



OXFAM **RESEARCH REPORT**

THE WEAK LINK

THE ROLE OF LOCAL INSTITUTIONS
IN ACCOUNTABLE NATURAL
RESOURCE MANAGEMENT

TANZANIA



OXFAM
America

COVER: *Open-pit gold mines like this one bring high environmental and social costs to countries like Tanzania, and need to bring in revenues that can be used to offset negative effects.*

Brett Eloff / Oxfam America

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EXECUTIVE SUMMARY

Tanzania's natural resource sector is established, but for many years the sector has underperformed as a source of government revenues. Tanzania also faces significant challenges in terms of overcoming poverty. Recently, Tanzania has seen significant investment in extractive activities, including expansion of existing mining activity, which has historically dominated the country, and finds of natural gas off the Tanzanian coast. The hope is that expanded production will generate revenues that can be used to tackle poverty.

This research is motivated by a desire to improve natural resource management in Tanzania by seeking opportunities for civil society to improve revenue management. The focus of the work is on exploring the possibilities for (1) increasing the quantity of revenues that remain in Tanzania as a result of the exploitation of the country's natural resources and (2) making sure that the revenues that flow from extractive industries are effectively allocated toward fighting poverty. To these ends, this report focuses on understanding the political economy of revenue-sharing agreements, budget processes, and oversight institutions in Tanzania.

Revenue-sharing agreements in Tanzania are framed by the tension of being generous enough to attract investment to the sector and simultaneously being arduous enough to allow the state to raise the revenues it needs to fuel human development. Historically, the terms of revenue-sharing agreements were shaped by economic crisis and low commodity prices, which resulted in generous concessions toward extractive companies. Stabilization agreements have been a particular problem, as they have prevented the country from being able to improve its terms of revenue collection, despite the increases in global commodity prices. In addition to structural macroeconomic factors, such as debt, economic crisis, and commodity prices, corruption is thought to have played a role in shaping what are perceived to be extremely generous mining contracts. A significant part of this problem pertains to the general lack of transparency in the sector and the fact that the minister of minerals is empowered to sign agreements without consulting any other government authority.

Revenues from the Tanzanian mining sector enter the consolidated budget directly. The way in which oil and gas revenues will be handled is still to be finalized, but bills passed during the writing of this report indicate that revenues will be earmarked for expenditure through a dedicated fund. For now, it is

impossible to track extractive industry revenues directly, and thus one has to look at the budget process, in general, in order to gain some understanding of how revenues are allocated to different sectors.

The formal budget process in Tanzania contains provisions for inputs from multiple interest groups and institutions. Despite these provisions, based on the analysis in this report, it appears that the executive largely retains control over priority setting within the budget through both formal and informal means. In formal terms, the president is able to dissolve Parliament should it not pass the budget. The executive is also able to arbitrate over incorporating inputs from the subnational budget processes. In informal terms, the executive is able to skew the incentives of parliamentarians, which renders them largely compliant in the process of approving budgets and at the same time creates incentives for subnational authorities to be upwardly accountable rather than accountable to their constituents. Budget oversight is undermined by the fact that the controller and auditor general (CAG) lacks both resources and autonomy. The result is that control over the budget process is weak, and irregularities that are identified are frequently not pursued by the executive.

It is notable that Tanzania has placed a high policy priority on developing its agricultural sector. To this end the government has made agriculture a priority within numerous development plans, has committed to agriculture spending targets, and has even created a task force to aid with achieving those targets. Despite these actions, rates of both spending and growth in the agricultural sector remain below the aims stated in national policies. Significantly, an inability to commit resources to the agricultural sector is in contrast with success in committing resources to the education and health sectors. Explanations for this difference may have to do with the fact that both health and education have specific Millennium Development Goals attached to them. In addition, education has been a long-standing development priority for Tanzania. It is possible that these features have combined to empower the Ministry of Education to command resource allocations.

