

Issa Shivji

Interviewed by Marc Wuyts

Issa Shivji presently occupies the Mwalimu Julius Nyerere Research Chair in Pan-African Studies of the University of Dar es Salaam. He was born in Kilosa, Tanzania, in 1946 and obtained his LLB in 1970 at the University of East Africa, his LLM in 1971 at the University of London (LSE), and his PhD in 1982 at the University of Dar Es Salaam. For thirty-six years, he was professor in Constitutional Law at the Faculty of Law of the University of Dar Es Salaam. He has also been advocate of the High Court and the Court of Appeal in Tanzania since 1977 and of the High Court in Zanzibar since 1989. From 1991 to 1992 he was Chair of the Presidential Commission of Inquiry into Land Matters in Tanzania. His numerous publications, both books and articles, focus on the political economy of law and development in Tanzania, on land tenure and, more generally, on human rights, democracy and development in Africa. His books include *Class Struggles in Tanzania* (1976), *Law, State and the Working Class in Tanzania: c. 1920–1964* (1986) and *Not Yet Democracy: Land Tenure Reform in Tanzania* (1998). Most recently, he has been working on the political economy of economic reforms in Tanzania. While mostly based in Tanzania, he has been visiting professor in various locations: El Colegio De Mexico, the University of Zimbabwe, the University of Warwick, the National Law School of India University, the University of Hong Kong, the Centre of African Studies of the University of Cape Town, South Africa, and CODESRIA, Dakar, Senegal. He was elected the president of the Media Council of Tanzania which is a non-governmental watchdog to promote, defend and advocate for media freedom in Tanzania.

MW: A distinctive and constant feature of your work, both past and present, is that you look at law from a (classical) political economy perspective. How did you come to develop this perspective?

IS: I was an active student in my high school, but a kind of nationalist. When I entered the Dar es Salaam campus of the University of East Africa in 1967, the place was in a big intellectual ferment because students had been expelled in October 1966 and Mwalimu Nyerere, the President, had just declared his Arusha Declaration, the socialist blueprint for Tanzanian development, in February 1967. The students,

and not the faculty, were in the forefront of the debates. Debates themselves were not esoteric but related to the struggle for what we called the African Revolution. Among us militant students, moods changed depending on what we read in the morning newspaper about what Nyerere had said or done the day before. When he made some militant speech against imperialism, we all applauded; when he said something we considered naïve or utterly bourgeois, we despaired. The discussion on campus also focused on the role of the university in a socialist Tanzania. This eventually resulted in the introduction of a course at the Faculty of Law on Social and Economic Problems of East Africa. This course exposed us as students to Marxist texts and to the writings of Nkrumah, Fanon and others. That is how I was exposed to political economy. We read a lot, organized ourselves into the University Students African Revolutionary Front (USARF), involving people like Walter Rodney (1972), Yoweri Museveni and others, and conducted our own ideological classes. There was a lot of intellectual activity. USARF started its own mimeographed journal called *Cheche — The Spark*. The first issue carried my article called 'The Educated Barbarians' — an unabashed attack on the compartmentalization of knowledge and the indifference of the student body to the major issues of the day — to the big questions, so to speak. As student debates proceeded, we, the students of the Faculty of Law, argued against what we called 'black letter' law. We argued that law should be taught in its social, economic and historical context. Eventually, this approach to the teaching of law became part of the University prospectus for the faculty. This is where my interest in understanding law in the context of political economy began.

MW: What made the law faculty a catalyst for debate and change?

IS: Yes, actually, many were surprised that the leading student body in this process came from the Faculty of Law. If I may conjecture — I think it was the rather peculiar combination of the 1967–70 cohort of law students coupled with a young faculty in the socio-economic course that provided the impetus. The student body was quite mixed and vibrant with students from Kenya, Uganda and Tanzania. We had some brilliant young lecturers like Sol Piccioto who invited faculty from other disciplines — John Saul, Walter Rodney and others — to give lectures in this course. We had a sharp and profoundly intellectual lecturer from Hungary, for example, who analysed the law of torts and its feudal origins. We also had an optional course, called Law and Development, given by Robert Seidman. This course taught us much, because we disagreed with him and thus produced our own counter interpretations. It was in that course, by the way, that I wrote my first long essay on land law.

