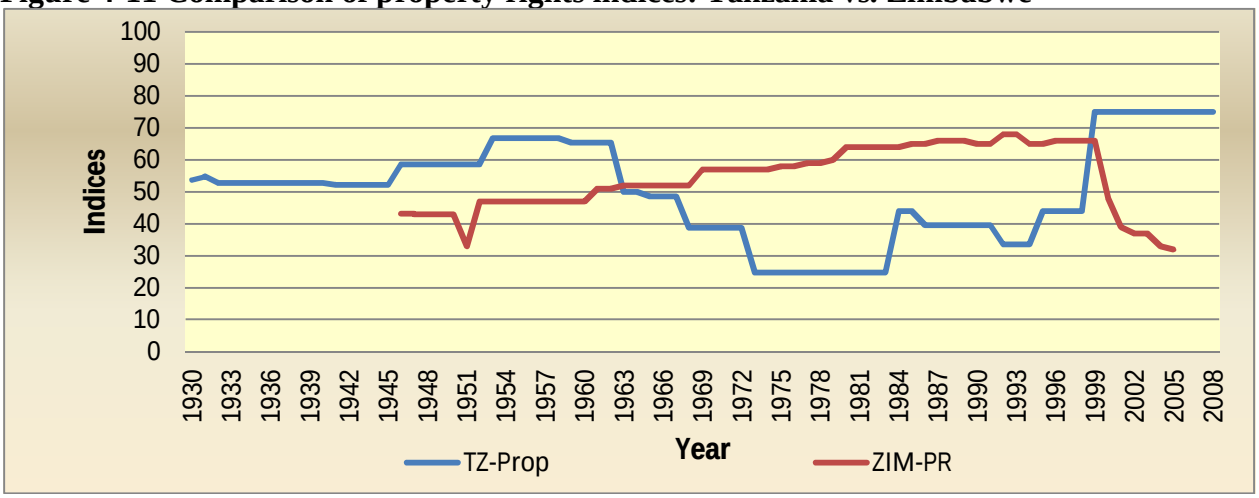
4.6.2.1 Tanzania and Zimbabwe

Figures 4.11 and 4.12 depict the status of property rights and political freedom indices between Tanzania and Zimbabwe respectively.

Property rights index

The property rights status in Tanzania appeared to have been better than in Zimbabwe under the British colonial rule, given that laws such as the Land Ordinance of 1928 accorded the status of deemed right of occupancy. The year 1945 also coincides with the declaration of trusteeship agreement for Tanzania under the United Nations mandate.

Figure 4-11 Comparison of property rights indices: Tanzania vs. Zimbabwe

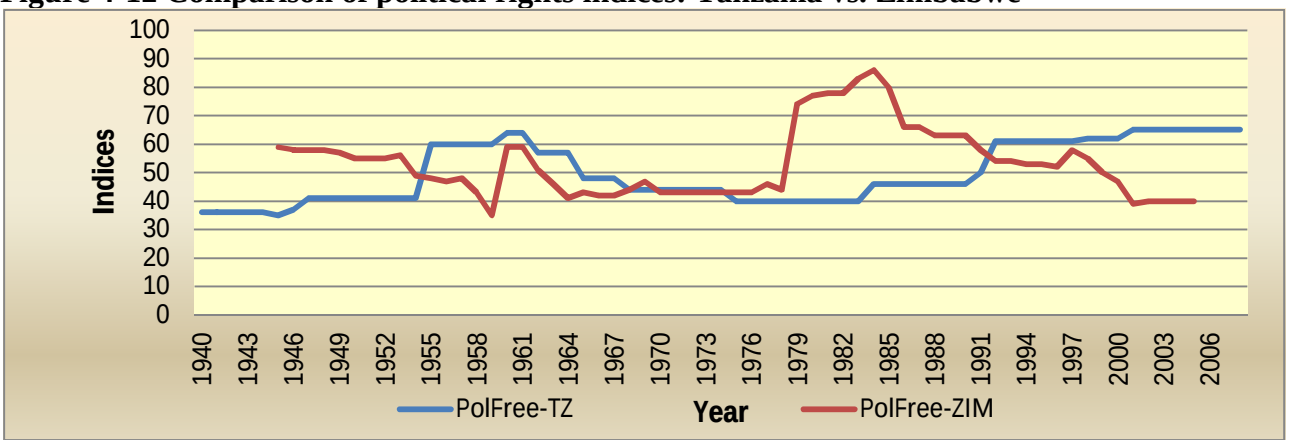


Tanzania ratings started deteriorating in the mid-1960s under the new socialist government, as individual ownership was virtually extinguished. The only improvements came after 1984 and 1999 with the introduction of the new laws which addressed the issues surrounding bills of right and customary land rights respectively. The situation has since changed as the two countries have traded position, due to land reform process in Zimbabwe.[63]

(iv) Political Freedom Indices

On the political freedoms front, it appears that the two countries were more or less at par with a notable deviation only registered in the 1980s, with the attainment of independence in Zimbabwe. Despite the independence of Tanzania in 1961, political freedoms continued to be stifled under the socialist government until 1984, with the adoption of a bill of rights in the Constitution of 1977.

Figure 4-12 Comparison of political rights indices: Tanzania vs. Zimbabwe



4.7 Conclusion

The main purpose of the chapter is to construct new dataset of institutional indicators for Tanzania. This is motivated by the fact that measures of institutions are time truncated in the existing literature. This renders it difficult to explain the persistence of differences in income levels across countries.

[63] See Gwenhamo et al. (2008) for a detailed discussion.

The chapter argues that longer-dated series of institutional measures are vital, and it therefore presents formal measures of institutions on Tanzania. The measuring of institutions using written rules are in line with accepted definition of formal institutions postulated in the literature. The new indicators, while covering a long time period (1884-2009), correlate fairly well with some of the widely used institutional indices produced by the Freedom House and the Heritage foundation.

The comparison between the British former colonies, i.e. Tanzania and Zimbabwe, shows a similar close pattern in terms of political freedom, while property rights appear to be better in Tanzania than Zimbabwe between 1945 and 1960.

Another feature of the study, covering this longer period, underscores the notion of persistence in institutions. The paper argues that despite changes in colonial regimes, the broader framework of institutions remained partly the same. This is reflected in the post-independence period in Tanzania, where the title of the president was substituting the governor titles in some land laws. Similarly, draconian laws similar to the colonial laws were enacted to curtail political freedom.

Chapter 5

5. The impact of institutions on capital formation

5.0 Introduction

One of the key channels through which institutions affect long-term economic performance is capital accumulation. According to the institutional hypothesis, protection of property rights enhances the incentives to invest. North (1990, 1991) suggested that institutions shape the incentive structure that may impede or increase economic activity.

Despite this assertion, studies have generally estimated the impact of institutions on capital accumulation within economic-growth models (see Scully 1992; Knack and Keefer, 1995; Easton and Walker, 1997). A few studies have examined the relationship between institutions and capital accumulation directly (Serven, 1997; Dawson, 1998, 2007; Svennson, 1998; Gwartney et al., 2006).

Serven (1997) argues that a great part of weak investment performance in sub-Saharan Africa is explained by weak institutions, such as political instability and a lack of property rights. This paper builds on this assertion and the institutional hypothesis, and seeks to analyse the role of institutions in explaining investment performance in Namibia and Tanzania. The few studies that have used time-series techniques to establish causation links between institutions and capital formation (Fielding, 1999; Fedderke and Luiz, 2005), however, have focused their attention on South Africa, which is an emerging-market economy. They cannot, therefore, be generalised to developing countries with supposedly poor institutional arrangements and relatively low investment levels. This study, therefore, is contributing to the literature by carrying out a detailed time-series study that explicitly introduces institutional indicators and investment determinants in a context of developing countries, with Namibia and Tanzania as case studies.

The study extends the empirical research by testing the impact of institutional indicators on irreversible investment behavior under uncertainty, using aggregate data from Namibia and Tanzania. This chapter begins with a brief overview of capital formation in Namibia and

Tanzania, followed by a review of the literature and the theoretical framework. The empirical-model specification and data used in the study are also set out, and the econometric methodologies employed are described. Chapter six presents the estimation results and analyses for Namibia and Tanzania.

5.1 A brief overview of capital formation in Namibia and Tanzania

5.1.1 Capital formation in Namibia

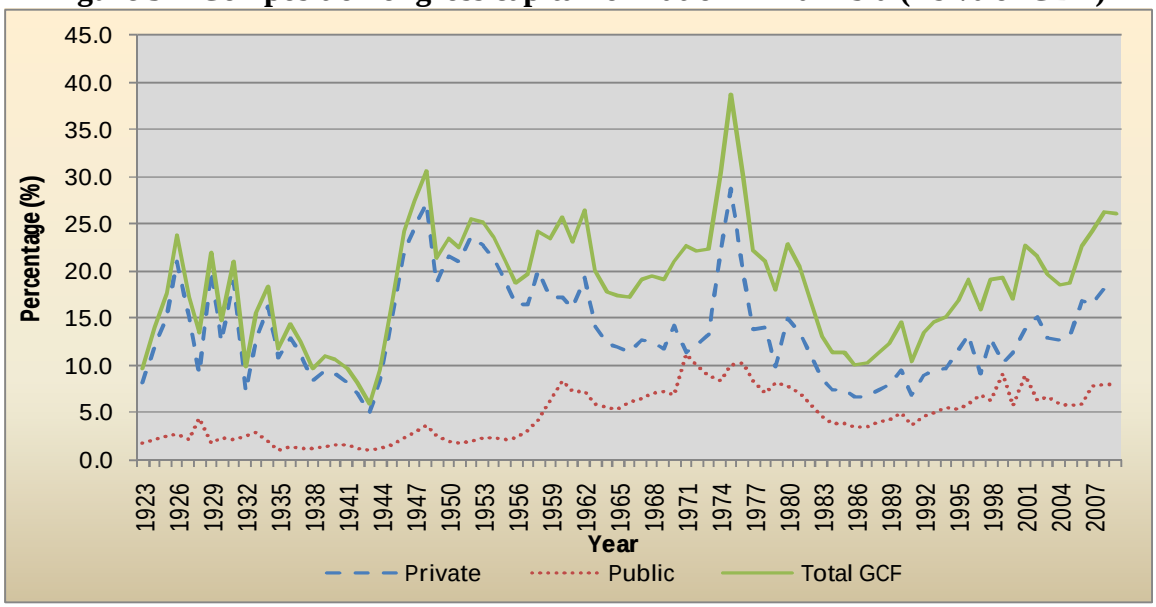
The Namibian economy is agrarian and resource-based, with heavy dependence on the contributions of mining and quarrying to output. Several structural features and characteristics of the Namibian economy pose significant challenges to capital formation and economic growth. Namibia is one of the most arid countries in sub-Saharan Africa, with low and erratic rainfall. The percentage of arable land is estimated at 1 percent. The harsh ecological environment therefore imposes a formidable constraint on the agricultural sector's performance and overall economic development. As a result, Namibia has witnessed a gradual increase in government-sector involvement in terms of public investment throughout the period under review.

Before 1944, the trend of gross capital formation as a percentage of gross domestic product (GDP) fluctuated, recording an average of 13.8 percent between 1923 and 1943. The period between 1944 and the mid-1970s signify the status of a settlers' economy in Namibia, as shown by growing confidence in the economy by the minority white South African government. Despite the start of the armed struggle and increasing international pressure[64] over this period, both public and private investment continued to increase.

In terms of sectoral percentage contributions to total gross capital formation, the tertiary sector, dominated by the provision of government services, accounted for an average of 48.3 percent over the sub-period 1920 to 1949. The primary industries accounted for an average of 39.3 percent of total gross fixed investment over the sub-period 1920 to 1949.

[64] This coincides with refusal of the South African government to place Namibia under UN trusteeship in 1945.

Figure 5-1 Composition of gross capital formation in Namibia (As % of GDP)



Source: South West Africa/Namibia (1988), Statistical Economic Review

Real fixed-capital formation grew gradually from the 1950s and reached a peak during the mid-1970s, as seen in figure 5-1. Between 1960 and 1979, gross capital formation averaged about 30 percent of GDP. In the period 1950 to 1979, the average contribution of tertiary industries increased from to 48.3 percent to 53.3 percent, thus continuing its dominance. The average share of primary industries declined from 39.3 percent to 34.1 percent over the same sub-period. This was mainly driven by the average decline in agriculture and fishing contribution to gross capital formation, which decreased from an average of 29.1 percent over the sub-period 1920 to 1949 to an average of 19.0 percent over the sub-period 1950 to 1979.

From 1980 to the eve of independence in 1987, the average rate of investment fell to 17.9 percent of GDP, from 30 percent for the period 1960 to 1979. The uncertainty about political and economic policies of a prospective independent Namibia significantly dampen economic activity over this sub-period.

Table 5:1 Average contribution to gross capital formation (%)

Categories	1920–1949	1950–1979	1980–1987	1993–2010
Primary sector	**39.3**	**34.1**	**20.6**	**25**
Agriculture& Fishing	29.1	19.0	4.9	7
Mining	10.2	15.1	15.7	18
Secondary	**12.4**	**12.8**	**9.9**	**19**
Tertiary	**48.3**	**53.1**	**69.5**	**56**
Government	13.8	29.7	48.0	20

Source: South West Africa/Namibia (1988), Statistical Economic Review and National Income Accounts, CBS various issues.

Table 5:1 reveals the neglect of the secondary industries during the major part of the review. Primary industries attracted almost twice as much investment as secondary industries, underscoring the high reliance on the primary-industry focus on the exploitation of Namibia's vast natural resources. Within the primary sector, mining and quarrying attracted more investment than agriculture and fishing on average.

At the time of independence, the Namibian government adopted a number of measures and programmes to entice local and foreign investment in the economy. These included, among others, the creation of an Investment Centre under the Ministry of Trade and Industry with the adoption of Foreign Investment Act of 1990. The aim of the centre is to co-ordinate the investment-promotion activities of the government and to identify potential investment opportunities in Namibia. Other initiatives include business-tax and special-investment incentives, as well as the creation of an export-processing zone through the adoption of the Export Processing Zone Act of 1995.

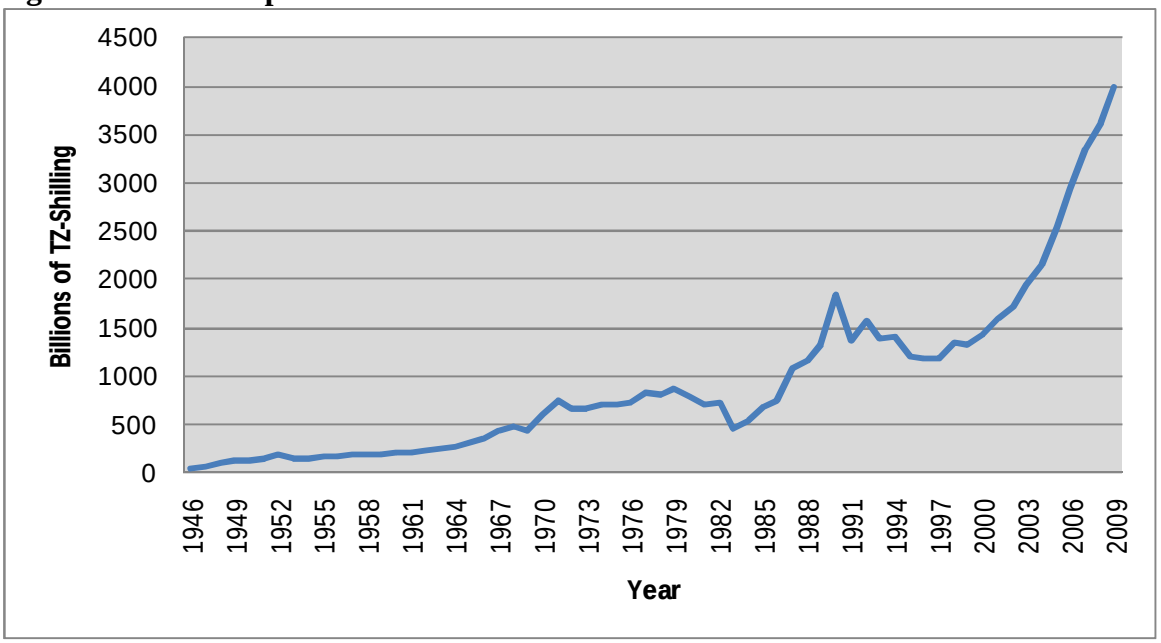
In spite of all these incentives and secure property rights in Namibia, the first decade of the post-independence period recorded a rapid decline in the rate of investment. Between 1990 and 1999, gross capital formation averaged about 15.8 percent of GDP. A slight improvement in the rate of investment is, however, noticeable, with an average of 21.7 percent of GDP over the sub-period 2000 to 2009. Even so, investment performance failed to return to the levels of the 1960s and 1970s, despite the all-inclusive institutional framework.

5.1.2 Capital formation in Tanzania

Gross capital formation in Tanzania during the colonial period is tied to the establishment of the plantation-agriculture economy introduced by the German colonial government. Although official figures are hard to come by, the first German tobacco and sugar plantations were started in the 1880s in Pangani, extending to East Usambaras in the 1890s. The sisal plantations, which become one of the major export earners, started in 1893. By 1912, there were 750 European-owned sisal plantations, mostly owned by individuals.

In terms of public investment, railway development, which started in 1891, is viewed as the major contributor to gross capital formation in then Tanganyika. Transport development mainly centred on areas that promoted agriculture plantation. The railways started inland from Tanga along the Pangani valley, in the direction of Kilimanjaro, reaching East Usambara by 1893 (Coulson, 1982). A similar development brought a railway to West Usambara by 1905. The last ten years of German rule, from 1905 to 1914, saw the creation of most of the colonial infrastructure, indicating a considerable investment in Tanganyika by then.

Figure 5-2 Gross capital formation in Tanzania



From 1920 to 1960, the British maintained the balance among peasants, settlers and plantations inherited from the Germans (Iliffe, 1979). Capital formation was dominated by private investment in plantations and public-sector investment in infrastructure. No official data exist for the larger part of the period under review.

In the post-independence period, the Arusha Declaration in 1967 instituted a structural transformation that increased state control in the economy. During this period, until the reforms of the mid-1980s, public-sector investment was promoted, while that of the private sector diminished, hampered by complex systems and regulations (Likwelile, 1998; Bigsten and Danielson, 2001). The public sector dominated investment activity, with bulk of the finance coming from donors. The country's investment strategy gave heavy emphasis to long-term-oriented investment activities, often infrastructure projects, rather than directly productive investments (Bigsten and Danielson, 2001). Between 1971 and 1974, public investment was dominated by an effort to improve transit routes with Zambia, involving the construction of the Tazara Railway, the Tanzam Highway and the Tazara Pipeline. During that period infrastructural investment accounted for 53.4 percent of total gross capital formation (Moshi and Kilindo, 1999). Gross fixed-capital formation stood at 17 percent of GDP on average from 1967 to 1985.

The reform period witnessed stable investment rates throughout, with 21 percent of GDP on average from 1986 to 2009. The launching of the Tanzania investment policy (1996) paved the way for the enactment of the Tanzania Investment Act 1997, which established the Tanzania Investment Centre (TIC) as the primary agency of government to co-ordinate, promote and facilitate investment in Tanzania.

5.2 Main theories and institutional determinants of capital accumulation

Many theories have been constructed to assess the determinants of capital accumulation. For the purpose of this study, a brief review of the traditional theories is provided, while the main focus is on irreversible investment under uncertainty theory.

5.2.1 Theoretical perspectives

5.2.1.1 Traditional theories of investment

The starting point of conventional capital accumulation theorisation is the Keynesian, or accelerator, theory of investment (1947),[65] according to which investment is a linear proportion to changes in output. A more general form of the accelerator model is the flexible accelerator model.[66] The basic notion behind this is that the larger the gap between the existing capital stock and the desired capital stock, the greater the firm's investment.

The neoclassical theory of investment attributed to Jorgenson (1963) and Hall and Jorgenson (1967) was an attempt to focus on optimal capital stock adjustment by incorporating the cost of capital. The key drawback of the initial Jorgenson neoclassical theory of investment was that it assumed that the firms have the ability to adjust their capital stock to desired optimal level instantly and without cost. The importance of the adjustment cost in theory of investment was recognised by Eisner (1964), Lucas (1967), Gould (1968), Uzawa (1969) and Treadway (1969).This led to the introduction of the cost of installing new investment in the firm's optimization problem;[67] and consequently a separation of the influence of output on investment from that of the cost of capital.

[65] The acceleration principle has been at the heart of economic theory since the writings of Carver (1903), Aftalion (1909) and Clark (1917).

[66] Advocated for through the work of Chenery (1952) and Koyck (1954).

[67] This modification of the neoclassical theory was supported in the work Jorgenson (1971).

A seminal paper by Tobin (1969) provided a framework for incorporating the marginal cost of adjustment in the theory of investment. The Tobin q- theory of investment argues that investment is the function of the ratio of the market value of capital to its replacement cost, a ratio known as q. The work of Abel (1979) and Hayashi (1982) made a theoretical contribution by introducing an observable average q in the q-model, given that marginal q is unobservable to the econometricians.

5.2.1.2 Investment under uncertainty theory

The modern theory of investment expenditure focuses extensively on the investment–uncertainty relationship.[68] We distinguish between two strands of theoretical analysis with different conclusions on the sign and magnitude of the effect of uncertainty on investment applied in a dynamic stochastic environment.

The first strand of literature using a neoclassical model without capital-stock adjustment costs predicts a positive impact of uncertainty on capital productivity (Hartman, 1972). The results depend on the assumptions of perfect competition, constant returns to scale, full reversibility of capital and convexity of the marginal product of capital. This implies that increased uncertainty will yield a raise in marginal valuation of investment, leading to a positive link between capital accumulation and uncertainty. This was supported by Abel (1983), who argued that regardless of the characteristics of the adjustment cost function, increased uncertainty leads to increased investment spending. According to Lee and Shin (2000), the balance between the positive and negative effects of uncertainty may depend on the labour share of firms' costs.

Another strand of literature on investment under uncertainty links uncertainty to the main characteristics[69] of most investment decisions: (i) irreversibility and (ii) the timing of investment.

[68] See Carruth et al. (2000) for an earlier survey on the investment–uncertainty literature.

[69] According Pindyck 1993, investment expenditure has two important characteristics. Firstly, it is irreversible, thereby instituting an adjustment cost i.e a large sunk cost. Secondly, the wait to invest due to uncertainty lowers investment.

For a neoclassical model with asymmetric capital adjustment costs, i.e. (partial) irreversibility of capital, greater uncertainty is likely to affect investment level negatively due to an option value of waiting (Bernanke, 1983; Mc Donald and Siegel, 1986; Dixit and Pindyck, 1994; Abel and Eberly, 1999). The central point to this theory is that uncertainty becomes an important investment decision because of the ability to delay an irreversible investment in anticipation of more information about the future. This makes investment decisions a real option problem, first developed by McDonald and Siegel (1986). It means that it may pay to wait before investment; as irreversibility attaches an opportunity cost to undertaking the investment expenditure. The neoclassical model relates investments to user cost of capital, while the call-option approach underscores the irreversibility of investment as the main source of friction.

Theoretically, the impact of irreversibility and uncertainty on long-run average investment and the capital stock remains unclear. Caballero (1991) and Abel and Eberly (1994) argued that under the assumption of constant returns and an infinitely elastic demand curve, an increase in uncertainty will increase investment, even in the presence of irreversibility. They show that for the relationship between uncertainty and investment to be negative depends on both the degree of market power, and aspects of the firm's technology. According to Caballero (1991), higher uncertainty leads to lower investment under the assumption of decreasing returns to scale and or imperfect competition, either of which makes the marginal revenue product of capital a decreasing function of capital stock.

Abel and Eberly (1999) argued that the relationship may be presented by an inverted U-curve. At low levels of uncertainty, the investment–uncertainty relationship may be positive, whereas at high levels of uncertainty the relationship starts to become negative. They showed that since firms with irreversible investment face a higher user cost of capital, investment and the capital stock tend to be lower. However, when the irreversibility constraint binds, the firm would like to sell capital but cannot, and this "hangover" effect tends to increase the average capital stock.

Given these contrasting theoretical results and the ambiguity of the net effect of uncertainty on investment, empirical work is vital.

5.2.1.3 Institutional determinants of investment and capital accumulation

The previous section focused on output demand and/or prices as the basic sources of uncertainty. This section looks at uncertainty arising from other sources, as it might have exactly the same effect on irreversible investment decisions (Serven, 1997). A variety of studies using different proxies of uncertainty have been carried out. At the forefront are the macroeconomic uncertainties[70] such as volatility of the terms of trade, inflation and real exchange rate. However, few institutional indicators, such as property rights, political instability and the political and civil liberties index, are often used to offer insights into the determinants of capital accumulation.

The issue of political freedom and its impact on capital accumulation is encompassed in the broader debate on democratic institutions and economic performance. The theoretical links among democracy, economic performance and capital accumulation remain an empirical problem and this has led to two main strands of theoretical analysis, with different outcomes on the relationship. The first strand of literature emphasises that democratic rights might help to promote economic growth (Przeworski and Limongi, 1993; Clague et al., 1996). It is argued that democracy might reduce uncertainty and raise private investment. The counterargument states that broadened political participation might lead to deterioration in economic performance (Huntington, 1968; Olson, 1982). The main theoretical support is that broader participation might generate increased pressures for redistribution, thus lowering allocative efficiency.

As for the effect of political instability on factor accumulation, Alesina and Perotti (1996) showed that there is a negative correlation between political instability and investment. The theory is that political instability leads to uncertainty about future policies and hence reduced investment demand and, consequently, reduced physical capital accumulation.

Economists have argued that the protection of property rights is a fundamental ingredient for investment and growth (Scully, 1992; Gwartney et al., 1996). The underlying theoretical argument is that greater respect for property rights and the fulfilment of contracts would

[70] See, for example, Aizenman and Marion, 1993; Serven and Solimano,1993 and Bleaney and Greenaway, 2001.

encourage private investment. Furthermore, it has been shown by Leblang (1996) that economies that protect citizens' property rights grow more rapidly than those that do not.

The hypothesis that judicial independence (as a proxy of legal effectiveness) matters for long-term economic development has also received attention in economic-growth empirics. The theoretical understanding underpinning this hypothesis is that independent courts ensure secure property rights and contract enforcements, and this encourages investment, which is vital for economic growth. North and Weingast (1989) argue that political institutions characterised by checks and balances can have beneficial effects on investment by allowing governments to commit credibly not to engage in ex-post opportunism with respect to investors.

5.2.2 Theoretical framework

The framework of the analysis is captured within the theory of (partly) irreversible investment under uncertainty (Dixit and Pindyck, 1994; Abel and Eberly., 1999). The focus is the incorporation of uncertainty in investment models that recognise the existence of adjustment costs in capital stock.[71] This recognition places the focus on irreversible capital investment that shows diminishing returns. For simplicity we assume that the firm, whose production function is given by Y = G (K), where K is units of capital in place, faces an uncertain industry demand function for its output given by P = V.D(Y), where the shift variable denoted by V follows geometric Brownian motion,[72]

$$dV = \alpha V dt + \sigma V dz \qquad (1)$$

where dt, is a time increment dz is the increment of a Wiener process, α is the drift parameter and σ is the variance parameter. Equation (1) implies that the current value of output is known, but future values of output will be lognormally distributed with a variance that grows linearly

[71] The discussion follows the work of Dixit and Pindyck (1994), with reference to chapter 11. See also Fedderke (2004).

[72] The Brownian motion is commonly used for three main reasons: (i) the process is a Markov process (ii) the probability distribution for a change in the process over a time interval is independent of other time intervals; (iii) over any given time interval, the changes in the process are normally distributed, and the variance increases linearly with the time interval.

with time. The future value of output is always uncertain. Another assumption is that there are no variable costs,[73] so that the firm then experiences the profit flow given by:

$$\pi = V.D\big(G(K)\big).G(K) = S.H(K) \qquad (2)$$

The marginal revenue product of capital is VH′K. We assume that there are diminishing returns to capital in the sense that the marginal revenue product is decreasing in K, or the revenue function is concave in K, such that H"(K) < 0.[74]Irreversibility and delay lead to the creation of an option to invest. Given the initial value of its capital stock, K_o, and the initial level of the stochastic demand shift variable V, the dynamic optimisation problem of the firm is to maximise its expected present value, its operating profits, net of the cost of investment. Suppose that the firm considers an increase in capital stock to K_1 at the end of the period, such that the expected value of the increase in capital stock is given by:

$$w = V.H(K)dt + e^{-pdt}E[W(K_1, V + dV) - k(K_1 - K_0)] \qquad (3)$$

Where $V + dV$ denotes the demand shift, k the price of capital, and E is the expectations operator. The objective is to choose K_1 in order to maximize the expected value, providing the initial value $W(K, V)$ of the Bellman function. Solution of the dynamic programming problem provides the investment frontier V (K): The threshold in this instance is given by:

$$V(K) = \frac{\beta}{\beta - 1} \frac{\delta}{H'(K)} \qquad (4)$$

Where β is the positive root of

$$\varphi = \frac{1}{2}\sigma^2 \beta(\beta - 1) + \alpha\beta - \rho \qquad (5)$$

[73] Assume zero depreciation of the capital stock.

[74] There are justifications for the decline of the marginal revenue product of capital. This could be the case because of physical diminishing returns in production, $G''(K) < 0$, or because of the downward sloping industry demand curve ($D'(Y) < 0$), or some combination of both.

Hence

$$\beta = \frac{1}{2} - \frac{\alpha}{\sigma^2} + \sqrt{(\frac{\alpha}{\sigma^2})^2} + \frac{2\rho}{\sigma^2} > 1 \qquad (6)$$

The crucial result is the emergence of the investment threshold given by equation 4, which is shown to lie above the standard net present value rule of investment, due to the incorporation of uncertainty. The equation (investment threshold) above indicates that first, investment will occur only if the expected marginal profit from additional capital$\frac{V(K).H^{'}(K)}{\delta}$, is greater than the cost of installation of the additional unit of capital by $\frac{\beta}{\beta-1}$ .This investment boundary depends on the discount rate (ρ), the trend parameter (α) and its associated volatility(σ).

An increase in any of these variables will lead to a decrease in β,[75] which leads to an increase in the option value through$\frac{\beta}{\beta-1}$, raising the investment boundary. Note that even though σ is increasing the boundary, increased volatility may allow the boundary to be hit more often than in a situation with lower volatility, leaving the sign of the impact of uncertainty ambiguous a priori (see Fedderke, 2004). It is therefore unclear if there will be increased or decreased investment in the presence of increasing uncertainty.

5.2.3 Empirical literature survey

The empirical literature on investment determinants has developed substantially over the past two decades, drawing on larger and richer databases and utilizing better econometric tools. Given the many explanatory variables used in empirical literature, here we intended to focus on studies that have offered insights regarding the interplay between institutions and investment. The rest of this section discusses the impact of these institutional factors on capital accumulation.

[75] $\frac{\partial\beta}{\partial\alpha} < 0, \frac{\partial\beta}{\partial\sigma} < 0, \frac{\partial\beta}{\partial\rho} < 0$

(i) Political instability and capital accumulation

A number of empirical studies have shown a link between political instability and the accumulation of capital. Alesina and Perotti (1996) provide an empirical test to show that socio-political instability has a negative effect on investment accumulation, using a sample of 71 countries. Fedderke (2001, 2004) explicitly tests the relationship between uncertainty (as proxied by political instability) and investment using a panel of 28 manufacturing sectors' data in South Africa, and finds that political instability has a lowering effect on the investment rate. In other words, political instability depresses the accumulation of capital. These results seem to enhance the findings of Feng (2001), Fielding (2002) and Aysan et al. (2007) that political instability has a negative effect on investment.

The work of Le (2004), using a panel of 25 developing countries, distinguishes between the types of political instability. According to Le, socio-political instability in the form of non-violent protests encourages private investment, while violent uprisings hinder private investment. However, Campos and Nugent (2003), investigating the causal relationship between aggregate investment and political instability, find that there is a positive causal relation in the long run going from instability to investment, which is particularly strong in low-income countries. In contrast, an earlier study by Svensson (1998) indicates that once property rights are accounted for, political instability has no direct effect on private investment.

(ii) Political freedom and capital accumulation

In order to distinguish between political freedom and political instability, this section reviews studies that use the political-rights and civil-liberties indices. Several empirical works have shown that there exists a positive correlation between political freedom and investment. Feng (2001) analysed the impact of political freedom on private investment for a sample of 42 developing countries, using a composite index of political rights and civil liberties from Gastil indices. The results showed a positive and significant relationship between political freedom and private investment. This supports earlier findings that civil liberty has a positive impact on

investment (Kormendi and Meguire, 1985), and that democracy has a positive impact on private investment (Helliwell, 1994; Pastor and Sung, 1995).

An index of political and civil liberties (as a proxy of property rights) was used by Hadjimichael and Ghura (1995) and found to have a positive but insignificant effect on the private-investment performance of 32 African countries over the period 1986 to 1992. Kumar and Mlambo (1995) argued that civil liberties appear to exert a stronger impact on investment than political rights do. However, Mlambo and Oshikoya (2001) failed to detect any insignificant impact of the two measures individually, while they found that the interaction term between political rights and civil liberties did have an impact on investment. A contradiction to these findings is provided by Tavares and Wacziarg (2001), who found that increases in political freedom reduce investment in physical capital. Democratic institutions tend to respond to the demands of the poor through expansion of access to education and attempts to lower income inequality.

(iii) Property rights and capital accumulation

The importance of secure property rights and their positive links to investment formation underscores the recent empirics in growth determinants theory. Empirically, a positive relationship between secure property rights and investment has been found by Knack and Keefer (1995), Fedderke and Luiz (2005), and Acemoglu and Johnson (2005).

Knack and Keefer (1995) constructed a property-rights index from the International Country Risk Guide (ICRG) and Business Environmental Risk Intelligence (BERI) data sets and applied it to the United States data. They found that property rights have huge impact on investment and growth. Knack and Keefer also showed that property rights not only affect the magnitude of investment, but also the efficiency with which inputs are allocated.

Similarly, Fedderke and Luiz (2005) using annual data covering the period from 1954 to 1992 for South Africa found that secure property rights stimulate investment. The study also used a system of equation and incorporated a number of measures of institutional dimensions which provided insights into the webs of association between institutions and investment rates.

The importance of property rights in explaining investment is supported by Acemoglu and Johnson (2005); using a multiple instrumental variables strategy, they found that property rights institutions have a major influence on investment, long-run economic growth and financial development.

(iv) Independence of the judiciary and capital accumulation

Empirical evidence on the impact of judicial independence on investment and growth is rare. A series of papers by La Porta et al. (1997, 1998, 2004), Djankov et al. (2003) and Beck et al. (2006) in the law and finance literature have emphasised the importance of the economic value of judicial independence. This line of studies showed that there is a strong correlation between legal systems and financial development. Countries with common-law origins are more likely to provide strong protections for investors (La Porta et al., 1997, 1998), and better financing of firms (Beck et al., 2006).

The work of Feld and Voigt (2003) is among the few empirical studies linking judicial independence directly to economic growth. Using two indicators capturing the de jure and de facto judicial independence in a sample of 57 countries, they found that de jure independence does not impact economic growth, but de facto independence does positively influence real GDP growth per capita. The paper indicated that one of the transmission channels of the positive impact might be via investment, although this not was investigated. Investment was added as an explanatory variable in the growth model. Based on this hypothesis, the present study explores the relationship between judicial independence and investment.

5.2.4 Empirical model and data issues

5.2.4.1 Empirical model

The choice of the model is based on the new theory of investment which clearly specifies that uncertainty and the possibility of postponing investment will affect capital formulation. Section *5.2.1.3* has shown that uncertainty stemming from poor-quality institutions, such as weak enforcement of property rights and of the legal system, influences the accumulation of capital. Furthermore, the importance of good institutions in promoting economic development indirectly

through capital accumulation has been shown. A realistic model of investment for Namibia[76] and Tanzania therefore depends on three broad categories of variables: standard investment variables, uncertainty variables and institutional variables.

The basis of all investment functions is an attempt to identify net rates of return to investment, with output (Yt) frequently serving as an indicator of expected future returns to investment, while the user cost of capital (UC) serves as a measure of the marginal cost of investment. This paper extends the standard model of irreversible investment under uncertainty by integrating property rights (Prop), political freedom (Polfree) and judicial independence (JI) as institutional indicators. This is in line with the hypothesis that capital accumulation is vulnerable from any form of uncertainty stemming from the quality of institutions. Also, the North (1990) hypothesis on the importance of secure property rights for investment is captured. Most empirical studies have used investment models that assume linearity; this suggests an empirical model stated as follows:

$$\mathrm{LK} = \mathrm{f}(+\ \mathrm{LY} - UC \pm INST + LPROP + LPOLFREE + LJI) \qquad (7)$$

From equation (7) LK is defined as the natural log of capital stock; LY is natural log of expected output, UC is user cost of capital, LProp is the natural log of property rights, LPolfree is the measure of political freedom in log. LJI denotes the de jure judicial independence in log. INST is political instability (i.e. uncertainty measure).

The choice of using capital stock in the study is more appropriate in time-series analyses, given that fixed investment is a net addition to capital stock. The time-series behaviour is better captured by using models of capital stock that provide a long-term measure of the act of accumulation of fixed capital over time (Kumo, 2006).

[76] An investment model for Namibia must allow for the impact of institutional changes particularly the political institutions due to the protracted colonial era.

The signs in equation 7 provide the prior expectations. The expectation is a positive association between expected output and physical capital stock. This is in line with the flexible accelerator theory of investment, which suggests that investment responds to changes in demand for output. The user cost of capital is expected to have a negative effect on capital stock. Firms invest up to the point where the marginal efficiency of capital equals the user cost of capital. A rise in the user cost reduces optimal capital stock and investment. In line with empirical literature on uncertainty and investment irreversibility, the sign on the political instability (Inst), which is the proxy of uncertainty in the study, is ambiguous.

The institutional-hypothesis arguments support a positive association between strong institutional variables and capital stock. Secure property rights generally lead to lower expected expropriation and higher net returns. The increase in judiciary independence, which underscores checks and balances as postulated by North and Weingast (1989), is expected to have a positive effect on capital accumulation. If an independent judiciary is able to make the representatives of the state stick to their promises, additional (physical) investment could lead to higher income and growth (Feld and Voigt, 2003).

5.2.4.2 Description of variables and data sources

From the outset, it should be noted that reliable economic data (GDP, gross capital formation) on Tanzania prior to the 1960 are hard to come by. Peacock and Dosser (1958) made a systematic construction of national incomes series and they published GDP only for 1952 to 1954. Their work was continued by the East African Statistical Department and later by the Bureau of Statistics. However, data reconciled with publications of current national income is not available.

In this thesis, available data on GDP was successively rebased until all data was based on 2001 constant prices. The data span for the analysis on Tanzania is from 1946 to 2009; for Namibia the data span is from 1923 to 2009.

Dependent and control variables

The log of *physical capital stock* is the dependent variable (LK_t). The method used to calculate capital stock is the perpetual inventory method, using data on gross fixed capital formation from the SWA/Namibia Department of Economic Affairs and extended with data from CBS-Namibia National Accounts.[77] The data on gross fixed capital formation in Tanzania are from the East African Statistical Department Reports and National Accounts of Tanzania. The depreciation rate used in this study is 6 percent as in Hall and Jones (1999).

The log of *real gross domestic product* is used as a proxy for the expected return on capital (LY_t). Data for the period 1920 to 1987 were obtained from SWA/Namibia Department of Economic Affairs and extended with data from CBS-Namibia National Accounts. In the case of Tanzania, data for the period 1952 to 2009 were obtained from the East African Statistical Department Reports and National Accounts of Tanzania.

The *user cost of capital* ($UC_{t)}$ is a proxy for the marginal cost of capital. The real user cost of capital is computed using an analytical expression formulated as $UC_t = (i - \pi + \delta)$ where i is the average commercial bank lending rates; π is the rate of inflation; and the depreciation rate δ is assumed to be constant at 6 percent level.