Problems in both the extractives sector and the budget are exacerbated by larger problems affecting Tanzania's oversight institutions more generally. Foremost among these problems is the extent to which the Tanzanian Parliament is largely compliant with the wishes of the executive (although there are notable exceptions), which is thought to be the result of high levels of party discipline engendered through the executive's control of a closed-list system in the election of parliamentarians—with exclusion from primaries used as a means to sanction dissent. In this context, the ruling party has been able to retain its dominant position through the use of state resources to support party goals.

Issues of corruption and good governance are salient both among the Tanzanian public and among the donor community in Tanzania. As such, the country has

undertaken a number of reforms—and created a host of specialized institutions—aimed at addressing corruption. The outcomes of these efforts have, however, remained compromised, as in almost all cases these institutions lack autonomy and resources, and are reliant on Parliament, the executive, or the national prosecutor to carry out any form of sanction. Given the compromised status of Tanzania’s Parliament, as described, this arrangement offers effective immunity to the elite political class.

Despite frustrations within the accountability architecture in Tanzania, it is significant that accountability appears to be contested in the country. Evidence of such contests is the case of improved performance (during the tenure of President Kikwete, 2005-2015) by the Controller and Auditor General (CAG) as well as the parliamentary oversight committees, especially the Public Accounts Committee (PAC). Improvements in the performance of these institutions are thought to have stemmed from a mix of factors including a public appetite for reform, the existence of reform-minded champions within the civil service, and the efforts of civil society groups to publicize and politicize the role and function of these institutions. In addition to these factors, other structural shifts in Parliament are thought to have been important in improving accountability, including younger, more-aggressive, critical, and inquisitive opposition MPs being elected to office and a decline of discipline and attendant rifts in the ruling party (the Chama Cha Mapinduzi [the Party of the Revolution], or CCM) in recent years. The result has been a generally more dynamic Tanzanian Parliament with spillover effects for parliamentary committees and institutions that report to Parliament. Such improvements notwithstanding, the contested nature of accountability in the country is evidenced by the recent passing of legislation that restricts the freedom of the media and undermines the incentives of potential whistleblowers. Likewise, under the new government – led by President Magufuli – there have been early signs that parliamentary oversight and debate will be stifled as a result of efforts to repress the opposition and curtail dissent. In addition the effectiveness of the CAG appears to have been undermined by severe reductions in its budget. If this trend continues, it may undermine future accountability.

Decentralization efforts in Tanzania have included major reforms with the aim of improving service delivery. The results of these reforms, however, have been mixed. Although the logic underlying decentralization has been to empower local governments and make them more responsive to the needs of their constituents, this process is undermined by the fact that the central government is still able to influence staff allocation and management at the subnational level. In addition, fiscal autonomy is undermined by a reliance on central government financing and dictates from the central government, which increasingly directs the spending of supposedly discretionary funding. Likewise, the process of deliberating on plans generated –by sub-national governments is thought to be informally dominated

by executives and technocrats and undermined by the administrative structure and culture of bureaucratic control.

Civil society is active in the budget process in Tanzania. Civil society activities have included formal (though consultative) involvement in the budget process and informal efforts—such as tracking and analyzing the budget as well as publishing popularly understandable versions of the budget. Although these efforts have seen some success, the overall picture is mixed, and it is difficult to discern a clear impact on service provision. In particular, budget tracking efforts are frustrated by problems of access to information, especially when trying to track expenditures all the way to the point of service provision. In addition, even in cases where maladministration has been identified, budget tracking efforts can be frustrated by impunity on the part of government officials. Such challenges are particularly acute given how expensive citizen efforts to follow the money are.

Overall, the possibilities for improving revenue management in Tanzania appear simultaneously hopeful and constrained. On the one hand, the evident capacity for the state to pass laws that undermine oversight and effectively exacerbate impunity is likely to create a sense of despair among reformers who view such acts as evidence of the ongoing hegemony of the ruling party and of the relatively weak position held by civil society. On the other hand, the positive momentum for change within Parliament (established during the last decade, and despite ominous signs from the current government), the support from donors, and the popular appetite for improvements in governance all suggest that many avenues exist for improving the use of natural resource revenues. In this respect, potentially productive efforts might entail campaigning for improved budget allocations and working to popularize and politicize the existing oversight institutions to improve their performance. Another possibility could be capitalizing on issues of parliamentary control. In all cases, such efforts would be bolstered if donor support went toward actions that support improving the function of existing governance institutions rather than pushing for the creation of new institutions, whose function remains compromised.