MW: At the time, Tanzania was very much in the international limelight. Most writings on Tanzania, however, tended to focus on Nyerere and his particular blend of socialist policies — called Ujamaa. It is in this period that you wrote *The Silent Class Struggle* (Shivji, 1972), which — in contrast to the then existing practice — hardly mentioned Nyerere at all. What was your aim?

IS: The basic thesis of *The Silent Class Struggle* was that revolution does not depend on a single individual and that its direction is determined by the course of class struggles and not by the inclinations of the leader. So I raised the question whether the so-called Ujamaa was really socialism: which class was its driving force, what characterized the nature of the State, and what shaped its accompanying processes of accumulation? It is in this context that I first argued that the nature of the class in power was a bureaucratic bourgeoisie in alliance with imperialism. It changed the nature of debate on the campus. When the *Silent Class Struggle* was published, both students and faculty commented on it. The next issue of *Cheche* carried comments by John Saul, Karim Hirji, Justinian Rweyemamu, Thamas Szentes and others. The book *Socialism in Tanzania: An Interdisciplinary Reader*, edited by Lionel Cliffe and John Saul (1973), which was being published at the time, carried my piece and the comments in its second volume.

MW: You mention the character of accumulation and the role of the State therein. What were your views on this at the time and how do you look at it now with hindsight?

IS: The formulation of the argument was inspired by Baran's (1957) *The Political Economy of Growth*. The emphasis was on the colonial, vertically integrated economy in which surplus generated in agriculture is siphoned off to the metropole where accumulation takes place. Internal accumulation is essentially commercial and compradorial, thus reproducing the colonial nature of the economy, giving rise to what Justinian Rweyemamu (1973) called 'perverse capitalism'. I now think that in its essentials that argument was basically correct, although the formulations sometimes tended to be somewhat absolutist and not nuanced enough. The critique of economic development — agriculture as provider of primary commodities and the limits of import-substitution industrialization — was, I believe, also correct and was eventually partially accepted even by the State when it embarked on its so-called Basic Industries strategy, by which time it was too late. However, the issue was not simply one of economic strategy, but also centrally a political issue concerning the character of the State and its relation to class.

MW: You mention that your argument was somewhat absolutist and lacking nuance. How do you now look at the role of leadership in

shaping outcomes? More specifically, how would you typify Nyerere now?

- IS: Yes, indeed, I think one begins to appreciate the nature of the leadership with hindsight. I think Nyerere's strength was his nationalism — his political strength. To some extent, he was able to carve out a relatively independent niche between the superpowers while gaining sympathy from the social democrats — Canadians, Scandinavians and others. But Nyerere had absolutely no idea of the political economy of imperialism and neither of the role and character of accumulation in the process of development. When you come down to his economic policies, really, you do not see a fundamental break with what I would now characterize as 'disarticulated accumulation'. Furthermore, Nyerere failed to differentiate between national and compradorial capitalism while he was in power. I think it was only after he stepped down and subsequently came to head the South Commission that, for the first time, he began to understand, in a more nuanced way, the nature of capitalism and the processes of capitalist accumulation. Even then, he was still groping. In that regard, I think, the only leader who understood, in his own way, the nature of backward capitalism was Sokoine, the prime minister in the early 1980s, a period of intense economic crisis. The 1981 Party programme — in which I see, but cannot establish yet empirically, the influence of Sokoine — candidly analysed the prior fifteen years of developments since the Arusha Declaration and acknowledged that, under the umbrella of the public sector and parastatal development, a new class of capitalists had emerged that was then beginning to flex its muscles. I have a feeling that Nyerere could not have wholly subscribed to this thesis, but did not feel politically strong enough at the time to push his line.

- MW: Do you see the crisis of the early 1980s as an important watershed, a rupture with the past coherence and discipline of earlier policies and practices?