The data on inflation and nominal interest rate (lending rate) were extrapolated backwards using the South African (SA) data growth rates on these variables, as there is a lack of data on Namibia between 1920 and 1950. The SA data was obtained from *Union Statistics for Fifty Years (1910–1960), Jubilee Issue*. Given lack of data on Tanzania from 1946 to 1966, the data on nominal interest rate (lending rate) were extrapolated backwards using the growth rates on interest rate data from United Kingdom (UK). According to the International Monetary Fund (IMF) (1969), the rate charged by commercial banks before March 1967 on prime loans usually followed the London rate. The UK data was obtained from Abildgren (2005).

[77] The calculation of capital stock is based on the modified Harberger approach as used by Nehru and Dhareshwar (1993).

Uncertainty is proxied by the political instability index (Inst). Fedderke (2001) argues that investment is adversely affected by uncertainty. The political instability index is computed using the principal component analysis of five sub-components of political repression and opposition. The data is available for the period 1884 to 2009 for both countries.[78]

Institutional Indicators

The variables employed by this study to represent economic and political institutions are constructed by the author. Chapter two of this thesis provides the description of the respective sub-components used as inputs into the indices and the methodology applied. The data is available for the period 1884 to 2009, except for judicial independence de facto, which coverage starts from 1950 onwards, and therefore it is excluded from this analysis. The analysis on Tanzania is from 1946 to 2009, while for Namibia the data span is 1923 to 2009. This is dictated by the availability of reliable economic variables data.

The log of *property rights index* (LProp): The log of the property right index is computed using the factor analysis of seven sub-components of full liberal ownership.

The log of j*udicial independent de jure index* (LJI): Both de jure and de facto measures have been developed. The log of JI de jure covers the period 1884 to 2009; the JI de facto covers the period 1950 to 2009. In this thesis the JI de jure, due to its longer dated span, was used.

The log of *political freedom index* (LPolfree): The log of the political freedom index is computed using the factor analysis of 12 sub-components of indicators of political rights and civil liberties based on theoretical dimensions of a contemporary liberal democracy advanced by Jaggers and Gurr (1995).

The plots of the variables are presented in figure 5.3 for Namibia, while figure 5.4 plots the Tanzania variables.

[78] See chapter two for a detailed discussion on the methodology and the data.

Figure 5-3Time-series plots of variables for Namibia

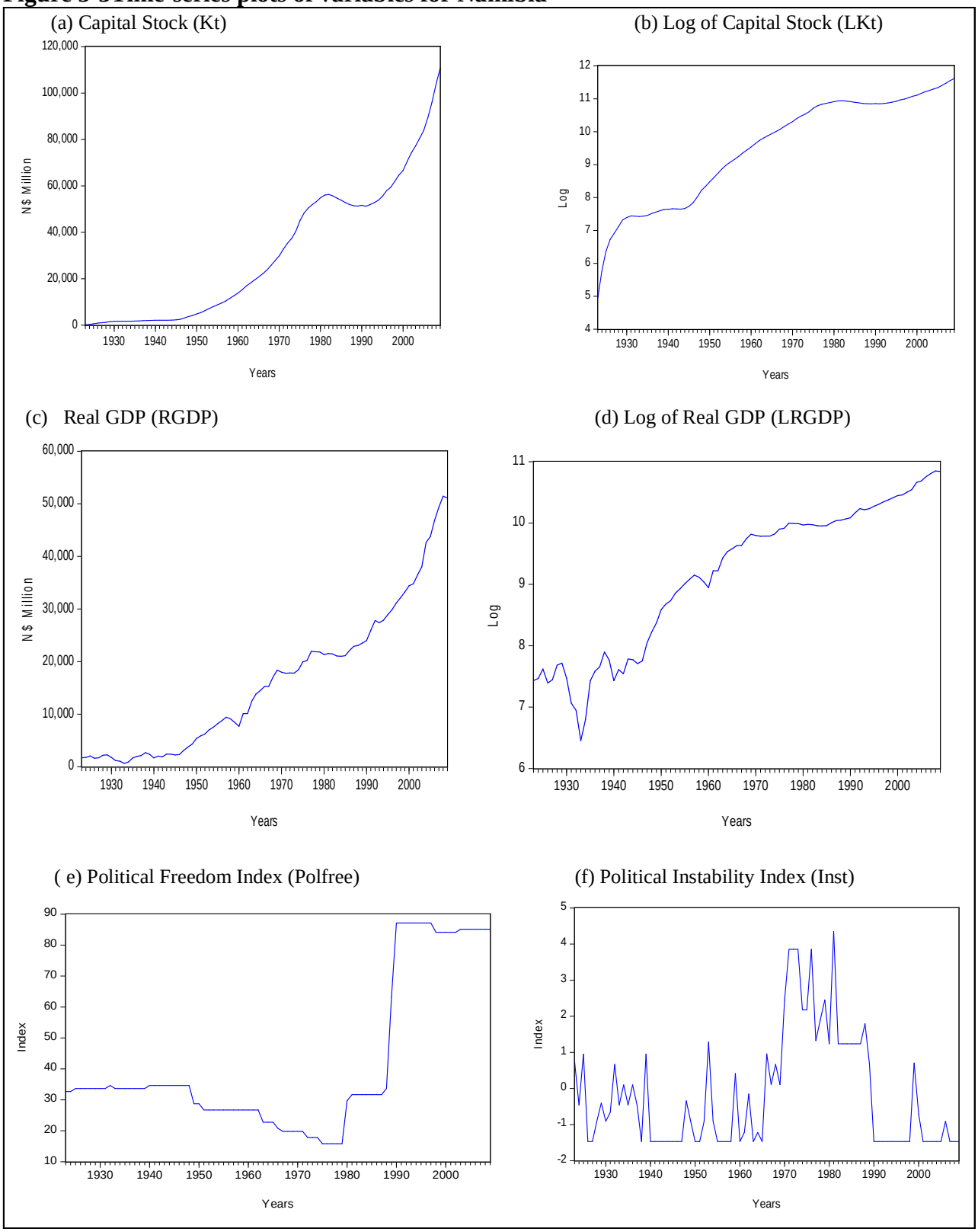
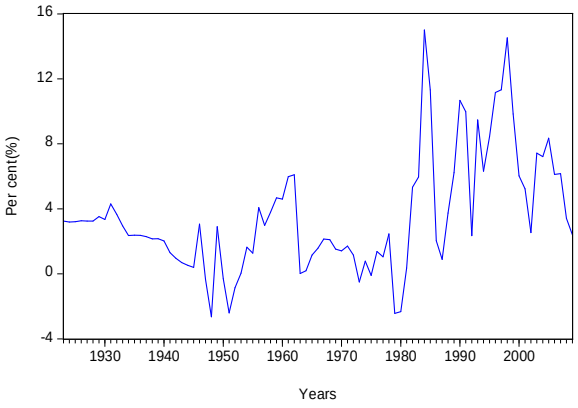
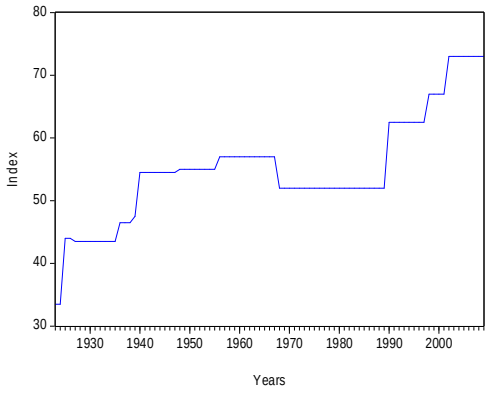


Figure 5.3 Time-series plots of variables for Namibia (continued)

(g) User Cost of Capital (UCt)



(h) Property Rights Index (Prop)



(i) Independence of Judiciary Index (JI de jure)

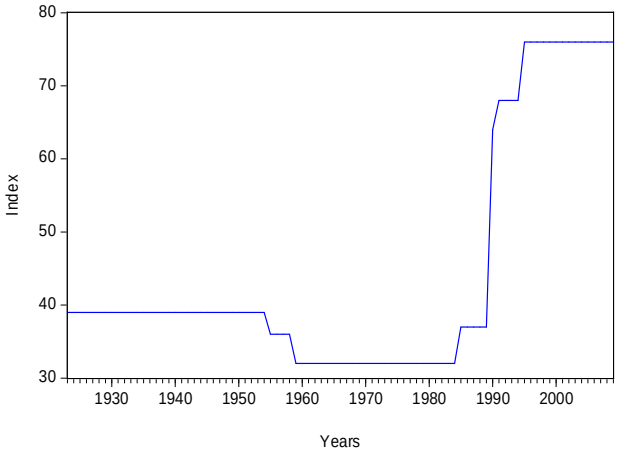
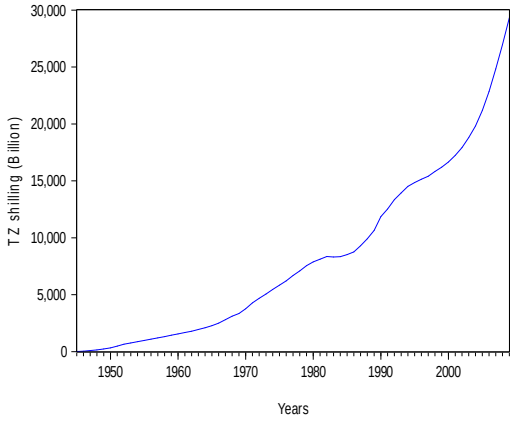
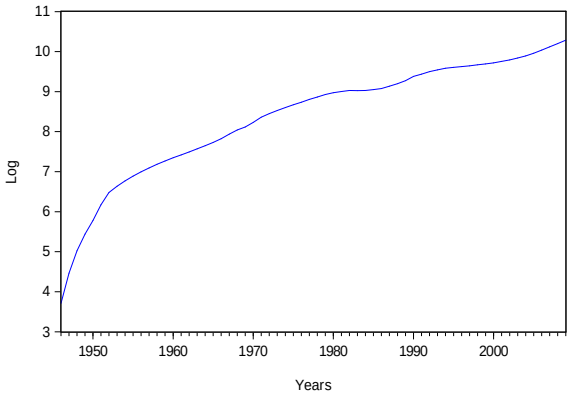


Figure 5-4 Time-series plots of variables for Tanzania

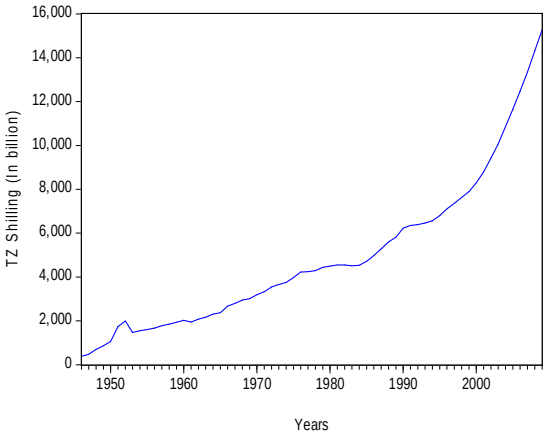
(a) Capital Stock (Kt)



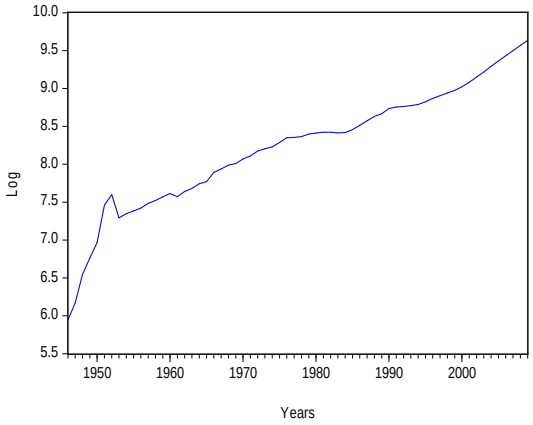
(b) Log of Capital Stock (LKt)



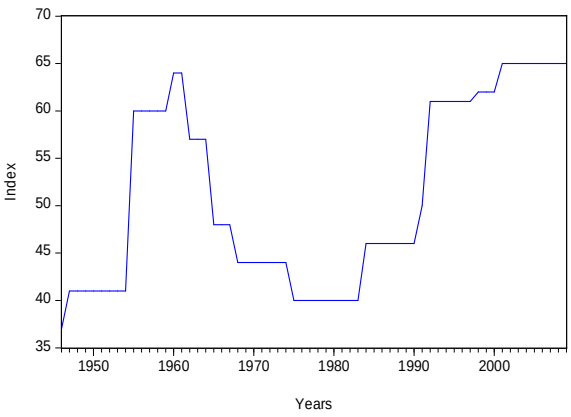
(c) Real GDP (RGDP)



(d) Log of Real GDP (LRGDP)



(e) Political Freedom Index (Polfree)



(f) Political Instability Index (Inst)

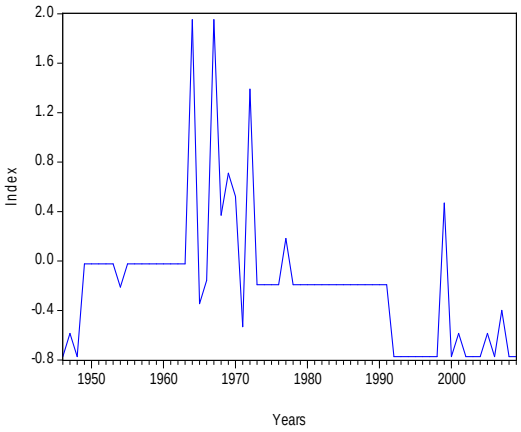
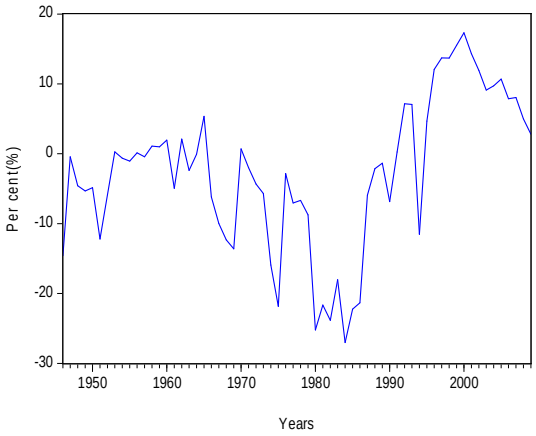
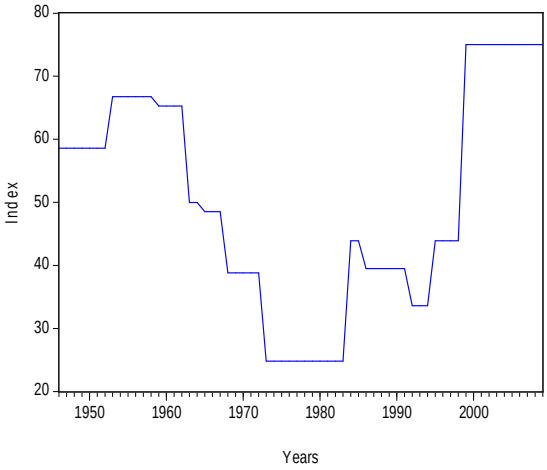


Figure 5.4 Time-series plots of variables for Tanzania (continued)

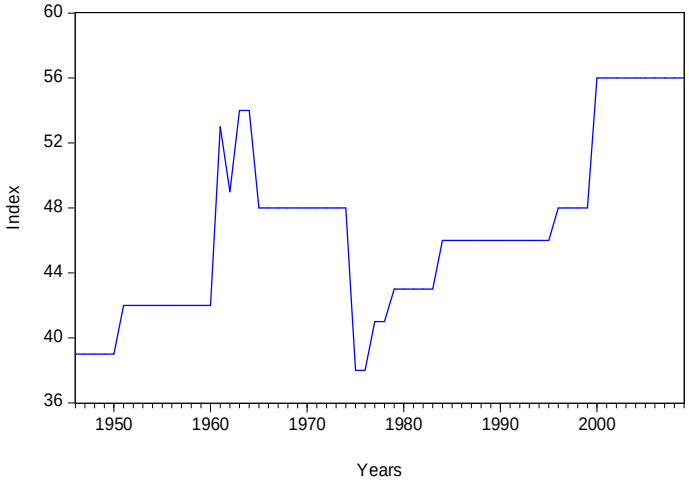
(g) User Cost of Capital (UCt)



(h) Property Rights Index (Prop)



(i) Independence of Judiciary Index (JI de jure)



5.3 Econometric methodology

There are two stages involved in the methodology. The first is the test for the existence of a long-run relationship in levels among the variables by the Pesaran, Shin and Smith (PSS) F-test (Pesaran et al., 2001) statistics technique. Once the long-run relationship has been verified in step one and relying on theory, an estimation of the parameters of the long-run relationship and the associated short-run dynamic error correction models is conducted by applying the Johansen Vector Error Correction Model (VECM).

5.3.1 Testing for the direction of association between variables

The estimation of the empirical model in equation 7 is potentially subject to the problem of endogeneity of the explanatory variables because of the feedback effects from capital accumulation to institutions or vice versa. It seems reasonable to argue that institutions and economic outcomes are jointly determined which is key argument in Acemoglu et al. (2004). Therefore, it is necessary to determine the long-run association between the variables in the model.

The bound-testing procedure developed by Pesaran et al. (2001) has been proposed in the economic literature for investigating long-run association among time-series variables. To explore the direction of association between the variables included in this thesis, the PSS F- test is employed. For a comprehensive description of this technique, see Pesaran et al. (2001).

Let us consider an ECM given by

$$\Delta z_t = a_0 + a_1 t + \Pi z_{t-1} + \sum_{i=1}^{p-1} \Gamma_i \Delta z_{t-i} + \varepsilon_t \ , t = 1,2 \ldots\ldots\ldots\ldots\ldots \quad (8)$$

The Autoregressive Distributed Lag (ARDL) is a single-equation framework therefore Z_t is portioned to $z_t(y_t, x'_t)'$ where y_t is the variable to be modelled given the k-vector X_t, past values $\{z_{t-1}\}_{i=1}^{t-1}$ and Z_t .

The error term is also portioned into $\varepsilon_t = (\varepsilon_{yt}\varepsilon'_{xt})'$ and its variance as

$$\Omega = \begin{pmatrix} \omega_{yy} & \omega_{yx} \\ \omega_{xy} & \Omega_{xx} \end{pmatrix}$$

And then expressing ε_{yt} conditionally in terms of ε_{xt} as $\varepsilon_{yt} = \omega_{yx}\Omega^{-1}\varepsilon_{xt} + u_t$

where $u_t \sim IN(0, \omega_{uu})$, $\omega_{uu} = \omega_{yy} - \boldsymbol{\omega}_{yx}\boldsymbol{\omega}$ and $\omega = \Omega_{xx}^{-1}\omega_{xy}$. Also portioning $a_0(a_{y0}, a'_{x0})'$

and $a_1(a_{y1}, a'_{x1})'$ and similarly partitioning the long run multipliers to conformably with $z_t(y_t, x'_t)'$ as

$$\Pi = \begin{pmatrix} \pi_{yy} & \pi_{yx} \\ \pi_{xy} & \Pi_{xx} \end{pmatrix}$$

Then assuming that $\pi_{xy} = 0$ we have

$$\Delta x_t = a_{x0} + a_{x1}t + \Pi_{xx}x_{t-1} + \sum_{i=1}^{p-1}\Gamma_{xi}\Delta z_{t-i} + \varepsilon_{xt} \quad t = 1,2,\dots,n \qquad and \tag{9}$$

$$\Delta y_t = c_0 + c_1 t + \pi_{yy}y_{t-1} + \pi_{yx.x}x_{t-1} + \sum_{i=1}^{p-1}\psi'_i\Delta z_{t-i} + \omega'\Delta x_t + u_t \tag{10}$$

The specification of c_0 *and* c_1,are defined in equation 2 of Pesaran et al (2001), ω in equation 2.4 and ψ in equation 2.5 of the same reference. When $\pi_{xy} = 0$, since there is no feedback from the level of y_t to x_t , equation 9 and equation10 shows that $\{x_t\}_{t=1}^{\infty}$ long run forces $\{y_t\}_{t=1}^{\infty}$. However, the possibility that $\{y_t\}_{t=1}^{\infty}$ Granger causes $\{x_t\}_{t=1}^{\infty}$ in the short run remains.[79]

Provided that Π_{xx} has a rank r,$0 \leq r \geq k$, then weak exogeneity for $\{x_t\}_{t=1}^{\infty}$follows provided either

(i) $\pi_{xy} = 0$ and $\Pi_{xx} = 0, for\ \pi_{yy}\ and\ \pi_{yx.x} = \pi_{yx}$, or

(ii) Where $\Pi_{xx} \neq 0$, as π_{yy} and $\pi_{yx.x} = \pi_{yx} - \omega'\Pi_{xx}$ are variation free from the parameters in equation 10, $x_t\}_{t=1}^{\infty}$ remains weakly exogenous.

The bound-testing procedure developed by Pesaran et al. (2001) tests for the absence of any level relationship between y_t and x_t by testing for the exclusion of lagged variables y_{t-1} and x_{t-1}. This is based on the joint null hypothesis that $\pi_{yy} = 0$ and $\pi_{yx.x}$=0, under the sequential

[79] See also Granger and Lin(1995).

treatment of all variables in the specification as the outcome variable. Acceptance of the joint hypothesis thus establishes the absence of a level relationship, and hence weak exogeneity for the y-variable specified under the test.

The empirical specification of the PPS (2001) procedure is presented as follows:

$$\Delta LK_t = \propto_0 + \propto_1 D_i + \sum_{i=0}^{p} \beta_{1i} \Delta lnY_{t-i} + \sum_{i=0}^{p} \beta_{2i} \Delta UC_{t-i} + \sum_{i=0}^{p} \beta_{3i} \Delta Polinst_{t-i} + \sum_{i=0}^{p} \beta_{4i} \Delta lnProp_{t-i} + \sum_{i=0}^{p} \beta_{5i} \Delta lnPolfree_{t-i} + \sum_{i=0}^{p} \beta_{6i} \Delta lnJI_{t-i} + \sum_{i=1}^{p} \gamma_{1i} \Delta lnK_{t-i} + \delta_1 lnK_{t-1} + \delta_2 UC_{t-1} + \delta_3 Polinst_{t-1} + \delta_4 lnProp_{t-1} + \delta_5 lnPolfree_{t-1} + \delta_6 lnJI_{t-1} + \delta_7 lnY_{t-1} \quad (11)$$

The order of augmentation, which is *p*, is determined by the need to render the error term white noise. This is chosen from the set of all feasible lag structure combinations by means of information selection criteria such as Akaike's Information Criteria (AIC) and Schwartz Bayesian criteria (SBC).

The PSS approach tests for the absence of any level relationship between y_{t-1} and x_{t-1} in Error Correction Model (ECM) given by equation (8). Thus, the absence of level relationship between y_t and x_t is a joint significant test of the null hypothesis (Ho: $\delta_1 = \delta_2 = \delta_3 .... = \delta_{n+1} = 0$), under all feasible alternative left hand side (LHS) variables. This can be examined by the standard Wald or F-statistics. The distribution of the test statistics is non-standard and it is influenced by whether the $x_{i,t}$ are I (0) or I (1). Pesaran et al. (2001) tabulate two asymptotic critical values, a lower bound and an upper bound. When the order of integration of the variables is known and all the variables are I (0), the decision is made based on the lower bound, and in the case of all the variables being I (1), the decision is based on the upper bound. The test is analogous to a Granger causality test, but in the presence of non-stationary data (Fedderke and Luiz, 2008).

The test statistic is computed with each of $y_t, x_{i,t}, \ldots . x_{n,t}$ as the dependent variable. If the calculated F-statistics exceeds the upper critical value, then reject the null of no long-run relationship. If the calculated F-statistics lies below the lower bound value, infer the absence of a long-run relationship. The test is inconclusive if the calculated F-test falls between the two bounds.

Narayan (2005) however argued that critical values generated by Pesaran et al.(2001) cannot be used in small samples since they are based on large samples (they are generated for samples sizes of 500 and 1000 observations and 20 000 and 40 000 replications respectively). Narayan (2005) compares the critical values generated from smaller samples, 30-80 observations, using the same GAUSS code as (Pesaran et al.,2001) and find critical values reported in Pesaran et al.(2001) are smaller than those generated from a larger sample. Hence given the sample size in the present study (84 observations for Namibia analysis and 64 observations for the Tanzanian case) the analyses adopt the critical values as provided by Narayan (2005).

All variables in equation (9) are defined except Di which is dummies for specific structural breaks. In the Namibia empirical analysis, the three dummies are included to represent events such as the World War II (1939–1945 =1 and zero otherwise) and intense liberation hostilities (1970–1988 =1 and zero otherwise), and the independence dummy (1990–2009 =1, and zero otherwise), which are verified and found to affect the economic and institutional variables.

In the Tanzania analysis, three dummies are introduced to capture various economic and political structural changes during the period under review. The three periods are defined as follows: The pre-Arusha period runs from 1946 to 1966. This is followed by Arusha declaration period which started in 1967 and continued until 1985, with President Nyerere's resignation. The third is the reform period, from 1986 to 2009.

The ordinary least squares (OLS) is applied to equation 11 in order to test for the existence of a long-run relationship among the variables by conducting an F-test for the joint significance of the coefficient of the lagged levels of the variables.

5.3.2 Johansen VECM Estimation Technology

5.3.2.1 Methodology

This section gives a brief description of the standard Johanssen-Juselius technique[80] for multivariate cointegration that is applied in the empirical analysis. The basic vector autoregressive (VAR) is specified as follows:

$$z_t = A_1 z_{t-1} + \cdots + A_m z_{t-m} + \delta + v_t \qquad (12)$$

Where z_t is a n x 1 matrix of endogenous variables, m is the lag length, δ is a matrix of deterministic terms and v_t is a Gaussian error term. Reparametrization provides the following VECM specification:

$$\Delta z_t = \sum_{i=1}^{k-1} \Gamma_i \, \Delta z_{t-1} + \prod z_{t-k+1} + \delta + v_t \qquad (13)$$

where $\Pi = \alpha\beta'$. α is referred to as the loading matrix, containing the short run dynamics, while β is the matrix containing the long run equilibrium (cointegrating) relationships. The rank, r, of the matrix represents the number of cointegrating vectors and is tested for by using the standard Trace and Maximal Eigenvalue test statistics. Where r >1 issues of identification arise. [81] These can be resolved by means of restrictions on the loading matrix (α), the matrix representing short-run dynamics (Γ) and the cointegration space β. [82] Various ways of imposing restrictions are proposed in the literature (Johansen, 1988, 1991, 1995; Phillips, 1991; Pesaran and Shin 1995b, 2001).

The thesis follows Johansen (1988, 1991, 1995) and applies the following technique in reducing the general VECM to a more parsimonious representation:

1. Test the order of integration of the variables.
2. Set the appropriate lag length of the VAR such that the error terms in each equation have no autocorrelation.
3. Use Johansen's cointegration test to estimate the cointegrating vectors.

[80] For more detailed discussion refer to Johansen and Juselius (1990, 1992).
[81] See Pesaran and Shin (1995a, 1995b), Johansen and Juselius (1990, 1992).
[82] Refer to Greenslade et al.(1999)

4. Impose identification restriction on the cointegrating vector, β.
5. Test the over-identifying restrictions on the cointegrating vector, β.

5.3.2.2 Model specification

(i) The co-integrating relationships

The aim is to examine the impact of institutions on fixed capital accumulation over time. A theoretical and empirical review supports a possibility of two long-run relationships, linking capital stock and institutions with economic outcomes, on the one hand, and, on the other hand, a strong feedback effect from capital stock to output (GDP). Dawson (1998) argues that the effect of institutions on growth is via their effect on capital stock (investment). This supports a separation of two cointegrating vectors in estimation, one capturing investment and the other explaining output.

It is also worth noting that the extension of standard investment with an institutional variable might pose a third cointegrating vector. This is line with Fedderke and Klitgaard (1998) who showed that there exist a diverse and often strong web of associations among these social and political variables, and among these variables and measures of economic activity, such as output and investment.

In restricting the cointegrating vectors, Pesaran and Shin (1995a) show that r^2 restrictions are needed for exact identification. The common approach of imposing r^2 identifying restrictions in Johansen's statistical approach was criticised as being a purely mathematical convenience.

The signs and zero restrictions on the long-run parameters are shown in equation 14, which represents an *a priori* just-identified model guided by theoretical and empirical work. The empirical specification is as follows:

$$\Pi z_{t-k+1} = \begin{bmatrix} \alpha_{11} & \alpha_{12} & \alpha_{13} \\ \alpha_{21} & \alpha_{22} & \alpha_{23} \\ \alpha_{31} & \alpha_{32} & \alpha_{33} \\ \alpha_{41} & \alpha_{42} & \alpha_{43} \\ \alpha_{51} & \alpha_{52} & \alpha_{53} \\ \alpha_{61} & \alpha_{62} & \alpha_{63} \\ \alpha_{71} & \alpha_{72} & \alpha_{73} \end{bmatrix} \begin{bmatrix} 1 & \beta_{12} & \pm\beta_{13} & -\beta_{14} & \beta_{15} & 0 & 0 \\ \beta_{21} & 1 & -\beta_{13} & 0 & \beta_{25} & 0 & \beta_{27} \\ 0 & \beta_{32} & 1 & 0 & \beta_{35} & \beta_{36} & \beta_{37} \end{bmatrix} \begin{bmatrix} LK_t \\ LY_t \\ Inst_t \\ UC_t \\ LProp_t \\ LPolfree_t \\ LJI_t \end{bmatrix} \quad (14)$$

All variables in equation (14) are defined (see equation (7)) and their description and sources are discussed in section 5.2.4.2 of this thesis.

(ii) Identification Strategy

An emphasis was placed on using an economic theory to guide the choice of long-run exact/over-identifying restrictions. This is aided by the PSS F-test, whereby normalisation restrictions are placed on those variables found to be endogenous. With a prior of three vectors, nine restrictions for just-identification must be imposed on the long-run model. In each vector, three restrictions are imposed, i.e. one normalisation restriction and two exclusion restrictions.

According to the neoclassical approach, the desired or optimal capital stock is proportional to output and the user cost of capital. Therefore, in the analysis both the output measure (as proxied by GDP) and the user cost of capital are retained in the first vector, representing the capital stock relation. Furthermore, the new theory of investment clearly specifies that uncertainty (as proxied by political instability) and the possibility of postponing investment will affect capital formulation.

Relative to other institutional determinants, the New Institutional theory argues that property rights have a first-order effect on long-run investment (Acemoglu and Johnson, 2005).

In the first vector, a normalisation restriction is imposed on LKt, while the exclusion restrictions are imposed on de jure judicial independence (LJIt) and political rights (LPolfree). The

expectation is that these variables affect capital stock indirectly via other institutional variables. This is applied to both the Namibian and the Tanzanian analyses in the next section.

In the second vector, which represents the output relation, a normalisation is imposed on GDP while a zero restriction is put on user cost of capital. Under the neoclassical theory of investment, user cost of capital will affect capital stock, thereby exerting an effect on output indirectly. Another exclusion restriction was put on political rights. Again the expectation is that these variables will affect output indirectly via other institutional variables.

The literature acknowledges that both political and economic institutions are fundamental causes of economic development. Fedderke and Klitgaard (1998) showed that when considering a set of approximately 67 indicators of social and political dimensions of society, there exists a diverse and often strong web of association among these variables, and among them and measures of economic activity such as output and investment.

The third vector normalises on political instability (Inst) and imposes an exclusion restriction on user cost of capital (UCt) and capital stock (LKt) in the Namibia analysis. In the case of Tanzania, a normalisation is on judicial independence (JIt), while exclusion restrictions are imposed on user cost of capital (UCt) and capital stock (LKt). The choice of the normalising variable, i.e. political instability or judicial independence, is an empirical outcome, based on PSS F-test results. There is no theory or hypothesis to guide the selection, except the work of Fedderke and Klitgaard (1998), which draws our attention to the web of association among the institutional variables.

In the study judicial independence is not just defined as the extent of the de jure structural independence of the judiciary within the government system, but also in terms of the behavioral independence of individual judges. The latter consideration includes the method of appointments of the judiciary and their tenure security, among other aspects. A sound judiciary is key to enforcement.

The political instability index, on the other hand, captures the number and magnitude of identifiable events reflecting de facto constraints of political, social and economic rights. These events include: political fatalities, civil protest, politically motivated arrest, declarations of state of emergencies, and the banning of political parties and publications.

Over-identification of the system is done by further restrictions on the just-identified model.

5.3.3 Dealing with Structural breaks within the data series

The periods under review for both countries, 1923 to 2009 and 1946 to 2009, are long, and potential structural breaks are anticipated in the data. Perron (1989) addressed the problem of unit root testing in the presence of structural breaks in the augmented Dickey–Fuller (ADF) tests. Dating of the potential break was assumed known a priori in Perron's (1989) unit root test. Christiano (1992), among others, however criticised the proposed standard approach by Perron. Christiano argued that the standard approach invalidates the distribution theory underlying conventional testing.

As a consequence, Perron (1997) and many others, including Zivot and Andrews (1992), Lumsdaine and Papell (1997) and Bai and Perron (2003), developed different methodologies for endogenising dates. This study applies the Zivot and Andrews (1992) test and the sequential procedure of Bai and Perron (1998, 2003) to verify the timing of structural breaks.

Zivot and Andrews (1992) suggested a variation of Perron's (1989) test that allows endogenously determined breakpoints in the intercept, the trend function, or both. In its general from (breaks in both the intercept and trend function), the test entails running the following regression for all potential breakpoints, T_B, ($1<T_B<T$):

$$\Delta y_t = \mu + \beta t + \theta_1 DU_t + \gamma_1 DT_t + \alpha y_{t-1} + \sum_{i=1}^{k} c_i \Delta y_{t-1} + \varepsilon_t \qquad (15)$$

where DU_t and DT_t are break dummy-variables that are defined as follows:

$DU_t = 1$ if $t>T_B$; 0 otherwise and $DT_t = t-T_B$ if $t >T_B$; 0 otherwise

and k is the number of lags determined for each possible breakpoint by one of the information criteria.

Since it is possible for an economic series to exhibit multiple breakpoints, the Bai and Perron (2003) endogenous structural breaks test is considered. The regression considered here is the multiple regressions with m breaks (or equivalently, m+1 regime).

$$y_t = x_t'\beta_j + \varepsilon_t \qquad (t = T_{j-1}+1,....,T_j; \quad j=1,....,m+1) \qquad (16)$$

where y is the dependent variable, x is a vector of covariates, β is the corresponding vector of coefficients that may vary over time, ε is the disturbance term, T is the number of observations, $T_0 =0$ and $T_{m+1} =T$ by convention.

Equations 15 and 16 are estimated to determine endogenously the timing of the structural break with no ex ante preference for any particular year or event.

Chapter 6

6. The impact of institutions on capital formation: Empirical analysis and econometric model estimation

6.0 Introduction

This chapter presents the analysis of empirical results using the time-series data from Namibia. Country parameters are estimated separately using time-series regression for each country. This section applies the conceptual framework and methodology as developed in the chapter five of this thesis. The analysis of empirical results starts with the unit root test. Secondly, the Pesaran, Shin & Smith (PSS)-F-test (Pesaran et al., 2001) is then examined to explore the direction of relationship between the variables within models. This is followed by cointegration tests using the maximum likelihood procedure of Johansen (1988) and Johansen and Juselius (1990).

6.1 Empirical analysis: Namibia

6.1.1 The univariate characteristics of the data

Variables whose means and variances change over time are known as non-stationary or unit root variables. Economic theory often suggests the existence of long-run equilibrium relationships among non-stationary time-series variables. If variables are non-stationary, the estimation of the long-run relationship between those variables has been shown to be based on the cointegration method. Hence, pretesting for unit roots is the first step in vector-error -correction modelling.

The standard ADF and Phillips and Perron (1988) (PP) tests for the null of a unit root are applied. Table 6.1 reports the unit roots results, where *c* denotes the inclusion of a constant.

Table 6:1ADF and PP unit root test

Variable	Levels	First Differences	Order of Integration
	c	***c***	**I(d)**
LK_t	-0.60	-13.18***	I(1)
LYt	-0.33	-7.41***	I(1)
Uct	-1.31	-7.54***	I(1)
Inst	-2.27	-14.13***	I(1)
LProp	-2.53	-9.37***	I(1)
LJI	-0.02	-8.41***	I(1)
LPolfree	-0.73	-6.88***	I(1)
Phillips-Perron Unit Root Test			
LK_t	-2.56	-10.06***	I(1)
LY_t	-0.64	-7.38***	I(1)
Uc_t	-3.45**		I(0)

Notes: All variables are significant at 1% critical values denoted by ***, except UCt which is significant at 5 % critical value denoted by **.

The results indicate that the computed t-statistics are greater than the critical values, thus implying that all variables are non-stationary at levels except for the user cost of capital (UC_t), as shown in table 6.1 under the PP unit root test.

The user cost of capital is stationary at 5% significance level. All the other variables have to be differenced once to transform them to stationary at 1% critical values. This is an indication that the variables are I (1). As pointed out in the literature, the ADF test is unable to discriminate well between non-stationary and stationary series with high degrees of autoregression.

As a consequence, the PP test is applied. The PP test has an advantage over the ADF in that it gives robust estimates when the series has serial correlation and time-dependent heteroskedasticity. Under the PP test, all variables are confirmed to be I (1) at 1% critical level, with an exception of UC_t which is I (0) at 5% critical level. However, a closer visual plot inspection of the UC_t reveals that the variable might be non-stationary at levels (see figure 5-3(g)).

Next the variable unit root characteristics is further explored using the Zivot-Andrews unit root test, given that neither the ADF nor the PP test account for presence of structural change in the economic variables.

6.1.2 Dealing with structural breaks in the data series

The period under review, from 1923 to 2009, is long, and potential structural breaks are anticipated in the data. Equations 15 and 16 are estimated to determine endogenously the timing of the structural break with no ex ante preference for any particular year or event. Table 6:2 reports the results.

Table 6:2 Zivot-Andrews unit root test and Bai-Perron breakpoint test

Variable	Levels	First Differences		Order of Integration	Chosen break
	Intercept	Intercept		I(d)	
LK_t	-3.95	-4.58***		I(1)	1945
LYt	-4.56	-6.70***		I(1)	1946
Uct	-4.22	-7.96***		I(1)	1984
LProp	-4.7	-10.1***		I(1)	1990
LPolfree	-4.13	-7.15***		I(1)	1990
LJI	-2.80	-6.41***		I(1)	1990
Inst	-3.75	-10.0***		I(1)	1989
Bai-Perron breakpoint test					
	No of breaks	**Year**	**Year**	**Year**	**Link**
LK_t	2	1935	1971		WW2 and the 1970s-1980s War
LY_t	3	1935	1948	1970	WW2 and the 1970s-1980s War
Uc_t	2	1941	1981		WW2 and the 1970s-1980s War
LProp	3	1939	1967	1989	WW2 &1970s-1980s & Independence
LPolfree	3	1948	1974	1988	WW2 &1970s-1980s & Independence
LJI	3	1945	1976	1989	WW2 &1970s-1980s & Independence
Inst	3	1939	1969	1989	WW2 &1970s-1980s & Independence

Note: For the Zivot-Andrews unit root test ***denotes a 1% level of significance.

The Zivot-Andrews unit root confirmed that LKt and LYt are I (1) subject to the presence of a structural break in 1945 and 1946 respectively. The chosen breakpoint is not surprising, given World War II and its aftermath. In the case of variable UC, the breakpoint is in 1984. When Zivot-Andrews unit root test was applied in levels, it showed that UCt is not an I (0) subject to the presence of a structural break in 1984. However, differencing it once, UCt does become stationary at 1% critical level. Therefore, we proceed with UCt as I (1) in the study.

All institutional variables are confirmed to I(1) subject to the presence of a structural break in 1990, which could be ascribed to the attainment of Namibian independence, except political instability (Inst), which showed a breakpoint in 1989. Here we conclude that all unit roots are present in all the variables even when structural breaks are accounted for.

The use of the Bai-Perron breakpoint test is intuitive in timing multiple breaks, which is crucial for the inclusion of dummies in the study. In line with the Zivot-Andrews unit root, we confirm the importance of World War II, which started in the late 1930s and lasted through 1945. Another crucial timing for Namibia is the period between the 1970s and late 1980s. The year 1989 is confirmed as important as it signifies the onset of Namibia's independence.