ACRONYMS AND ABBREVIATIONS USED IN THIS REPORT

| | |
|---------------|---|
| ASAGBC | Alex Stewart (Assayers) Government Business Corporation |
| CAADP | Comprehensive Africa Agriculture Development Programme |
| CAG | Controller and Auditor general |
| CCM | Chama Cha Mapinduzi (the “Party of the Revolution”) |

| | |
|----------------|---|
| CHRGG | Commission for Human Rights and Good Governance |
| CoST | Construction Sector Transparency Initiative |
| CRPO | Central Registry of Petroleum Operations |
| CSO | Civil society organization |
| EAC | East African Community |
| ES | Ethics Secretariat |
| EWURA | Energy and Water Utilities Regulatory Authority |
| GAP | Gold Audit Programme |
| LGA | Local government authorities |
| LGRP | Local Government Reform Programme |
| MDA | Mining development agreement |
| MDGs | Millennium Development Goals |
| MKUKUTA | National Strategy for Growth and Reduction of Poverty (see also NSGRP) |
| MKUZA | Zanzibar Strategy for Growth and Reduction of Poverty |
| MP | Member of Parliament |
| NACSAP | National Anti-Corruption Strategy and Action Plan |
| NEC | National Electoral Commission |
| NPGIS | National Petroleum and Gas Information System |
| NSGRP | National Strategy for Growth and Reduction of Poverty (see also MKUKUTA) |
| OGP | Open Government Partnership |
| PCB | Prevention of Corruption Bureau |
| PCCB | Prevention and Combating of Corruption Bureau |
| PEDP | Primary Education Development Programme |
| PPRA | Public Procurement Regulatory Authority |
| PRS | Tanzania's Poverty Reduction Strategy |

| | |
|---------------|--|
| PSA | Gas and Oil Production Sharing Agreement |
| PURA | Petroleum Upstream Regulatory Authority |
| SADC | Southern African Development Community |
| TAFSIP | Tanzania Agriculture and Food Security Investment Plan |
| TEITI | Tanzania chapter of the Extractive Industries Transparency Initiative |
| TGN | Tanzania Governance Noticeboard |
| TMAA | Tanzania Minerals Audit Agency |
| TPDC | Tanzania Petroleum Development Corporation |
| TRA | Tanzania Revenue Authority |
| URT | United Republic of Tanzania |
| UVCCM | Chama Cha Mapinduzi Youth Wing |
| WWF | World Wildlife Fund |

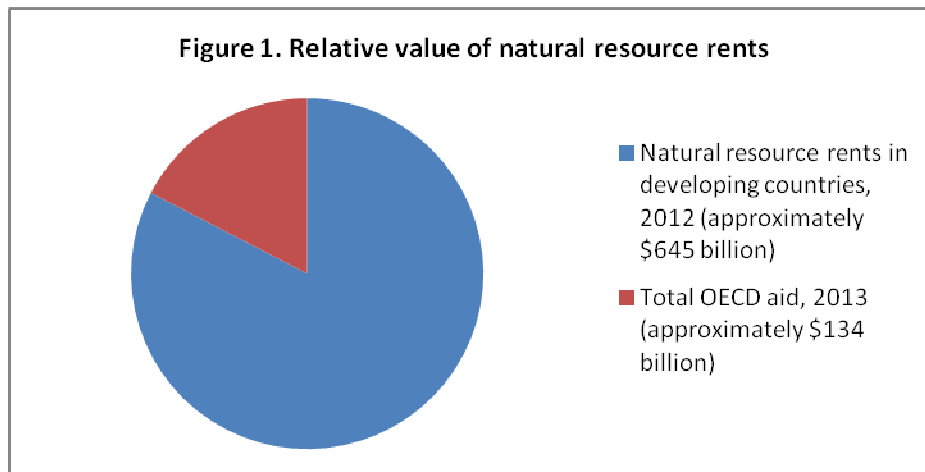
This report was commissioned by Oxfam America and was researched and written by an independent consultant, Martin Kijazi.