- IS: No doubt the economic crisis of 1980s brought out the limits of the early period — not only economic limits but even political limits. For the first time, the legitimacy of the State and of Nyerere's regime began to be questioned. The 1982 attempted coup — in which some civilians were allegedly involved — came very close to succeeding. There was an attempt on the part of the ruling party to open up — cautiously though. But most interestingly, the crisis revealed that the party was not as monolithic as it appeared and that, under the flag of socialism and Ujamaa, a State-based class had emerged with capitalist ambitions — however immature and caricatured. In the earlier years, Nyerere no doubt provided the ground for coherence to the political class. But the crisis brought out factions within the party and opened up the space for neoliberalism, started under President Mwinyi, but

subsequently becoming fully established under President Mkapa. The last period of Nyerere's rule (1981–85) was the most interesting and momentous in the country's history — both political and economic — and needs to be studied much more closely, both to understand the limits of the post-Arusha decade, the eventual fruition of neoliberalism and the nature of development under economic reforms.

MW: A significant part of your work has been on land tenure in Tanzania. What is the nature of the land question in Tanzania? How does it differ, say, from the land question in Asia or Latin America? Or, closer to home, from that in Kenya or Uganda?

IS: The land question in sub-Saharan Africa has been most intriguing. The Left was traditionally used to classify the land question in terms of feudal or semi-feudal relationships (Asia) or *latifundias* (Latin America). In many small-peasant economies like Tanzania, you couldn't find either. In such formations, therefore, the inevitable conclusion was that there was no land question, but only an agrarian question. The Presidential Commission, which involved visiting peasant and pastoral communities, for the first time, I think, clarified to me that there was a land question, even in a small-peasant economy like Tanzania's; that the central player in this scenario was the State acting as the landlord; and that the relationship between the peasant producer and industrial/financial metropolitan capital was mediated by merchant capital. The land question thus expressed itself as a *land tenure* question and land tenure is primarily structured by law and legal rules.

Two essential aspects of the Tanzanian colonial formation determined its system of land tenure, which also made it different from Kenya and Uganda. One was the nature of the economy — essentially a small-peasant economy only partially integrated in the world market and the other was Tanganyika's international status as a trust territory under which 'native' interest was supposed to be paramount. Consequently, the colonial State had to give the peasant apparent security against alienation embedded in his/her customary law which at the same time could be shown as a fulfilment of its mandate obligations. The basic contours of the land tenure established by the British in 1923 under which the radical title in land was vested in the State, making the State a superior landlord, survived for some seventy-five years. Throughout, the State remained the ultimate landlord, regulating peasant production through criminal law while facilitating surplus extraction by controlling merchant capital, or, as during the era of the Arusha Declaration, the State becoming both the landlord and the merchant.

MW: The way you view the land question in Tanzania — that is, as a question of land tenure — appears to contain two components. First,

with ownership vested in the State, the State has the means to make land occupation conditional upon its use, thus facilitating surplus extraction. Second, the peasantry remains inherently insecure about land use: at any time, the State can decide to reallocate the land to others for other purposes. Is this correct?

- IS: Yes, in essence, that is correct. The State here acts as a landlord with an entitlement to ground rent. The peasant does not pay the ground rent directly; instead the ground rent is hidden in what the State appropriates through the price differential. In Tanzania, the classical method was to pay the peasant much less than the world market price. The peasant's insecurity — and the constant threat of land alienation, the second component — take different forms depending on the form and means of accumulation, which change over time.

During the current phase, under neoliberalism, where 'accumulation by dispossession' — a form of primitive accumulation — dominates, it is the under- and over-ground resources of land which are preyed upon both by local merchants and foreign predatory capital. With the control over land vested in the State, the State bureaucracy reaps political rents, a form of monopoly rent. More recently, land itself has suddenly become important for multinationals for the agro-fuel industry. Hundreds of thousands of acres of land are being earmarked for alienation to agro-chemical and oil multinationals.