6.1.3 ARDL PSS F-test estimation results

We apply the PSS F-test to determine the direction of association between capital stock and its economic and institutional determinants in the specified model (see equation 11). Table 6:3 presents the PSS F-statistics when each variable is considered as a dependent variable in the ARDL-OLS regressions. The conclusions are based on the critical values provided in Narayan (2005) for a sample size 80, for the case of unrestricted intercept and no trend with seven variables (i.e. k=7).

Table 6:3 ARDL estimation of long-run relationship

Dependent Variable	Lag Order	F-statistics	Probability	Interpretation
F_{Kt} (Kt|Prop,Polfree, JI, UC, Inst,Yt)	2	4.753	0.0003	Possible Outcome variable
F_{prop} (Prop|Kt,Polfree, JI, UC, Inst,Yt)	2	0.710	0.663	Forcing variable
$F_{polfree}$ (Polfree |Prop,Kt, JI, UC, Inst,Yt)	2	1.844	0.0975	Forcing variable
F_{Yt} (Yt |Prop,Polfree, JI, Kt ,UC, Inst)	2	4.488	0.0005	Possible Outcome variable
F_{UC} (UC|Prop,Polfree, JI, Kt , Inst,Yt)	2	2.0968	0.0895	Forcing variable
F_{JI} (JI|Prop,Polfree, Kt, UC, Inst,Yt)	2	1.4944	0.1890	Forcing variable
F_{Inst} (Inst|Prop,Polfree, Kt ,JI, UC, Yt)	2	5.1550	0.0002	Possible Outcome variable
Narayan (2005)	**Table CI(iii) Unrestricted intercept and no trend K=7**			
Critical Values	**Lower bounds I(0)**		**Upper bounds I(1)**	
At 5%	2.476		3.746	

The calculated F-statistics F_{Kt} (Kt|Prop, Polfree, JI, UC, Inst, Yt) = 4.75 and F_{Yt} (Yt |Prop, Polfree, JI, Kt, UC, Inst) = 4.48 are higher than the upper-bound critical value 3.74 at the 5% level. Thus the null hypotheses of the absence of relationship are rejected, implying a long-run

relationship among the variables when the regressions are normalised on both Kt and Yt variables. In terms of institutional variables, political instability, which is our proxy for uncertainty, appears to be an outcome variable relative to a number of institutional variables (property rights, political rights and judicial independence).

The use of a single-equation cointegration approach such as the ARDL is valid only where there is a unique cointegration vector (Pesaran et al., 2001). Our results have shown the existence of more than one possible equilibrium relationship in the model. For us to proceed with estimating the model in equation 7, we adopt the Johansen VECM technique as specified in equation 14.

6.1.4 Johansen cointegration results

The present study uses the Johansen test for cointegration. There are two important issues in specifying a VAR model: the choice of appropriate lag length and the number of variables to be included in the model. Based on statistical tests, a VAR with the lag order of two is estimated. Table 6:4 reports the results for the cointegration test under the assumption of unrestricted intercepts and restricted trend, which is chosen following the summary of all possible models.

Both the trace and eigenvalue tests indicate that there are at least three cointegration equations at the 5% level of significance. This is in line with the PSS F-tests results, which suggested that LKt, LYt and Inst are potential outcome variables in this study.

Table 6:4 Johansen test for multiple-co-integrating vectors

Test statistics							
Ho	**Alternative**	**Trace**	**5% Critical Value**	**Prob.****	**Max.Eigen**	**5% Critical Value**	**Prob.****
r = 0*	r=1	195.943	125.615	0.0000	62.566	46.231	0.0005
r<=1*	r= 2	133.378	95.754	0.0000	48.800	40.078	0.0041
r<=2*	r=3	84.577	69.819	0.0021	44.193	33.877	0.0021
r<=3	r=4	40.384	47.856	0.2090	24.078	27.584	0.1320
r<=4	r=5	16.306	29.797	0.6906	10.817	21.132	0.6655

The results of the unidentified cointegrated VAR for the three cointegrating vectors are hard to interpret economically. Therefore, one needs to impose appropriate restrictions and normalisation on the long-run betas (see section 5.3.2.2 of this thesis for discussion). Three

normalisation and six parameter restrictions are imposed to obtain a just-identified model, the results of which are given in the next subsection.

6.1.4.1 Long-run and short-run estimate analysis

In the just-identified model,[83] the first cointegrating vector was taken to represent the capital-stock relation. Relative to other institutional determinants, theory argues that property rights have a first-order effect on long-run investment (Acemoglu and Johnson, 2005). We normalise on capital stock and put zero restrictions on judicial independence and political rights.

In the second vector, which represents the output relation, we normalise on GDP and put zero restrictions on user cost of capital. Under the neoclassical theory of investment, user cost of capital will affect capital stock, thereby exerting an effect on output indirectly. Another restriction was put on political rights. We expect these variables to affect output indirectly via other institutional variables.

The third vector, which represents uncertainty, we normalise on political instability, and put a zero restriction on capital stock and user capital stock. Here, we are also exploring the systematic relationship between institutional variables themselves and macroeconomic variables (see Fedderke and Luiz, 2005).

Once the model was just-identified through these restrictions, the next step was to impose and test further over-identifying restrictions. A likelihood ratio test compares the less restricted with the more restricted model (Johansen, 1988). If the likelihood test is statistically significant, then the less restricted model is said to fit the data better than the more restrictive, and vice versa.

[83] See section 5.3.2.2 for discussion of identification restrictions of the model.

Table 6:5 Normalised cointegration coefficients

	(a) Just identified			(b) Over-identified		
(i) Long-run Vector Error Correction Estimates						
Cointegrating Eq	**Lkt**	**LYt**	**Pol Inst**	**Lkt**	**LYt**	**Pol Inst**
LKt	1.000	-8.569 (-12.95)	0.000	1.000	-4.62 (-13.7)	0.000
LYt	-0.667 (-6.14)	1.000	-2.604 (-4.97)	-0.652 (5.79)	1.000	-1.70 (-3.57)
Inst	0.071 (1.652)	0.953 (5.857)	1.000	0.07 (1.66)	0.48 (6.13)	1.000
LProp	4.82 (7.95)	-2.454 (0.828)	3.479 (1.37)	5.02 (8.01)	0.000	6.58 (4.23)
LPolfree	0.000	0.000	2.765 (3.84)	0.000	0.000	3.02 (4.6)
UCt	0.111 (7.47)	0.000	0.000	0.114 (7.45)	0.000	0.000
LJI	0.000	-26.72 (-12.62)	-12.46 (-6.37)	0.000	-13.06	-10.3 (-6.3)
Trend	-0.05 (-7.485)	0.44 (8.92)	0.10 (3.16)	-0.06 (-7.53)	0.20 (8.8)	0.03 (1.32)
LR Test of restrictions				X^2 (1) = 0.263[0.608] Accepts restriction		
(ii) Short-run Vector Error Correction Estimates						
Dummies						
WW2DU	-0.03 (-2.42)	0.09 (1.17)	-0.141 (-0.29)	-0.03 (-2.3)	0.07 (0.91)	-0.01 (-0.01)
DU1970	0.00 (0.171)	-0.11 (-1.67)	1.53 (3.66)	-0.00 (-0.101)	-0.01 (-1.298)	1.46 (3.74)
DU1990	0.06 (2.09)	-0.05 (-0.31)	-2.22 (-2.05)	0.06 (2.14)	-0.06 (-0.35)	-2.17 (-2.06)

Notes: figures in round brackets are t-statistics

All the variables in the just-identified model (a) are significant based on their t-statistics values as shown in table 6:5(i), with the exception of property rights in both the LYt vector and political instability (Inst) vector. Zero restriction is imposed on the coefficient of property rights in the Yt vector in the over-identified model. In the over-identified model (b), the restriction is accepted with the likelihood ratio given by Chi-square = 0.263 and a p-value 0.608. The normalised equations are presented below:

$$Lkt = 0.06t + 0.65\ LYt - 0.07Inst - 5.02\ LProp - 0.114\ UCt \quad (17)$$

$$LYt = -0.20\ t + 4.62\ LKt - 0.485\ Inst + 13.1\ LJI \quad (18)$$

$$Inst = -0.03t + 1.7\ LYt - 6.58\ LProp - .02\ LPolfree + 10.3\ LJI \quad (19)$$

From economic point of view, the results from equations 17 to 19 are mixed. In the *LKt vector*, all variables are significant and carry the expected coefficients' signs, apart from property rights.

According to equation 17, capital stock (Lkt) showed a significantly negative relation with the property right index (LProp) in long-run with an elasticity coefficient of -5.02. This result is counterintuitive, since property rights are expected to have a higher positive impact on capital accumulation, especially to the extent that secure property rights increase investors' confidence, thereby increasing the level of investment. Plausible explanations might be the use of our proxy for property rights, which is based on land rights.

Firstly, given the historical dual land ownership in Namibia, an anticipated land reform[84], i.e. the process to achieve a more equal distribution of land since mid-1980s and the onset of independence in 1990, might induce some level of uncertainty among some economic actors.[85]High uncertainty is detrimental to formation of capital stock due to irreversibility of investment. Although property rights in Namibia are generally secured, they are not broad-based. Therefore, it appears that perceived fear of land lost during a reform might hinder more fundamental long term investment in Namibia. This is shown by a declining share of capital formation in the agriculture sector especially since the 1980s onwards. Similar results were obtained in the work of Ayalew et al. (2005), which have shown that perceived land tenure insecurity due to land reform negatively affect investment in the case of Ethiopia. According to Beasley (1995), reducing the risk of expropriation, secure property rights encourage land users to make long-term land –related investments.

Secondly, the negative correlation between property rights and investment could be due to omitted factors which influence both the measure of property rights and investment. The factor that land rights under the colonial regime were poor for blacks, while at the same time leading to investment by the whites is a possible explanation. It should be noted that whites enjoyed a number of incentives such as financial assistance via a number of land settlement legislations.

[84] Since 1995, The Namibian government has pursued policies of land reform through tenure reform and redistributive land reform through buying of farmland and few cases of land expropriations.

[85] This mainly refers to land owners under the freehold tenure system where major capital investment undertakings are taking place.

Thirdly, it can view that there are alternate ways in which the role of property rights affect capital accumulation in the Namibian context. First property rights acts via political instability variables. This is strongly supported by the results reported in table 6.5, which indicates that improvement in property rights dampens political instability. A statistically significant negative association between property rights and political instability was also detected (see table 3.1). This support the hypothesis extended by Fedderke and Luiz (2005) that uncertainty would have to be understood as being related to a broader institutional nexus. The results might also show that investors are more sensitive to the signal coming from the political environment as represented by political instability index rather than the constitutional one (i.e. de jure indicators). This might be due to the long history of brutal colonization, independence war and struggle for the control of the land.

Uncertainty, as proxied by political instability (Inst), has a negative and statistically significant influence on capital-stock accumulation. Empirical support for a negative link between capital stock and measures of political instability is found in the work of Fielding (2002) and Fedderke and Luiz (2005) for South Africa. Alesina and Perotti (1996) show that socio-political instability generates an uncertain political-economic environment, raising risks and reducing investment. This result is also consistent with historical episodes of high political instability and the rapid decline in gross capital formation in Namibia, particularly between the 1970s and late 1980s.

Normalised equation 17 shows that there is a significant positive relationship between GDP and the accumulation of capital. The result is consistent with the findings of many researchers (inter alia Fielding, 1997, 1993; Ndikumana, 2000; Mlambo and Oshikoya, 2001). This is supported by the flexible accelerator theory, which shows that high output is associated with a high rate of capital-stock accumulation.

The impact of user cost of capital is seen to be negative and relatively statistically significant. This finding is corroborated by empirical studies (Greene and Villanueva, 1991; Oshikoya, 1994; Ndikumana, 2000; Ghura and Goodwin, 2000) in which increased user cost of capital discourages investment formation. The significant negative influence of user cost of capital on capital stock is also consistent with the investment theory.

Turning to the *GDP vector (Yt)*,[86] as shown by equation 18, all variables are significant and carry the expected coefficients' signs. LKt has a positive and significant effect of 4.62 on GDP, thus confirming that capital stock is a key factor contributing to real GDP growth. Another important result is the positive relation of judicial independence to GDP, with a significant elasticity of 13.1. Theory suggests that effective independent courts promote investment and economic growth. As expected, political instability negatively influences GDP.

The last vector represents political instability (Inst), shown in equation 19. The results are quite mixed: while property rights appear to have a negative relation to political instability, judicial independence shows a positive association with political instability. Improvements in property rights significantly dampen political instability (elasticity of -6.58). The positive significant relation between increases in output and instability, with an elasticity of (1.7), is in line with the findings of Fedderke and Luiz (2005). Political rights report a significant negative sign, implying a rise in freedom rights being associated with decreasing levels of political instability, with an elasticity of -3.02.

We now turn to the impact of the dummy variables representing World War II, the hostilities from the 1970s to 1980s, and the independence and post-independence period in Namibia. The World War II dummy (WW2DU) has a negative and statistically significant coefficient of -0.03, in the LKt cointegration vector only, while the DU1970 is statistically significant in the Y_t and Inst cointegration vectors respectively. In the instability vector the sign is positive, reaffirming their association. The independence and post-independence period dummy (DU1990) shows a positive and statistically significant coefficient of 0.06 in the vector representing capital stock. In the political instability vector the sign is negative and statistically significant. This indicates the onset of the stable political and macroeconomic environment period in Namibia, which is still lingering.

6.1.4.2 Robustness analysis

[86] This vector is likely to be underspecified in this regression.

The last step in evaluating the cointegration model is an impulse-response analysis. Building on Sims's (1980) seminal paper, Lütkepohl and Reimers (1992) argued that an impulse-response analysis of vector autoregressive systems with cointegrated variables can be considered. Although the individual variables are non-stationary, there are linear combinations of them which are stationary. These are interpreted as the long-run equilibrium relations. Assuming that variables are in equilibrium at some time t, say t=0, any shock to one of the variables results in time paths of the system that eventually settle down in a new equilibrium, provided no further shocks occur. If a relationship is cointegrated, the shock will have impact, but will tend to zero even though the shock will have a permanent effect on the individual variables.

After estimating the vector-error-correction model using the Johansen technique with the Namibian data, the estimation of the persistence profile of the effect of a system-wide shock to the cointegrated vectors (CV) in the just- and over-identified models was carried-out. In addition, impulse-response functions with respect to one standard error shock to the capital stock, output and political instability equations are also estimated. The results of the plots are based on the over-identified model, as shown in figures 6-1 to 6-4 below for Namibia. The just-identified model impulse-response plots are presented in the appendices. It should be noted that the same impulse responses are obtained from a system with just identified restrictions on the cointegrated vectors (see figure C1 in the appendices).

Figure 6.1 show a rapid convergence to equilibrium of all vectors in the long run due to a system-wide shock. According to the plots, all the three cointegrated vectors shocks rapidly die out, indicating stability of the equilibrium relation.

A symmetrical result emerges for the shocks to individual equations. Figure 6.2 shows that the shocks to the capital stock equation have minimal and less persistent effect on all three cointegrated vectors in the short run. The shocks tend to die out rapidly restoring the equilibrium relation among the vectors.

Figure 6-1 Persistence profiles of CV's to system-wide shock: over-id model for Namibia

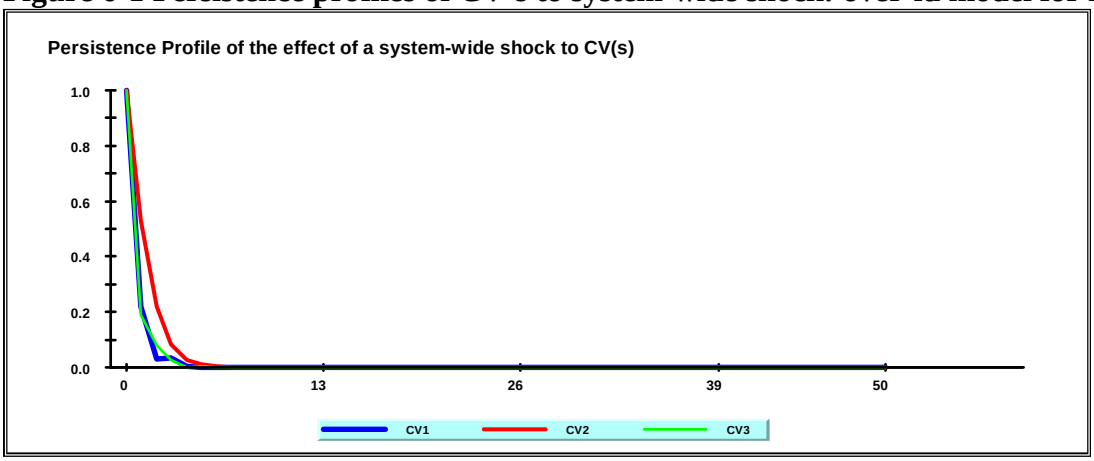
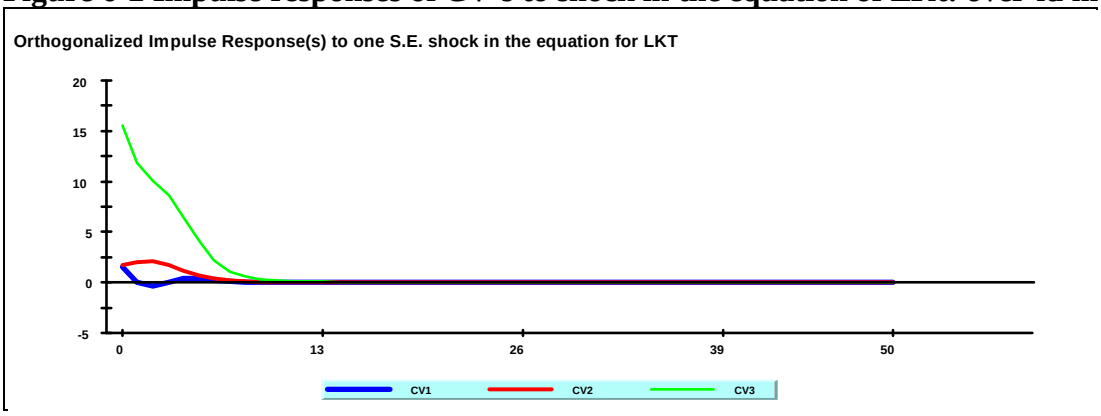


Figure 6-2 Impulse responses of CV's to shock in the equation of LKt: over-id model



From figure 6.3 an output equation shocks has minimal initial impact on three cointegrated vectors in the short run. This however tend to converge very quickly to the equilibrium.

The political instability equation shocks are shown by figure 6.4. The shocks tend to smooth out in the long run, confirming the stability of the model. In summary, this exercise demonstrates that the system might be adequate for studying the impact of institutions on capital stock

Figure 6-3 Impulse responses of CV's to shock in the equation for LRGD: over-id model

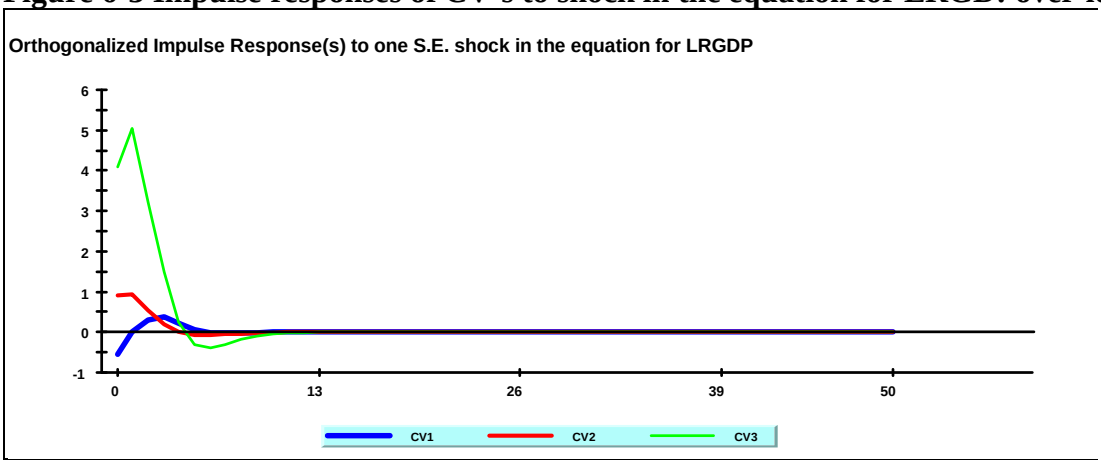
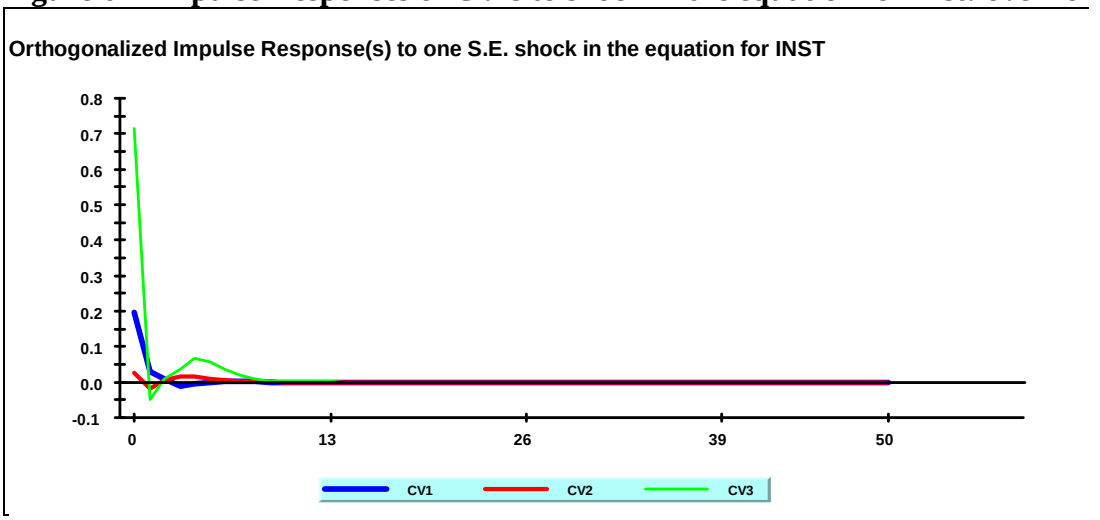


Figure 6-4 Impulse Responses of CV's to shock in the equation for Inst: over-id model



6.2 Empirical analysis and model estimation: Tanzania

This section extends the empirical research by testing the impact of institutional indicators on irreversible investment behaviour under uncertainty using aggregate data from Tanzania.

6.2.1 The univariate characteristics of the data

It is crucial to detect whether the series are stationary or not. Three different tests are used: the standard ADF and PP tests for the null of a unit root, and, to account for structural breaks in the dataset, the Zivot and Andrews (1992) test. Table 6:6 reports the two unit roots results. The result for the Zivot and Andrews (1992) test is presented in table 6:7.

Table 6:6 ADF and PP unit root test

Variable	ADF Statistics		PP Statistics		I(d)
	Levels	1st Differences	Levels	1st Differences	
LK_t	-0.66	-16.86***	-2.89	-5.07***	I(1)
LYt	0.46	-2.02	1.98	-9.91***	I(1)
Uct	-2.09	-9.68***	-2.64	-10.73***	I(1)
Inst	-0.98	-6.86***	-1.02	-7.12	I(1) & I(1)
LProp	-1.13	-7.75***	-1.13	-7.75***	I(1)
LJI	-1.84	-9.06***	1.73	-9.06***	I(1)
LPolfree	-1.55	-7.53***	-1.65	-7.53***	I(1)

Notes: All variables are significant at 1% critical values denoted by ***

The purpose of using three unit root tests is to get insight into the order of the variables, when one or more tests are not in conformity. This is important particularly in a long-dated time-series study, due to the fact the standard unit root tests used to behave poorly in the presence of structural breaks in the data. The ADF and PP tests confirm that all variables contain a unit root.

6.2.2 Dealing with structural breaks in the data series

There are anticipated structural breaks in the data due to the period under review, from 1946 to 2009. The Zivot and Andrews (1992) test as specified in equation 15 and the sequential procedure of Bai and Perron (1998, 2003) presented in equation 16 are applied to verify the timing of structural breaks. Table 6:7 reports the results.

Table 6:7 Zivot-Andrews unit root tests and Bai-Perron breakpoint test

Zivot-Andrews Unit Root Tests					
Variable	**Levels**	**First Differences**	**Order of Integration**	**Chosen break**	
	Intercept	Intercept	I(d)		
LK_t	-3.97	-9.12	I(1)	1972	
LYt	-0.89	-9.96	I(1)	1977	
Uct	-5.07	-10.04	I(1)	1985	
Inst	-4.09	-7.93	I(1)	1970	
LProp	-4.54	-8.29	I(1)	1973	
LJI	-5.27	-9.65	I(1)	1965	
LPolfree	-3.47	-8.17	I(1)	1965	
Bai-Perron breakpoint test					
	No of breaks	**Year**	**Year**	**Year**	**Year**
LK_t	2	1954	1975		
LY_t	3	1954	1979	1999	
Uc_t	3	1965	1979	2000	
Inst	1		1972		
LProp	3	1962	1972	1983	
LJI	4	1960	1974	1985	1999
LPolfree	4	1954	1964	1978	1991

Zivot-Andrews unit root test ***denotes a 1% level of significance.

The Zivot-Andrews unit root confirmed that all variables are I (1) in the presence of structural breaks. The chosen breakpoints for the political freedom and judicial independence indices is the year 1965, while for the property rights and political instability indices they are the years 1973 and 1970 respectively. These breakpoints capture the one-party regime and the Arusha declaration period.

The economic-variables breakpoints are identified in the 1970s and 1980s. Therefore, we proceed with the fact that all variables are I (1). These breakpoints are linked to structural changes under the Arusha declaration periods, while the mid-1980s signify the onset of the structural reform period with the resignation of President Nyerere.

The use of the Bai-Perron breakpoint test is intuitive in timing multiple breaks, which is crucial for the inclusion of dummies in the study. Tanzania has undergone major political and economic structural changes, and multiple breakpoints are identified. Three dummies are introduced to capture this period of changes in the study. The three periods are aided by the work of Bigsten

and Danielson (2001) and defined as follows: The pre-Arusha period runs from 1946 to 1966. This is followed by the Arusha declaration period from 1967 to 1985, ending with President Nyerere's resignation. The third is the reform period, from 1986 to 2009.

6.2.3 ARDL PSS F-test estimation results

Table 6.8 presents the PSS F-statistics when each variable is considered as a dependent variable in the ARDL-OLS regressions in equation 11. The results are derived from case III – an unrestricted intercept without trend in Narayan (2005). The sample size is 65 (i.e. n=65) with seven variables (i.e. k=7).

Table 6:8 ARDL estimation of long-run relationship

Dependent Variable	Lag Order	F-statistics	Probability	Interpretation
F_{Kt} (Kt|Prop,Polfree, JI, UC, Inst,Yt)	2	3.85	0.004	Possible Outcome variable
F_{prop} (Prop|Kt,Polfree, JI, UC, Inst,Yt)	2	0.48	0.837	Forcing variable
$F_{polfree}$ (Polfree |Prop,Kt, JI, UC, Inst,Yt)	2	2.70	0.02	Forcing variable
F_{Yt} (Yt |Prop,Polfree, JI, Kt ,UC, Inst)	2	4.45		Possible Outcome variable
F_{UC} (UC|Prop,Polfree, JI, Kt , Inst,Yt)	2	1.99	0.008	Forcing variable
F_{JI} (JI|Prop,Polfree, Kt, UC, Inst,Yt)	2	6.57	0.000	Possible Outcome variable
F_{Inst} (Inst|Prop,Polfree, Kt ,JI, UC, Yt)	2	2.00	0.087	Forcing variable
Narayan(2005)	**Table CI(iii) Unrestricted intercept and no trend k =7**			
Critical Values	**Lower bounds I(0)**		**Upper bounds I(1)**	
At 5%	2.513		3.823	

The calculated F-statistics F_{Kt} (Kt|Prop, Polfree, JI, UC, Inst, Yt) = 3.85 and F_{Yt} (Yt |Prop, Polfree, JI, Kt, UC, Inst) =4.45 are both higher than the upper- bound critical value 3.82 at the 5% level. Thus the null hypothesis of the absence of relationship is rejected, implying a long-run relationship among the variables when the regressions are normalised on both Kt and Yt variables.

In terms of institutional variables, judicial independence appears to be a possible outcome variable relative to a number of institutional variables (property rights, political rights and

political instability) in the case of Tanzania. This result is different from the Namibian case, where political instability is shown to be a possible outcome variable. There is growing evidence that institutional arrangements have an element of context specificity arising from differences in historical trajectories. In terms of political instability, Tanzania, as opposed to Namibia, enjoyed a period of peace.

Furthermore, for the most part of the review period Tanzania witnessed the repression of the judicial system under the one-party state. In the period between independence from Great Britain in 1961 and the late 1980s, there was a subordination of the law and the legal system to the executive, effectively weakening the courts and rendering the law a relatively unimportant facet of economic and social life in Tanzania.

These results have significant implications for the analysis. The ARDL cointegration test assumed that only one long-run relationship exists between the variables (Pesaran et al., 2001). The PSS F-test results indicate the presence of more than one cointegration vector. We adopt the Johansen VECM technique and proceed with estimating the model in equation 7 in section 5.2.4.1 using the Tanzanian dataset. We estimate the VAR equation specified in equation 14 with minor changes to the third vector. The log of judicial independence (LJI) becomes the normalising variable rather than political instability, (Inst) as shown in equation 14.

6.2.4 Johansen cointegration results

Based on statistical tests, a VAR with the lag order of 2 is estimated. Table 6.9 presents the Johansen co-integration test results. The trace test results indicate three cointegrating equations at the 5% level of significance. Taking the maximum eigenvalue test results indicates one cointegrating equation. This is not in line with the postulated theory. Therefore, we decided to opt for the results of the trace test which show that there are at least three cointegrating vectors. The decision is also aided by the PSS F-tests, which suggested that LKt, LYt and LJI are possible outcome variables in the Tanzanian analysis.

Table 6:9 Johansen test for multiple co-integrating vectors

Test statistics							
Ho	**Alternative**	**Trace**	**5% Critical Value**	**Prob.**	**Max.Eigen**	**5% Critical Value**	**Prob.**
r = 0*	r=1	173.52	125.61	0.000	65.43	46.23	0.000
r<=1*	r= 2	107.09	95.75	0.005	36.28	40.07	0.126
r<=2*	r=3	71.81	69.81	0.034	24.88	33.87	0.392
r<=3	r=4	46.92	47.85	0.061	21.55	27.58	0.244
r<=4	r=5	25.37	29.79	0.148	17.12	21.13	0.166

Notes: * denotes rejection of the null hypothesis at the 0.05 level

The cointegration vectors describing the economic long equilibrium can be estimated only if meaningful economic restrictions are imposed. With three cointegrating vectors, I imposed three normalisation and six parameter restrictions for exact identification.

6.2.4.1 Long run and Short run estimates analysis

The first cointegrating vector represents the capital-stock relation; we normalise on capital stock and put zero restrictions on judicial independence and political rights. Relative to other institutional determinants, secure property rights have been emphasised in the literature as a crucial factor for encouraging investment.

In the second vector, which represents the output relation, we normalise on GDP, and we put zero restrictions on user cost of capital and on political rights. We expect these variables to affect output indirectly through other variables, such as capital stock and political instability.

The third vector represents normalise on judicial independence and zero restrictions are put on capital stock and user capital stock. Unlike in the analysis on Namibia, judicial independence was shown to be a possible outcome variable under the PSS F-test (see table 6:8). The North and Weingast (1989) hypothesis argues that institutions characterised by checks and balances can have beneficial effect on investment. We seek also to understand inter-relationship among institutional variables.

Once the model was just-identified through these restrictions, the next step was to impose and test further over-identifying restrictions.

Table 6:10 Normalised cointegration coefficients

	(c) Just identified			(d) Over-identified		
(i) Long-run Vector Error Correction Estimates						
Cointegrating Eq	**LKt**	**LYt**	**LJI**	**LKt**	**LYt**	**LJI**
LKt	1.000	-0.562 (-25.8)	0.000	1.000	-0.573 (-10.1)	0.000
LYt	-1.771 (-18.5)	1.000	-0.01 (-0.132)	-1.021 (-7.62)	1.000	-0.029 (-1.15)
Inst	-0.55 (-5.85)	0.28 (5.81)	0.01 (0.65)	0.000	0.290 (5.15)	0.000
LProp	0.38 (3.71)	0.23 (4.14)	-0.251 (-9.32)	-0.25 (-1.87)	0.000	-0.208 (-7.11)
LPolfree	0.000	0.000	-0.08 (-5.18)	0.000	0.000	-0.136 (-2.283)
UCt	0.01 (3.22)	0.000	0.000	0.01 (1.786)	0.000	0.000
LJI	0.000	-1.569 (-34.0)	1.000	0.000	-0.712 (-3.83)	1.000
C	4.58	1.68	-2.48	0.95	-0.62	-2.26
LR Test of restrictions				X^2 (1) = 0.567[0.143] Accepts restriction		
(ii) Short-run Vector Error Correction Estimates						
Dummies						
DU1961	0.001 (1.12)	0.02 (0.36)	0.186 (5.89)	0.01 (1.33)	0.01 (0.26)	0.174 (5.46)
DU1967	-.001 (-0.08)	0.03 (0.05)	0.23 (6.42)	0.03 (1.45)	0.08 (0.95)	0.22 (4.48)
DU1986	0.01 (0.77)	0.01 (0.22)	0.19 (5.65)	0.05 (2.45)	0.14 (1.51)	0.183 (3.59)

Notes: figures in round brackets are t-statistics

All the variables in the just-identified model (c) carry the expected sign as shown in table 6:10, with the exception of political instability and property rights in the LKt and Yt vectors respectively. Equation 20 to 22 allow us to over-identify the vectors that comprise three long-run relations and these (over-identifying) restrictions are not rejected (table 6:10). The results from equation 20 to 22 carry expected signs and are significant.

The normalised equations are presented below:

$$LKt = 0.95\ C + 1.02\ LYt + 0.25\ LProp - 0.01\ UCt \quad (20)$$

$$LYt = -0.62C + 0.57\ LKt - 0.29\ Inst + 0.71\ LJI \quad (21)$$

$$LJI = -2.3\ C + 0.03\ LYt + 0.21\ LProp + 0.14\ LPolfree \quad (22)$$

In the *LKt vector*, all variables are significant and carry the expected coefficients' signs. According to equation 20, capital stock (LKt) showed a significantly positive relation with property rights index (LProp) in the long run with an elasticity coefficient of 0.25. Secure property rights have been emphasised in the empirical literature as crucial factors for encouraging investment (Glaeser et al., 2004; Acemoglu et al., 2004; Fielding, 2002; Hall and Jones, 1999; La Porta et al., 1997; Knack and Keefer, 1995).

Normalised equation 20 showed that there is a significant positive relationship between accumulation of capital and GDP. According to the neoclassical theory of investment, this implies that anticipations of economic growth induce more investment. The significant negative influence of user cost of capital on capital stock is consistent with the user-cost-of-capital theory and other empirical results.

Turning to the *GDP vector (Yt),*[87] as shown by equation 21, all variables are significant and carry the expected coefficients' signs. LKt has a positive and significant effect of 0.57 on GDP, thus confirming that capital stock is a key factor contributing to real GDP growth. Another important result is the positive relation of judicial independence to GDP with a significant elasticity of 13.1. This is in line with the findings of Feld and Voigt (2003). Theory suggests that effective independent courts promote investment and economic growth. The other important institutional variable that came out very strongly with a negative and significant impact on GDP is political instability, representing uncertainty in the political macroeconomic environment.

The last vector is judicial independence (JI), represented in equation 22. The most interesting results are that the two institutional variables, property rights and political freedom, are significant in the JI vector. According to La Porta et al. (2004), countries with independent judiciaries are more likely to have strong protections of property, political, and human rights. It should be noted that causation is unclear (not implied). Property rights appear to have a positive relation to judicial independence. Improvements in property rights are associated with increased

[87] This vector is likely to be underspecified in this regression.

judicial independence. Political rights report a significant positive sign, implying a rise in rights being associated with increasing levels of judicial independence, with an elasticity of 0.14.

We now turn to the interpretations of dummies in the three cointegration vectors. All dummies except the DU1986, which captures the onset of the economic reforms in Tanzania, are insignificant. The reform dummy (DU1986) has positive and statistically significant coefficients of 0.05 and 0.18, in the LKt and LJI cointegration vectors, respectively. This is consistent with the work of Moshi and Kilindo (1999), which showed that only the dummy capturing the reform period had a positive influence on private-sector investment in Tanzania.

6.2.4.2 Robustness analysis

The study focused on the impulse-response analysis of the cointegrated vectors. Figure 6.5 plots impulse response of the cointegrated vectors to a system-wide shock. The response in the three cointegrated vectors is transitory. The initial response of the three cointegrated vectors is negative, but dies out very fast. The overall relationship between vectors is stable.

Figure 6.6 shows the response of the three cointegration vectors to a one standard deviation shock in the equation for capital stock. The initial reaction of the three cointegrated vectors is insignificant and dies out rapidly. In figure 6.7 the initial response of capital stock vector (cv1) and output (cv2) to an output shock is muted and dies out immediately. However the response of the judicial independence (cv3) to a shock in output is positive and significant in the initial period, then it becomes negative and dies out.

Figure 6.8 shows the responses of three vectors to a positive shock in the judicial independence equation is initially positive before tending to zero. Overall, there is convergence in the long run.