The report forms part of a larger study to examine the role of local institutions in the management of extractive industry revenues. The report was commissioned with the intention of creating a space for critical reflection on the part of Oxfam America regarding Oxfam's engagement with efforts to improve natural resource management through empowering citizens to hold their governments to account. The views expressed in this report do not represent the formal views of Oxfam America.

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1. INTRODUCTION

Natural resources present a potentially significant opportunity for developing countries. In 2013, for example, it is estimated that the 85 least developed countries in the world produced mineral, oil, and gas commodities worth a total of \$645 billion. That is over four and a half times the total Organization for Economic Cooperation and Development's official development assistance (ODA)¹ for the same year (Figure 1). Despite such potential wealth, a number of resource-rich countries present a “paradox of plenty”: they are rich in natural resources yet many of their citizens continue to eke out their livings in conditions of material poverty. Strikingly, many of the countries that experience the most dramatic forms of this paradox are also mired in corruption.



Source: World Bank and OECD²

This report is part of a broader study looking at the accountability systems across four countries: Senegal, Ghana, Tanzania, and Peru. These four countries represent a mix of sociopolitical and economic conditions and cover a range of levels of maturity in terms of the extent to which their extractive sectors are established.

¹ Notably, this total includes aid flowing to many countries in addition to those 85. Note that all dollar amounts in this report are US dollars unless otherwise noted.

² Author calculations based off the following data sets: World Bank <http://data.worldbank.org/indicator/NY.GDP.TOTL.RT.ZS>, <http://data.worldbank.org/indicator/SP.POP.TOTL>, <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD> and OECD (<http://www.oecd.org/newsroom/aid-to-developing-countries-rebounds-in-2013-to-reach-an-all-time-high.htm>)

Of the four countries, Tanzania is the poorest (in economic per capita terms). In 2012, its average annual per capita income was just \$570, placing it in the 176th position out of 191 countries in the world. Hence, even by the most optimistic poverty estimates, approximately 12 million poor people live in Tanzania.³ Notwithstanding such a high level of poverty, Tanzania has a fairly well-established extractive sector. Gold is the most important mineral, accounting for nearly half of the country's exports and making Tanzania Africa's third-largest gold producer after South Africa and Ghana.⁴ In addition to gold, the country has recently been engaged in exploring for oil. In 2012 significant off-shore amounts of natural gas were discovered, which experts estimate could attract between \$10 billion and \$15 billion in investment to the country.⁵ Thus, there is considerable scope for revenues from extractive industries to contribute to poverty alleviation in the country.

This report is concerned with understanding how to ensure that wealth from extractive industries is channeled into investments that reduce poverty. The motivation for this research comes from the desire to achieve three objectives:

1. Increase the proportion of revenues from extractive industries that remain in the country in which those resources are located;
2. Increase the allocation of revenues that remain in the country to pro-poor investments that will best address human development; and
3. Make sure that the money that is allocated for expenditure in the budget actually corresponds to real resource transfers and reaches those points of expenditure for which it is intended.

To these ends, this report focuses on (1) understanding how rules for revenue collection from extractive industries are set and (2) understanding how budget spending is prioritized. In the case of the former, the intention is to identify opportunities to increase the proportion of revenues being captured by the state. In the case of the latter, it is to understand how budget priorities might be influenced so that an increased portion of extractive industry revenues are spent on goods and services that are accessed by poor, rural agriculturalists and have been shown to yield the greatest returns in terms of poverty reduction.⁶

³ World Bank, *Tanzania Overview: Context* (2014), <http://www.worldbank.org/en/country/tanzania/overview#1>.

⁴ Mark Curtis and Tundu Lissu, *A Golden Opportunity? How Tanzania Is Failing to Benefit from Gold Mining*, 2nd ed. (Christian Council of Tanzania [CCT], National Council of Muslims of Tanzania [BAKWATA], and Tanzania Episcopal Conference [TEC], 2008).