What is now contested is the means by which to expropriate peasant lands: either through the market by commoditizing and privatizing land, or through the force of the State by alienating it from the peasantry. Under the existing land regime as stipulated in the new land legislation, the latter implies that the President first transfers village land into general land and then allocates this general land to an investor, through the 'Tanzania Investment Centre', which by law is authorized to allocate land to an investor which is considered to be in the 'public interest'.

- MW: How, then, did the recommendations from the Presidential Commission of Inquiry into Land Matters in Tanzania, which carried out its work from 1991 to 1992, differ from what ultimately became the new 1999 Land Laws?
- IS: One of the major recommendations of the Commission was to democratize the land tenure system. It recommended that the radical title be divested from the State; and be diversified thus: the radical title in village lands would be vested in the village assemblies — the most democratic organs at the village level — and the radical title in national lands would be vested in a semi-autonomous Land Commission, de-linked from the Executive, but linked to the Legislature, the most representative and open organ at the national level. The government's subsequent land policy rejected these two major recommendations,

while accepting many other minor recommendations. The subsequent land laws — the Land Act and the Village Land Act enacted in 1999 — were the direct outcomes of this land policy.

MW: The Tanzanian State clearly resisted the recommendation that land ownership should be divested from the President. But what arguments did the State actually use to reject the two major recommendations from the Land Commission?

IS: It is no wonder that the State strongly resisted the Land Commission's recommendation that the radical title in land be divested from the President. In fact, the land policy says that vesting of the radical title in the President had served well for the past seventy years and therefore there was no need to change it. Moreover, and most importantly, 'the President cannot be turned into a beggar for land' is how they put it.

MW: But did this insistence on the part of the State that ownership of land remain vested in the President not create tensions between the so-called donor community — the World Bank, in particular — and the Tanzanian State concerning peasant land holdings: the former favouring the commodification of land and the latter its forced alienation?

IS: Actually, the relationship between donors and the State is a lot more contradictory. In any peasant society, it is extremely difficult to commoditize land. The idea of individualizing and titling land (the typical World Bank trajectory) is sold to the peasantry in the language of being able to borrow money for development. But as soon as the peasant hears the possibility of foreclosure on default, it immediately turns away. Or, as happened in Kenya, the Banks cannot enforce foreclosure simply because the bailiffs would be chased away by spear-wielding peasants or, as happens more often, they find the situation on the ground to be very different from that in the land registry. While the land registry may show that a piece of land belongs to X, and has been mortgaged to Bank S, on the ground this piece of land may, for example, already have been parcelled out among several male children in inheritance under customary law. So, the World Bank and the erstwhile donors then quietly take a leaf from Goran Hyden's (1980) 'economy-of-affection' thesis, and silently condone State force to 'capture' the peasantry, while continuing to make public noises about the market and human rights. At the end of the day, we are back to what the old man Marx said: land is an artificial/unnatural commodity!

MW: Would you say that, in an era of neoliberal reforms, this continued ownership of land vested in the President gives the State — and, more specifically, its decision makers and those with access to these decision makers — the means to partake in private capital accumulation without having access to capital themselves?