Figure 6-5 Persistence profiles of CVs to system –wide shock: over-id model for Tanzania

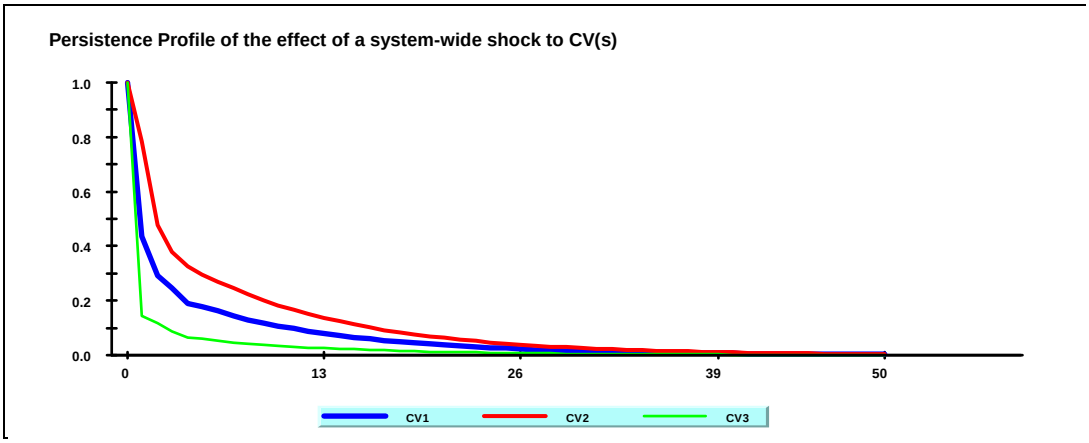


Figure 6-6 Impulse responses of CVs to shock in the equation for LKt: over- id model

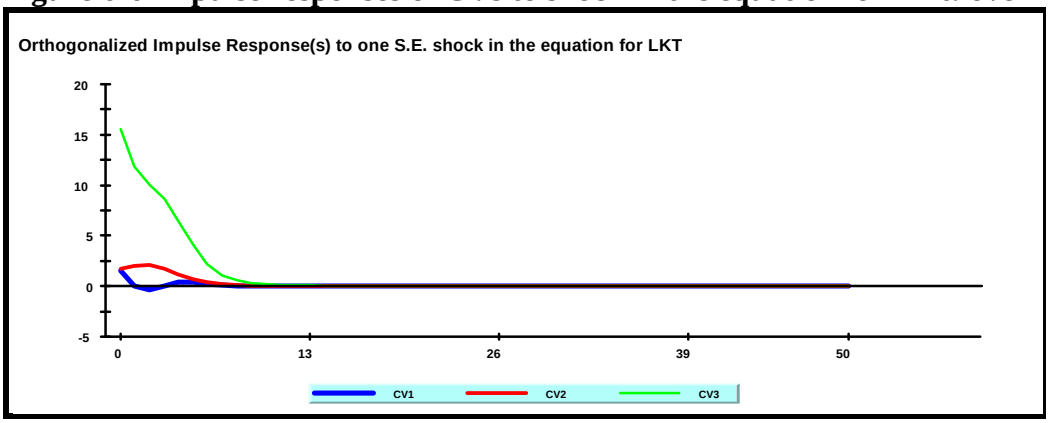


Figure 6-7 Impulse Responses of CVs to shock in the equation for output: over- id model

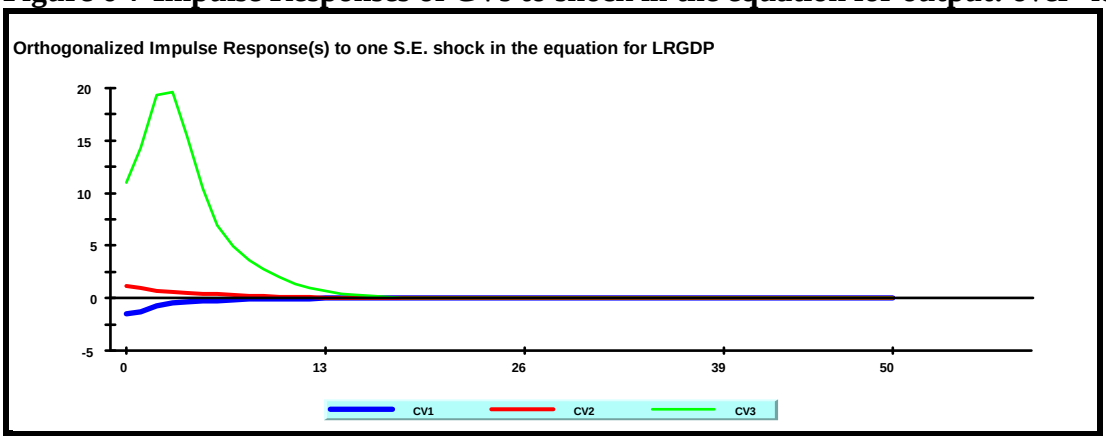
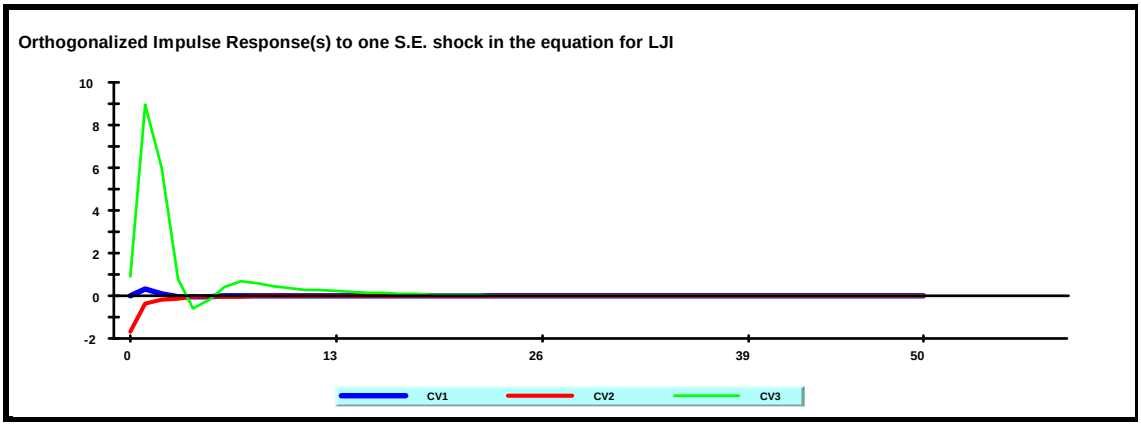


Figure 6-8 Impulse Responses of CV's to shock in the equation for LJI: over-id model



6.3 Conclusion

The main purpose of this chapter is to examine the impact of institutions on capital accumulation in Namibia and Tanzania. The institutional hypothesis argued that a solid institutional framework is a key determinant of capital accumulation. When property rights are weak and poorly protected, investors will be reluctant to risk their capital for fear of expropriation. Also, the irreversible investment under uncertainty theory tells us that greater uncertainty is likely to affect the investment level due to the option value of waiting. This has been used to justify the estimation of the impact of institutional indicators on capital-stock accumulation in Namibia and Tanzania, applying the Johansen VECM technique. Given that the relationship between institutions and economic development is almost certain to differ across countries; time-series evidence may offer better insights than cross-section studies. The data span for Namibia is from 1923 to 2009 that for Tanzania is from 1946 to 2009.

Econometrically, the dynamic structure of our empirical model suggests that a multi-cointegration framework exists, in which separate long-run relationships are identifiable. Relying on theoretical and empirical literature and aided by the PSS F-test, a distinction was made between outcome and forcing variables in the model. This in turn informed the a priori specification of the long-run relationship estimated in the study. A Johansen VECM technique was used, exploiting the long-series measures of institutions constructed by the author, and other economic variables. Over-identifying restrictions on the long-run relationship are all accepted.

The empirical results of this chapter confirmed that political instability does impact on capital-stock accumulation in Namibia. The evidence also suggested that capital stock is positively related to GDP, while user cost of capital relates to it negatively.

Another important aspect of the study is its examination of the institutional underpinnings of the accumulation of capital stock. The long-run relationship representing political instability equilibrium provided an insight into the webs of association among diverse institutional variables. Property rights and political rights prove to be important in dampening political

instability. However, the impact of property rights on capital stock remained negative in Namibia.

In the case of Tanzania, the chapter revealed that property rights and investment are cointegrated and thus exhibit a reliable long-run relationship. The standard investment variables carried the signs expected according to theory.

The most interesting result is the importance given to judicial independence, which showed a positive relation to GDP. It is also shown that uncertainty in the political macroeconomic environment (political instability) has had a negative impact on economic development over time in Tanzania.

Lastly, the chapter shows that other institutional variables (property and political rights) have a positive relation with judicial independence. Unlike in the case of Namibia, judicial independence is found to be a possible outcome variable as opposed to political instability. This is not surprising, as Tanzania on average was quite peaceful during the period under review, while other institutional oppressions were experienced under the one-party system.

Chapter 7

7.0 Conclusions and Implications

This chapter is in two parts. The first, 7.1, presents conclusions from the findings of this thesis, and the second, 7.2, discusses implications and offers recommendations based on the conclusions.

7.1 Conclusions

The main purpose of this thesis is twofold: firstly, the thesis addresses the measurement challenges of institutional variables in empirical work through the construction of new set of institutional indicators on Namibia and Tanzania that are usable in country-specific time-series. Secondly, it examines the impact of institutions on capital accumulation over time in two developing countries (namely, Namibia and Tanzania).

The key argument of this thesis is that institutional measures are time-truncated in the existing "deeper determinants" literature. This renders it difficult to explain the persistent differences in income levels across countries. The thesis argues that longer-dated series of institutional measures are vital, and it therefore presents the formal measures on Namibia and Tanzania. The measuring of institutions using written rules are in line with accepted definitions of formal institutions postulated in the "deeper determinants" literature. The new indicators, while covering a long time period, from 1884 to 2009, correlate fairly well with some of the widely used institutional indices produced by the Freedom House and the Heritage Foundation.

The cross-country comparisons between Tanzania and Namibia reveal a comparable pattern in the indices of political freedom and judicial independence, both under the German colonial administration and, subsequently, with the British colonial administration over Tanzania and the South African colonial administration over Namibia. The property-rights patterns, however, remain divergent between the two countries under German colonial rule. The comparison between the British former colonies Tanzania and Zimbabwe shows a similar close pattern in

terms of political freedom, while property rights appear to be better in Tanzania than Zimbabwe between 1945 and 1960.

Another feature of the thesis is that the examination of institution formation over this longer period underscores the notion of persistence in institutions. The thesis argues that despite changes in colonial regimes, the broader framework of institutions remained partly the same. This is reflected in aspects of the institutional framework such as the contract-labour system and pass laws, which were applicable during the German era and upheld by the next regime. In Namibia, the expropriation of land led to the creation of smaller land units known as reserves for the African blacks. The smaller sizes of these parcels of unproductive land could partly explain the problem of income inequality in Namibia today.

Another observation is that in respect of some of the laws, changes were made in their names, and in the enforcement authorities, but the scope of the laws remained the same. This is reflected in the post-independence period in Tanzania, where the title 'president' was substituted for the title 'governor' in some land laws. Similarly, draconian laws similar to the colonial laws were enacted to curtail political freedom.

The institutional hypothesis argued that a solid institutional framework is a key determinant of capital accumulation. When property rights are weak and poorly protected, investors will be reluctant to risk their capital for fear of expropriation. Also, the theory of irreversible investment under uncertainty tells us that greater uncertainty is likely to affect investment levels due to the option value of waiting. This has been used to justify the estimation of the impact of institutional indicators on capital-stock accumulation in Namibia and Tanzania, applying the Johansen VECM technique.

Given that the relationship between institutions and economic development is almost certain to differ across countries; time-series evidence may offer better insights than cross-section studies. The data span for Namibia is from 1923 to 2009, while for Tanzania is from 1946 to 2009. Given the length of the time span, one expects that structural changes could have taken place, therefore

several tests such as the Zivot and Andrews (1992) and Bai and Perron (2003) tests are applied to take into account structural breaks in testing for unit roots.

Econometrically, the dynamic structure of our empirical model suggests that a multi-cointegration framework exists, in which separate long-run relationships are identifiable. Relying on theoretical and empirical literature and aided by the PSS F-test, a distinction was made between outcome and forcing variables in the model. This in turn informed the a priori specification of the long-run relationship estimated in the study. A Johansen VECM technique was used, exploiting the long-series measures of institutions constructed by the author, and other economic variables. Dummy variables were introduced to capture the detected structural breaks. Over-identifying restrictions on the long-run relationship are all accepted.

The empirical results of this thesis confirmed that political instability have an effect on capital-stock accumulation in Namibia. The evidence also suggested that capital stock is positively related to GDP, while user cost of capital relates to it negatively.

Another important aspect of the thesis is the institutional underpinnings of the accumulation of capital stock. The long-run relationship representing political instability equilibrium provided an insight into the webs of association between different institutional variables. Property rights and political rights prove to be important in dampening political instability. However, the impact of property rights on capital stock remained negative in Namibia.

In the case of Tanzania, the findings highlight the importance of property rights in explaining capital accumulation over time. The standard investment variables carried the signs expected according to theory.

The most interesting result is the importance given to judicial independence, which showed a positive relation to GDP. It is also shown that uncertainty in the political macroeconomic environment (political instability) has had a negative impact on economic development over time in Tanzania.

Lastly, the thesis shows that other institutional variables (property and political rights) have a positive relation with judicial independence. Unlike in the case of Namibia, judicial independence is found to be a possible outcome variable, as opposed to political instability. This is not surprising, as Tanzania on average was quite peaceful during the period under review, while other institutional oppressions were experienced under the one-party system.

7.2 Implications

The findings of the thesis suggest that institutional factors are important determinants of long-term capital formation, and hence economic development.

In case of Namibia, the main policy implications are:

- The government should promote an institutional framework that ensures political stability to attract investors.
- The property-rights structure in Namibia appears to affect capital formation negatively. Therefore, the government should address a framework that ensures secure property rights, not just for a minority but for the broad cross-section of the society. This is not only because secure property rights attract investment, but also because it would dampen political instability within the country.

In case of Tanzania, the main policy implications are:

- ✓ The government should promote an institutional framework that guarantees the independence of the judiciary. This would constitute a check-and-balance mechanism and promote rule of law, thereby promoting economic development.
- ✓ The government should ensure secure property rights because they attract capital formation, which is vital for Tanzania's sustainable economic development.

Finally, in order to achieve broad-based economic development, future institutional and policy reform in developing countries should take into account the historical specificities of each country, and even of smaller political units, as institutional frameworks tend to persist over time.

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Appendices A: Namibia: List of laws

A. 1. Property right Indicator: Namibia

This covers all legislations passed that affect the issue of immovable property with special reference to land rights in Namibia. Full liberal ownership comprises of the right to possess, the right to use, the right to manage, the right to capital, the rights to security, the incident of transmissibility and liability to execution.

YEAR	Ordinance/Act/Amendments/Proclamations and Regulations
1884	**GERMAN EMPIRE – GERMAN SOUTH WEST AFRICA**
1884-1885	
1886	**Law for the protection areas (*Schutzgebietsgesetz)* dated 17.04.1886** It creates a "dual" legal system for Germans and indigenes. The legal system in SWA is henceforth determined by racial differentiation.
1887-1889	
1890	Imperial Germany declares its protectorate a "Crown Colony".
1891	**Land acquisition of real estates Imperial Ordinance of 1 September 1891** According to section 1 of decree only the colonial government had the right to occupy unowned (herrenlos) land within the German sphere of interest in South West Africa.
1892-1893	
1894	**Imperial Ordinance of 24 July 1894** Provision for the legal affairs of immovable properties – It required that all contracts by which property in real estate was acquired or leased for longer than 15 years had to be consented to by the Governor in charge.
1895	**German imperial decree**
1896-1897	
1898	**Imperial Order 1898** This calls for the creation of “Landreserve” (reserve of land) for the natives.
1899	
1900	**Protectorate Laws Ordinance of the Emperor of 1900 (*Neu gefasstes Schutzgebietsgesetz*), (10.09.1900)** This amended law continues the dual legal system in SWA but does not make provision for the legal status of marriages between "natives" and "non-natives".
1901	
1902	**Land Rights Ordinance of the Emperor –of 1902** **Expropriation of Lands and Arbitration Clauses Proclamation of 1902**
1903	**Land Rights Ordinance of the Governor –of 1902** **Land Expropriation Ordinance of the Emperor –of 1903**
1904	
1905	**The Expropriation of land of dissident tribes, Imperial Ordinance of 1905 (26.12.1905)** The German Emperor orders the confiscation without compensation of the properties of SWA indigenes
1906	**Law (Ordinance) for expropriation of land/cattle of dissident tribes, of 1906 (08.08.1906)** A law is enacted providing for the expropriation of the land and cattle of "dissident tribes" (Ovaherero, Swartbooi, Topnaar, Witbooi Nama, Kai‖khaun (Red Nation), Bethany Nama, Fransman Nama, Veldschoendragers and Bondelswarts).

	**This means that south of the Red Line only the Rehoboth Baster and the Berseba (*Hai-*khauan) community keep their land, while the Dama - whom the Germans consider as having no land rights - are given some land as a grant, but not as their property.
1907	**Law (Ordinance) for expropriation of land/cattle of dissident tribes of 1907 (08.05.1907)** A law is enacted providing for further expropriation of the land and cattle of "dissident tribes" (Ovaherero, Swartbooi, Topnaar, Witbooi Nama, Kai||khaun (Red Nation), Bethany Nama, Fransman Nama, Veldschoendragers and Bondelswarts). **Crown Land Disposal Ordinance of the Imperial Chancellor - of 1907**
1908	
1909	**Land Tax and Transfer duty Ordinance of Governor of 1909**
1910	**Land Rights Ordinance of the Governor of 1910**
1911	
1912	**Land valuation Commission Ordinance of the Governor of 1912** **Land valuation Commission Fees Ordinance of the Governor of 1912**
1913	**Land Rights Ordinance of the Governor of 1913**
1914	**First World War – South Africa under British Empire invaded German South West Africa**
1914	
1915	**South Africa defeated German forces*** **Property of German Government Proclamation No.4 of 1915** This made provision for the possession of property of the German Government by private persons **Concessions from Natives Proclamation No.8 of 1915** Provides that concessions for mineral, trading and other rights obtained (or to be obtained) by private individuals from coloured and native inhabitants shall be invalid. **Derelict Property Proclamation No.22 of 1915** This made provision for the protection of livestock and other property that became derelict as a result of the hostilities between the Union forces and the German forces.
1916	**Article 22 of the Covenant of the League of Nations** Under the German Law no native was allowed to possess any riding animals or large stock. Contrary to the provisions of this law the acquisition of Livestock, The SA regime sanctioned as it will tend to make the Native more contented and law abiding".
1917	
1918	**Deeds Registries Act No.13 of 1918** Provided that in the case of land registered in the German land registers no transfer shall be issued or registered until substituted titles are prepared by a conveyancer duly admitted to practice.
1919	**Crown Lands (Trespass) Proclamation No.7 of 1919** This proclamation makes provision for the prevention of trespass on crown land in the Protectorate. **Act No. 49 of 1919 (to administer SWA as mandatory territory)** This gave effect to the Mandate of South West Africa – delegated administration of the territory to the Governor General of South Africa who was given both legislative and executive powers. **Versailles Treaty 1919** Renounce German Rights
1920	**Crown Land Disposal Proclamation No. 13 of 1920** This proclamation made the Crown Land Disposal Ordinance,1903, of the Transvaal applicable to south west Africa and thus authorised the Administrator of South west Africa to set aside crown lands as reserves “for the use and benefit of aboriginal natives, coloured persons and Asiatic” as well as for public purpose . The land which was confiscated by the Germans and made available for "white" settlement as a result of the 1903 - 1909 wars was not returned by the South African administration.

	Crown Land Disposal Proclamation No. 54 of 1920 An act to amend the Land disposal proclamation of 13 of 1920, by extending the powers to the Administrator of the Protectorate away from the Minister of Lands and Governor General respectively. **Deeds Registry Proclamation No.8 of 1920** It makes provision for the authorization of the Registrar of Deeds to issue and register bonds **Land Settlement Proclamation No.14 of 1920** Amends the Union Land Settlement Act No.12 of 1912. It makes provision for a retiring member of a Land Board to be eligible for reappointment. It defines "private Land' as any land which is not Crown land and the "Parliament" as the Parliament of the Union of South Africa. **Enemy Property Proclamation No. 148 of 1920** Provides for the liquidation and dispose of the assets of German nationals **Townships Proclamation No. 68 of 1920** It makes provision for the enacting of a law regulating the establishment of townships
1921	**Land Titles Proclamation No. 2 of 1921** This proclamation makes provision for the issues of registered titles to certain lands in the territory **Fencing Proclamation No.57 of 1921** This proclamation relates to the erection and maintenance of dividing fence between adjoining properties.
1922	**SOUTH AFRICAN MANDATE UNDER THE LEAGUE OF NATIONS MANDATES SYSTEMS – SOUTH WEST AFRICA**
1922	**Land Expropriation Proclamation No.37 of 1922** Provides for the acquisition of land and other rights by expropriating for and in connection with the construction of railways. **Land Titles Amendment Proclamation No. 14 of 1922** An act to amend the Land Titles Proclamation No.2 of 1921
1923	**Fencing Amendment Proclamation No.13 of 1923** An act to amend the fencing proclamation 57 of 1921.It enables the Land Bank to make advances to land owners who are obliged to contribute towards the cost of fencing, provided such contribution exceeds £10. **Deeds Registry Amendment Proclamation No. 10 of 1923** An amendment of the Deeds registry Proclamation of 1920 in various respects
1924	**Natives Reserve Trust Funds Proclamation No.9 of 1924** Makes provision for the establishment of funds to be expended in promoting the interests and welfare of the inhabitants' resident in such reserves. **Natives (Urban Areas) No.34 of 1924 Amendment** The Natives (Urban Areas) Act legislated on a broad front to regulate the presence of Africans in the urban areas. It gave local authorities the power to demarcate and establish African locations on the outskirts of white urban and industrial areas, and to determine access to, and the funding of, these areas. **Deeds Registry Amendment Proclamation No.4 of 1924** Stated that the owner of land hypothecated under such bond shall be deemed to have accorded his consent to the transfer of the land (with reference to the German expropriated land) **Registration of Land in favour of Government Proclamation No.29 of 1924** Makes special provision for the transfer to the Government of the Territory of land on which German owners have renounced their ownership in favour of the Government.
1925	**South West Africa Constitution Act 42 of 1925** Provided for the Appointment of an Administrator and the election of an all white Legislative Assembly and Executive Committee. Had powers to make laws and ordinances except on certain

	matters which were reserved and remained under the legislative power of the South Africa government[88]. **Fencing Amendment Proclamation No. 18 of 1925** It amends the fencing proclamation 13 of 1923 by empowering the administrator to divide any district into wards for fencing purposes. **Fencing Amendment Proclamation No. 28 of 1925** Slightly amends the description of a dividing fence in Proclamation No.18 of the same year
1926	**Small settlements commonages subdivision Proclamation No.13 of 1926** This proclamation provides for the subdivision of commonages assigned to "small settlements" established by the German administration. **Native Reserve Fencing Proclamation No.12 of 1926** Provision for administrator to fence off native land and one half of the cost incurred by the Administration to be recovered from the reserves' inhabitants.
1927	**Expropriation of Lands Ordinance No.13 of 1927** Makes provision for the Administrator and municipalities to expropriate land for public purposes. **Land Settlement Consolidation and Amendment Proclamation No.310 of 1927** Repeals the Land Settlement Proclamations: No.14,29,47 and 53 of 1920 and Proclamation No.26 of 1923 It provides for the establishment of Land Boards who should acquire land on behalf of the Government. Provision was made for the Administrator to offer holdings for allotment to applicants from oversea through newspapers. **Land Survey Act No. 9 of 1927** An act to consolidate and amend the laws relating to the land survey. It makes provision for the establishment and the appointment of Surveyor-Generals and their regulations board.
1928	**Fencing Amendment Ordinance No.4 of 1928** Introduction of grazing fees in all native reserves An act to amend the fencing proclamation 28 of 1925, by reinforcing the obligations to pay and rights to claim contributions towards cost of dividing fences.
1929	**Rehoboth Gebiet (Acquisition of Land) Proclamation No.29 of 1929** Made provision for the protection of European Leasehold or freehold in immovable properties situated in the Gebiet.
1930	**Registration of deeds in Rehoboth Gebiet Proclamation No. 12 of 1930** An act that treated the Rehoboth Area differently from the rest of the rest of Protectorate. It proclaimed Rehoboth area to be a legitimate homeland of the Basters Community.
1931	**Land Settlement Fund Ordinance No. 2 of 1931** Provided for the establishment of the fund in the territory under the Administrator and any excess surplus money to be temporary invested with the Public Debt Commissioners of the Union of South Africa. **Land Settlement Law(SWA) Further amendment Proclamation No. 186 of 1931** Makes provision for the cost of boring by Government with government drills on Government land to be incurred by Government as part of the improvements on land expenditure.
1932-1935	
1936	**Land Titles Amendment Proclamation No. 1 of 1936** An act to amend the Land titles proclamation 14 of 1922 by providing for the survey and registration of immovable property. Situate in Gebiet **Land Settlement Law(SWA) Further amendment Proclamation No. 77 of 1936** This outlines the Administrator's mandate regarding every lease entered into under the Land Settlement Laws **Development Trust and Land Act 18 of 1936** This makes provision for the establishment of a Native Trust and for defining of its purpose

[88] The reserved matters included defence; railways and harbours, posts and telegraphs, matters pertaining to the courts, immigration; customs and excise; banking and currency; and native affairs.

1937	**Crown Lands (Trespass) Amendment Proclamation No. 4 of 1937** An amendment of the Crown Lands (trespass) Proclamation No.7 of 1919. It amends the law relating to the prevention of trespassing on Crown Land in South West Africa. **Village management Board Ordinance No. 16 of 1936** This makes provision for the management of villages and other communities not being municipalities **Deeds Registries Act No.47 of 1937** An act to consolidate and amend the laws in force in the Union relating to the registration of deeds.
1938	**Crown Lands (Trespass) Amendment Proclamation No. 31 of 1938** An act to amend the law relating to the prevention of trespassing on Crown Land in South West Africa.
1939	**WORLD WAR II STARTED**
1939	**Natives Trust Fund Proclamation, No. 23 of 1939** 17 "native reserves" spanning 23 000 square miles in total have been created These reserves are beset with similar basic problems as were the reserves created under the German colonial authorities: they are small and widely scattered patches of land, with limited economic and political viability **Deeds Registry Amendment Proclamation No. 37of 1939** Repeal Proc no.10 of 1923 – Makes provision for consolidations all laws related to the Deeds Registry in Territory to be in line with Union of SA. Deeds Registries Act No.47 of 1937
1940	**Land Settlement Act No. of 1940** Provides for the grant of right of temporary occupation of government land to probationary lessees and grazing licensees based on the recommendation of the Administration to the Land Board – if deemed to be a bona fide farmer
1941-1943	
1944	**Territorial Development and Reserve Fund Ordinance No.13 of 1944** This act provides for the establishment of a Territorial Development and Reserve Fund. The Fund shall comprise of Land Settlement and Development account among others.
1945	**Black Reserves SWA Act No.44 of 1945** This Act authorizes the dis-establishment of one area reserved for Black occupation, in exchange for the establishment of another. **Territorial Development Reserve Fund Amendment Proclamation 16 of 1945** This an amendment of Ordinance No.13 of 1944
1946	**REFUSAL OF TRUST TERRIRTORY**
1946	**Territorial Development Reserve Fund Ordinance No. 5 of 1946** This is an amendment to the Territorial Development Reserve Fund Ordinance No.13 of 1944 **Immovable Property Taxation Amendment Ordinance No. 10 of 1946** Amendment of Ordinance No.5 of 1935. It was repealed by Ordinance No.15 of 1949. **Village management Board Amendment Ordinance 13 of 1946** This act amends Ordinance No.16 of 1937
1947	**Territorial Development Reserve Fund Ordinance No. 8 of 1947** Amendment of Ordinance No.13 of 1944 **Land Settlement Law (SWA) Proc. No. 39 of 1947** This is an amendment to the Union Proclamation No. 310 of 1927 **Mining Consolidation and Amendment Proc. No. 15 of 1947** Amendment to the Proclamation No.4 of 1940.
1948	**Crown Lands (Trespass) Amendment Proclamation No.18 of 1948** An act to amend the crown lands (trespass) proclamation No.31 of 1938 **Land Settlement Law (South West Africa) Amendment Proclamation No.339 of 1948** Makes provision for grant of right of temporary occupation of government land to probationary lessees in order to determine their suitability as settlers and grazing licensees. Grazing licensees for White were converted into ownership rights to encourage white settlement in SWA.

	Removal or modification of Restrictions on Immovable Property Proclamation No. 42 of 1948 Application to court for the removal of restrictions by the beneficiary
1949	**South West Africa Affairs Constitution Amendment Act No. 23 of 1949** This act gave South West Africa direct representation in the South African Parliament. The Governor General no longer had law-making power on reserved matters – this was done through South Africa Parliament. **Land Titles Amendment Proclamation No. 3 of 1949** An act to amend the Land titles Proclamation No. 6 of 1942 It repeals the Municipal Ordinance No.24 of 1935 **Rural Immovable Property Taxation Ordinance No. 15 of 1949** This act makes provision for the introduction of an annual land tax in respect of all rural immovable property in the Territory. It repeals The Taxation of Landed Property Amendment Ordinance No.10 of 1946. **Immovable Property Taxation Amendment Proclamation No. 57 of 1949** Amendment of Ordinance No. 15 of the same year
1950	**Crown land disposal Amendment Proclamation No. 200 of 1950** An act to amend the Land Disposal Proclamation No.13 of 1920 **Group Areas Act No.41 of 1950** ▪ occupancy and ownership of land is prescribed on racial grounds, confining blacks to the reserve land ▪ segregation and the introduction of Apartheid system
1951	**South West Africa Affairs Constitution Amendment Act No.55 of 1951** Returned legislative power to the Governor General who was empowered to make laws in respect of reserved matters by Proclamation in the Government Gazette, subject to the approval of the South African Parliament. **Natives (Urban Areas) Proclamation No.56 of 1951** Makes provision for a much stronger control on the natives in acquiring land. Restrictions on rights of natives to acquire land in urban areas or rural townships. Repeal Natives (Urban Areas) no.34 of 1924 amendment: **Expropriation Act No.39 of 1951** It provides for the expropriation of land for the purpose of constructing, operating or maintaining pipe lines, private railway branch lines or railway sidings in connection with undertakings of national importance.
1952-1953	
1954	**South West Africa Native Affairs Administration Act No.56 of 1954** Transfer of the administration of native affairs from the administration of the territory of South West Africa acting under direction and control of the Governor-General to the Minister of Native Affairs of the Union for the reservation or setting apart of land for use and occupation of natives in that territory. **Black Trust and Land Amendment Act No.18 of 1954** No one may subdivide or partition land in a scheduled native or released area without the Minister's consent.
1955	**Land Settlement Amendment Ordinances No. 2 & 16 of 1955** Amendment of Union Proclamation No.310 of 1927 **Fencing Amendment Ordinance No.21 of 1955** An act to amend the fencing ordinance 44 of 1952 **Municipal Amendment Ordinance No. 34 of 1955** Amendment of Ordinance No.3 of 1949
1956	**South West Africa Native Affairs Administration Act 73 of 1956** An act to amend the Native Trust and Land Act No. 18 of 1936 Powers to acquire certain land limited to power to acquire the right to use and occupy only, and

	vesting dominion of certain land in the Trust. **Native Reserves Ordinance No. 4 of 1956** This act makes provision for the addition of certain land to the Waterberg East Native Reserve **Land Settlement Amendment Ordinance No.13 of 1956** Amendment of section 31 of Union Proclamation of 1927 **Termination of Grazing (Pastures) Rights Ordinance No.23 of 1956** This act provides for the termination of the grazing lands of certain small holders on the commonage or townlands of the Okahandja Municipality **Excision of Certain Lands Proclamation No. 287 of 1956** This makes provision for the excision of certain land from the Native Areas of South West Africa
1957	**Fencing Proclamation Amendment Ordinance No.6 of 1957** Amendment of the fencing law through extending certain provisions of the Fencing Proclamation No.57 of 1921.
1958	**Crown Land Disposal Ordinance No. 36 of 1958** An act to amend the Land disposal Ordinance 7 of 1951.It makes provision for 50% of all monies received from the sale of Crown Lands in a township for which no Village Management Board has been constituted to be held in trust by the Administration for a Village Management Board which may be established. **Land Settlement Amendment Ordinances No.4 & 21 of 1958** Amendment of Union Proclamation 310 of 1927 and Ordinance 4 of 1957.It provides that lessee shall not at anytime grant any person an option or enter into an obligation with regard to purchase, lease or transfer the holding unless there is the Administrator's approval in writing. **Native Trust and Land Amendment Act No. 41 of 1958** An act to amend section 20of Act 46 of 1945. It makes provision for the Trustee to appoint any person at any time to perform special functions on a temporary basis. The remuneration for such persons will come from the fund. **Native Reserves Ordinance No. 26 of 1958** This act makes provision for the addition of farm Sorris to Okombahe Reserve
1959	**Territorial Development Reserve Fund Ordinance No. 3 of 1959** Amendment of section 6 of Ordinance No 13 of 1944 by making provision for the Administrator to allow an issue of money from the General Security Account if he/she sees it to be necessary in the public interest. **Rural Immovable Property Tax Amendment Ordinance No.5 of 1959** Amendment of Ordinance No.15 of 1949 by disallowing any apportionment to be made by the Secretary for West Africa if the rural immovable property registered in the name of a private company does not exceed two hundred and fifty hectors. **Land Settlement and Relief Ordinance No. 15 of 1959** This ordinance makes provision for the inclusion of advances, rent and interest in the purchase price of allotment **Native Reserves Amendments Ordinance No. 27 of 1959** Amendment of the law pertaining the addition of certain land to the Okombahe Native Reserve
1960	**Native Reserves Ordinance No.23 of 1960** This ordinance makes provision for the addition of certain land to the Ovitoto Native Reserve.
1961	**Land Settlement Relief Amendment Ordinance No.9 of 1961**
1962	**Trespass Ordinance No. 3 of 1962** This prohibits entry or presence upon land or in building without permission of the owner or lawful occupiers. **Land Settlement Relief Amendment Ordinances No16& 22 of 1962** These ordinances amend Ordinance 15 of 1959 and ordinance 9 of 1961.They extend the time period for the temporary remission of rent and interest rate and suspension of capital payments by

	two years
1963	**The Ondendal Report of 1963**** Made provisions for the creation of homeland – confining the natives to the reserve according to ethnic groupings.
1964	
1965	**Immovable property (removal or modification of restrictions) Act No. 94 of 1965(M_8)** This Act concerns restrictions imposed on land by wills and similar instruments. **Deeds Registries Act No. 87 of 1965** An act to amend the Deeds Registries Act No.47 of 1937. Undivided shares in more than one piece of land may not be transferred to more than one transferee in the same deed. **Land Settlement Amendment Ordinances No.14 &16,28 of 1965** Amendments of the law relating to land settlement. They make provision for the grazing licence holders, delegation of power by Administrators and defining the term "Land Board" respectively.
1966	**Land Tenure Act No.32 of 1966** This makes provision for the establishment of a Land Tenure Board the defining of its functions. **Reservation of Land for Blacks Proclamation. No. 76 of 1966**
1967	**Reservation of State Land for Natives Ordinance No.35 of 1967.** This Ordinance authorises the Administrator-General of South West Africa to set aside and reserve state land "for the sole use and occupation of natives". **Expropriation Ordinance No. 32 of 1967** This ordinance deals with the expropriation of land for public purposes **Mining Titles Act No.16 of 1967** An act to regulate the registration of mining titles, other rights connected with prospecting and mining, stand titles and certain other deeds and documents.
1968	**South West Africa Constitution Act No.39 of 1968** Replaced the SWA Constitution Act 42 of 1925 – gave powers to South Africa to make laws in respect of an expanded list of reserved matters. SWA Administrator powers were subject to the State President of South Africa – who had power to administer the territory as an integral part of the Republic. **Black Homelands, Promotion/Development Act No.46 of 1968** This makes provision for the promotion of development of the Bantu homelands
1969	**South West Africa Affairs Act No.25 of 1969** Gave South Africa even tighter legal and administrative over South West Africa – the list of reserved matters grew further and further **Deeds Registries Amendment Act. No. 61 of 1969** Amendment of section 1 of Act 47 of 1937 by providing for the altered procedures regarding the registration of transfer of land expropriated by the State. **Formalities in respect of Contracts of Sale of Land Act No.81 of 1969** This act makes provision for formalities in respect of a contract of sale of land and certain interest in land. **Formalities in respect of Leases of Land Act No.18 of 1969** To provide for the formalities in respect of leases of land. It repeals section 2 of the General Law Amendment Act No of 1756
1970	**Subdivision of Agricultural Land Act No.70 of 1970** This Act controls the subdivision of agricultural land. Generally, subdivision is prohibited unless the minister of agriculture has given his consent. **Land Tenure Amendment Act. No. 67 of 1970** This act extends the Land Tenure Act 32 of 1966 – which establishes a Land Tenure Board and the acquisition and development of land in connection with farming purposes to the territory of South West Africa.

1971	**Sale of Land on Installments Act No.72 of 1971** This act makes provision for the regulation of contracts of purchase and sale of certain kinds of land under which the purchase price is payable in installments over a period of one year or longer
1972	**Subdivision of Agricultural Land Amendment Act No. 55 of 1972** An act to amend the Subdivision of Agricultural Land Act 70 of 1970. It further defines agricultural land so as to prohibit registration of certain leases. **Land Tenure Amendment Act No.16 of 1972** This amends the provisions of the Land Tenure Act No. of 1966, relating to the establishment of the Land Tenure Board and the delegation of powers.
1973	**Territorial Development Reserve Fund Amendment Ordinance No.2 of 1973** This act defines the phrase "Executive Committee', it outlines the purpose for which moneys may be paid out of the Roads Construction Account and provides for incidental matters.
1974	**Subdivision of Agricultural Land Amendment Act No.19 of 1974** An amendment of the Subdivision of Agricultural Land Act 55 of 1972 in order to prohibit the concluding of long leases and the registration of only such leases in respect of portions of agricultural land in certain circumstances. **Reservation of State Land for Natives Ordinance 16 of 1974.** An act to amend the Schedule to Ordinance 35 of 1965.It make provision for the setting apart and reservation of state land for the use and occupation by Natives.
1975	**Expropriation Act No.63 of 1975** It makes provision for the expropriation of land and other property for public and certain other purposes. **Sale of Land on Installments Amendment Act No. 49 of 1975** This act amends the Sale of Land on Installments Act No.72 of 1971. It prescribes further requirements for cession and assignment by the seller of rights and obligations under a contract
1976	**Registration of Deeds in Rehoboth Amendment Act No. 93 of 1976** It provides for the registration of deeds in the Rehoboth Gebiet . **Registration of Deeds in Rehoboth Proclamation No. 256 of 1976** Deals with the Registration of Deeds in Rehoboth Gebiet **Development Trust and Land Amendment Act No.110 of 1976**
1977	
1978	**Expropriation Ordinance No.13 of 1978** This ordinance deals with the expropriation of land for public purposes and it amends the Expropriation Ordinance 32 of 1967 – without referring to Act 63 of 1975
1979	
1980	**Native (Urban Areas) Amendment Act no.12 of 1980** Provision for the levying of rates on immovable properties within urban areas in which erven are sold or alienated. **Native (Urban Areas) Amendment Act no.24 of 1980** To regulate the acquisition of land or any interest in land. Prevent any person from acquiring land or any interest in land for public, mission, education, recreation, trading or industrial purpose. See Proc.56 of 1951 section 35.
1981	**Agricultural Credit Amendment Ordinance No.2 of 1981** To amend the Agricultural Credit Act 28 of 1966, to provide that assistance may be rendered by the Agricultural Credit Board by way of subsidy. **Subdivision of Agricultural Land Amendment Act No. 5 of 1981** This repeals the Subdivision of Agricultural Land Act No.70 of 1970.
1982-1989	
1990	NAMIBIA INDEPENDENCE
1990	**Namibian Constitutions** According to Article 16 of the Namibia Constitution all persons shall have the right in any part of

	Namibia to acquire, own and dispose of all forms of immovable properties. Rights to pass on their properties to the heirs also guaranteed.
1991-1993	
1994	**Registration of Deeds in Rehoboth Government Proc. No.236 of 1994** An act to amend the Registration in Rehoboth Act of 1976. It provides for the redefining of Ministerial duties and adjusting certain requirements for the Deeds registration.
1995	**Agricultural (commercial) Land Reform Act No. 6 of 1995** The Act provided for the acquisition of freehold land and its allocation for resettlement purposes. In terms of the provisions of the Act, government will have 'preferential right to purchase agricultural land whenever any owner of such land intends to alienate such land'.
1996	**Deeds Registries Amendment Act. No.2 & Act No.22 of 1996** Amend the South African Deeds Registries Act No.47 of 1937
1997-1999	
2000	**Agricultural (Commercial) Land Reform Act No. 16 of 2000** An act to amend the Agricultural (commercial) Land Reform Act 6 of 1995 so as to provide for the establishment and administration of the Land Acquisition and Development Fund.
2001	**Agricultural (commercial) Land Reform Act No.2 of 2001** An act to amend the Agricultural (commercial) Land Reform Act No.6 of 1995 so as to make provision for the further regulation of the appropriation of moneys of the Fund. It also provides for the further restriction the transfers of agricultural land.
2002	**Communal land Reform Act No.5 of 2002(M_{15})** This Act provides for the allocation of rights in respect of communal land. It establishes communal land boards and provides for the rights and powers of traditional leaders and communal land board in relation to communal land. Rights under this Act include customary land rights which are extending for the natural life of the person. And the rights of leasehold for 99 Years. **Agricultural (commercial) Land Reform Act No. 13 of 2002** This Act provides for further definitions of certain expressions and various amendments concerning functions and powers and organizational structure of the Land Reform Advisory Commission of the Agricultural (Commercial) Land Reform Act, 1995. The definition in section 1 of "alienate" in relation to agricultural land is modified. Various amendments concern functions and powers and organizational structure of the Land Reform Advisory Commission. In section 17 a new subsection 5(a) is inserted. This provision concerns the withdrawal of an offer to sell land to the State. New subsection sets out procedural requirements for the purchase or decline of an offer to sell land to the State.
2003	**Agricultural (commercial) Land Reform Amendment Act No.14 of 2003** An act to amend the Agricultural (commercial) Land Reform Act No.6 of 1995. It expands the definition of "owner' to include certain persons acting in a representative capacity. It makes provision for further regulation of circumstances in which land is acquired for the purposes of land reform. **Agricultural (commercial) Land Reform Act No.19 of 2003** An act to amend the \Agricultural (commercial) Land Reform Act No.6 of 1995 so as to empower the Minister to prescribe a tariff of different rates of land tax in respect of different categories of owners or of agricultural land.
2004-2009	

A.2 Political Rights and Civil liberties Indicator: Namibia

This includes all relevant legislation passed during the year under consideration – Constitution /Act/Bills

- ✓ Voting Rights / Franchise

- ✓ Freedom of Association
- ✓ Freedom of Assembly
- ✓ Freedom of Expression
- ✓ Extension of Arbitrary Executive Power
- ✓ Freedom of Movement
- ✓ Independence of the judiciary and Legislature
- ✓ Academic Freedom
- ✓ Government Secrecy/ indemnity
- ✓ Due process of law
- ✓ Religious Freedom
- ✓ Others

Year	Ordinance/Act/Amendments/Proclamations and Regulations
1884	GERMAN EMPIRE – GERMAN SOUTH WEST AFRICA
1884	
1885	
1886	**Law for the protection areas (*Schutzgebietsgesetz)* dated 17.04.1886** It creates a "dual" legal system for Germans and indigenes. The legal system in SWA is henceforth determined by racial differentiation.
1887-1894	
1895	**German imperial decree**
1896	**Criminal Jurisdiction over the Natives Ordinance of the Imperial Chancellor of 1896** Provided for the punishment and disciplinary control of blacks. The offences that were punished included among others laziness, negligence, vagrancy, insolence and disobedience. Employers were to report to the nearest police who determine the number of lashes depending on the police's assessment of the serious of the offence.
1897	
1898	
1899	**Imperial Governor Ordinance of 1899** Government Proclamation established the first self-government for "white" settlers.
1900	**Ordinance of the Emperor Protectorate Law of 1900** **Amended Law for the protection areas (*Neu gefasstes Schutzgebietsgesetz*), 10.09.1900** This amended law continues the dual legal system in SWA
1901	
1902	**Emigration of the Natives Ordinance of the Governor of 1902** Calls for the control of the natives within the Protectorate.
1903-1904	
1905	**Mixed Marriages Act of 1905** This is to prohibit marriage between European and non-Europeans and to provide for matters incidental thereto.
1906	**Ordinance of the Governor- Immigration of 1903,1909,1910**
1907	**Pass Law Ordinance of the Governor of 1907** Stipulated that all blacks above the age of seven (with the sole exceptions of the Basters of Rehoboth) had to register with authorities and each handed with metal badge which served as a pass to be displayed prominently on the person, and a service book. A pass-less black were to be arrested by any white person and handover to the police. **Contracts of Service Ordinance of the Governor of 1907** Provided that black without a service book which was a second source of identification could not be employed. Black without labour contracts possessed no legal rights and could be punished as vagrants.