⁵ Natural Resource Governance Institute, Tanzania country page (2013), <http://www.revenuewatch.org/countries/africa/tanzania/overview>.

⁶ Food and Agriculture Organization (FAO), *The State of Food Insecurity in the World: The Multiple Dimensions of Food Security* (2013); and Food and Agriculture Organization (FAO), *The State of Food and Agriculture 2013: Food Systems for Better Nutrition* (2013)

Increasing the revenue collected by developing countries and better orienting it toward expenditure that meets human development goals are, however, only part of the challenge. There are also issues around how well those rules are followed and whether or not those budgets are effectively executed. Thus, this work is also concerned with (3) understanding the extent to which decision-makers in Tanzania can be considered accountable (or not) and identifying the dynamics that shape that accountability (or the lack thereof).

SOCIOPOLITICAL AND ECONOMIC OVERVIEW

Tanzania has seen significant investment in its extractive sector over the past decade, with gold mining one of the fastest-growing sectors. More than 14 big extractives projects are active in the country, with over 20 foreign companies involved in petroleum exploration alone.⁷ This sector is largely responsible for Tanzania's annual rate of economic growth of approximately 7 percent over the past decade.⁸

However, as mentioned, growth in the extractives sector as well as the overall positive (macroeconomic) performance of the country has not translated into significant poverty reduction.⁹ Tanzania remains largely a poor country. Despite considerable improvements in its Human Development Index¹⁰ results (moving from a score of 0.353 in 1990 to a score of 0.476 in 2012), Tanzania continues to fall among the lowest countries assessed, ranking at 152 out of 187 countries.¹¹ Likewise, while the percentage headcount of people living in poverty decreased substantially between 2007 and 2012, due to population growth, the absolute

⁷ Publish What You Pay (PWYP), *Corporate Social Responsibility (Mining Sector) in Tanzania* (2012), <http://www.publishwhatyoupay.org/resources/corporatesocial-responsibility-mining-sector-tanzania>.

⁸ World Bank, *Tanzania Overview*.

⁹ Brian Cooksey and Tim Kelsall, *The Political Economy of the Investment Climate in Tanzania*, Research Report 01-2011 (Overseas Development Institute, 2011); and Brian Cooksey, *The Investment and Business Environment for Gold Exploration and Mining in Tanzania*, Africa Power and Politics, Background Paper 3 (Overseas Development Institute, 2012), <http://www.institutions-africa.org/filestream/20121217-the-investment-and-business-environment-for-gold-exploration-and-mining-in-tanzania>.

¹⁰ The Human Development Index is a summary measure for assessing human development in three dimensions: life expectancy, access to knowledge, and a decent standard of living. The score ranges from 0 (worst) to 1 (best). <http://hdr.undp.org/en/content/human-development-index-hdi>

¹¹ United Nations Development Programme (UNDP), *Tanzania (United Republic of): HDI Values and Rank Changes in the 2013 Human Development Report* (2013), <http://hdr.undp.org/sites/default/files/Country-Profiles/TZA.pdf>.

number of people living in poverty in the country (12 million) has only decreased by about 1 million people since 2007.¹²

Tanzanian politics are characterized by the dominant position of the ruling party, Chama Cha Mapinduzi¹³ (often known by the abbreviation CCM and translated into English as the “Party of the Revolution”), which has held power in some form since the country’s independence in 1961. Endeavors in socialism—following independence from British rule—are thought to have generated mixed results. On the one hand, the socialist model of development drove significant investments in education and health care. On the other hand, national ownership of the economy is thought to have stifled growth.¹⁴ Democratic reforms enacted in the early 1990s have allowed for the creation of opposition parties and the emergence of civil society; however, the latter remains relatively weak with the legacies of centralized control established under colonialism and socialism still apparent today. Laws and policies governing the extractive industries carry the mark of structural adjustment, during which time the focus was on liberalizing the economy and attracting foreign investment. Despite the establishment of multi-party elections in 1992, the CCM continues to dominate the political landscape; however, the 2015 elections, conducted at the time of the writing of this report, were the most hotly contested in the Tanzania’s history.