- IS: Yes, it allows those close to decision makers to get exclusive access to land and then use it as some kind of equity for joint ventures with foreign capital. At least that was the intention of the local elites when they argued during the 1990s debates that only citizens can own land. But these big companies are not interested in joint ventures — they would rather deal directly with the State. There is another interesting twist with respect to accumulation that I should mention at this stage. It concerns how the financialization of the global capitalist economy in the neoliberal phase has expressed itself with regard to land. Historically, from 1923, the land tenure system of Tanzania — the right of occupancy system — was premised on the principle that land security was dependent on use. The right that was given was the right to occupy and *use* land. Thus the titled occupier could not sell bare land; he or she could only sell the developments made on it. That principle was embodied even in the new land laws. The banks were very much against this. The ostensible argument was that they could not take the right of occupancy as a collateral. Eventually the banks and their advocates succeeded and the law was amended in 2004, thus, for the first time, allowing for the sale of bare land. I say the banks' rationale about collateral is ostensible because in practice this will only enable speculators, first, to obtain land through political connection (corruption), then to mortgage it to get loans, and, finally, to use the finance thus obtained for speculative purposes — for example, by 'investing' that money where interest rates are high, like in treasury bills, or returns are certain, like in speculative real estate in urban areas. Thus money deals in money to make more money — George Soros style — rather than being invested in land to produce commodities!
- MW: More recently you have been working on the political economy of economic reforms in Tanzania, initiated from the 1980s onwards. Are these reforms just donor-driven — a matter of externally imposed conditionality — or do they also reflect a distinctive Tanzanian character, reflective of internal political processes of change?
- IS: I think it is always slippery to polarize between external and internal causes and conditions in a peripheral political economy like Tanzania's. One has to carefully analyse the state of internal political struggles during different periods while at the same time contextualizing them in the imperial political economy. Given that Tanzania does not have a strong — or even a relatively strong — bourgeoisie, the so-called donors do play a very important role in driving the reforms. After Nyerere's exit, even the political class, which used to be more nationalist and a bit more independent in policy making, became more fractionalized. Thus the donor factor has become pretty dominant. This does not mean that the outcomes were and are always

as donors planned or desired. History does not work in that kind of conspiratorial way.

MW: How did reforms under President Mwinyi in the early reform period — mid-1980s to mid-1990s — differ from those under President Mkapa in the later period? Was it just a matter of degree or different dynamics?

IS: I think both. Post-Nyerere Tanzania under Mwinyi had emerged from a period of very serious crisis. There was a ‘goods famine’. Liberalization of imports, which brought in its wake the large-scale importation of cheap textiles, including second-hand clothing, had an immediate impact. For a while Mwinyi did become very popular. He also legitimized the former ‘smugglers and economic saboteurs’, who had stashed away their ill-gotten funds in foreign banks, by inaugurating the so-called own-currency imports without questions being asked. He further allowed the Bank of Tanzania to buy gold from small miners with no questions asked, thus boosting revenue. He went rather slow on privatizing, but let the parastatals collapse. And he was lax on collecting taxes from the new ‘own-currency importers’ — or what we at the time used to call ‘the container bourgeoisie’. But these points did not endear him to the donors who wanted to fast-track privatization, open up mineral resources to foreign investors, collect taxes to balance the budget and pay debts. In short, these forces wanted to make the neoliberal reforms irreversible. Mwinyi’s lingering nationalism was an irritation, not only to the external, but also to the internal neoliberal elites. In this respect, Mkapa’s subsequent ten years of government were seen as a godsend.

MW: From what you say, Mwinyi’s era thrived on a process of informalization, chaotic for sure, but also more inclusive, and made possible by creating economic loopholes and thus dismantling the system of regulation, thereby promoting multiple pockets of uncontrolled accumulation fuelled by the reflux of previous illegal capital exports and tax evasion. Mkapa, in contrast, sought to control and formalize the nature of accumulation, while centralizing it in fewer hands. In other words, did more broad-based accumulation from below under Mwinyi shift towards more centralized accumulation from above under Mkapa?

IS: An interesting idea. But I think we have to look at the process of accumulation during the Mwinyi period in a more differentiated manner. First, there was the liberalization of import trade, specifically own-currency imports. Immediately, this helped to alleviate the goods famine while at the same time, ironically, it struck the last nail in the coffin of import-substitution industrialization. But availability of basic goods — for example, used clothes — must also have acted as