	Control of the Natives Ordinance of the Governor of 1907 No black could obtain a right or title to fixed property or own cattle or horses. This measure also forbad more than ten families or individuals from residing on one farm.
1908	**Ordinance of the Emperor – Control of the Natives 1908**
1909-1910	
1911	**Prisons and Reformatories Act 13 of 1911**
1912	**Recruiting of Natives Ordinance of the Governor of 1912** **Police Act No14 of 1912**
1913	
1914	**WORLD WAR I STARTED**
1914	**Riotous Assemblies Act of 1914**
1915	**Proclamation of Martial Law No.5 of 1915** This was declared during the period of Military occupation by South African forces
1916	**Masters and Servants No.2 of 1916** The control and punishment under this law was centralized, it was the prerogative of the state not individual employer to determine the offences, through judicial authorities not just district police stations.
1917	**Native Labour Regulations (Mines & Works) Proclamation No.3 of 1917** Makes provision for the control and treatment of natives employed on mines and works in the Protectorate. **Publication of local regulations proclamation 4 of 1917** This proclamation provides that local regulations issued by competent authorities shall be deemed to be 'promulgated" if sufficient copies are exhibited in public.
1918	**Masters and Servants Amendment Proclamation No.1 of 1918** Outlaw the practise of "fatherly correction" (whereby white employers had the right to beat their servants) and put a stop to the practise of flogging.``` The age limit for compulsory labour of blacks is raised from age seven to fourteen. It repealed the Masters and Servants Proclamation No.2 of 1916. Blacks were allowed to acquire and owned stock, unlike under the German Laws. *****Publication of the Imperial Blue Book** The Imperial "Blue Book" depicting the atrocities committed under German rule was published. The Blue Book's function was to justify British and South African takeovers, but it forces the new colonial power to engage in some kind of reform. This book was destroyed at the requested from the German Authorities and disappeared from all libraries and archives holdings.
1919	**Treaty of peace and South West Africa mandate Act No. 49 of 1919** This gave effect to the Mandate of South West Africa – delegated administration of the territory to the Governor General of South Africa who was given both legislative and executive powers. **Prohibited Areas Proclamation No.15 of 1919** **Crown Lands Trespass Proclamation No.7 of 1919** This states that any person without a lawful cause loitering or taking up residence upon Crown Land whether temporarily or permanently shall be deemed to be guilty of an offence.
1920	**Suppression of Vagrancy and Idleness Proclamation No. 25 of 1920** Made it an offence for black men to move around the Police Zone unless they could show visible lawful means of support. **Masters and Servants Proclamation No.34 of 1920 Amendment** Made it a crime for worker to change employers, or leave a job, without his employers' permission while under contract. This generally introduced the Law of the Cape Province as to Masters, Servants and Apprentices to Namibia. **Proclamation of Martial Law 76 of 1920**

	This proclamation repeal the Martial proc No.15 of 1915 **Police Offences Proclamation 27 of 1920.** This Proclamation criminalises a miscellany of activities, primarily nuisances such as littering and swearing.
1921	**South Africa Proclamation No. 1 of 1921** Made the provision for the Governor General of South Africa to delegate administrative power over the Territory to the Administrator of South West Africa (SWA). **SWA Proclamation No. 1 of 1921** Established the Advisory Council to advice the Administrator of South West Africa **Education Proclamation of No.55 of 1921** Provided for the separation of Natives and Non-Native School. Highest attainable qualification for natives were eight – years (Standard Six) of formal schooling **Proclamation No.13 of 1921** It repeals the Masters and Servants Proclamation No.2 of 1916.
1922	SOUTH AFRICAN MANDATE UNDER THE LEAGUE OF NATIONS MANDATES SYSTEMS SOUTH WEST AFRICA
1922	**The Pass Law Proclamation No. 11 of 1922**: Controls the movements of the natives in SWA through the possession of a valid pass. The natives were defined as every male over fourteen years of age one of whose parents is a member of some aboriginal race or tribe of Africa. This replaces the neck metal badge which served as a pass during the German law. **The Natives (Urban Areas) Proclamation 33 of 1922** Provision for prohibiting and preventing the presence of any natives in the streets public places within the local limits of the jurisdiction of such local authority between the hours of 9 p.m. and 4 a.m. without a written pass. Regulates the curfew for "blacks" in urban areas.
1923	**Zuidwest-Afrika Naturalisatie van Vreemdelingen Wet** • London treaty (De Haas-Smuts Agreement) recommends that Germans should obtain SA citizenship • Germans in the territory are granted the same rights (thus have the same duties) as South Africans. **Burgher Force Proclamation No.2 of 1923** It made provision for the settlers to be called into civilian defence units. **Education Amendment Proclamation No.45 of 1923** Repealed by Proclamation No.16 of 1926
1924	**Natives (Urban Areas) No.34 of 1924 amendment** Made provision to deport the natives deemed surplus to the labour needs of white households, commerce and industry, or those leading an idle, dissolute or disorderly life to the Reserves enforcing the Pass law. **The Natives (Rural) Regulation of 1924** Control the for the maximum stock numbers to be owned and made provision for imposing grazing fees for stock grazed on the reserves. ****Formation of (3)Political Party** • The National Party of SWA (NPSWA) is formed by Afrikaners in the South of Namibia • Union party in Central part of Namibia • German League
1925	**South West Africa Constitution Act 42 of 1925** Provided for the Appointment of an Administrator and the election of an all white Legislative Assembly and Executive Committee. Had powers to make laws and ordinances except on certain matters which were reserved and remained under the legislative power of the South Africa government[89].

[89] The reserved matters included defence; railways and harbours, posts and telegraphs, matters pertaining to this courts, immigration; customs and excise; banking and currency; and native affairs.

	Native Labour Regulations (Mines &Works) Amendment Proclamation No. 6 of 1925 -Makes all native labour regulations applicable to every mine and works in the Territory of SWA.
1926	**Colour Bar Law 25 of 1926 (Also known as the Mines and Works Act 25 of 1926** Restrictive racial law instituted The law strengthened the barriers against non-White advancement **Obscene Publications Suppression Ordinance No. 5 of 1926** Makes the provision for Administrator and Postal and Customs Official to seize any matter in his opinion is indecent or obscene. **Education Proclamation No.16 of 1926 Amendment** Makes provision for the establishment of different schools based on colour and race. **Advisory Council Amendment Proclamation No. 2 of 1926** This proclamation prolongs the existence of the Advisory Council established under the provisions of the Advisory Council Proclamation .of 1921.
1927	**The Native Administration Proclamations No.11 of 1927** Tighten the Proc. no.34 of 1924, by stating that an employed African could only obtain a pass from his employer. The same proclamation amended the Master and Servant proclamation No.34 of 1920 by doubling the severity of punishment for servants from 3 pounds to 7 pounds, imprisonment was extended and whipping introduced. **Burgher Force Proclamation No.19 of 1927** Repeal the Burgher Force Proclamation No.2 of 1923 **Prohibition of Credit to Natives Proclamation No.18 of 1927** Prohibit the giving of credit to natives, or sell or barter anything to any native to which the native promise to pay or deliver anything in future.
1928	**Paramount Chief of the Natives Act No. 38 of 1928** Laws are introduced which curtail "black" Namibian's rights to self-determination The SWA Administrator is made the "Paramount Chief of the Natives **Native Administration Proclamation No.15 of 1928(M2**) **Prohibited Areas Proclamation No. 26 of 1928** Prohibit the entry of persons into the areas beyond the Police Zone (Ovamboland) .It repealed the Prohibited Areas Proclamation No.15 of 1919
1929	**Native Labour Regulation (Mines &Works) Amendment Proclamation No. 33 of 1929** It further amends Proclamation No.3 of 1917 in order to make better provision for the maintenance of good order, discipline, health and bodily safety among Native Labourers in the mines.
1930	**Adoption of SA's Immorality Act of 1927** Forbidding sexual relations between blacks and whites. While originally designed to protect helpless servant women from being exploited by powerful bosses, the law eventually comes to represent the pursuit of racial purity by European settlers. **Native Passes (Rehoboth Gebiet) Proclamation No.7 of 1930** Repealed by Proclamation No.36 of 1936 It extends to the Rehoboth Gebiet with modifications required by the conditions existing therein, certain of the provisions of the law in force in the Territory relating to the issue to, and the carrying of passes by the Natives of travelling passes, **Assemblies and Criminal Amendment Ordinance No.9 of 1930** Prohibited public gatherings in public services. Criminalised the printing, publishing or circulating notice of gathering in public places.
1931	**South West Africa Constitution Amendment Act No.38 of 1931** The South West African Labour and Farmers' Party **Police Amendment Proclamation No.42 of 1931**

	This is an amendment to the Police Act No.14 of 1912 **Native Labour Regulation (Mines &Works) Amendment Proc. 27 of 31** Made of provision of returning natives whose contracts are terminated back to the native reserve.
1932	**Natives (Urban Areas) Amendment Proclamation No.4 of 1932** Made provision for the consumption and brewing of Kaffir beer gratis at the work premises given that the number of natives or colored employed exceed 50 (particularly at mines) **Pounds and Trespasses Amendment Ordinance No.10 of 1932** This is an amendment of Proclamation No.5 of 1917
1933	**Electoral Law (SWA) Amendment Proclamation No.266 of 1933** Made provision for eligible voters to vote by post as an absent voter provided that they registered on the voters' roll.
1934	**Immorality Proclamation No.19 of 1934** Banned interracial relationship between races. **Special Voters Rolls Compilation Proc. No. 15 of 1934** This makes provision for the compilation of special voters' lists. **Extradition (SWA) Proclamation No. 78 of 1934** This deals with the surrender of fugitive criminals as between South West Africa and foreign States **Education Amendment Proc. No. 24 of 1934** It prohibits a teacher from being an active member of a political organisation or taking part in political matters. It also makes provision for the controlling of appointments of teachers in private schools.
1935	**Extra-territorial and Northern Natives Control Proclamation No. 29 of 1935** Controls the mobility and employment of migrant labour in the territory. **Divorce laws amendment ordinance 18 of 1935** This ordinance amends the common law by setting forth additional grounds for divorce. **Natives (Urban Areas) Amendment further Amendment Proclamation No.1 of 1935** This amends the law relating to Natives in Urban Areas by increasing the percentage of strength of absolute alcohol in Kaffir Beer saleable to the Natives over the age of eighteen years from 3 to 4 per centum.
1936	**Native Administration Amendment Proclamation. No. 7 of 1936** An amendment of the Natives (Urban Areas) Proclamation No34 of 1924 **Broadcasting Act No. 22 of 1936** An act to provide for the control of broadcasting within the Union. It amends further the Radio Act No. of 1926.
1937	**South African Proclamation No. 51 of 1937** Prohibiting aliens in SWA from becoming members of political parties **Education Amendment Proclamation No. 14 &16 of 1937(NP)** Amendment of Education Proclamation No. 16 of 1926. **Native Administration Amendment Proclamation No. 25 of 10937** This makes provision for the amendment of the law relating to the control and management of native affairs.
1938	**Natives (Urban Areas) Amendment further Amendment Proclamation No.1 of 1938** Amendment of Natives (Urban Areas) Act No.34 of 1924. It makes provision for the establishment of the Urban Areas Pass Fees Fund. **Native Administration Amendment Proclamation No. 9 of 1938** This is an amendment of the Native Administration Proclamation No.11 of 1922. It amends the law relating to the administration and control of Natives. **Master and Servants Amendment Proclamation No.22 of 1938** An amendment of the Master and Servants Proclamation No.34 of 1920. **Crown Lands (Trespass) Amendment Proclamation No. 31 of 1938** An act to amend the Crown Lands (trespass) Proclamation No.7 of 1919.
1939	**WORLD WAR II STARTED**
1939	**Matrimonial causes Jurisdiction Act No. 22 of 1939**

	This Act concerns jurisdiction over divorce proceedings. **Police(South West Africa) Act No. 19 of 1939** This amends the Act No.14 of 1912 by incorporating the SWA Force into the SA Police. It repeals the Police Amendment Proclamation No.42 of 1931 **Governor-General Proclamation No.234 of 1939** The South African Defence Act, No. 13 of 1912 was made applicable to SWA **Trespass of Animals Ordinance No.16 of 1939** Repeals the Pounds and Trespasses Proclamation No43 of 1923 **The Native Administration Proclamations No. of 1939** African female were required to carry passes
1940	**Education Amendment Proclamation No. 7 of 1940** This is an amendment of the Education Proclamation No.16 of 1926. Another Bantu school for the natives is build in the Waterberg Reserve.
1941	**Employee ' Compensation Act No.30 of 1941** This Act makes provision for the compensation of workers or their dependants if the workers is injured or killed in the course of employment .It was previously known as the workmen compensation act
1942	The "London Treaty" is repealed by SA, and German citizens lose their SA citizenship. **Civil Restitution Act No. of 1942**
1943	**Native Administration Amendment No.6 of 1943** This amends the Native Administration Proclamation No.11 of 1922 **Friendly Societies Act No.27 of 1943** It makes provision for the consolidation and amendment of the laws relating to insurance.
1944	**Native Minimum Wage Proclamation No.1 of 1944** This makes provision for the establishment of the minimum amount that an employer is bound to pay his employee in line with the employee's gender and class principals
1945	**Matrimonial causes Jurisdiction Act 35 of 1945** This Act extends court jurisdiction in divorce matters.
1946	**Electoral Consolidation Act No.46 of 1946** Makes provision for the date on which the voters list of persons who are entitled to vote i.e. the date from which every white, adult Union national shall complete a form of application to be registered as a voter with electoral officers in SWA. Section 3 restricts the franchise to white citizens over the age of 18. **Co-operative Societies Ordinance No.15 of 1946** This makes provision for the consolidation and amendment of the laws relating to the formation and registration of corporative societies and co-operative companies. **Natives (Urban Areas) Amendment Proclamation No.8 of 1946** An amendment of the Natives (Urban Areas) Proclamation No.34 of 1924 **Intestate Succession Ordinance No.12 of 1946** It sets forth rules for intestate inheritance by surviving spouses and other relatives.
1947	**Masters and Servant Amendment Proclamation. No. 7 of 1947** This is an amendment of the Master and Servants Proclamation No.34 of 1920 **Education Amendment Proclamation16 of 1947** This amends the Education Proclamation No. 16 of 1926 **South West Africa Constitution Amendment Proclamation No. 115 of 1947** It makes provision for the obligation to apply for Registration as a voter in the South West Africa.
1948	**Electoral Law Amendment Act No.50 of 1948** Amends section 6 of Act No.46 of 1946. No person who has been guilty of any corrupt or illegal practice at an election shall, whether or not he is registered as a voter be entitled to vote at that election.
1949	**South West Africa Affairs Amendment Act 23 of 1949**

	This means a de facto incorporation because the "whites" of SWA are granted representation in the SA Parliament. This act gave South West Africa direct representation in the South African Parliament. The Governor General no longer had law-making power on reserved matters – this was done through South Africa Parliament. It repealed schedule of the South West Africa Constitution Amendment Proclamation No.115 **Registration of Voters in South West Africa No.147 of 1949** Provide the date and preparation of the list of persons who are entitled to vote- applicable to only white adult union national. **South Africa Citizenship Act No.44 of 1949** Conferred upon all the Namibians the citizenship of South Africa.
1950	**Suppression of Communisms Act No.44 of 1950** An act to declare the Communist Party of South Africa unlawful or any other organization. This is act is applicable in South West Africa. It also provided for organisations to be declared unlawful if the Government is satisfied that they are furthering the achievement of any of the aims of communism as defined by in the Act. **Division of South West Africa into Electoral Division No.105 of 1950** Made provision for the territory to be divided into 18 electoral divisions –each electing one member to the House of Assembly of Parliament. This covered the Eastern, Western, Central and Southern part of country. North was totally excluded. **Education Amendment Proclamation No.8 & 25 of 1950** Amendment of the Education Proclamation No.16 of 1926 and Proclamation 55 of 1921 respectively **Masters and Servants Amendment Proclamation No.26 of 1950** This is an amendment of the Masters and Servants Proclamation No. of 1920 **Defence Act Proclamation No.118 of 1950** Makes provision for the application of the SA Defence Act (no.13 of 1912) to be applied to SWA and all its subsequent amendments.
1951	**Suppression of Communism Amendment Act No.50 of 1951** This act amends the Suppression of Communism Act No.44 of 1950.No action for damages lies and no criminal action may be instituted for describing certain persons as communists. **South West Africa Affairs Constitution Amendment Act 55 of 1951** Returned legislative power to the Governor General who was empowered to make laws in respect of reserved matters by Proclamation in the Government Gazette, subject to the approval of the South African Parliament. **Natives (Urban Areas) Proclamation No.56 of 1951** Provide for the restrictions of natives to certain areas for better control of natives in urban areas. Segregation of natives in urban areas. Provision of curfew after certain hours of the day. It repealed the Native(Urban Areas) Amendment Proclamation No.1 of 1938 **Police Amendment Act.No.20 of 1951** This is an amendment of section 1 of the Police Act No.14 of 1912. It substitutes the definition of "Commissioned Officer" for "assistant Commissioner". **Education Ordinance No.9 of 1951** Amendment of the Education Proclamation No. 16 of 1926 **Separate Representation of Voters Act No.46 of 1951** This act amends the law relating to the registration of non-Europeans and Europeans as voters for parliament.
1952	**Electoral Laws Amendment Act No.55 of 1952** This provides for the amendments of the South Africa Act of 1909 and the Electoral Consolidation Act No.30 of 1946. This is also applicable in South West Africa. **General Registration of Voters Act No.50 of 1952** This makes provision for the continuation of certain regulations relating to the recovery of loans made to ex-volunteers **Education Amendment Ordinance No. 9 &18 & 43of 1952** These amend the Education Proclamation No. 16 of 1926

	Societies of Employment of Natives Ordinance No.48 of 1952 It makes provision for the establishment of a Society of South West African Farmer-Employers of contracted Extra-Territorial or Northern Natives. **Natives(Urban Areas)Amendment Proclamation No.20 of 1952** Made the Natives (Abolition of Passes and Coordination of Documents) Act of 1952 applicable to SWA, whereby African native were compelled to carry a reference book(pass) **Radio Amendment Act No.3 of 1952(A)** An act to consolidate and amend the laws relating to the control of radio activities in the Union and matters incidental thereto. It regulates radio activities.
1953	**Police Amendment Act.No.17 of 1953** An amendment of Police Act No.14 of 1912.It makes provision for the Police canteens to be exempted from licences. **Immigrants Regulation Amendment Act No.43 of 1953** Extends the Act 222 of 1913 of South Africa to be applicable to the territory of Namibia This also repeal the Proclamation No.23 of 1924 of the Territory of Namibia **Bantu Education Act 47 of 1953** Education [will be up to] Standard two, including reading, writing and arithmetic through mother-tongue instruction, as well as the knowledge of English and Afrikaans, and the cardinal principles of the Christian religion." **Prohibition of Mixed Marriages Ordinance No.19 of 1953** This is to prohibit marriage between European and non-Europeans and to provide for matters incidental thereto. **Immorality Amendment Ordinance No. 20 of 1953** An amendment of the Immorality Proclamation No.19 of 1934 **Natives(Urban Areas)Amendment 0rdinance No.21 of 1953** An amendment of the Promotion of Farming Interests Ordinance No. 29 of 1952 and the Natives Urban Areas Proclamation No.56 of 1951. **Wills Act No.7 of 1953** This act covers the execution of wills**.**
1954	**Riotous Assemblies and Suppression of Communism Act No.15 of 1954** Amends Riotous Assemblies Act of 1914 and Suppression of Communisms Act No.44 of 1950 **Immorality Amendment Ordinance No. 13 of 1954** An amendment of the Immorality Proclamation No.19 of 1934 **Natives(Urban Areas)Amendment Ordinance No.25 of 1954** This is a further amendment of the Natives (Urban Areas) Proclamation No.56 of 1951 **Black Education Amendment Act No.44 of 1954** This amends section 12 of the Bantu Education Act No.47 of 1953. It authorises the Minister to establish regional, local or domestic councils with due regard to the principle of providing for active participation by the Bantu people in the control and government of Government Bantu Schools. This act spells out the functions, duties and privileges of such councils. **SWA Bantu Affairs Administration Act No.56 of 1954**
1955	**Matrimonial Affairs Ordinance No.25 of 1955** This ordinance places certain limitation power of the husband in a civil marriage, in manner similar to the RSA matrimonial Affairs act 7 of 1953 **South West Africa Constitution Amendment Act No.26 of 1955** An act to amend section 3 of the South West Africa Constitution Act No. 42 of 1925. It makes provision for the Administrator in Executive Committee to delegate power, authority or function to the Administrator. **Native Affairs Administration Proclamation No.87 of 1955** The State President delegated certain powers that had been conferred to him to the Minister of Bantu

	Administration and Development. **Police Act No.15 of 1955** This amends sections 10 and 21 of the Police Act No.14 of 1912. This act outlines the functions of the South African Police. It is applicable in South West Africa. It amends section 21 of Act No.14 of 1942 by substituting the word "captain" for "inspector". **Education Amendment Ordinance No.23 of 1955** An ordinance to amend the Education Proclamation No.16 of 1926 **Departure from the Union Regulation Act No.34 of 1955** Section 2 prohibits any person from leaving South Africa or Namibia for foreign destination without a valid passport or permit. Penalty 3months to 2 years imprisonment.
1956	**Riotous Assemblies Act No.17 of 1956** An act to consolidate the laws relating to riotous assemblies and the prohibition of the engendering of feelings of hostility between the European and non-European dwellers of South Africa. This act is also applicable in South West Africa. **Labour Relations Act No.28 of 1956** An act to consolidate and amend the law relating to the registration and regulation of trade unions and employers' organisations. It makes provision for the establishment of an industrial tribunal and to define its functions; to safe-guard against inter-racial competition. **Black Education Act No.36 of 1956** This amends sections 6, 8 and 9 of the Bantu Education Act No.47 of 1953. This makes provision for the Minister of Native affairs to delegate power to the Secretary of Finance to constitute school boards and to prescribe their powers. It also makes registration of schools be subject to conditions determined by the Minister. **Voters, Operation of New Voters' Lists Proclamation No.232 of 1956** This state the date on which the new voters' list come into operation. This restricts representation of non-whites. **Friendly Societies Act No.25 of 1956** It makes provision for the registration, incorporation, regulation and dissolution of friendly societies. **Official Secret Act no.16 of 1956**
1957	**Electoral Laws Further Amendment Act No.8 of 1957** An act to amend the Electoral Commission Act No.46 of 1946 and the Separate Representation of Voters Act NO. 46 of 1951. **Police Amendment Act No.32 of 1957** An act to amend section 5 of the Police Act No.14 of 1912. This act exempts every member of the Force from paying tolls, fees and dues when he is on duty. This makes provision for any person who assaults or resists any member of the Force in the execution of his duty, to be guilty of an offence. **Defence Act No.44 of 1957** This act makes provision for the defence of South Africa. It outlines the composition of the defence force and it is also applicable in South West Africa **Education Amendment Ordinance No.20 & 21 of 1957** An amendment of section 12 of the Education Proclamation No.19 of 1926 and other laws relating to Public Education
1958	**Police Act No.7 of 1958** It makes provision for establishment, organisation and control of the South African Police. This is also applicable in South West Africa. Repeal Act 15 of 1955, as well Act 14 of 1912, Act no.20 of 1951, Act No. 17 of 1953, Act no. 32 of 1957 **Native Proclamation No.119 of 1958** It repeals the Native Administration Proclamation No. 87 of 1955 **Electoral Laws Amendment Act No.30 of 1958**

	An act to amend the Electoral Consolidation Act No.46 of 1946. The voting age for the White population is lowered to eighteen years whereas that of the other Races is kept at twenty years. **Defence Proclamation No.246 of 1958** It makes provision for the Defence Act No.44 of 1957 to come into operation.
1959	**Prison Act No. 8 of 1959** This is an act to consolidate and amend laws relating to prisons. It makes provision for the establishment, administration and functions of the prison department. **Black Affairs Act No. 55 of 1959,** This Act establishes a Commission for Black Affairs, so as to facilitate the administration of black affairs. **Black Education Amendment Act.No.33 of 1959** Amendment of section 1 of the Bantu Education Act No.47 of 1953. It gives the Minister power to disestablish any school board or similar body whenever he deems this expedient, provided that an enquiry has first been held at which the board has the right to be heard. **Friendly Societies Act Proclamation No.289 of 1959**
1960	**Unlawful Organizations Act No.34 of 1960** An act to empower the Governor–General with the view to the maintenance of public order by declaring the Pan Africanist Congress, ANC unlawful or any other organization. This act also amends the Riotous Assemblies act No.17 of 1956 **Broadcasting Amendment Act No. 49 of 1960** This amends the Broadcasting Act No. 22 of 1926.This Act empowers the Boards of Governors to have increased powers of control. It makes provision for Bantu Programme Control Board to Consist exclusively of Whites. **Referendum Act No.52 of 1960** This provides for a referendum to determine whether the white voters in South West Africa and in South Africa are in favour of a republic Union or not. **Education Amendment Ordinance No.3 of 1960** Amendment of section 89 of the Education Proclamation No.16 of 1926. It makes provision for the authorization of any child who will reach or has reached the age of six years on or before the thirty-first day of March to start school from the first day of the school year. **Natives(Urban Areas)Amendment Proclamation No.335 of 1960** This amends the Natives (Urban areas) Proclamation No56 of 1951
1961	**Marriage Act No.25 of 1961** This Act governs the solemnisation of civil marriages. **Defence Amendment Act No.12 & 42 of 1961** These acts amend section 1 of the Defence Act No.44 of 1957 and give retrospective effect to certain regulations for the Permanent force. Act 12 makes provision for the Minister of Defence to order any person, persons or a class of person to evacuate of assemble in any particular building in period of war or during operations for the prevention or suppression of internal disorder. Act No.42 makes provision for longer periods of military training for White youths selected by ballot. **Police Amendment Act. No. 53 of 1961** Amendment of section 1 of the Police Act No. 7 of 1958 by defining "commissioned officer.' It makes provision for the establishment of a reserve police force-a citizen unit to assist in performing ordinary police duties when regular members are required for more urgent tasks. Membership was limited to white citizens. **Black Education Amendment Act No. 55 of 1961** An act to amend the Bantu Education Act No 47 of 1953. It provides that any establishment of a Native school should confirm to requirements and registration procedures as set out by Minister of Bantu Education in the Union of South Africa. **Electoral Laws Act No. 81 of 1961**

	This act amends the Electoral Consolidation Act No. 46 of 1946. It makes provision for the membership of any person declared to be a duly elected member to come into effect from the date the declaration is made. **Education Ordinance No. 26 of 1961** **Establishment of Coloured Council Ordinance No.34 of 1961**
1962	**Radio Amendment Act No.51 of 1962** An act to amend sections 1,8 and 17 of the Radio Act No.3 of 1952.This act prohibits the use of radio transmitting apparatus without the authorization from the Postmaster-General. **Electoral Laws Amendment Act No.72 of 1962** This act amends the Electoral Consolidation Act No.46 of 1946 and the Separate Representation of Voters Act No. of 1951.It makes provision for election agents, polling agents and messengers to be Whites except at Coloured elections. **Vagrancy Amendment Ordinance No.3 of 1962** An ordinance to prohibit entry or presence upon land and the entry of or presence in buildings in certain circumstances**.** **Education Ordinance No.8 and 27of 1962** This ordinance amends the law relating to Education. It makes provision for the consolidation of the laws relating to education and allows the general control, supervision and management of education to be vested in the Administrator. **Sabotage Act No.76 of 1962** *Section 21:* **Native(Urban areas)Amendment Proclamation No.168 of 1968**
1963	**Natives Urban Areas Act No.47 of 1963** An act to provide for the control of education for the Coloured persons by the Department of Coloured Affairs. It amends the Special Education Act No. of 1948 **Defence Amendment Act. No.77 of 1963** This act amends the Defence Act No.44 of 1957.It makes provision for the different regulations to be made in respect of commandos and air commandos. **Radio Amendment Act No.90 of 1963** This Act prohibits the sale of radio apparatus without valid listener's licence. It amends the Radio Act No.3 of 1952 **General Registrations of Voters Proclamation No.49 of 1963** **Electoral Laws Amendment Proclamation No.135 f 1963**
1964	**Marriage Amendment Act No.11 of 1964** This act amends section 12 of the Marriage Act No.25 of 1961 **Bantu Special Education Act 24 of 1964** An act to provide for the establishment, control, management and subsidization of special schools for the provision of special education for the handicapped Bantu children. This act amends the Bantu Children Act No.47 of 1953. **Tear gas Act No.16 of 1964** This act provides for the control of the manufacture, importation and possession of tear-gas. **Bantu Laws Amendment Act No.42 of 1964** An act to repeal the Native Service contract Act No. of 1932. It amends the Natives (Abolition of Passes and Coordination of Documents) Act of 1952. It makes provision for the regulating of the Native women's movement to urban areas. **Electoral laws amendment Act No. 51 of 1964** Amendment of the Electoral Consolidation Act No. 46 of 1946. A voter is obliged to notify the electoral officer in writing, of a permanent change in residential, business or branch office address

	Police Amendment Act No.64 of 1964 This act makes provision for incidental matters and amends the Police Act No. 7 of 1958 **Establishment of Coloured Council Amendment Ordinance No.16 of 1964** An Ordinance to amend the Establishment of the Coloured Council Ordinance No.34 of 1962
1965	**Police Amendment Act No.21 & 74 of 1965** Amendment of the Prison Act No. 8 of 1959. Act 74 outlines the services to which the revenue generated by the Act shall be applied. Act No.74 empowers any policeman at any place within a mile of the border between South West Africa and other state to search without warrant any person, premises, vehicle or aircraft and to seize anything found. **Electoral Laws Amendment Act No.84 of 1965** An act to amend sections 42 and 43 of the Republic of South Africa Constitution Act No. 32 of 1961. This act is applicable in the South West Africa. The officer for votes of special voters shall render to a special voter all possible assistance and shall in the presence of the required witness inform the voter to vote in secret. **Education Amendment Ordinance No.30 of 1965** An amendment of section 37 of the Education Ordinance No. 27 of 1962. It makes provision for a teacher who with the approval of the Department acts as a principal for any period of not less than one month to be remunerated for such period as if he had been appointed principal of such school.
1966	**Electoral Laws Amendment Act No.29 of 1966** This act amends the Electoral Consolidation ActNo.46 of 1946 and the Separate Representation of Voters Act No of 1951 **Bantu Affairs Act No.63 of 1966** An act to amend section 9 of the Bantu Administration Act No.38of 1927 ,Section 40 of the Bantu (Urban Areas) Consolidation Act No of 1959 and section 52 of the Transkei Constitution Act of 1963 **Suppression of Communism Amendment Proclamation No.38 of 1966** **Civil Defence Act No.39 of 1966** This act provides for a directorate of Civil Defence in the public service and deals with emergency powers.
Oct 1966	**On 27 October 1966 South African Mandate declared unlawful**
1967	**Suppression of Communism Amendment Act No.24 of 1967** Empowers the police officer or above the rank of Lieutenant Colonel to detain persons for interrogation for an indefinite period. **Matrimonial Affairs Amendment Ordinance No.9 of 1967** An act to amend the Matrimonial Affairs Ordinance No.25 of 1955 in order to make provision for a married woman to be a depositor in any account in a banking institution **Education Amendment Ordinance No.5 of 1967** Amendment of the Education Ordinance No. 27 of 1962. This amendment makes provision for the change in the designation of certain professional posts and the amended condition of service. **Indecent or Obscene Photographic Matter Act No.37 of 1967** This act makes it an offence to possess indecent or obscene photographic matter. **Border Control Act No.61 of 1967**
1968	**South West Africa Constitution Act No.39 of 1968 *(Second Constitution)*** Replaced the SWA Constitution Act 42 of 1925 – gave powers to South Africa to make laws in respect of an expanded list of reserved matters as per section 38. SWA Administrator powers were subject to the State President of South Africa, who had power to administer the territory as an integral part of the Republic. **Development of Self-Government for Native Nations in SWA Act No.54 of 1968** This Act makes provision for the native nations in SWA to develop in an orderly manner to self-government nations and independence. **Electoral Laws Amendment Act No.2 of 1968**

	Amendment of the Electoral Consolidation Act No.46 of 1946 in order to make provision for a general registration of voters at intervals of not more than six years. **Marriage Amendment Act No.19 0f 1968** This act amends the Marriage Act No.25 of 1961. It makes provision for a special licence issued in South West Africa to be regarded as having been published or issued in South Africa. **Prohibition of Political Interference Act No.51 of 1968** An act to prohibit interference by one population group in the politics of any other population group. **Black Laws Amendment Act No.56 of 1968** This act amends the provisions of the Bantu Administration Act No.38 of 1927 relating to the issues of the deeds of grant. **Natives(Urban Areas)Amendment Proclamation No.85 & 194& 243& 246 of 1968** Amendment of the Natives (Urban Areas) Proclamation No. of 1951
1969	**South West Africa Affairs Act No.25 of 1969** This made provision for the South African government to have more tighter legal and administrative power over South West Africa – the list of reserved matters grew further and further **Police Offences Act No.16 of 1969** It prescribes penalties for being in disguise in suspicious circumstances. **Radio Amendment Act No.93 of 1969** Amendment of the Radio Act No.3 of 1952 in order to provide for s common date of expiry for certain listeners' licences. **Education Amendment Ordinance No.19 of 1969** An amendment of the Education Ordinance No. of 1962. It provides for the instruction of pupils whose home language is German through the medium of German in standards up to and including standard eight. **General Law Amendment Act No.101 of 1969** This act authorises the withholding of evidence from any court of law if the Administrator-General (or the responsible Minister) is of the opinion that disclosure of the information could be detrimental to state security. **Electoral Laws Amendment Act No.99 of 1969** It provides that a person would be disqualified for ever as a voter in general elections or in elections for the Coloured Persons' Representative Council if he had been convicted of an offence under the Suppression of Communism Act and had been sentenced to a period in prison without the option to fine.
1970	**Electoral Laws Amendment Act No.12 of 1970** This act amends the Electoral Consolidation Act No.46 of 1946. It makes provision for the preparation and coming into operation of voters' lists and applications to vote as absent voters. **Black/ Bantu Education Act No. 44 of 1970 (tighned control over SWA)** This act amends section 9 of the Bantu Education Act No.47 of 1953.This act gave Pretoria control over primary and secondary education for Africans, which had previously been carried out on by the provincial (and territorial) government and by missionaries with some subsidies from the national government. This excluded the Nama –tribe as they were no longer classified natives or Bantu, but deemed to be coloured. **Marriage Amendment Act No.51 0f 1970** Amendment of section1 of the Marriage Act No.25 of 1961 so as to assign the administration of the provisions thereof in respect of any Bantu in South West Africa to the Minister of Bantu Administration and Development. It makes provision for girls of the age of fifteen to marry without the permission of the Minister. **Education Amendment Ordinance No.14 of 1970** Under this ordinance, the Administrator shall determine the salary scales, increments and allowances payable to teachers. It amends section 37 of Ordinance 27 of 1962.
1971	**Publications and Entertainments Amendment Act.No.32 of 1971** This act makes provision for the prohibition of the exhibition to any persons of any cinematograph film intended to be exhibited in public except at the approval of the Control Board.

	Black Affairs Admin Act No.45 of 1971 An act to make better provision for the administration of Bantu Affairs outside the Bantu homelands and to provide for the establishment of the Bantu Affairs Administration Boards **Newspaper and Imprint Registration Act No. 63 of 1971** This act provides for the registration of news papers and imprints in order to regulate certain matters in connection with printed matter.
1972	**Suppression of Communism Amendment Act No.2 of 1972** Amendment of the Suppression Communism Act No.44 of 1950 on provisions regarding the participation of certain persons in the activities of certain organisations. **Marriage Amendment Act No.26 of 1972** An act to amend the Marriage Act No.25 of 1961 in order to validate certain marriages. **Black Special Education Act No. 27 of 1972** This act makes provision for the payment of contributions by employers towards the cost of transport services for their Coloured of Indian employees**.** **Age of Majority Act No.57 of 1972** An act to consolidate and amend certain laws relating to the age of majority and to the declaration of a minor to be a major. **Police Amendment Act No.94 of 1972** Amendment of the Police Act No.7 of 1958. It amends the provisions relating to the appointment of officers and the powers of the Sate President. **Basters of Rehoboth Education Act No.85 of 1972** An act to provide for the control of education for members of the Rehoboth Baster Community of the South West Africa **Namas in South West Africa Education Act No,86 of 1972** This act provides for the control of education for Nama in South West Africa. It classifies certain posts as posts in the public service. It gives the Minister the power to appoint any person to any post and to discharge any person occupying such post.
1973	**Black Laws Amendment Act No.7 of 1973** An act to amend the Bantu Administration Act No. of 1927 in order to further define circumstances in which a tribe, portion of a tribe or Bantu community may be required to withdraw from a place. **Police Amendment Act No.34 of 1973** An act to amend the Police Act No. 7of 1958 in order to provide for the discharge and dismissal of commissioned officers on account of ill-health. **Education Laws Amendment Act No. 69 of 1973** This act amends the National Education Policy Act No.29of 1967, the Advances Education Act No. of 1967 and the Higher Education Act No. of 1923. This act amends the provisions of the Educational Services Act No of 1967 relating to the definitions; to the transfer of subsidized schools to the Government. **Electoral Laws Amendment Act No. 79 of 1973** Amendment of the Electoral Consolidation Act No.46 of 1946 in order **to** provide for the continuance of the registration as voters of certain persons who are in detention**.** **Education Amendment Ordinance No.13 of 1973** Amendment of section 2 of the Education Ordinance No. 27 of 1962 so as to substitute the expression "Executive Committee" for the word Administrator.' It amends the minimum time to be devoted to religious instruction in standard eight.
1974	**Electoral Laws Amendment Act No. 1& 33 of 1974** Amendment of the Electoral Consolidation Act No.46 of 1946 in order to give effect to a resolution of the Senate and House of Assembly to establish a staff of Parliament. **Riotous Assemblies Amendment Act.No.30 of 1974**

	Amendment of the Riotous Assemblies Act No.17 of 1956 by deleting the definitions of certain expressions and defining of further defining certain expressions. **Publications Act No.42 of 1974** This act provides for the control of certain publications or objects, films and public entertainments. It makes provision for the establishment of a Directorate of Publications. **Radio Amendment Act. No.50 of 1974** An act to amend section 15 of the Radio Act No.3 of 1952 so as to extend the powers of the State President to make regulations relating to the control and prevention of interference with radio reception. **Police Amendment Act No.68 of 1974** Amendment of section 32the Police Act No. 7 of 1958 so as to make further provision for the giving of notice of certain actions. **Black Laws Amendment Act No.70&71 of 1974** An act to authorize certain officers to perform certain functions of the Minister and to extend the legislative power of the legislative assembly.
1975	**Police Amendment Act No.15 of 1975** Amendment of the Police Act No.7 of 1958 in order to provide for the inclusion of the Police Reserve of certain former members of the South African Police and persons liable to serve under the Defence Act No. 44 of 1957. **Black Laws Amendment Act No.9 of 1975** It increased the President's powers to determine which laws of the South Africa should apply to the various homelands. This law is applicable in South West Africa. **Education Amendment Ordinance No.21 of 1975** This made provision for the consolidation and amendment of the laws relating to education for whites in South West Africa. It gave the Executive Committee the right to refuse admission and allow exclusion of any pupil from a government educational institution. It allowed the appointment of married women to the education personnel only in a temporary capacity.
1976	**Security Council Resolution .385 of 1976** Free election to be held for Namibia as one political entity **Black Laws Amendment Act No.4 of 197** Amendment of the Bantu(Urban Areas)Consolidation Act No. of 1945 in order to transfer from the State President to the Minister the power to make regulations and in this respect to curtain the Minister's power of delegation **Broadcasting Act No.73 of 1976** This act makes provision for the consolidation and amendment of certain laws relating to the South African Broadcasting Corporation and the control of broadcasting in South West Africa. **Riotous Assemblies Amendment Act No. 79 of 1976** It makes provision for the Minister of Justice if satisfied that a person is endangering the security of the State, to prohibit that person from attending any gathering or any particular gathering. **Police Amendment Act No.34 No. of 1976** This is an amendment of section 34A of the Police Act No. 7 of 1958. **Electoral Laws Amendment Act 98 of 1976** Amendment of the provisions of the Electoral Consolidation Act No .46 of 1946 so as to regulate the registration of and voting by any voter having his home within an independent State.
1977	**South West Africa Constitution Amendment Act No. 95 of 1977** Made provision for SA President to make laws for the territory of SWA with a view to the eventual attainment of independence **RSA Proclamation R249 of 1977** Abolished the SWA seats in the South African Parliament **SA Proclamation 180 and 181 of 1977**

	Established the office of Administer General (AG) for SWA/Namibia and empowered to make laws by Proclamation in the official gazette. Furthermore the AG could repeal or amend laws passed by the South African Parliament **Marriage Act AG 8 of 1977** Amends sections 2, and 3 of the Marriage Act No.25 of 1961 **Abolishment of Civil Imprisonment Act No.2 of 1977** This act abolishes the civil imprisonment of a debtor for his failure to pay a sum of money in terms of any judgement. It repeals the Civil Imprisonment Restitution Act No. of 1942 **Electoral Law Amendment Act No.34 of 1977** An act to amend the Electoral Consolidation Act No. of 1946.It extends the period in which an application for registration as a voter may be lodged during a general registration of voters. **Riotous Assemblies Amendment Proclamation No.10 of 1977** This repeals sections 4, 9 of Act 17 of 1956. It also amends Act 7 of 1956 by substituting the term "administrator General with the State President. **Police Amendment Act No.90 of 1977** An amendment of the Police Act No. 32 of 1958 in order to increase certain penalties, create certain additional offences and to prohibit the making of sketches or the taking of photographs of certain persons detained in lawful custody. **Black Laws Amendment Act No. 115 &119 of 1977** An amendment of the Bantu Consolidation Act No. of 1945 so as to enable associations of Bantu and certain juristic persons to acquire business rights in locations and Bantu villages.
1978	**Constituent Assembly and Election Proclamation (AG63 of 1978)** Was given power to draw up the constitution for Independent Namibia despite International opposition. **Detention for Prevention of Political Violence Proclamation No.26 of 1978** This proclamation makes provision for the detention of persons in order to prevent political violence and intimidation. **Native Administration Amendment Proclamation No.46 of 1978** This amends the Native Administration Proclamation No. 15 of 1928 **Civil Defence Proclamation ,AG No.54 of 1978** This Proclamation deals with disasters and civil defence. It makes provision for ordinances relating to civil defence to be introduced in the Legislative Assembly only after consultation between the Minister and the Executive Committee. **Radio Amendment Act No.2 of 1978** An amendment of the Radio Act No. of 1952 so as to redefine the expressions "radio"," broadcasting licence" and "radio dealer". **Police Amendment Act No.14 of 1978** An act to amend the provisions of the Police Act No. of 1958 so as to control the importation, lending, use and possession of certain textiles. **The Publication Proclamation (AG) No.43 of 1978** Amends the Publication Act No.43 of 1974by giving the Administrator-General the power to overrule the Publications Appeal Board. **Mentally Retarded Coloured, Baster and Nama Children's training Proclamation, AG 76 of 1978** Amendment of the regulations made under the Coloured Persons in South West Africa Education Act, No.68 of 1972.
1979	**National Assembly Proc(AG21 of 1979)** Transformed the Constituent Assembly into a National Assembly with law making powers. **Abolishment of Racial Discrimination Act No. 3 of 1979**

	An act to remove the restrictions based on race in connection with residential erven in urban areas and certain public amenities. **Black Laws Amendment Proclamation No. 3 of 1979** It amends section 3A of the South West Africa Native Affairs Administration Act No.56 of 1954. It makes provision for the change of names or official titles of certain institutions and holders of such institutions and the replacement of the word "Bantu" and derivatives thereof. **Detention for Prevention of Political Violence Proclamation No.26 of 1979** This amends the Detention for the Prevention of Political Violence and Intimidation Proclamation AG No. 26 of 1978. It makes provision for a justice of peace to interrogate a detainee at anytime
1980	**Representative Authorities Proc (AG8 of 1980)** Made provision for second-tier governmental authorities based on ethnic division of the country into 11 population groups – assumed control over a number of issues including communal land rights, education, health services and social welfare. **Combating of Immoral Practices Act 21 of 1980.** This Act covers the keeping of brothels, various acts related to prostitution, and various other sexual offences. **Abolition of Racial Discrimination Act No. 10 of 1980** Amendment of the Abolishment of Racial Discrimination so as to provide for the cancellation of any licence, registration certificate or other authorization in writing issued in respect of any public amenity to any person who conducts such public amenity in contravention of any prohibition in respect of racial discrimination. **Electoral Laws Amendment Proclamation No.46 of 1980** This makes provision for holding elections for members of legislative authorities in electoral divisions and for amendment of divisional voters' list. **National Education Act No.30 of 1980** This provides for the provision and control of education other than tertiary education provided by the Academy for Tertiary Education under the Academy for Tertiary Education Act No. of 1980 to establish a National Education Council for South West Africa and an Examination Board for South West Africa.
1981	**Abolition of Racial Discrimination Act No. 21 of 1981** Amendment of the Abolishment of Racial Discrimination (Urban Residential Areas and Public Amenities) Act No of 1979so as to extend the incidence of the provisions relating to the removal of restrictions based on race in connection with certain land in Urban areas and the prohibition to impose such restrictions. **Meetings, Prohibition and Notification Act No.22 of 1981** This makes provision for the prohibition of certain organisations from holding meetings. **Police Amendment Proclamation No. 9 of 1981** Amendment of the Police Act No. 7of 1958 so as to establish a police force for South West Africa. **Defence Matters in SWA Proclamation No.14 of 1981** This is a proclamation for the commencement of section 2 of the Defence Matters in South West Africa Proclamation No. of 1980.
1982	**Demonstration in or near court buildings prohibition Act No. 71 of 1982** This Act prohibits demonstrations and gathering within a five hundred metre radius of a building containing a courtroom ,except on weekends and public holidays **Intimidation Act No.72 of 1982** An act to prohibit certain forms of intimidation and to establish penalties for such acts. **Defence Amendment Act. No. 103 of 1982** Amendment of the Defence Act No.44 of 1957 so as to make different provision relating to the liability to serve in the Permanent Force Reserve. It abolishes the Reserve of Officers and the Commando Reserve.
1983	**Party List Elections Proclamation No.17 of 1983** This makes provision for the Chief Electoral Officer to fill a casual vacancy in the legislative assembly by way of a declaration.

	Voters List for Legislative Authorities Amendment Proclamation No.11 of 1983 This is an amendment of the Voters' list for legislative authorities Proclamation No. of 1980. It makes provision for the electoral officer to cause necessary amendments to the divisional voters' list to be made if in his opinion there are inaccuracies, omissions or defects. **Police Amendment Proclamation No. 21 of 1983** Amendment of the Police Act No. 7 of 1958. It authorizes members of the Force to by means of appropriate indications or direction order a driver of a vehicle on a public road to bring that vehicle to a stop.
1984	**Party List Elections Amendment Proclamation No.4 of 1984** This makes provision for a casual vacancy in the Legislative Assembly of Coloureds to be filled by way of a declaration by the Chief Electoral Officer **Defense Amendment Act No.87 of 1984**
1985	**Trespass Amendment Act No. 20 of 1985** An act to amend the Trespass Ordinance No.3 of 1962 so as to increase the penalties of contravention of the said Ordinance from R50 to R1000 fine and from 3 months to 12 months time period of imprisonment. **Constitutional Council Amendment Act No.19 of 1985** An act to amend the Constitutional Council Act of 1985 in order to further regulate the qualifications of members of the Constitutional Council. **Party List Election Proclamation No.1 of 1985** It gives direction that a casual vacancy in the legislative assembly of the Coloureds be filled by way of a declaration by the Chief Electoral Officer. **Prevention of Unlawful Squatting Proclamation No. 21 of 1985** It makes provision for the prevention and termination of unlawful squatting. Those found contravening the law shall be charged with a criminal offence and will be liable to a fine or imprisonment. **Defence Matters in SWA Amendment Proclamation No. 5 of 1985** An amendment of the Defence Matters of South West Africa Proclamation No.198 of 1980 in order to further regulate the application of Act No.44 of 1957 in South West Africa. **Residence of certain Persons in South West Africa Regulation No.33 of 1985** An act to restrict the right of certain persons to remain or stay in South West Africa and to provide for orders prohibiting certain person to depart from South West Africa. **Indecent or Obscene Photographic Amendment Act No.4 of 1985** This amends the Indecent or Obscene Photographic Matter Act No. 37 of 1967 by extending the meaning of cinematograph film.
1986	**Electoral Ordinance No.4 of 1986** **Squatters Proclamation No. 28 of 1986** A proclamtion to make sections 2, 3, 4, 6. 7. 9 and 10 of the Squatters Proclamation of 1985 applicable to South West Africa. **Education Ordinance No.3 of 1986** This provides for the provision of education to members of the Herero population group. **Defense Matters in SWA Proclamation No. 204 of 1986** **Civil Defense Amendment Act No.19 of 1986** An act to amend the Civil Defense Ordinance No .3 of 1979 so as to make provision for the appointment or designation of a Deputy Chief of Civil Defense
1987	**Police Amendment Act No.20 of 1987** An act to amend the Police Act No. of 1958 in order to increase certain fines. Defense Amendment Act No.45 of 1987
1988	**Protection of Fundamental Rights Act No. 16 of 1988.** This Act provides for the protection of certain fundamental rights. **Natives(Urban Areas) Amendment Act No. 22 &23 of 1988** Amendment of the Native (Urban Areas) Proclamation No. 56 of 1951 in order to remove the power of a local

	authority to regulate by regulation the entry or sojourn of person into or in certain residential places. **National Education Amendment Act No.12 of 1988** An amendment of the National Education Act No.30 of 1980 in order to further regulate the powers of the Cabinet to close or establish schools.
1989	**Public Gatherings Proclamation No. 23 of 1989** This proclamation requires advance notices to the police of all public gathering and prohibits the carrying of weapons .It also gives the police powers to place condition on gathering and to disperse riots. **First law Amendment (Abolition of Discriminatory or Restrictive Laws for Purposes of Free and Fair Election) Proclamation No. 14 of 1989**. This proclamation repealed a number of legal provisions in preparation for the elections held in term s of UN Resolution 435. It amends the definition of "undesirable" in section 48 of the Publications Act No.42 of 1974. **Registration of Voters Proclamation No. 19 of 1989** Provision for the registration of voters for the purposes of an election for a constituent assembly for South West Africa. **Second law amendment (abolition of Discriminatory or Restrictive laws for purposes of free and fair election) Proclamation No. 25 of 1989** This proclamation repealed a number of legal provisions in preparation for the elections held in terms of UN Resolution 435 **Intimidation Proclamation, Proclamation No. 24 of 1989.** This Proclamation makes it an offence to intimidate any other person. **Amnesty Proclamation No.13 of 1989** This Proclamation grants amnesty for offences committed by persons in exile, so that they may return to Namibia.
1990	**NAMIBIA INDEPENDENCE**
1990	**Constitution Act No. of 1990** Bills of rights ensured protection of all human rights
1991	**Recognition of Certain Marriages Act No.18 of 1991** This Act provides for the recognition of marriages contracted in terms of the SWAPO Family Act 1977, and for the adoption of children in term of this Act. **Racial Discrimination Prohibition Act No. 26 of 1991.** This Act gives effect to Article 23 of the Namibian Constitution by making certain acts of racial discrimination and apartheid criminally punishable. It covers public amenities, the provision of goods and services, transactions relating to immovable property, educational and medical institutions, employment, associations, religious services, the incitement of racial disharmony and victimisation. **Namibian Broadcasting Act No.9 of 1991** It makes provision for the establishment of a broadcasting corporation for Namibia and sets forth its objectives, powers, duties and functions. An act to amend the Radio Act No.3 of 1952.
1992	**Electoral Act No.24 of 1992** This Act governs election for the office of president, the National Assembly, regional councils and local authority councils. It also provides for the establishment of an electoral Commission, for the registration of voters and political parties, and for the conduct of election. **Namibia Communications Commission Act No.4 of 1992** It establishes a Namibian Broadcasting Commission and sets forth its powers, duties and functions which include issuing licences and the control and supervision of certain broadcasting activities and programme content. Amends the Radio Act No.3 of 1952 **University of Namibia Act No 18 of 1992**

	It makes provision for the establishment of the University of Namibia. **New Era Publication Corporation Act No.1 of 1992** This Act establishes a publication corporation for Namibia and sets forth its powers, duties and functions.
1993	**Dissolution of marriages on presumption of death Act No. 18 of 1991** This Act provides for the dissolution of marriages of persons presumed to be dead. **Immigration control Act No. 7 of 1993** This Act amends the Namibian Citizenship act 14 of 1993. It controls and regulates the entry of person into and their residence in Namibia and to provide for the removal from Namibia of certain immigrants.
1994	**Electoral Amendment Act No.23 of 1994** It amends Act No 24 of 1992. It repeals the requirement that provisional voters' registers be published in the Gazette. It makes provision for a system of continuous registration of voters. **National Vocational Training Act No.18 of 1994** Makes provision for the regulation of the training of apprentices and vocational trainees. It establishes a Vocational Training Board and trade advisory committees. **Polytechnic of Namibia Act No.33 of 1994** It makes provision for the establishment of a Polytechnic of Namibia and its administration. **Walvis Bay and Off-shore Islands Act No.1 of 1994** This amends the Wills Act No.7 of 1953 by defining "Courts" and "Master". It makes provision for the transfer of control over Walvis Bay and the off-shore islands from South Africa to Namibia.
1995	**Presidential Pardon GN Regulations No.3 of 1995** It makes provision for the announcement of Presidential Pardon to certain categories of offenders. **Namibia Communications Commission Amendment Act No. 1 of 1995** This Act amends sections 1, 11 and 27 of the Namibian Communications Commission Act No.4 of 1992. The amendments empower the commission to issue postal licences and telecommunications service licences.
1996	**Married Persons Equality Act No.1 of 1996** This Act abolishes the marital powers which previously applied to civil marriages and amend the law on matrimonial property in civil marriages in community of property. It also amends the common law on the domicile of married woman and minor children, and on the guardianship of minor children. This came into force on 15 July 1996 **Powers, Privileges and Immunities of Parliament Act No. 17 of 1996** It makes provision for the right of freedom of speech and debate as well as other powers, privileges and immunities for Parliamentarians.
1997	**Namibia Central Intelligence Service Act No.10 of 1997.** This act amends the Police Act 19 of 1990 .It makes provision for the establishment of the Namibia Central Intelligence Service **Regional Councils Act No 17 of 1997** This act amends the Regional Councils Act No.22 of 1992. It makes provision for the appointment of the delimitation commission at intervals of not less than five years **Local Authorities Act No. 3 of 1997** This act amends the Local Authorities Act No. 23 of 1992. It provides that the second general elections for members of local authority councils shall be conducted according to the party list system instead of the ward system. **Local Authorities Act No. 14 of 1997** This act amends the Local Authorities Act No. 3of 1997 by extending the period within which the second general election of members of local authority councils is to be help after the first such election which was held in December 1992. **Namibian College of Open Learning Act No. 1 of 1997**

	It makes provision for the establishment of the Namibian College of Open Learning which aims to broaden access to education by providing alternatives to school-based education.
1998	**Namibian Constitution First Amendment Act No.34 of 1998** An act to amend Article 134 of the Namibian Constitution in order to make provision for the first President of Namibia to hold office for three terms. **Prison Act No.17 of 1998** This act provides for the establishment of the Namibia Prison service and replace the prison act 8 of 1959 **Banking Institutions Act No.2 of 1998** It repeals section 26 of the Married Persons Equality Act No.1 of 1996
1999	**Police Act No. 3 of 1999** This amends the Police Act No. of 1998 in order to provide for the accountability of the Inspector-General to the Minister. **Act No 19 of 1999** It amends sections51, 87 and 88 of the Electoral Act No.24 of 1992.It makes provision for the suspension of the process of continuous registration of voters when a general registration of voters is to take place. **Prison Act No. 5 of 1999** This act amends the Prison Act No. 17 of 1988 This act amends Prison Act No. of 1998 by correcting certain references .It makes provision for all Ministries and Agencies as far as is practical, to purchase supplies from amongst such as the Prison Service may produce.
2000	**Local Authorities Act No. 24 of 2000** This act amends the Local Authorities Act 14 of 1997. It makes provision for the mayor and deputy mayor for a municipal council or town council to be the chairperson and vice-chairperson of the municipal council. **Trust fund for regional Development and equity provisions Act 22 of 2000** This Act establishes a Trust Fund to be used for financial and technical assistance to the Development of regions and local authorities, and assistance implementation of decentralisation programmes. **Decentralisation enabling Act 33 of 2000** This Act provides for and regulates the decentralisation of central government function to regional and local authorities. **Namibian Students Financial Assistance Fund Act No.26 of 2000** This act makes provision for the establishment of a fund to facilitate study and research by students at approved institutions of higher education. **General Law Amendment Act No.18 of 2000** It amends sections 1 and 6 of the Namibian Broadcasting Act No. 9 of 1991 **Regional Councils Act No. 30 of 2000** This act amends the Regional councils act 17 of 1997
2001	**Police Act No. 5 of 2001** An act to amend the Police Act No of 1990 so as to make provision for certain requirements for persons who wish to be appointed to the Police Force. No person shall be allowed to join the Police Force unless he or she undergoes the prescribed medical examination. **Education Act No.16 of 2001** It repeals: the Education Ordinance No, 27 of 1962, the Black Special Education Act No.24 of 1964, the Coloured Persons in South West Africa Education Act No.63 of 1972, the Basters of Rehoboth Education Act No.85 of 1972, the Namas in South West Africa Education Act No.86 of 1972, the Education Ordinance No. 21 of 1975, the Mentally Retarded Coloured, Baster and Nama Children's training Proclamation AG No.76 of 1978 and the National Education Act No.30 of 1980.
2002	**Local Authorities Act No. 17 of 2002** This act amends the Local Authorities Act No. 24 of 2000 by repealing a provision providing for the election of members of local authority councils according to ward system.

	Act No.20 of 2002 This act amends section 15 of the Electoral Act No.24 of 1992 It provides for the period during which the second general registration of voters shall take place. **Defence Act No.1 of 2002** This repeals sections 20, 21 and 22 of the Civil Defence Act No.39 of 1966. It replaces the Defence Act No.44 of 1957.
2003	**Higher Education Act No.26 of 2003** This amends column 3 of the Schedule to Education Act No.16 of 2001. It makes provision for the establishment and composition of the National Council for Higher Education **Teachers' Education College Act No. 25of 2003(M8)** Makes provision for the establishment of teachers' colleges for education and training of students and serving teachers in order to enable them to obtain the necessary qualifications. It repeals the National Education Act No.30 of 1980. **Higher Education Act No. 26 of 2003** It regulates higher education, provides for the establishment of a National Council for Higher Education. It also provides for the registration of private higher education institutions and the funding of public higher education institutions. **Electoral Amendment Act No.7 of 2003** An act to amend the Electoral Act No. of 1992 so as to remove all provisions relating to wards, to substitute certain expressions and to further regulate certain provisions relating to the registration of voters.
2004	**Criminal Procedure Act 25 of 2004** This Act governs procedure in criminal proceedings. It replaces all that remains of the Criminal Procedures Ordinance of 1963 and the Criminal Procedure Act 51 **Companies Act No.28 of 2004** This act repeals sections 31 and 32 of the Married Persons Equality Act No.1 of 1996. **Defence Act of 2004** This act prohibits anyone from publishing any information calculated or likely to endanger national security or the safety of members of the Defence Force
2005-2009	

3. JUDICIAL INDEPENDENCE INDICATOR –NAMIBIA

This includes all relevant legislation passed during the year under consideration – Constitution /Act/Bills governing the status of the de jure judicial independence. This covers the following issues:

- Establishment of courts according to law (Constitutional separations of power from arms of Government in law
- Appointment procedures, including compensation
- Impartiality: Judicial decisions are not influenced by the judge's personal interest in the outcome of the case. Judges selections are primarily based on merits not because of their political views or affiliations.
- Access to Courts and Courts record: The people rely on courts to protect their access to justice and to protect their legal rights; Public access to court information.
- Judicial Accountability: Ability to do what is right, for instance the ability of High Courts to reverse erroneous lower court decisions on appeal. Enforcement of ethical standards and administrative rules between judges and their peers.

Year	Ordinance/Act/Amendments/Proclamations and Regulations
1884	GERMAN EMPIRE – GERMAN SOUTH WEST AFRICA
1884	**Maharero's Proclamation(King of Hereroland) 1884**

1885	General Act of Berlin of 1885
1886	**Law for the protection areas (*Schutzgebietsgesetz)* dated 17.04.1886** This made provision for the creation of courts handling cases which involved whites only. It creates a "dual" legal system for Germans and indigenes. The legal system in SWA is henceforth determined by racial differentiation.
1887-1890	
1891	Attorney Köhler becomes the First judge in the colony*
1892-1894	
1895	German imperial decree
1896	**Criminal Jurisdiction over the Natives Ordinance of the Imperial Chancellor of 1896** Provided for the punishment and disciplinary control of blacks. The offences that were punished included among others laziness, negligence, vagrancy, insolence and disobedience. Employers were to report to the nearest police who determine the number of lashes depending on the police's assessment of the serious of the offence.
1897-1898	
1899	**Imperial Governor Ordinance of 1899** Government Proclamation established the first self-government for "white" settlers.
1900-1913	
1914	WORLD WAR I STARTED
1914-1915	
1916	**Constitutions of the Criminal Courts Amendment Proclamation No.3 of 1916** A proclamation to amend Proclamation No.11 of 1915 **Constitutions of the Criminal Courts Amendment further amendment Proclamation No.5 of 1916** Amendment of proclamation No. 3 of 1916.
1917	
1918	**Magistrates' Mayoral Functions Proclamation No.8 of 1918** It makes provision for the Magistrates to exercise Mayoral functions.
1919	**Administration of Justice Proclamation No. 21 of 1919** This proclamation introduces Roman Dutch law of Namibia. It originally contained provision of courts and legal practitioners. **Act No. 49 of 1919 (to administer SWA as mandatory territory)** This gave effect to the Mandate of South West Africa – delegated administration of the territory to the Governor-General of South Africa who was given both legislative and executive powers.
1920	**Rules of the Court Proclamation No.1 of 1920** It makes provision for the Judge of the High Court of South West Africa to subject to the approval of the Administrator; frame Rules for the conduct of proceedings of Magistrates' Courts within the Protectorate. This proclamation repeals any Rules of the Magistrates' Courts which may be in force for the time being. **Interpretation of laws Proclamation No. 37 of 1920** This proclamation sets forth rules of interpretation for statutes. **Administration of justice Proclamation No. 45 of 1920** An act to amend the Administration of Justice Proclamation No.21 of 1919.
1921	**South Africa Proclamation No. 1 of 1921** Made the provision for the Governor General of South Africa to delegate administrative power over the Territory to the Administrator of South West Africa (SWA). **Government Attorney Proclamation No. 46 of 1921**

	It makes provision for the Administrator to appoint an attorney of the High Court of South West Africa to be Government Attorney. The government attorney shall possess the right to receive allowances as are customarily paid to attorneys practising in the High Court of South West Africa. **Administration of Justice Proclamation No. 52 of 1921** An act to amend the Administration of justice proclamation 45 of 1920. It gives the entire Magistrates' Courts in the Territory the same jurisdiction. It provides for the Magistrates' Courts to follow the same procedure in all matters. This proclamation makes provision for the powers of making regulations vested in the Governor-General to be vested in and exercised by the Administrator.
1922	SOUTH AFRICAN MANDATE UNDER THE LEAGUE OF NATIONS MANDATES SYSTEMS - TANGANYIKA
1922	**Law Society Validation of Proceedings Proclamation No.8 of 1922** It validates and confirms the notice given by the Secretary of the Law Society of West Africa with regards to the proceedings of the society's Annual General Meetings.
1923-1924	
1925	**South West Africa Constitution Act No. 42 of 1925** Provided for the Appointment of an Administrator and the election of an all white Legislative Assembly and Executive Committee. Had powers to make laws and ordinances except on certain matters which were reserved and remained under the legislative power of the South Africa government[90].
1926	**Magistrate Courts Amendment Proclamation. No. 24 of 1926** It empowers Magistrates' Courts to be held at any place or places within the limits of jurisdiction of such courts
1927-1934	
1935	**Magistrate Court Proclamation No.31 of 1935** It repeals section 2 of the Better Administration of Justice Amendment Proclamation No. 44 of 1923 and the Magistrates' Court amendment Proclamation No. 24 of 1926.
1936	
1937	**Rules of Court Proclamation No. 24 of 1937(NP)** It amends the law relating to provision for the framing of rules of court
1938	
1939	**WORLD WAR II STARTED**
1939	**Local Limits of Magisterial Districts Proclamation No.18 of 1939** It provides for the alteration of the local limits of the districts of Bethany, Luderith, Maltahoehe, Rehoboth and Swakopmund
1940-1943	
1943	**Attorneys Admission Amendment Proclamation No. 9 of 1943** This amends proclamation No. 4 of 1936
1944	**Law Society SWA Amendment Proclamation No.34 of 1944** It further amends proclamation No. 9 of 1943 **Magistrate Courts Act No. 32 of 1944**
1945	**Law Society SWA Amendment Proclamation No. 34 of 1945** It further amends the Law Society SWA amendment proclamation No. 34 of 1944.

[90] The reserved matters included defence; railways and harbours, posts and telegraphs, matters pertaining to the courts, immigration; customs and excise; banking and currency; and native affairs.

1946	**Attorneys, Notaries, Conveyancers etc Amendment Proclamation No.14 of 1946** Further amendment of proclamation No. 9 of 1943
1947	**Law Society SWA Amendment Proclamation No.20 of 1947** This further amends proclamation No. 32 of 1921 **South West Africa Constitution Amendment Proclamation No.115 1947** This proclamation amends Act No. 42 of 1925
1948	
1949	**Administration of Justice Amendment Proclamation No.18 of 1949** It amends proclamation No. 21 of 1919
1950	**Attorneys, Notaries, Conveyancers etc Amendment Proclamation No.58 of 1950** This proclamation further amends proclamation No. 32 of 1921
1951	**South West Africa Affairs Constitution Amendment Act No. 55 of 1951** **Section 4:** Makes provision for the Eastern Caprivi Zipfel to be removed the jurisdiction of SWA High Court and to be placed under the jurisdiction of the Transvaal Provisional Division of the Supreme Court
1952	**General Law Amendment Act No. 32 of 1952** Amendment of the General Law Amendment Act No.54 of 1949. It makes provision for the appointment of acting deputy sheriffs and acting deputy bailiffs. The appointment is subject to the approval of the Minister of Justice **Magistrates Courts Amendment Act No.40 of 1952** This amends the Magistrates' Court Act No. of 1944.It provides that a court of a regional division may only be held by a magistrate of the regional division.
1953	
1954	**Magistrates Courts Amendment Act No.14 of 1954** Amendment of the Magistrates' Court No. of 1944.It makes provision for a Magistrate with the approval of the Minister to be assisted by assessors.
1955	**Appellate Division Quorum Act of 1955:** Made provision for the S.A. President to appoint additional judges to higher courts to sit in cases concerning the validity of an Act of Parliament. This was also applicable to SWA/Namibia **Interpretation of Laws Ordinance 4 of 1955** An act to amend the Interpretation of laws proclamation 11 of 1926
1956 -1958	
1959	**SA Supreme Court Act No.59 of 1959** The Chief justice, the judges of appeal and all other judges of the Supreme Court shall be appointed by the Governor-General and the Great Seal of South Africa. Remuneration of judges shall be prescribed by Parliament and it shall not be reduced during the judges' continuance in office. No judge of the Supreme Court shall without the consent of the Governor-General hold or perform any other office of profit. It repeals Administration of Justice Amendment proclamation No. 18 of 1949 **Judges Remuneration and Pensions Act No.73 of 1959** This act consolidates and amends laws relating to the salaries, retirement from office and retirement pensions of judges of the Supreme Court of South Africa. Any person, who holds the office of a judge in a permanent capacity, may retire at the age of sixty-five years. It makes provision for monthly pensions to be paid to judges after retirement or removal from office on grounds of infirmity.
1960	**Administration of Justice Ordinance No. 29 of 1960** An act to amend the Administration of justice ordinance 37 of 1939 **Prisons and Reformatories Repeal Ordinance No.31 of 1960** An act to amend the Administration of justice ordinance 29 of 1939. It repeals section fifteen of

	Proclamation No. 21 of 1919.
1961	**Interpretation of laws Ordinance No. 19 of 1961** An act to amend the Interpretation of laws proclamation 4 of 1955
1962	
1963	**Administration of Justice Ordinance No.34 of 1963** An act to amend the Administration of justice ordinance 31 of 1960.It consolidates the laws relating to procedure and evidence in criminal proceedings. It gives the Attorney-general power to intervene in private prosecutions and the peace Officers, power to arrest without warrant. **Justice of the Peace and Commissioners of Oath Act No.16 of 1963** This Act covers the appointment, powers and duties of the peace and commissioners of oaths.
1964	**RSA Admission of Advocates Act No. 74 of 1964** This Act provide for the admission of persons to practise as advocates of the Supreme Court of South Africa. It gives the Court power to permit attorneys to discharge functions of advocates in particular proceedings. This act is also applicable in South West Africa.
1965	
1966	**Administration of Justice Ordinance No.13 of 1966** An act to amend the Administration of Justice Ordinance No. 34 of 1963. It also amends section 11 of the Administration of justice proclamation No.21 of 1919 by the deletion of sub-section 10.
1967	
1968	**South West Africa Constitution Act No. 39 of 1968** Replaced the SWA Constitution Act 42 of 1925 – gave powers to South Africa to make laws in respect of an expanded list of reserved matters. SWA Administrator powers were subject to the State President of South Africa – who had power to administer the territory as an integral part of the Republic.
1969	**South West Africa Affairs Act No. 25 of 1969** Gave South Africa even tighter legal and administrative over South West Africa – the list of reserved matters grew further and further
1970-1976	
1977	**South West Africa Constitution Amendment Act No.95 of 1977** Made provision for SA President to make laws for the territory of SWA with a view to the eventual attainment of independence **RSA Proclamation R249 of 1977** Abolished the SWA seats in the South African Parliament **SA Proclamation Nos. 180 and 181 of 1977** Established the office of Administer General (AG) for SWA/Namibia and empowered to make laws by Proclamation in the official gazette. Furthermore the AG could repeal or amend laws passed by the South African Parliament
1978	**Constituent Assembly and Election Proclamation AG63 of 1978** Was given power to draw up the constitution for Independent Namibia despite International opposition.
1979	**National Assembly Proclamation(AG21 of 1979)** Transformed the Constituent Assembly into a National Assembly with law making powers.
1980-1986	
1987	**Judges Remuneration Act No.18 of 1987** To amend the Judges' Remuneration Act of 1981, so as to increase the remuneration of the Judges of the Supreme Court of SWA • Judge President Rand 107 000 • Judge Rand 101 500

1988-1989	
1990	**NAMIBIA INDEPENDENCE**
1990	**Constitution of Namibia of 1990** Made provision for the independence of the judiciary. Article 78, (1) (2) and (3) of the Republic of Namibia Constitution of 1990 provide for the establishment of the judiciary and its independence, consisting of the Supreme Court, a High and Lower Courts. **Judges' Remuneration Act No. 18 of 1990** This Act covers remuneration, additional service benefits and motor vehicles for judges. **Legal Aid Act No. 29 of 1990** T his Act provides for the granting of legal Aid in civil and criminal matters to persons whose means are inadequate to enable them to engage legal practitioners to assist and represent them.
1991	**Law Reform and Development Commission Act No.29 of 1991** This act establishes a law reform and development commission. It outlines the constitution of commission. The Commission shall consist of a judge of the supreme court of High Court appointed by the president, the Attorney –General, the Ombudsman and one practising advocate appointed by the President after consultation with the Council of the Bar of Namibia. The period of office is four years. Any person, whose period of office as a member of the Commission has expires, shall be eligible for re-appointment. **Attorneys Amendment Act no. 17 of 1991** Made provision for Namibian who obtained legal qualification from universities other than South African's Universities to become attorneys in Namibia. **Admission of Advocates Amendment Act no. 19 of 1991** Made provision for Namibian who obtained legal qualification from universities other than South African's Universities to become advocates in Namibia.
1992	**Labour Act no.6 of 1992** The Act also established the District Labour court which is the hierarchy of the lower courts. The composition of judges and acting judges were to be determined by the Judge President
1993	
1994	**Judges' Remuneration Proclamation Act No.12 of 1994** An act to amend the Judges' Remuneration act No.18 of 1990. It makes provision for any judge of the Supreme Court other than the Chief Justice who is not ordinarily resident in Namibia to be entitled to the costs of air travel from his place of permanent residence on as many occasions as are considered reasonable. Any judge who is on an official journey outside Namibia shall be entitled to the same subsistence allowances payable to any Minister. **Judges' Remuneration Proclamation Act No. 24 of 1994** An act to amend the Judges' Remuneration act No 18 of 1990 so as to increase the non-taxable allowance and the salary payable to judges.
1995	**Judicial service commission Act No. 18 of 1995** This Act governs the operation of the judicial service commission established by articles 85 of the constitution. **Legal Practitioner Act No. 15 of 1995** This Act governs the legal profession and legal practitioners, who were formerly known as attorneys and advocates. It establishers a board for legal education, a law society of Namibia and a legal practitioners' Fidelity Fund. It replaces the RSA Admission of advocates act 74 of 1964,the legal practitioner' Fidelity fund ordinance 28 of 1967,the RSA attorneys' act 53 of 1979, the legal practitioners fidelity fund act 22 of 1990 and the admission of advocates act 19 of 1991 **Law Reform and Development Commission Act No. 4 of 1995**

	An act to amend the Law Reform and development commission 29 of 1991 so as to amend the constitution of the Law reform and Development Commission. It makes provision for an appointed member of the Commission who is not employed in the Public Service, to be entitled to remuneration, allowances and privileges as the Minister in consultation with the Minister of Finance may determine.
1996	
1997	**Legal Practitioner Act No. 4 of 1997** An act to amend the Legal practitioner 15 of 1995. It provides for an exception on the provision prohibiting an unqualified person from representing another person in court.
1998	
1999	**Judges' Remuneration Proclamation Act No. 2 of 1999** An act to amend the Judges' Remuneration act 24 of 1994 by changing the annual salary of Chief Justice from N$225 000to N$290 000 and that of the Judge president from N$220 000 to N$285 000. **Legal Practitioner Act No.6 of 1999** It provides for temporary suspension of the provisions of the Legal Practitioners Act no. of 1995 relating to the conferment of the status of the Senior Counsel to legal practitioners
2000	**Legal Aid Act No. 17 of 2000** An act to amend the Legal Aid Act No.29 of 1990. It empowers the Minister to withdraw the appointment of any person as legal aid counsel or to limit any act or function of such counsel: to provide for the repeal of provision dealing with the issuing of legal aid certificates in certain circumstances; to provide for a refund of any amount of contribution and to provide for offences and penalties.
2001	
2002	**Legal Practitioner Act No. 10 of 2002** An act to amend the Legal Practitioner Act No. 15 of 1995 so as to make provision that persons who hold a prescribed qualification in law and who for a continuous period of at least five years performed certain legal working the service of the State are duly qualified to be admitted as a legal practitioner.
2003	**Judges' Remuneration Proclamation Act No.14 of 2003** An act to amend the Judges' Remuneration act No.18 of 1990. It stipulates the annual salary of the Chief Justice to be N$377 000 and that of the Judge-President to be N$370 000. This proclamation was made by the President of the Republic of Namibia, S. Nujoma at the time.
2004	**Law Reform and Development Commission Act No.2 of 2004** An act to amend the Law Reform and development commission Act of 1991 so as to alter the Constitution of the Law Reform and Development Commission. It makes provision for the chairperson of the commission to hold office in the full-time capacity, to expand the objects of the Commission and to alter method of determining a quorum for meetings of the Commission.
2005-2009	

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Appendices B: Tanzania: List of laws

A.1 Property rights Indicator: Tanzania

This covers all legislations passed that affect the issue of immovable property with special reference to land rights in Tanzania. Full liberal ownership comprises of the right to possess, the right to use, the right to manage, the right to capital, the rights to security, the incident of transmissibility and liability to execution.