an incentive to bring back peasant production into mainstream market away from parallel markets at home and smuggling across the borders. Second, there was the promotion of small-scale production — for example, in gold mining. It seems to me that this cannot be considered ‘informal’ in the same way. There is the so-called informal within the functioning neoliberal economy where actually it only goes to subsidize capital, a form of primitive accumulation by cutting into the necessary consumption of labour. But the informal during the Mwinyi period, for a while, was actually de-linked from the main capital circuits. Small gold-diggers got reasonable returns from the Bank of Tanzania, thus making the risk of smuggling not worth taking; while the State through the Bank of Tanzania got gold at a reasonable price compared to the world market, having cut out the middlemen and smugglers. This specific example could perhaps be described as some kind of ‘accumulation from below’. But of course it could not exist for too long. The two main conditions that underwrote it — its operation outside merchant capitalist circuits premised on supportive State intervention — were both destroyed under Mkapa who sought to return to dependent/disarticulated forms of accumulation from above. Small miners were flushed out as large mining conglomerates were given long-term concessions. Foreign big predatory capital, local merchant capital and local political/bureaucratic elites were back in the saddle to reproduce forms of accumulation by dispossession from above.

MW: What does this imply for the peasantry? Does it lead to its marginalization — pushed back on smaller pockets of land, living mainly from agrarian production for own subsistence coupled with pockets of off-farm employment — or its proletarianization, or both?

IS: I think more marginalization than proletarianization. That is precisely the dilemma of a peripheral African economy. While the peasantry is flushed out of land — not because of a rise in productivity, but precisely because of the lack of it (and as a result of dispossession) — there is insufficient concomitant industrial development to absorb it as proletarians. All in all, the dominant form of accumulation is of the primitive kind, not of expanded reproduction. And the nature of primitive accumulation itself is not a kind of precursor to, for example, industrial accumulation, but actually stifles it. Superimposed on this process are new forms of primitive accumulation — financially based — spurred by liberalizing capital and the operation of currency accounts. I think we have now begun to see the ugly face of neoliberal forms of accumulation during the current phase, the groundwork for which was laid during the Mkapa period.

MW: Thus provoking greater polarization?

IS: Yes, extreme polarization. The kind of polarization which is shaking the very political structures. For the first time, one can feel in one's bones that people have turned very cynical. There is a crisis of political legitimacy with the political class fractionalized and the people individualized. Cynicism is an individual, not a collective, response to a crisis. I wouldn't say though that the situation is hopeless. In Tanzania, we still have pockets of people and even elites who are raising questions, looking for alternatives, making critical interventions. The point of course is for these pockets of resistance to turn into people's solidarities.

MW: What are the implications for the State of democracy and its future in Tanzania?

IS: Huge. Once the State and State positions become the vehicle, or the means, for accumulation, political rents come into their own; separation between economics and politics, however threadbare, which is the basis for political legitimacy and the popular perception that the State is neutral over the divisions of civil society, is grossly compromised; instability sets in; the democratic pretensions of liberal democracy — which in any case is incongruent with the actually existing conditions — are exposed. In the absence of alternatives, there is the danger of populism and demagoguery filling the vacuum. Donors get frustrated, abandon their showpiece and move elsewhere. Hegemonic militarist powers find ways of fishing in troubled waters. In short, an alarmist scenario preceding the so-called 'failed State'. Tanzania is not yet in that situation, but the tendencies are there. Fortunately, the country still has voices which blow the siren, however muted.

MW: As you say, there is growing cynicism in Tanzania. What role do intellectuals play in all this? What happened to intellectual debate in Tanzania?

IS: Ironically, we had more debates under the so-called one-party rule than under the heyday of multiparty liberal democracy. Neoliberalism's structural adjustment programme took its toll on the institutions of higher education. The University campus was starved of resources. The globalization hegemony dictated that the 'villages' of the globalizing world did not need thinkers, but only purveyors of thought generated elsewhere. We became the consultants and the counterparts of consultants on poverty alleviation! Intellectual debates were replaced by policy dialogue workshops while sustained fieldwork was overtaken by rapid appraisals and opinion polls. But, I believe, the neoliberal honeymoon is over. There is a clear groping for understanding the 'bigger picture'. I am optimistic — not in the half-full/half-empty glass sense — but in the sense that we are beginning to ask questions about the nature of the water itself and the container that carries

it. In other words, we are again beginning to ask more fundamental questions on development, the role of the State, the nature of the global political economy, and the processes and character of accumulation beyond the neoliberal fascination with markets and money.

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