YEAR	Ordinance/Act/Amendments/Proclamations and Regulations
1884	*GERMAN EMPIRE – GERMAN EAST AFRICA Application of Customary law and signed treaties
1885	**The Imperial Charter of 27 February 1885** Made provision for the respective acquisition in East Africa. The German Emperor promise to secure the African land claims from the foreign powers. In return for the promise of protection, the occupied land came under the sovereignty of the German Emperor.
1886-1887	
1888	**German Colonial Company Treaties** Under the treaties with African Chiefs, as contained in the Imperial Charter of 1885, the Company received the right to occupy all the land which was not cultivated by the African Population of the Protectorate.
1889	
1890	
1891	**Land acquisition of real estates Imperial Ordinance of 1 September 1891** According to section 1 of decree only the colonial government had the right to occupy unowned (herrenlos) land within the German sphere of interest in German East Africa. Abolished all regulations which have been applicable during the Company rule.
1892	
1893	
1894	**Imperial Ordinance of 24 July 1894** Provision for the legal affairs of immovable properties – It required that all contracts by which property in real estate was acquired or leased for longer than 15 years had to be consented to by the Governor in charge. **Consular Jurisdiction Act No. of 1894** Make provision for the establishment of land registries at local administrative authorities' i.e. district officers and the military stations.
1895	**Imperial Decree regarding Creation, Acquisition and Conveyance of Land of 1895** Declared all land in German East Africa to be un-owned Crown Land vested in the German Empire. The only exception was where proof of ownership could be shown either through documentation or in case of natives, through effective occupation. Section three calls for the creation of Land reserves for the African peasants within the colony.
1896-1899	
1900	**The Land Commission Ordinance**
1901	
1902	**Imperial Ordinance of 1902** Made provision for the introduction of land registries under the supervision of the judge of the district courts for all German Colonies. This was only open to white or Europeans owners to

	register their lands. **Section 6 of the Ordinance:** issued a decree concerning the registration of coloureds (land owners of Arab or Indian Origin in Dar es Salaam) to be registered.
1903	**The Land Registration Ordinance of 1903** Established a land registry system which allowed the registration of indigenous lands as long as they were located within the boundaries of the communities or villages.
1904-1906	
1907	**Germany Industries Tax Ordinance of 1907** This established taxes levied on all kinds of industries in the colony.
1908-1913	
1914	**WORLD WAR I STARTED**
1914	
1915	
1916	**Martial Law of 1916** Regulations under the martial law declared that the German Ordinances, rules and circulars to remain force except where they were inconsistent with the future British Law.
1917	T**he Enemy Property (Vesting) Proclamation No.5 of 1917** Makes provision for all property moveable or immovable belonging to enemy subject to be vested in the Custodian of Enemy Property, who had power to issue temporary leases of business enterprises for the carrying on and maintenance of plantations or the productivity thereof.
1918	
1919	**The Peace Treaty of Versailles 1919** Renounce German Rights over the territory **Article 297(b)**: stated that the Allied and Associated Powers reserved the right, to retain and liquidate all property, rights and interests belonging to German nationals, or companies controlled by them, within the colonies. **Article 120 and 257**: made provision for the transfer of all movable and immovable properties in the German former colonies belong to the German Empire or State to be pass on to the Government exercising authority over such territories. **Land (Assessment of Compensation) Act No. of 1919** The amount of compensation to be amount which the properties if sold in the open market by a willing seller to be the amount realize.
1920	**Peace and Order Ordinance No.5 of 1920** Made provision for most of the German Ordinances, rules and circulars to remain force except where they were inconsistent with the future British Law extending regulations made under the martial of 1916 and Peace regulations under the treaty. *(This was repealed by Revised Edition of Laws (Repealed of Obsolete Enactments) Ordinance No.35 of 1928)* **The Enemy Property(Disposal) Proclamation No. 3 of 1920** **Townships Ordinance No. 10 of 1920** Makes provision for zoning Dar es Salaam based on racial differences. This re-emphasizes the town division as per German division of 1891.
1921	**Registration of Documents Ordinance No.8 of 1921** **Enemy Property(Retention) Ordinance No.4 of 1921** Declared that 44 plots situated in the city of Dar es Salaam owned by Germans or Germans companies to be retained and vested in the Governor as part of public land. **German Property(Liquidation) Ordinance No.42 of 1921** Establishes a German liquidation fund to credit by proceeds of the sale of land previously owned

	by the Germans.
1922	**BRITISH MANDATE UNDER THE LEAGUE OF NATIONS MANDATES SYSTEMS - TANGANYIKA**
1922	**Enemy Property(Retention) Amendment Ordinance No.5 of 1922** Amends the Enemy Property (Retention) Ordinance No.4 of 1921, by adding another some 60 farms and plots situated all over Tanganyika. **German Missions Ordinance No.21 of 1922** Provided for the transfer of all German mission property in the territory to the Custodian of Enemy Property. **German Property(Liquidation) Amendment Ordinance No.37 of 1922** Amends German Property(Liquidation) Ordinance No.42 of 1921 **Deceased Natives Estates Ordinance No. 21 of 1922** Allowed estates of natives to be administered in the customs of their tribes and not by common law. Also allowed administration using Mohammedan Law for the Swahili. Section 4 and 5. **Administration (Small Estates) Ordinance Cap 30 of 1922**
1923	**Land (Law of Property and Conveyancing) Ordinance – No.2 of 1923** Applied the English law of Property and Convenyancing to the Territory. In case of inconsistency application with 62the Indian Act provision, the Indian Act provision pre62vailed. Section 11 (1) and (2) – Natives could dispose land to non-natives but only if such disposition is in writing and approved by the Governor. **Land Ordinance No.3 of 1923(M)** Declared all land in the territory except the freeholds acquired before the passage of that law as being public land. All rights of the Public land were place in under the Governor of territory. It abrogated the German Law concerning the granting of public lands. Introduced the right of occupancy system in Tanganyika **Land Registry Ordinance No.15 of 1923** Authorized the conversion into freehold – all ownership held dating back from German times whether it was through registration or land held under grants. **Enemy Property(Retention) Amendment Ordinance No.26 of 1923** Amends the Enemy Property(Retention) Ordinance No.4 of 1921 **Ex-enemy(Land Holding) Ordinance No.20 of 1923** Requires the ex-enemies to hold licenses from the Governor in order to hold land. **The Asiatics (Marriage, Divorce and Succession) Ordinance No.12 of 1923** Declared the law applicable in the matters to be determined by the religion of the parties.
1924	
1925	**Land Registry (Amendment) Ordinance No.2 of 1925** Amended the Land registry No.15 of 1923, by allowing the Africans/natives to apply for the registration of land. **Ex-enemy(Land Holding) Repeal of Restrictions Ordinance No.7 of 1925**
1926	**Land Acquisition Ordinance No. 13 of 1926(M)** Empower the Governor to acquire land for public purposes and no compensation is offered in respect of unoccupied land. **Land Regulations No. 8 of 1926** • Regulate the transfer, mortgage, lease and sub-lease of a right of occupancy • The provision is not applicable to transfers between natives and sub-leases of right of occupancy granted by the Custodian of Enemy Property. • 20 members representative from the White and Asian Communities appointed by the Governor **Native Authorities Ordinance No.18 of 1926** The traditional land allocation authorities (chiefs) were replaced by the creation of the Native

	Authorities who regulated land use through a system of by laws and enforced cultivation regulations.
1927	**Land (Perpetual Succession) Ordinance No.7 of 1927** Provided for perpetual succession to land for corporate bodies. **Land (Pastoral Purposes) Regulations No.90 of 1927** Provides for the improvements to the value of 5 shillings per acre in the five years of the term. 50% of the improvements must be in livestock.
1928	**Land (Amendment) Ordinance No.7 of 1928** Amend the definition of right of occupancy by including the titles of native (formalized the customary land rights). A right of occupancy is defined as a right to use and occupy land. **Coffee Industry(Registration and Improvement) Ordinance** Provides for the registration of native coffee plantations in the Northern provinces of the territory. **Native Authority Ordinance No.7 of 1928** Title of a native lawfully in accordance with native law and custom
1929	**Enemy Property(Divesting) Ordinance No.12 of 1929** Divested all rights, titles and interest in land which claims was not establish to the Governor – land to deemed public lands. **The Disposal of Enemy Property (Validation) Ordinance No.2 of 1929** **Religious and Charitable Societies(Disposal of Land) Ordinance No. 14 of 1929** Regulated the disposal of land held by such societies by requiring them to transfer their freehold or leasehold interest through public action.
1930	**Land(Amendment) Ordinance no.17 of 1930** An ordinance to amend the land ordinance of 1923 – it allows for the Governor without an auction – to grant a right of occupancy to for charitable or religious organization – as well as for production of cotton.
1931	**Land Regulations No.168 of 1931** Every right of occupancy of land shall not erect, fix, place or use upon such land or permit to be erected any building without first obtaining the consent in writing of the administrative officer in charge of the district. This was not applicable to land within the township. **Land Acquisition Amendment Ordinance No. 54 of 1931** Makes provision for companies to acquire land for works of public utility. **German Missions, Societies and Associations (Revesting) Ordinance No.40 of 1931** Provides for re-transfer of property to the original owner, i.e. The German Mission.
1932	**Land Regulations No.33 of 1932** Makes a provision for the Governor to acquire portion of land as may be required in connection with railway works, on payment of the occupier of compensation to the value, at the date of resumption.
1933	**General Government Notice No. 936 of 1933** Leases with an option to buy issued by German administration, were no further to be extended after 31 December 1936.
1934	**Land(Maintenance of Boundaries)Regulations No.113 of 1934** Provides for the maintenance and repair of any boundary mark made or erected by or under the direction of any Government Department.
1935	**General Government Notice No. 198 of 1935** Dealt with leases with an option to buy issued during the German Administration requiring holders to acquire the freehold or allow the lease to expire thereby vacating the land. **Land Ordinance (Amendment) No.5 of 1935** Made provisions that all rights of occupancy to be deemed and duly executable – should be signed by the Director of Lands and sealed with the official seal.
1936	**General Government Notice No. 265 of 1936** Leases with an option to buy issued by German administration, were terminated. Transferred either in public lands, freehold land or into rights of occupancy.

	Town Development(Control) Ordinance of 1936
1937	**Religious and Charitable Societies(Disposal of Land) Regulations No. 57 of 1937** In line with Ordinance of 1929, calls for the advertisement in more one local newspaper a month before, the place, date and hour on any intend public auction of any freehold or leasehold interest in land held by the societies referred to in the Ordinance. **Native Coffee (Control and Marketing) Ordinance No.26 of 1937** Makes provision for the establishment of a Native coffee Board, which had powers to give directions as to the method of sowing, planting, cultivation harvesting or preparation of native coffee. **Land Acquisition Amendment Ordinance No. 5 of 1937**
1938	
1939	**Land Registry Regulations No.91 of 1939** Provision for registrar of titles
1940	**Game Ordinance Cap 159 of 1940** Repealed the Ordinance of 1921 and in it Customary Rights of ownership in areas reserved for game reservation were recognized. **Native Tobacco(Control and Marketing) Ordinance NO.39 of 11940** Makes provision for the establishment of a Native Tobacco Board, which had powers to give directions as to the method of sowing, planting, cultivation harvesting or preparation of native tobacco.
1941	**Land (Rent and Mortgage Interest Restriction) Ordinance No.26 of 1941** The Ordinance restricted increases in rent and mortgage in certain cases, especially in subletting of land. **Tobacco(Non-Native Industry) Ordinance NO.17 of 1941** Makes provision for the establishment of a Non-native Tobacco Board, which had power to make regulations relating to tobacco production.
1942	
1943	**Land Acquisition (Amendment) Ordinance No. 21 of 1943** It extended the definition of public purposes for which land may be acquired to include the laying out of new township, minor settlement or Government station. **Land (Restrictions on Transfer) Ordinance No.7 of 1943** Provided for certain dispositions of land between non-natives to be invalid without the consent of the Governor. **Asiatic (Marriage, Divorce and Succession) Construction Ordinance No.2 of 1943** Deals with succession act
1944	**Township (Building) Rules No.201 of 1944** Makes provision for submission of a plan of envisaged buildings, therefore restricting the building of traditional huts in urban or township areas.
1945	
1946	**TRUST TERRITORY ADMINISTERED BY THE UK - TANGANYIKA**
1946	**Trusteeship Agreement of 1946** Article (8) of the agreement makes provision for respect and protection of natives customary land rights.
1947	**Land Registry Ordinance of 1947** **Ordinance No.44 of 1947** Deals with succession act
1948	**Land Regulations –First schedule No. 232 of 1948** Makes provision for the land users to use land specifically for the aim on which the state grant a plot. E.g. Agricultural for cultivation only, while occupier of pastoral land is required to stock **National Parks Ordinance, Cap 253 of 1948** It separated National Parks from that of Game Reserves. However it did not fundamentally effect the Customary Rights of land enjoyed by individuals living in National Parks as under S.11 **German Property(Disposal) Ordinance No. 24 of 1948**

1949	**German Mission Property(Disposal) Ordinance No. 48 of 1949** **African Agricultural Products(Control and Marketing)Ordinance No.57 of 1949** Makes provision for the establishment of a African Agricultural Products Board, which had powers to give directions as to the method of sowing, planting, cultivation harvesting or preparation of agricultural products. **Land Registry (Amendment) No.24 of 1949**
1950	**Land Amendment Ordinance No.5 of 1950** **Minor Settlements (Amendment) No.6 of 1950**
1951	**Fauna Preservation Ordinance Cap.302 of 1951** This was an Act to make further and better provisions for the conservation and control of wildlife. It repealed the Game Ordinance of 1940 and under Section 6 (c) also bestowed same interests in land for the customary occupiers of rights in those lands. **Native Authority Land Usage(Morogoro) Rules of 1951**
1952	
1953	**Land Registration Ordinance No.36 of 1953** • Repealed and replace the earlier Ordinance • All grants of public land whether freehold or under a certificate of occupancy made after the coming into force of the Ordinance must be registered. • German titles of absolute ownership or known wakf is to be deemed to be freehold. **The Ngorongoro Conservation Area Ordinance Cap 413 of 1953** This Act was enacted to create a multiple land use strategy to be adopted in the area in order to protect the wildlife and the rights of occupancy (nomadic) of the pastoral community of the Maasai. **The Township (Building) rules Cap 101 of 1953**
1954	**Enemy Property(Final Disposal Ordinance No. 53 of 1954** **Land Registration Ordinance Cap 334 of 1954** **Land Registration Rules of 1954**
1955	**Ordinance No.43 of 1955** Deals with the registration of documents Act
1956	**Town and Country Planning Ordinance Cap 378 of 1956** Empowered the state to acquire land for public interest and town planning purposes from its owners compulsorily. **Registration of documents Rules of 1956** **Ordinance No. 42 of 1956** ***Government Paper No.2 of 1956** This facilitated the acquisition of all customary interest in land. It was the beginning of the erosion of the customary rights of occupancy in National Parks.
1957	
1958	**Land Registration Ordinance No.26 of 1958** Any person, who claims to be entitled to a registrable estate in any unregistered land, whether beneficially or as a trustee, may apply to the Registrar in the prescribed manner for first registration of his estate. Any dismissed applications by the Registrar are not allowed by the same person or same estate on the same land in the future.
1959	**National Parks Ordinance Cap 253 of 1959** It took away all proprietary rights in all areas declared to be National Parks. Customary land rights were formally extinguished subject to compensation to the holders of the rights. **The Land Survey (General)Regulations of 1959** **Land Registration Ordinance No.3 of 1959**
1960	**Land Registration Ordinance No.13 of 1960** Deals with mortgagees by companies and cooperative societies that they should be registered in accordance with the provisions of the Companies Act and Co-operative Societies Act respectively. **Registrable estates Ordinance No.22 of 1960** Defines registrable estates as a freehold estate or a lease or any estate which by the provision of Act deemed to freehold or leasehold. It recognizes the hereditary right of construction granted

	under German Law, the wakf under Muslim Law etc.).
1961	**FULL INDEPENDENCE - TANGANYIKA**
1961	**Town and Country Planning(Amendment) Ordinance No.14 of 1961** Makes provision for the holder of land with right of occupancy to seek planning consent from relevant authority before undertaking any development of such land in urban areas. Minster can declare any area to be planning area in consultation with the local government authority. **Land Registration Ordinance No.35 of 1961** **Law of Contract Ordinance of 1961 (No.1 of 1961)**
1962	**National Housing Corporation Act No.45 of 1962** An Act to establish a National Housing Corporation for the purpose of facilitating the Provision of Houses and other buildings in Tanganyika by means of Financial Assistance and otherwise and for matters incidental thereto and connected therewith
1963	**Freehold Titles(Conversion) and Government Leases Act No. 24 of 1963** All freeholds that had been granted by the German Administration and upheld by the British Administration were converted into government leases for a period of 99 years **The Land (Settlement of Disputes) Act, 1963 (Act No. 25/1963)** If there is a claim of dispute – and the Minister of land is satisfied that the dispute exists he can call for land a disputed land. Appoint a Commissioner to inquires on the causes and circumstances and report to Minister responsible of land for actions (3 stipulated action can be taken)
1964	**FORMATION OF THE UNITED REPUBLIC OF TANZANIA**
1964	**Urban Holdings Act 48 of 1964** Makes provision for the Minister to declare urban area or any part of it to be ripe for development and annex it and such obtain right of occupancy over the same land for the unexpired term of the Government lease. **Range Development Act No. 51 of 1964** Dealt with the provision for the conservation, development and improvement of grazing land. The objective was to cater and combat an increased land shortage and land tenure insecurity. **Act 38 of 1964** Dealing with land registrations
1965	**The Nyarubanja Enfranchisement Act No.1 of 1965** Government leaseholds 99 yrs rights of occupancy Enfranchised the Nyarubanja tenants in the parts of Tanganyika where the system existed especially in the Kagera region. Feudal kind of land holding – whereby one person or institution owned a large tract of land (called the Nyarubanja) on which were tenants or fiefs. **The Public Land (Preserved Areas) Ordinance (Amendment) Act No.28 of 1965** An Act to amend the Public Land (Preserved Areas) Ordinance. Provides for the compensation in cases the Minister proposes a grant to the Rural Settlement Commission a right of occupancy, the holder of the preserved area will be offered compensation if he/she is not a beneficiary of the settlement right. **The Land Tenure (Village Settlements) Act No.27 of 1965** An Act to regulate the Tenure of Land in Village Settlements and for connected matters. Grants settlement rights free of premium or rent. The Commission provides the rules of cultivation and development of the land. Settlement rights can be transferred to others upon death. **The Land Acquisition Ordinance (Amendment) Act No.3 of 1965** An Act to extend and to amend the Land Acquisition Ordinance. **The Land Acquisition Ordinance (Amendment) (No. 2) Act No.48 of 1965**

	An Act to amend the Land Acquisition Ordinance
1966	**The Rural Farmlands (Acquisition and Re-grant) Act No. 8 of 1966** An Act to make provision for the acquisition of certain farmlands in the occupation of persons other than their owner and for the re-grant of lands so acquired. Granted leases to tenants of land belonging to the absentee owners. **The Land Transfer (Specified Corporations) Act No.20 of 1966** An Act to provide for the Exemption of Specified Corporations from certain provisions of the Land Ordinance and Regulations and the Land (Law of Property and Conveyancing) Ordinance relating to consent for the disposition of Land **The Land Ordinance (Amendment) Act No.21 of 1966** Restricts any alterations or development during the last 5 years before the elapses of any rights of occupancy to the land and buildings. If the rights of occupancy is 30 years (the restrictions is 10 years). **The Rural Farmlands (Acquisition and Re-grant) (Amendment) Act No.53 of 1966** An Act to amend the Rural Farmlands (Acquisition and Re-grant) Act, 1965 **The Rural Farmlands (Acquisition Re-grant) (Amendment) Act No.30 of 1966** An Act to amend the Rural Farmlands (Acquisition and Re-grant) Act, 1965 **Registration of documents Rules of 1966 (Amendment to 1956)** **The Land Acquisition Ordinance (Amendment) Act No. 54 of 1966** An Act to amend the Land Acquisition Ordinance
1967	**The Land Acquisition, Act No.47 of 1967** An Act to repeal and replace the Land Acquisition Ordinance, & to provide for compulsory acquisition of lands public purposes and in connection with housing schemes **Arusha Declaration of 1967** Main features: Placing all major means of production and exchange in the hands of the public. Massive nationalisations of private investments – both local and foreign.
1968	**Customary Leaseholds (Enfranchisement) Act No.47 of 1968** Abolish all types of feudal land holding in the country. Customary Land Tribunal was then formed. The duty of the tribunal is to ascertain the landlords and tenants in each such customary case. **Urban Leaseholds (Acquisition and Re-grant) Act No.22 of 1968** An Act to make provision for the acquisition of certain urban lands in the occupation of persons other than their owner and for the re-grant of lands so acquired. Granted leases to tenants of land belonging to the absentee owners. **The Rural Farmlands (Acquisition and Re-grant) (Amendment) Act No.26 of 1968** An Act to amend the Rural Farmlands (Acquisition and Re-grant) Act, 1966 Provided for the acquisition of other farms (maize, sugar, rice, etc.), the land titles of which were held by foreigners but which were run by local persons or societies who were accordingly enfranchised and given the de facto and de jure right to occupy the lands. **The Land Acquisition (Amendment) Act No.25 of 1968** An Act to amend the Land Acquisition Act, 1967, deal with grammar errors – nothing of substance.
1969	**Government Leaseholds (Conversions Right of Occupation)Act No.44 of 1969** All the existing leasehold rights were extinguished and converted into rights of occupancy for a term "equal to the unexpired term of the government lease for 99 years. **Customary Leaseholds (Enfranchisement) Act No.43 of 1969** Makes provision for the application of this law to Kagera region, and any other regions as might be announced. It extinguished all landlords' rights with no compensation.
1970	**The Land Laws (Miscellaneous Amendments) Act No.28 of 1970**

	An Act to amend the Land Ordinance and the Land (Law of Property and Conveyancing) Ordinance. The President might direct a no compensation if rights of occupancy on non-ordinarily resident of the Republic of Tanzania is revoked. **Act 4 of 1970** **Government Regulations No.85 of 1970** Deals with Government leasehold Act of 1963
1971	**The Succession(Non-Christian Asiatic) Ordinance No.5 of 1971** The succession to the movable property of a deceased non-Christian Asiatic shall be regulated by the law of the religion professed by that Non-Christian Asiatic at death, provided the creditors has the same rights as in case of estate of a deceased Christian. **Acquisition of Buildings Act No.15 of 1971** **Act 10 of 1971** Dealing with Land registration
1972	
1973	**The Rural Farm Lands (Planning and Utilization) Act No.14 of 1973** Makes provision for the Government to seize land and declare it as a specified planning area for use as deemed appropriate. An Act to empower the Government to control and regulate Utilization of Land & Enabled the Operation Vijiji -Rural population to live in villages before 1976 **Coffee Estates (Acquisition and Re-grant) Act No. XX of 1973** Granted leases to tenants of Coffee estate belonging to the absentee owners.
1974	**Sisal Estates (Acquisition and Re-grant) Act No. XXX of 1974** Granted leases to tenants of Sisal estates belonging to the absentee owners. **The Land (Rent and Service Charge) Act No. 19 of 1974** An Act to provide for the levying and collection of Rent and Service Charge in respect of lands held under Rights of Occupancy **The Land Ordinance (Amendment) Act No.10 of 1974** An Act to amend the Land Ordinance, with regard to the compensation where the right of occupancy has been revoked, the Minister responsible for Finance will determine the compensation if deemed necessary. **Wildlife Conservations Act No.12 of 1974** Repealed and replace the Fauna Conservation Ordinance, but also maintained the co-existence of the rights of occupancy. However it restricted the rights to only residential rights and prohibited hunting rights to specific permits granted the specified authorities.
1975	**Ujamaa Villages (Registry, Design and Administration) Act No. 21 of 1975** Makes provision for the planning areas lands to be granted to the villages and ujamaa villages to be developed cooperatively and communally
1976	
1977	**Constitution Act** • Constitution came into force on April 25, 1977 and established one-party state **Tanzanian Investment Act** Provision on land ownership with regard to foreign companies and association in line with investment
1978	**Government Regulations No. 68 of 1978** Deals with Town and country planning
1979	**The Mining Act No.17 of 1979** An Act to make provision with respect to searching for and mining minerals and For purposes incidental to or connected with searching for or mining minerals.
1980	
1981	**Disposition of Land Act 12 of 1981**

	No disposition shall be registered there is furnished to Registrar a certificate in writing by the Commissioner for Lands signifying his approval to the disposition.
1982	**Local Government (District Authorities) Act No. XX of 1982** It empowers village governments to design approved by-laws in accordance with their position as land managers **Local Government (Urban Authorities) Act No. XX of 1982**
1983	**The Urban Authority (Rating) Act of 1983** **Tanzanian Agricultural Policy Act No. XXX of 1983**
1984	**Bill of Rights Constitution, vide Act No. 16 of 1984 (M)** Article 24 of the Constitution – Makes provision for the **Right to possess a** Property and get protection for the property acquired in accordance with the law. **The National Land Use Planning Commission Act No.3 of 1984** An Act to provide for the establishment of the National Land Use Planning Commission, to provide for its functions and for other matters related to and incidental to the establishment of the mission **Village titling Programme** **Rent restriction Act, No.14 of 1984** Establish the tribunal that determines the increases of rent to be charged and it applies to all dwelling houses and commercial premises.
1985	**Government Regulations No.433 of 1985** Deals with rent restrictions
1986	**Act 10 of 1986** Deals with rent restrictions
1987-1988	
1989	**Act 10 of 1989** Deals with rent restrictions
1990	**National Housing Corporation Act No.5 of 1990** **The regional Housing Tribunal Regulation Act No. XX of 1990** ****Presidential Inquiry into Land Issues**
1991	****Appointment of Land Commission**
1992	**The Regulation of Land Tenure (Established Villages)Act No.22 of 1992** An Act to regulate land tenure in villages established pursuant to Operation Vijiji to provide for the settlement of land disputes and for connected purposes. Customary tenure was abolished in Ujamaa Village/Operation Vijiji areas with no compensation offered. **Customary Leaseholds (Enfranchisement) Act No.19 of 1992**
1993-1994	
1995	**National Land Policy -published in June of 1995** The objectives were to safeguard the security of tenure for smallholders and pastoralist, maximize the efficiency of land use among others.
1996-1998	
1999	**The Land Act No.4 of 1999** An Act to provide for the basic law in relation to land other than the village land, the management of land, settlement of disputes and for connected purposes. Repelled the Land Ordinance of 1923 Plus 10 existing laws Amend six others **The Village Act No. 5 of 1999** An Act to provide for the management and administration of land in villages and for more related matters. Provides for the customary land rights - Customary Right Occupancy (without time limit)
2000	

2001	**Government Regulation No. 485 of 2001** Deals with the Land Act 4 of 1999
2002	**Courts(Land Dispute settlements) Act No. 2 of 2002** An act to provide for the establishment of land dispute settlement machinery and for matters incidental thereto. Repeal the Nyarubanja Tenure (Enfranchisement) Act No.1 of 1965. **Forest Act of 2002** Enables villages to declare their village forest reserves on land within the village area.
2003	
2004	**The Land (Amendment) Act No. 2 of 2004** Amends the section of 19 Land Act of 1999, by allowing non-citizens obtain rights of occupancy for the purpose of investment as approved under the Tanzania Investment Act of 1997.
2005-2009	

A.2 Political Rights and Civil liberties Indicator

This includes all relevant legislation passed during the year under consideration – Constitution /Act/Bills that comprises of the following rights:

- ✓ Voting Rights / Franchise
- ✓ Freedom of Association
- ✓ Freedom of Assembly
- ✓ Freedom of Expression
- ✓ Extension of Arbitrary Executive Power
- ✓ Freedom of Movement
- ✓ Independence of the judiciary and Legislature
- ✓ Academic Freedom
- ✓ Government Secrecy/ indemnity
- ✓ Due process of law
- ✓ Religious Freedom
- ✓ others

Table B. 2 Lists of Laws

Year	**Ordinance/Act/Amendments/Proclamations and Regulations**
1884-1885	
1885	
1886	**Protectorate Law of 1886** Stated that the Kaiser exercises protective power over the German Citizens in the German Protectorate in the name of empire. It also rule that the private law applicable to non-natives was to be imperial law as enforced in consular courts. The Law applied to natives could also be defined by the Kaiser.
1887	**Protectorate Law (Amendments) of 1887**
1888	**Protectorate Law (Amendments) of 1888**
1889-1894	
1895	**German imperial decree**
1896	**Native Jurisdiction Order of 1896** Provided for the punishment and disciplinary control of blacks. The offences that were punished included among others laziness, negligence, vagrancy, insolence and disobedience. Employers were to report to the nearest police who determine the number of lashes depending on the police's assessment of the serious of the offence.
1897-1899	

1900	**Schutzgebietsgesets September of 1900** Amended the Protectorate Law
1901	
1902	
1903	**Governor's Council Ordinance of 1903** Provision for the establishment of an advisory body consisting of white unofficial members nominated by the Governor to advice on matters of interest such the budget, proposed ordinances etc.
1904	**Germany Tanganyika Memorandum of 1904-1905** Recommended on the review of the corporal punishment orders. It reported an average of 4783 floggings a year ordered by courts in the colony.
1905-1907	
1908	**Civil Procedure Code 1908** Specified ways and procedures of conducting civil cases.
1909	**Labour and Recruiting Ordinances of 1909** Establish a standard contract with a maximum contract period of seven months or 180 working days.
1910	
1911	**District Councils Ordinance of 1911**
1912	
1913	**Labour and Recruiting Ordinances of 1913**
1914	**WORLD WAR I STARTED**
1914-1917	
1918	**Whipping Regulation dated 5th October 1918** Provided corporal punishment to offenders up to 12 strokes, and exceeding that to be approved by the lower courts.
1919	**Criminal Procedure Code of India** This featured civil and economic rights, together the procedures in enforcing the same in the colony as it were in India. Under this code, the charge against the accused was not framed by the police until the magistrate had heard all the evidence for the prosecution.
1920	**British Foreign Jurisdiction Act 1890** – came into force Define the territory boundaries, established the Office of the Governor and Commander in Chief Established an Executive Council – composition according to Government Notice No.100 of 1920 **The Colonial Laws Validity Act of 1865 (c.63 28 and 29 Vict)**
1921	**Deportation Ordinance of 1921- CAP 38** This authorises the Governor to deport a person from one point to another within the country, it the Governor is satisfied that the particular person is a threat to peace and good order of Tanganyika. It makes provision for the deportee to be held in custody while he waits for the deportation formalities to be finalizes. Amended by Act No.3 of 1991 **Collective Punishment Ordinance No.24 of 1921** An ordinance to make provision for collective punishment for certain offences – i.e at villages, district members, tribal members or community members. Repealed by the written laws Amendment Act No.32 of 1994 **The Marriage Ordinance No.12 of 1921** An Ordinance to solemnization of marriages in the Tanganyika Territory. Repealed by the Law of Marriages Act No.5 of 1971
1922	BRITISH MANDATE UNDER THE LEAGUE OF NATIONS MANDATES SYSTEMS -

	TANGANYIKA
1922	**Official Secrets Ordinance NO.10 of 1922** This termed all government communications and documents confidential under His Majesty's orders, and any person who tried to obtain such as found guilty of a spying offence under the Act. **Witchcraft Ordinance No.39 of 1922** Provide for the punishment of persons practising or making use of so called Witchcraft. Penalty on convictions not exceeding 20 pounds ; or imprisonment not exceeding two years. **Hut and Poll Tact Act of 1922** Catered for the mandatory payment of tax for each household and adult members of the society. This made sure that all able members found work on plantations so as to pay tax. ****Formation of the Tanganyika Territory Civil Servants Association**
1923	**Destitute Persons Ordinance No.1 of 1923** Makes for the control any person without employment through imprisonment for a period of one month with a view of work to be found for him. Or deported to his original place of residence. **Master and Native Servants Ordinance No.32 of 1923** Regulate the relations between employers and native servants, and to the engagement of natives. Repealed by the Employment Ordinance CAP 366 **Intoxicating Liquor Ordinance No. 24 of 1923** Made it an offence to supply intoxicating liquor to natives. Prohibited even the employment of natives in intoxicating liquors business. **Native Christian(Divorce) Ordinance No.17 of 1923** **Marriage Divorce and Succession (Non-Christian Asiatic)Ordinance, No.12 of 1923** To be guided by the religion and customs of the person divorced. Repealed by the divorce Ordinance No.8 of 1929
1924	
1925	**Whipping Ordinance No.3 of 1925** The Governor to direct instrument and the no. of whipping. If strokes exceed 12 only the High Court can order so. Repealed by Act No.14 of 1930
1926	**Master and Native Servants Ordinance No.11 of 1926** **Legislative Council was established** 20 members representative from the White and Asian Communities appointed by the Governor
1927	**African Education Ordinance No.11 of 1927** Enacted to assist in the education of Africans and provided for the establishment of government school by the Director of Education.
1928	**Masters and Native Servants Ordinance No. 24 of 1928** Makes provision for the licensing of labour agents. All natives are subjected to medical examination, if contemplating work exceeding 60days period. Power is also given to employers to impose small fines on their employees for offences against sanitary rules. **Witchcraft Ordinance No.33 of 1928** The penalty on conviction is increased to imprisonment not exceeding 7 seven years or fine not exceeding four thousand shillings or to both. Repealed the Ordinance No.39 of 1922
1929	**Divorce Ordinance No.8 of 1929** It provided for jurisdiction to Courts in Matrimonial causes. Repealed the Native Christian (Divorce) Ordinance No.17 of 1923 & Marriage Divorce and Succession (Non-Christian Asiatic) Ordinance, No.12 of 1923.
1930	**Criminal Procedure Code Ordinance No.12 of 1930**

	Amended the Criminal procedure Code of India as it was applied to the territory. This made provision for accused to give evidence on his own behalf. Further it provide for police upon the arrest of accused to frame charges. **Corporal Punishment Ordinance No.14 of 1930** **The Penal Code Ordinance No.11 of 1930**
1931	**Masters and Native Servants(Amendment) Ordinance No.35 of 1931** Makes provision for compensation for injuries and also made it an offence for an employer to engage or continue to employ labour without a reasonable prospect of paying wages when due.
1932	**Official Oaths Ordinance, Cap 44 of 1932** This established the orders of confidentiality and secrecy of government works and proceedings. No transparency was allowed and divulging any information on such communication was an offence against the territory. **Trade Union Ordinance No. 23 of 1932** Established the framework and regulation of the relationship between workers and masters and also imposed restrictions conditions on the conducts of trade unions including the benefits of members. It also declared that trade unions were neither criminal nor were they unlawful for all purposes. **Corporal Punishment(Amendment) Ordinance No.23 of 1932**
1933	**Police Ordinance No.23 of 1933** Segregated punishments orders to officers due to their race and origin. Native officers faced maximum punishment of dismissal, forfeiture of all due payments and rights whereas European officers only got maximum punishment of forfeiting their monthly pay and severe reprimand for similar offences. See section 39. **Prisons Ordinance No.24 of 1933**
1934	
1935	**Identification Ordinance No.13 of 1935**
1936	**Criminal Procedures Code(Amendment) No.11 of 1936** It made sure that the charges and evidence obtained before the court were read in the language of the accused in order to facilitate justice and ensure due process of the law. **Penal Code (Amendment) No.10 of 1936** Introduced provision to confer punishment for the violation of rights to life etc. wrongs such as indecent assault of boys under fourteen, indecent practices between males and child destruction were created. **Proclamation No.3 of 1936** This prohibited any importation of a book and newspapers published in England titles "The Tragedy of White man Injustice and the Black man".
1937	**Children and Youth Persons Ordinance No. 3 of 1937** Established juvenile courts to try cases involving children (under 12 years) and young persons (under 16). Also these courts could try all cases except those of homicide nature.
1938	**Police Amendment Ordinance No.16 of 1938** Section3: made sure that in case of corporal punishment it was only to be administered in the presence of a commissioned officer or the officer in charge of the police. Provided that the disposal of unclaimed property by the police should be done after six months from the day it was found. **Employment of women Ordinance No.14 of 1938** Enabled the employment of women of age above fourteen into manual work i.e industrial undertakings. It excluded women in managerial positions not allowed to be employed in night shift.
1939	**WORLD WAR II STARTED**
1939	**The Penal Code (Amendment) Ordinance No. 24 of 1939**

	Section 48 and 49 therein gave the Governor power to prohibit the importation of any publication in his discretion if he was of the opinion that such publication was contrary to public interest.
1940	**Compulsory Military and Other Service Ordinance No.23 of 1940** Subject every male between the age of 18 – age 45 to be enrolled for military service or to be required to do any work or render any personal service which the Governor may think necessary or expedient to order for the purpose of securing the Public safety. **Employment of Women and Young Ordinance of 1940**
1941	**Master and Native Servant (Amendment) Ordinance No.29 of 1941** Makes provision for penalty for procuring breach of contract by servants – penalty for leaving services is a fine not exceeding 50 shillings or imprisonment for three months.
1942	**Master and Native Servants (Written Contracts) Ordinance No.28 of 1942** To regulate contracts of employment of native servants Repealed by Employment Ordinance 366
1943	**Master and Native Servant (Amendment) Ordinance No.20 of 1943** **Employment of Women and Young Persons(Amendment) Ordinance No.4 of 1943** Prohibits the employment of children under twelve years of age
1944	**Townships(Removal of undesirable Persons)Ordinance of 1944 – CAP 104** Still applicable by 1991
1945	**Penal Code Ordinance No. 21 of 1945** This Ordinance establishes a code of criminal law. Section 176 provides vagrancy a penal offence, any persons shall be deemed to be idle and disorderly persons as defined in the section. (Prostitution, begging, playing games of chance of winning money etc.). It makes provision for the formation of the Legislative Council (2 then 4 Africans3 Asian and 4 European Reps).
1946	TRUST TERRITORY ADMINISTERED BY THE UK - TANGANYIKA
1946	**Master and Native Servants (Recruitment) Ordinance of 1946** Makes provision for the regulation and control of recruitment of native servants.
1947	**The Township(Compulsory Education) Rules No. of 1947** Makes provision for natives under the age of 16 years, to attend school under directions of the headmaster regularly. **The African Education(Registration of Schools and Teaches) Amendment Regulation No. of 1947** Empowers the Director of Education to issue a Grade II Teacher's Certificate to a licensed teacher or an African Women Teacher's who had proven proficiency and ability to teach the full Government course.
1948	
1949	**Workmen's Compensation Ordinance No.41 of 1949** This provides for compensation to workers for injuries suffered in the course of their employment**.**
1950	**The Factories Ordinance Cap 297 of 1950** The occupier of every factory must hold a certificate of registration issued by the Chief Inspector of Factories.
1951-1952	
1953	**Police Force Ordinance of 1953**
1954	**Societies Ordinance of 1954** Section 7 of the ordinance requires that all local societies operating in Tanzania must apply to the Registrar for registration who has the power to determine whether the local society is in the opinion of the Registrar desirable or not.

	The Penal Code
1955	**The National Assembly(Powers and Privileges) Ordinance Cap359 of 1955** Defines and ensures on traditional lines, the privileges immunities and powers necessary for the proper functioning of the Assembly. **Legislative Council was reformed** 10 Reps from each group were chosen – improved representation by the black natives.
1956	**Trustees Incorporation Ordinance of 1956 ;**Cap 376
1957	**Employment Ordinance Cap.366 of 1957** An act to consolidate the law relating to labour and regulate conditions of employment for employers and employees. Repeal all laws related to Master and Servants.
1958	
1959	**Territorial Election Ordinance** Made provision for black Africans to cast their votes **Council of Ministers (Miscellaneous Provisions) Ordinance Cap 415 of 1959** Legal provision was made for the allocation among individual Ministers responsibility, permanent or temporary for various topics and the delegation by Ministers of their statutory powers.
1960	**Employment Ordinance No. 10 of 1960** This makes provision for the establishment of the Labour Advisory Board whose responsibility is to advise the Minister on any matter affecting employment.
1961	FULL INDEPENDENCE - TANGANYIKA
1961	**Independence Constitution of Tanzania of 1961** Provision for Multi-party democracy : 7 Political Parties registered for election on the main Tanganyika **Education Ordinance No.37 of 1961** Makes provision for a single system of education in the Territory – repealed discrimination laws in the provision of education.
1962	**The Republican Constitution of Tanzania of 1962** Laid foundation for imperial presidency – combing the powers of head of state and Government **Local Government Elections (Rural Areas) Act No. of 1962** Made provision for rural black Africans to vote **Areas Commissioners Act No.18 of 1962** This act gives areas commissioners power to arrest and detain **Preventive Detention Act No. 60 of 1962** Allowed the president to detain any person without bail for an indefinite duration if the person conducted himself to be dangerous to peace and good order, even when the conduct itself was yet to occur. Later amended by Act No. 2 of 1985. **Regional and Regional Commissioners Act of 1962** This act gives regional and district commissioners power to arrest and detain a person for 48 hours if they have reason to believe that such a person is likely to commit a breach of the peace or disturb public tranquillity. **Posts and Telecommunications Act of 1962** It makes provision for the controlling of broadcasting activities in the country and sets out the legal mechanism for the granting of broadcasting licences to aspiring applicants. It grants the Minster the power to revoke or suspend any licence where it appears that such revocation is expedient and in the public interest.
1963	**The Minimum Sentences Act of 1963(No.29 /1963)** 24 strokes of corporal punishment (12 strokes at commencement of sentences; 12 strokes at release day; (All above 45 yrs excluded as well as below 16 yrs)

	In addition in certain condition – the court must order the payment of compensation Minimum sentences vary between 6 month and 3 years.
1964	FORMATION OF THE UNITED REPUBLIC OF TANZANIA
1964	**The Interim Constitution of the United Republic of Tanganyika and Zanzibar of 1964** Modification of the Republic Constitution ****Freedom of Association** In 1964, the government banned independent trade unions and formed the National Union of Tanzanian Workers Association (NUTA), a state controlled trade union. **Employment Act No.62 of 1964** It makes provision for an employer to be exempted from paying wages to any employee in respect of any period during which the employee is imprisoned under any law.
1965	**The Interim Constitution of 1965 Act 18/65** Formalize the one party state and re-enacted all changes brought about by the Union **The Probate and Administration Ordinance (Amendment) Act No.9 of 1965**
1966	**Local Government Elections (Rural Areas) Act No. 47 of 1966** Repeal the Act of 1962. **Civil Procedure Code Act No. 49 of 1966** Section 74 of the Penal Code Section 55 **The Workers' Compensation Act No. 60 of 1966** It makes provision for the employer to be liable to pay compensation to a worker or the dependants for death or incapacity resulting from an accident.
1967	**The Workers Compensation Act No.43 of 9167** This makes provision for the compensation of the workers for injuries suffered in the course of their employment.
1968	**Cooperative Societies Act No.27 of 1968** Act enacted to regulate cooperative activities which repealed the Cooperative Societies Act Cap.211 of 1923
1969	**Election(Age of Voting) Act.No.34 of 1969** Provide for reduction of age of persons qualified to vote at elections from 21 to 18 years. **Education Act No.50 of 1969** An Act to repeal and replace the Education Ordinance and to provide for the development of a system of education, in conformity with the political social and cultural ideas of the United Republic.
1970	**National Security Act of 1970** Limits freedom of public information by the government being able to control the dissemination of information that goes to the public. **Election Act No.25 of 1970** An act to consolidated the laws relating to the Election of President, the elections to the National Assembly and the elections to the local authorities. Repealed by Election Act No.1 of 1985
1971	
1972	**Police Force Ordinance, Act No 13 of 1972** Section 40 required permits to be obtained in order to hold meetings or to organize processions.
1973	
1974	
1975	**The 1975 Amendment (Act 8 of 1975)** Declared the supremacy of the National Executive Committee of the party by providing that all

	functions of the all state organs were to be performed under the auspices of the party.
1976	**Newspaper Act No.3 of 1976** This act imposes a fine or a jail sentence of up to four years on any person who prints or publishes a newspaper without registering it with the Registrar of Newspapers. **Tanzania News Agency Act No.14 of 1976** **Films and Stage Plays Act of 1976** An act to regulate the film, video and theatre industries. Section three of the Act prohibits any person from taking part or assisting in making a film unless the minister has granted him/her permission.
1977	**Permanent Constitution Act of 1977** Constitution came into force on April 25, 1977 and established one-party state – it rested on 3 main pillars namely imperial presidency, the two union government and the one party state **Elections:** Article 74 of the 1977 Constitution – Establishment of the National Electoral Commission ****Report of the Judicial System Review Commission, 1977.** Recommended that an increased people's participation in administration of justice could be achieved through the electoral process of representatives.
1978	**Education Act No. 25 of 1978** This act makes provision for better development of the system of education. It repeals the Education Act No. 50 of 1969. It authorises the Minister to extend the period of primary education to any number of years not more than seven years, as he may deem desirable in the public interest,
1979	**Local Authorities Amendment (Elections) Act 1979** Section 39: Required one to belong to, or to be sponsored by a political party in order to stand for elections to political office both local and national level.
1980	**Law Reform Commission of Tanzania Act No.11 of 1980** It makes provision for the establishment of the Law Reform Commission of Tanzania. The functions of the Commission shall be to take and keep under review all the laws of the United Republic with a view to its systematic development and reform. **The Penal Code(Amendment) Act No.14 of 1980** Under this act, any person who does any unlawful act of violence against a ship or vessels registered in Tanzania shall be guilty of the piracy offence and shall be liable on conviction to imprisonment for life.
1981-1982	
1983	**Workers' Compensation Act No.17 of 1983** It states the amount that an employer is obliged to pay a worker in the case of permanent or total incapacity resulting from an accident at work. It also provides for the compensation in the case of permanent partial incapacity.
1984	**Bill of Rights Constitution, vide Act No. 16 of 1984** Article 15 of the Constitutions guarantees the right of every person to be free and to live like a free person. **The Economic and Organized Crime Control Act of 1984** Introduced Economic crimes court and crimes with severe sentences of which maximum sentences was enhanced to 15 years in prison. Under the Penal Code maximum sentence for similar offences was 3 years.
1985	**National Election Act No.1 of 1985** Article 74 of the 1977 Constitution of the United Republic of Tanzania provides for the establishment of the National Electoral Commission (NEC). In terms of Article 74(7) the commission is NEC its independence from other state structures. It provides for the law regulating the elections of a President and elections to the National

	Assembly. **Preventive Detention (Amendment) Act of 1985 (No.2/1985)** Clarified the rights of the detainee and grounds of detention should be in writing
1986	
1987	**The Criminal Procedure Act No.9 of 1987** It provides for the procedure to be followed in the investigation of crimes and the conduct of criminal trials. It repeals the Criminal Procedure Code with savings.
1988	**The Criminal Procedure(Amendment) Act No.5 of 1988** This amends the Criminal Procedure Act No. 9 of 1987 by making provision for good behavior from persons disseminating seditious matter.
1989	**Civil Service Act of 1989** Under this act all civil servants are required to take an oath of secrecy. It prohibits public servants from communicating with the media on issues relating to their work or official policy without due permission.
1990	**Election (Amendment)Act No.13 of 1990** Provide for the identification and resolution of election complaints and for other matters related to elections.
1991	**The Organization of Tanzania Trade Unions Act No.20 of 1991** Provision designated OTTU as the only sole representative organization of workers in Tanzania. No freedom of association as stipulated under international labour were guaranteed. **Deportation(Amendment) Act of 1991 No.3 of 1991** It gives the President the power to vary, revoke order or to grant permission to a person deported to leave for a temporary purpose the part of the country to which he has been deported for some other part named in the permission.
1992	**Constitution Amendment Act No.8 of 1992** Article 20 of the Constitution guarantees the right to freedom of assembly, association and expression. **Election Amendment Act No.21 of 1992** It amends the National Election Act No. of 1985 **Political Parties Act No.5 of 1992** It provides for the registration of parties through the establishment of the Office of the Registrar of Political Parties – who is to be appointed by the President Registrar of Political Parties operates under the Prime Minister's Office The powers include granting of provisional and permanent registration, overseeing subsidies given to political parties
1993	**Tanzania Communication Act No. 18 of 1993** It makes provision for the establishment of the Tanzania Communications Commission to be responsible for the regulation of postal and telecommunications services in the United Republic of Tanzania. It provides for the designation of public postal and telecommunications licensees and for related matters. **Organisation of Tanzania Trade Unions (OTTU) Act no.3 of 1993** **Broadcasting Services Act of 1993** It makes provision for the establishment of the Tanzania Broadcasting Commission whose main responsibility is to issue licences to private broadcasters.
1994	**Basic Rights and duties Enforcement Act of 1994** **The Vocational Education and Training Act No. 1 of 1994** It repeals and replaces the Apprenticeships Ordinance No.28 of 1974 and the Housing Levy Act. It makes further and better provision for the regulation of the training of apprentices and other

	persons in industry. **Act No.32 of 1994** This amends the Criminal Procedure Act No. 9 of 1987**.** **Employment Act No. 10 of 1994** It makes it unlawful for an employee to work for his employer for more than five consecutive days without a day's rest.
1995	**Education Act No, 10 of 1995** It gives the Minister the responsibility of promoting the education of the people of Tanzania and the progressive development of institutions devoted to that purpose. It makes provision for the establishment of Educational Advisory Council. The Advisory council is responsible for advising the Minister upon matters relating to the execution of the national policy on education. This act makes a written approval of the Commissioner a prerequisite for the establishment of any school.
1996	
1997	
1998	**Constitution Amendments of 1998** Article 20(1) of the 1998 edition of the Constitution entitles very person to, *inter alia*, freedom of association and more specifically to form or join interest-based associations or organizations. **The Free Trade Unions Act No.10 1998,** The act gives the Trade Union Registrar extensive powers to interfere into trade union affairs. Unions that fail to register face massive fines, imprisonment or both. Moreover, the Registrar has wide powers to suspend trade unions. Only one trade union can exist in any establishment or trade or industry. Where there is more than one union, the smaller one can be de-registered Repelled all other previous Act
1999	**Law Reform Commission of Tanzania Amendment Act No. 10 of 1999** It repealed the Law Reform Commission of Tanzania
2000	**Tanzania News Agency Act No. 7 of 2000** It repeals the Tanzania News Agency Act No. 14 of 1976. It makes provision for the transfer of powers, functions and other duties.
2001	**The Commission for Human Rights and Good Governance Act, No. 7 of 2001.** Established the Commission for Human Rights and Good Governance with functions to safeguard and inquire into human right and leadership issues.
2002	**The Community Service Act No.6 of 2002** It makes provision for the introduction and regulation of community service on offenders in certain cases. **The Penal Code, Cap 16, RE 2002** Gives power to the police under section 74 to determine whether the assembly of several people is lawful or unlawful
2003	
2004	**The Employment and Labour Institutions Act, 2004** Reflects Article 20 (1) of the Constitution of Tanzania however restricts the right to organize associations that at least 20 employees should be present under section 46 of the Act.
2005-2009	

A.3 JUDICIAL INDEPENDENCE INDICATOR

This includes all relevant legislation passed during the year under consideration – Constitution /Act/Bills governing the status of the de jure judicial independence. This covers the following issues:

6. Establishment of courts according to law (Constitutional separations of power from arms of Government in law
7. Appointment procedures, including compensation
8. Impartiality: Judicial decisions are not influenced by the judge's personal interest in the outcome of the case. Judges selections are primarily based on merits not because of their political views or affiliations.
9. Access to Courts and Courts record: The people rely on courts to protect their access to justice and to protect their legal rights; Public access to court information.
10. Judicial Accountability: Ability to do what is right, for instance the ability of High Courts to reverse erroneous lower court decisions on appeal. Enforcement of ethical standards and administrative rules between judges and their peers.

Table B. 3 Lists of Laws

Year	Ordinance/Act/Amendments/Proclamations and Regulations
1884	GERMAN EMPIRE – GERMAN EAST AFRICA
1884	
1885	General Act of Berlin of 1885
1886-1889	
1890	
1891	**German Ordinance of 1891** Made provision for the establishment of District and Superior Court Application of German laws
1892-1894	
1895	German imperial decree
1896	Criminal Jurisdiction and Disciplinary Powers over the Natives of 22 April of 1896 Made provision for the justice functions to be performed by the Local Administrative Authorities.
1897-1903	
1904	**Germany Tanganyika Memorandum of 1904-1905** Recommended on the review of the corporal punishment orders. It reported an average of 4783 floggings a year ordered by courts in the colony.
1905	
1906	**Decree of the Governor No.105 of 1906 :**with regards to Administration of Criminal Jurisdiction over Natives Made provision for improved administration of fines and sentencing as well as the application of corporal punishment.
1907	
1908	**Civil Procedure Code 1908** Specified ways and procedures of conducting civil cases. Establishes civil registries of the High Court. **Limitation Act (Adopted) No. 9 of 1908** This barred the entertaining of suits which exceeds maximum of two years by the courts.
1909-1910	
1911	**Regulation to An Advisory Council for Tanganyika** This established the council which consisted of the Governor as assisted by 3 officials and 5 non-government officials, all to be Germany natives.

1912	
1913	
1914	WORLD WAR I STARTED
1914-1919	
1920	**British Foreign Jurisdiction Act 1890** – came into force Define the territory boundaries, established the Office of the Governor and Commander in Chief Established an Executive Council – composition according to Government Notice No.100 of 1920 **Tanganyika Order –in-Council of 1920** Provides for the establishment of the ***High Court*** who has Jurisdiction, both Civil and Criminal over all persons and over all matters in the Territory. Article 19(2) provides for the appointment of Judges in the Highest Court by Governor in accordance with instructions receive from His Majesty through the State Secretary. The tenure is based on His Majesty's pleasure. The appointments of ***Magistrates*** is covered by Article 9 of the Order in Council of 1920 Provides for the appointment of magistrae by Governor in accordance with instructions receive from His Majesty through the State Secretary. The tenure is based on His Majesty's pleasure. **Subordinate Courts Ordinance No.6 of 1920** Establishment of Courts of various classes under the jurisdiction of the High Court
1921	**The Judgements Extension Ordinance No. 13 of 1921** This makes provision for the execution of decrees and warrants of civil courts of neighbouring countries.
1922	BRITISH MANDATE UNDER THE LEAGUE OF NATIONS MANDATES SYSTEMS - TANGANYIKA
1922	**Court Ordinance (Amendment) No. 15 of 1922** Conferred extended jurisdiction to subordinate courts to try and pass sentence in any class of offences ordinarily triable by the High Court, if such court is on extended jurisdiction. **Court of Appeal Ordinance No. 11 of 1922** This gave the right to appeal to the court of appeal but only on the question of law. **Court of Appeal (Amendment) Ordinance No. 38 of 1922** It opened a further leeway to appeal by specifying that additional grounds to appeal were to be allowed only by the leave of the court. **Formation of the Tanganyika Territory Civil Servants Association**
1923	**Native Authority Ordinance of 1923 (No.25/1923)** **The limitation of suit Ordinance No. 22 of 1922** Prolonged certain suits two years especially those dealing with administration of probate property under trusteeship and the Administrator General. **Native Liquor Ordinance No. 24 of 1923** Gave powers to the lower courts to revoke and cancel licence of defaulting liquor licencees. Note that no provisions for appeal were incorporated thereon. **Intoxicating Liquor Ordinance No. 24 of 1923** Section 78 directed appeals from the subordinate courts to the High Court.
1924	
1925	**Courts (Proclamation /supplement) of 1925** Established Jurisdiction of the native courts – Made provision for supervision and appeal to the High court. **Appeals to the High Court (Sentences of Death) Ordinance No. 4 of 1925** Limited the time limit for appeal to 30 days after passing of the sentence under section 2.

1926	**Native Authority Ordinance of 1926 (No.18/1926)** **Legislative Council was established** 20 members representative from the White and Asian Communities appointed by the Governor
1927	
1928	**Notaries Public and Commissioner of Oaths Ordinance (Cap12) 1928** It states the persons entitled to practise as notaries public and commissioners of oaths. **Justices of Peace Ordinance No. 3 of 1928** Established the justices of peace and they had powers to arrest, administering oaths, and compelling appearance of cognizable offenders into courts. **Interpretation of General Clauses Ordinance No. 36 of 1928** This defined and directed the courts on the ways to construe and interpret laws and clauses enacted by the legislative council or thus, adopted.
1929	**Native Courts Ordinance No.5 of 1929** Native courts were divorced from the High Court and were placed under the Provincial Administration except the Liwalis Courts. Parallel court system based on the policy of indirect rule.
1930	**Criminal Procedure Code Ordinance OF 1930 (No.12 /1930)** Amended the Criminal procedure Code of India as it was applied to the territory. This made provision for accused to give evidence on his own behalf. Further it provide for police upon the arrest of accused to frame charges. **Courts Ordinance of 1930 (No.13/1930)** Redefined the Liwalis courts as native subordinate courts under jurisdiction of the High court **Legal practitioners Rules of 1930 (No.82/1930)**
1931	**Indian Contract and specific Relief Acts of 1931** **Arbitration Ordinance No. 26 of 1931** Gave courts mandate to sit as arbitrators and settle matters between parties who submitted themselves to arbitration.
1932	**Arbitration Ordinance No. 32 of 1932** Gave mandate to courts to stay proceedings and suits of which parties had initially referred them to arbitration by submission clauses. **Civil Procedure Code (Amendment) of 1932** It conferred powers to the High Court to make rules to be incorporated to the schedule of the Civil Procedure Code.
1933	**Native Courts (Jurisdiction) (Amendment) Ordinance No. 2 of 1933** It gave powers and jurisdiction of native courts in civil matters by extending the jurisdiction of native courts to the recovery of civil debts. **Police Ordinance No. 23 of 1933** It gave wide powers to police officers. However it directed those powers conferred therein did not affect the powers of **magistrates** in applying the Criminal Procedure Code and the Penal Code to such officers.
1934	
1935	**Foreign Judgments (Reciprocal Enforcement) No. 12 of 1935** It directed courts to recognize and enforce foreign judgments from courts of competent jurisdiction from other countries. **Subordinate Courts (Civil Appeals) Ordinance No. 38 of 1935** It established that all civil appeals originating from subordinate courts should lie/go before the high court.
1936	**Penal Code (Amendment) Ordinance No. 10 of 1936** Restricted institution of suits of all kinds and nature to the approval of the Attorney General.

	Criminal Procedure Code (Amendment) Ordinance No. 11 of 1936 Section 7 and 8 empowered the Governor and the Chief Justice to extend the jurisdiction of subordinate courts to try cases otherwise triable by the high court. Judges were also allowed to combine sentences for offenders charged with multiple offences.
1937	**Children and Young Persons Ordinance No. 3 of 1937** Established juvenile courts to try juvenile offenders. *In real sense, these were subordinate courts sitting as juvenile courts. **Criminal Procedure Code (Amendment) No. 15 of 1937** Subordinate courts were required to inform persons sentenced to death of their right to appeal to the East Africa Court of Appeal. Record of appeal was to be sent to the governor, whether the appeal was granted or not. (Freedom of the courts from the governor was not absolute.)
1938	**The Legal Practitioners (Amendment) Rules GN. No. 39 of 1938** Governed the admission and conduct of legal practitioners in the bar. **Subordinate Courts Practice and Procedure Rules. GN No. 72 of 1938.** Required subordinate courts to make records of every depositions and proceedings going on in courts.
1939	**Criminal Procedure Code (Amendment) Ordinance No. 23 of 1939** Gave powers to the court to summon material witnesses not called by the parties before, powers to convict attempted offences and also give alternative verdicts. Also the High Court was empowered under Section 31 to reject appeals summarily without giving reasons for the rejection. **The Penal Code (Amendment) Ordinance No. 24 of 1939.** Subordinate courts empowered to dismiss charges facing offenders of inferior characters based on their age, mental and health conditions, which are unsound.
1940	**Native Courts (Appeals) (Amendment) No. 28 of 1940** Governor was empowered to establish a board by order, to entertain appeals originating from native courts and later District Officer. **Children and Young Persons Ordinance (Amendment) No. 36 of 1940** Directed the high court to send juvenile offenders to approved schools while the considerations of their matters were still pending in the court in while exercising its appellate or revisional jurisdiction.
1941	**Subordinate Courts Ordinance of 1941 (No.15 / 1941)** Governed all districts courts subordinate to the High Court, and replaced the Courts Ordinance No.13 of 1930. Provided for the removal of the Liwalis Courts from the High Court jurisdiction.
1942	**Native Courts (Appeals) Rules of 1942**
1943-1944	
1945	**Criminal Procedure Code of 1945** Section 4 &5empowers the Governor on recommendation from the Chief Justice to conferred on Magistrates extended jurisdiction to impose any sentence which could lawfully be imposed by the High Court., in districts where it is difficult to access High Court without undue expenditure of time and money. ****Legislative Council was reformed** 2 then 4 Africans3 Asian and 4 European Reps.
1946	TRUST TERRITORY ADMINISTERED BY THE UK - TANGANYIKA
1946-1950	
1951	**The Local Courts Ordinance Cap299 of 1951** Reversed the earlier Native courts provision by including them in the general judicial system of the territory. Native title change to local and were place under the Central Court of appeal over which a High

	Court judge was to preside and permitted the appearance of advocates for the first time at the hearing appeals.
1952	
1953	
1954	**Advocates Ordinance No.25 of 1954**
1955	The National Assembly(Powers and Privileges) Ordinance Cap359 of 1955 Defines and ensures on traditional lines, the privileges immunities and powers necessary for the proper functioning of the Assembly. Legislative Council was reformed 10 Reps from each group
1956	**Trustees Incorporation Ordinance of 1956 (**Cap 376)
1957	
1958	
1959	**Council of Ministers (Miscellaneous Provisions) Ordinance Cap 415 of 1959** Legal provision was made for the allocation among individual Ministers responsibility, permanent or temporary for various topics and the delegation by Ministers of their statutory powers.
1960	
1961	**FULL INDEPENDENCE - TANGANYIKA**
1961	**Independence Constitution of Tanzania** Made provision for the independence of the judiciary. Article 58 made provision for broad-based appointment procedures. **Local courts (Amendment) Ordinance of 1961** Made provision for the reintegration of local courts under the High Court **Judicature and Application of laws Act No.51 of 1961** An act to declare the jurisdiction of the High Court to cover local courts **Judicial Service Commission Regulations No.239 of 1961**
1962	**The Republican Constitution of Tanzania** Laid foundation for imperial presidency – combing the powers of head of state and Government **Local Courts (Minister for Justice and Regional Local Courts Officers) Act No.16 of 1962)** Transferred to the Minister of Justice all powers of establishing, defining the jurisdiction of, and revoking or suspending the warrants of, local courts which had hitherto been vested in the Governor. **Preventive Detention Act No. 60 of 1962** Allowed the president to detain any person for an indefinite duration if the person conducted himself to be dangerous to peace and good order, even when the conduct itself was yet to occur. Later amended by Act No. 2 of 1985.
1963	**Magistrates' Courts Act No.55 of 1963** Subject to the provisions of any other written law, and to the limits of its jurisdiction, a magistrate's court shall exercise its jurisdiction in accordance with It makes provision for the applicability of customary law and it provides for the Customary Courts to exercise jurisdiction in matters of civil nature.
1964	**FORMATION OF THE UNITED REPUBLIC OF TANZANIA**
1964	**The Interim Constitution of the United Republic of Tanganyika and Zanzibar** Modification of the Republic Constitution **Judicature and Application of Laws Act No.46 of 1964** It gives the High Court judges all powers and the authority to exercise the powers of magistrates. **Security of Employment Act, Cap 574 of 1964.** Section 27 gave wide powers that ousted courts, that all appeals from conciliation boards relating to summary dismissal were to be heard by the Minister for Labour and his decision was final and

	conclusive for that matter.
1965	**The Interim Constitution of 1965 Act 18/65** Formalize the one party state and re-enacted all changes brought about by the Union**National Executive Committee Powers and Privileges Act No.49 of 1965**
1966	**Civil Procedure Code Act No. 49 of 1966** It repeals the Indian Code of Civil procedure and it outlines the procedure to be followed where the person to be arrested or property to be attached is outside jurisdiction. It authorises the court to call for a separate trial where necessary. **Judicature and Application of Laws Act No. 31 of 1966** This act makes provision for the High Court to have full jurisdiction in civil and criminal matters.
1967	**The Government Proceedings Act, No. 46 of 1967.** Required ministerial consent for all suits against the government. Later in Para 608 of the Nyalali Commission Report (1992) this shield used by the government was recommended to be removed.
1968	
1969	**The Legal Aid Act No. 21 of 1969** It provides for the rendering of free legal aid in criminal proceedings involving indigent persons. **Magistrates Court (Amendment) Act, No. 18 of 1969** Empowered assessors to be judges of fact and law, thus their opinions became binding on acquittal, conviction and sentence.
1970	**National Security Act No. 3 of 1970** Limits freedom of public information An Act to make better provision relating to State Security; to deal with espionage, sabotage and other activities prejudicial to the interests of the United Republic; and for purposes incidental thereto or connected therewith.
1971-1974	
1975	**The 1975 Amendment Act No. 8 of 1975** Declared the supremacy of the National Executive Committee of the party by providing that all functions of the all state organs were to be performed under the auspices of the party.
1976	
1977	**Permanent Constitution Act** Constitution came into force on April 25, 1977 and established one-party state – it rested on 3 main pillars namely imperial presidency, the two union governments and the one party state. Article 117 establishes the Court of Appeal of Tanzania.
1978	
1979	**Tanzania Court of Appeal Rules, GN. No 102 of 1979** Required judges sitting in an appeal to prepare and record separate judgments. Also gave powers to the Chief Justice to elect quorum of the Court for purposes of any hearing.
1980	**Law Reform Commission of Tanzania Act No. 11 of 1980** It provides for the establishment of the Law Reform Commission of Tanzania **The Penal Code(Amendment) Act No.14 of 1980** It authorises any person to use only reasonable force as may be necessary for defence in self defence or in defence of another or in defence of a property. ****Attorney General vs Lesinoi Ndeinai (1980) TLR 214 at pg 247.** The court ruled that the powers of the president to detain were very wide and subjective. It was thus held unconstitutional.
1981-1983	
1984	**Bill of Rights Constitution, vide Act No. 16 of 1984** Article 15 of the Constitutions guarantees the right of every person to be free and to live like a free

	person. **The Magistrates Courts Act No.2 of 1984** Provided that in every sitting the court shall sit with not less than two assessors. Thus it gave discretion to the magistrate to choose the maximum number of assessors hence repealing the position of **Magistrate Courts Act, Cap 357 of 1863**.
1985	**The Criminal Procedure Act No.9 of 1985** It repeals the Criminal Procedure Code and it makes provision for procedure to be followed in the investigation of crimes and the conduct of criminal trials. **The Ward Tribunal Act No. 7 of 1982(cap206**) It makes provision for the establishment of the Ward Tribunals and their jurisdiction, powers, practice and procedure.
1986	
1987	**The criminal Procedure Act No. 9 of 1987(C20)** It makes provision for the procedure to be followed in the investigation of crimes and the conduct of criminal trials. Any court issuing a warrant of arrest of any person in respect of any offence other than murder or treason may in its discretion direct security to be taken.
1988	**The Criminal Procedure(Amendment) Act No.5 of 1988** Amendment of the criminal procedure Act No. 9 of 1987.It authorizes the High Court to vary terms of bail by lower court.
1989-1991	
1992	**Constitution Amendment Act No.8 of 1992** Article 20 of the Constitution guarantees the right to freedom of assembly, association and expression. **Magistrate's Courts Act No. 3 of 1992** Amendment of the Magistrate's Court Act No of 1984. It makes provision for a primary court to exercise jurisdiction in all proceedings of a civil nature. The practice and procedure of primary courts to be regulated by the Primary Courts Procedure Code in the exercise of the criminal jurisdiction. **Report of Presidential Commission on One Party or Multiparty System in Tanzania, 1992.** Recommended that there should be clear demarcation of responsibilities among the organs of the government. It averred that the courts should be free to perform its functions without interference from other organs under Paras 350, 359 and 365.
1993-1994	
1995	**Judicial Administration Act No. 18 of 1995** This makes provision for the Chief Justice to be in charge of the administration of the judicial service. It allows the Chief Justice to authorise any judge and any judicial officers to exercise his functions on his behalf.
1996	Regulations Act No. 11 of 1996 **Pensions (Additional Retirement Benefits to Specified Public Officers) Order, 1996** This by-law gave the Judges and Justices of Appeal several rights on their retirement.
1997	**The Judicial Service Act No. 29 of 1997** It makes provision for the establishment of a Special Commission for matters relating to primary court magistrates. It provides for the Chief Justice to be Chairman of the Commission and for the Justice of appeal and Principal Judge to be members of the Special Commission. It authorises the President of the Republic to appoint the other two members of the Special Commission.
1998	**Constitution Amendments of 1998** Article 20(1) of the 1998 edition of the Constitution entitles very person to, inter alia, freedom of association and more specifically to form or join interest-based associations or organizations.

	The Institute of Judicial Management Lushoto Act No. 3 of 1998 It establishes the Institute of Judicial Administration Lushoto and to provide for the functions, management and control of the Institute.
1999	**Public Service Retirement Benefits Act, 1999** Provides a new package for judges of the High Court of Tanzania, Justices of Appeal and the Chief Justice. According to Section 20 (3) a Judge and a Justice of Appeal shall retire on a pension, which shall be equal to eighty per cent of the salary of the incumbent holder of the office in which he was serving and from which he retires. **Commercial Court Act of 1999**
2000	**Constitution 13th Amendments of 2000** Article 107B of the 2000 edition of the Constitution made provision for all courts of law in the performing of their work of dispensing justice to be independent and only to follow the Constitutions and the Law of the country
2001-2003	
2004	**The Attorney General Act of 2004** This provides for the discharge of duties and the exercise of powers of the attorney general and to provide for the relationship of the office of the Attorney General with other public offices and officers performing legal functions in the Government and other local government authorities. Article 59 of the Constitution establishes the office of the Attorney General as the advisor of the Government of the Republic in all legal matters. It also provides for the appointment of the Law Officers, State Attorneys and legal officers in the public office, registration, maintenance and custody of the Register of State Attorneys by Deputy Attorney General.
2005	**Judicial Service Act 2005** Repeal the Judicial Service Act, 1962; to enact the Judicial Service Act 2005, to provide for the administration, discipline of Judges, Judicial officers and magistrates in the Judiciary and for related matters
2006	
2007	**The Judges(Remuneration and Terminal Benefits) Act** An act to provide for remuneration, terminal benefits and survivors benefits to a person holding the office of Chief Justice, Justice of Appeal, Principal Judge and Judge. It provides the procedure though which the Commission shall proposals for review of emoluments and other benefits for the Chief Justice, Justice of Appeal, Principal Judge and Judges by the Judicial Service Commission.
2008-2009	

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Appendices C - Impulse response for Namibia: Just-identified Model

Figure C.1: Persistence Profile of CV's to system –wide

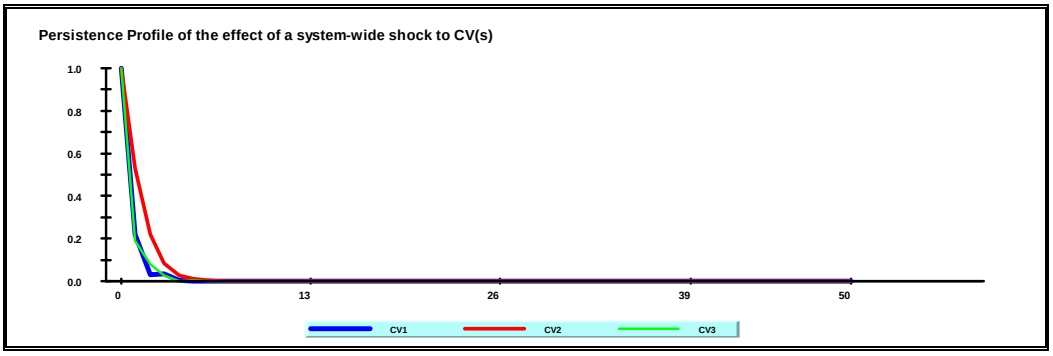


Figure C.2: Shocks in the equation of capital

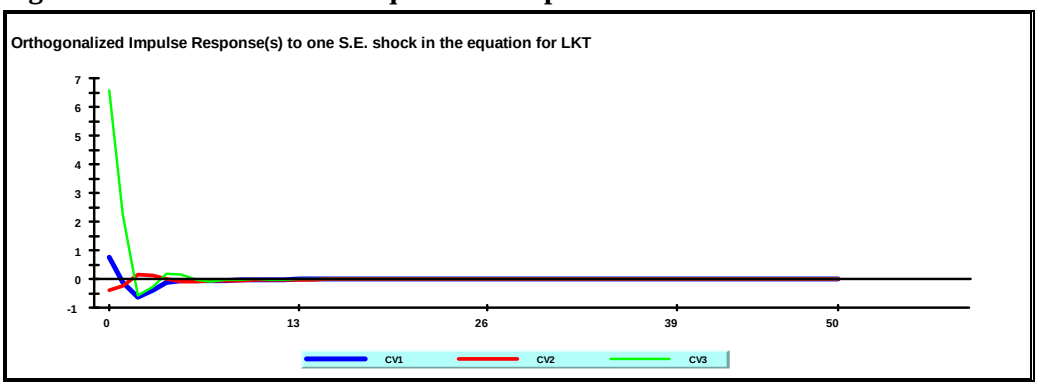


Figure C.3: Shocks in the equation of output

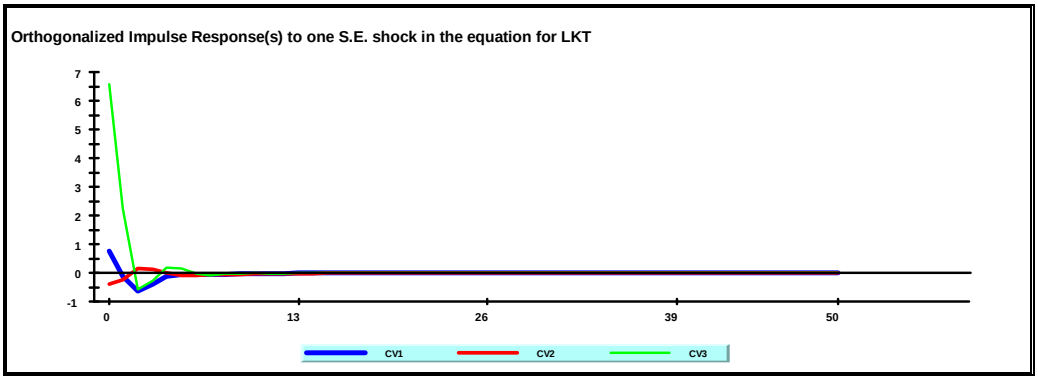
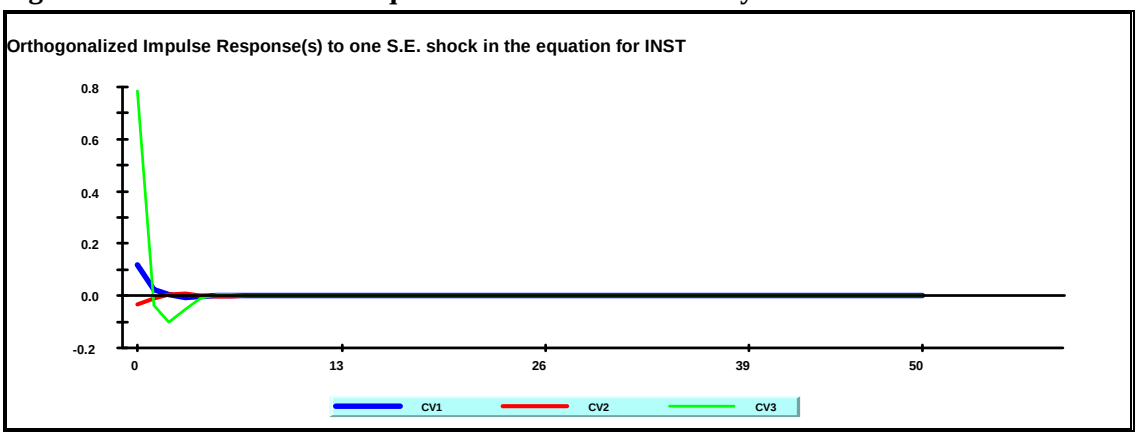


Figure C.4: Shocks in the equation of Political Instability



Appendices D - Impulse responses for Tanzania: Just-identified Model

Figure D.1 Persistence Profile of CV's to system –wide shock

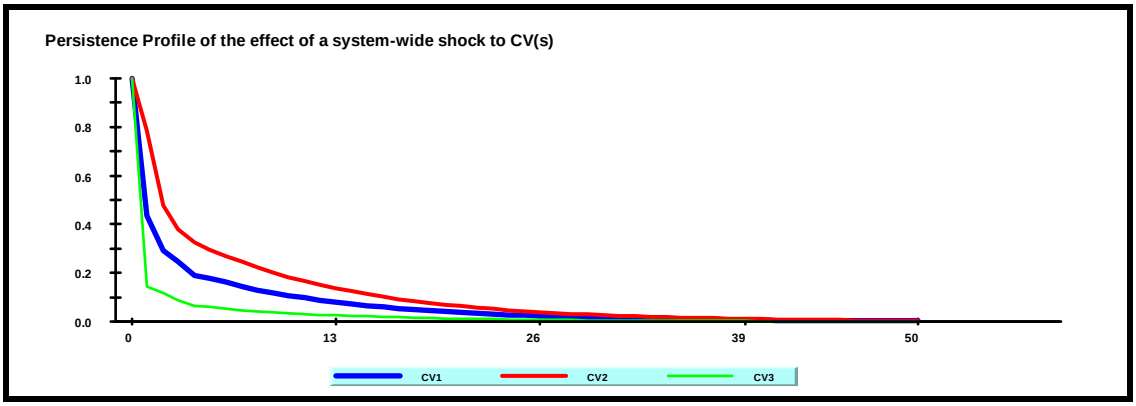


Figure D.2: Shocks in the equation of capital stock

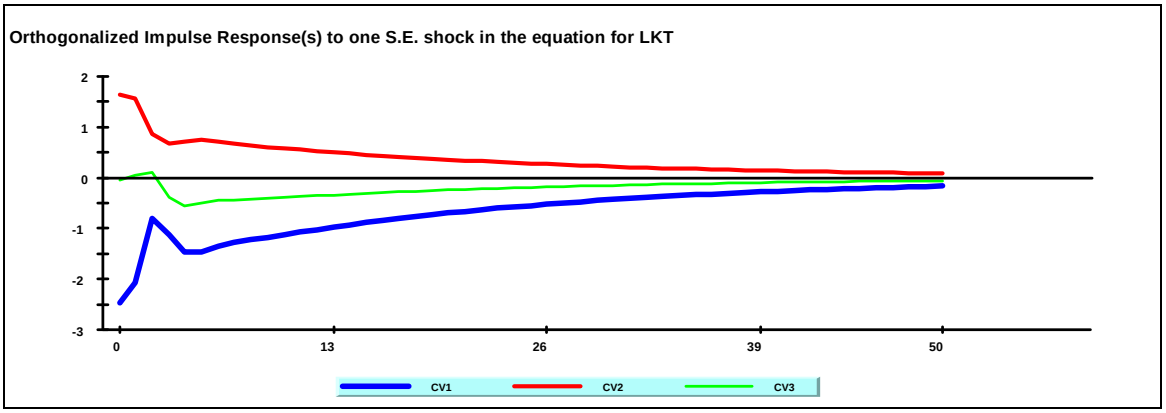


Figure D.3: Shocks in the equation of output

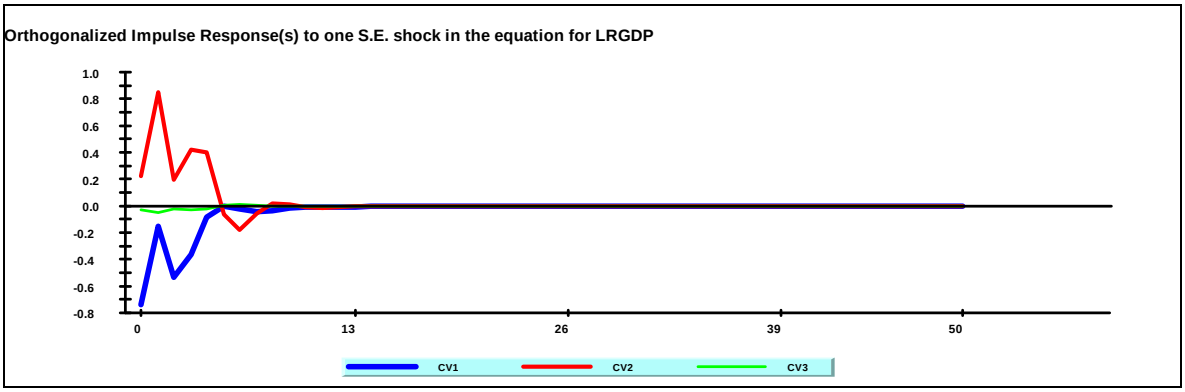


Figure D.4: Shocks in the equation of Judicial Independence