FORMAT OF THE REPORT

This report is divided into seven further sections. Section 2 briefly discusses the methods and conceptual framing used in exploring Tanzania’s extractives sector and government accountability. Section 3 describes the technical procedures (the laws and policies) surrounding revenue sharing from extractive industries, including a discussion of how these laws and policies came to be and any major failings in the accountability system regarding natural resource revenue management. Section 4 describes the budget process in technical terms, as well as the institutional failings within it. Section 5 explores where decision-making influence lies in the process of allocating revenues via the budget process. Section 6 seeks to link institutional failings within the budget process and revenue management policy to failures within the broader accountability ecosystem in the country. To do so, Section 6 details how accountability institutions are meant to function, how they actually function, what the

¹² World Bank, *Tanzania Overview and World Bank (ND) Tanzania Mainland Poverty Assessment*. <http://www.worldbank.org/content/dam/Worldbank/document/Africa/Tanzania/Report/tanzania-poverty-assessment-05.2015.pdf>

¹³ CCM was formed by the 1977 merger of Tanzania’s ruling party, the Tanganyika African National Union (TANU), and the Afro-Shirazi Party (ASP), the ruling party in Zanzibar. Before 1992, the CCM was the only legally permitted party in Tanzania.

¹⁴ Numerous external factors affected Tanzania’s economic growth during these years.

implications of their failure are, and how they have been able to stubbornly resist reform. Having focused on how power is manifest at a central level, Section 7 of this report briefly describes the extent to which power has been effectively decentralized in the country. Finally, Section 8 provides an overview of opportunities for civil society to influence budget priorities and drive accountability. Section 9 provides a brief conclusion.

2. METHODS AND CONCEPTUAL FRAMINGS

In addressing the imperatives of this project, this research employed several different methodologies. Given that a core framing of the research was that accountability is not simply the outcome of rules but also the outcome of power relations,¹⁵ a major focus of this study is on documenting differences between what is meant to happen and what actually happens, and then explaining variances. Because the focus of this work is on how revenues are collected and how they are allocated, focus is placed on the laws and policies defining revenue collection and those defining the budget process. To account for the fact that power matters in establishing rules, to whatever extent was possible effort has also been dedicated to explaining the political and economic contexts that shaped the rules governing revenue-sharing policies and the budget.

In focusing on what is meant to happen regarding revenue collection, budget formulation, and oversight, this work focuses on synthesizing laws and policies that were consulted directly by the researcher. In addition, analysis of the laws and policies drew on existing syntheses of these processes, which appear in other analyses. The work also incorporates interviews with relevant experts as well as other civil society actors working in these fields.

Efforts to explain how these laws came to be, especially those laws around revenue sharing from extractives, relied heavily on political economy analysis. This analysis entailed reviews of the academic literature augmented with institutional interviews with experts in academia, government, and the private (extractives) sector. In addition to focusing on Tanzania's historical political economy, the fact that laws and policies governing the petroleum sector were being generated at the time of the research allowed for a particularly focused exploration of how law and policy are made in the Tanzanian extractives sector.

To understand how budget priorities are actually set, this research examines the ways in which the political institutions, the political environment, and the economic system interact and influence one another in formulating budget

¹⁵ Jonathan A. Fox, *Accountability Politics: Power and Voice in Rural Mexico* (Oxford University Press, 2007).

priorities. Here, the emphasis is on how individual decisions interact with structural features to shape budget outcomes, and thus this work undertakes some historical analysis and also relies heavily on speaking with actors who are involved in the budget process. In particular, it was helpful to speak to individuals who are currently seeking to change these rules or alter priorities. Attempts have been made to represent a diverse range of perspectives including those of civil society organizations as well as those of other actors involved at multiple levels of the government. Respondents for such interviews were selected based on an initial identification of key players; after which, snowball sampling was used to gain a greater knowledge and include multiple perspectives. To ensure that informants expressed themselves freely—and in recognition of the sensitivity of some of the information they were describing—all were ensured anonymity for their responses.

To account for the fact that this report is largely focused on budget dynamics manifest at the national level, the research also briefly analyzes the state of decentralization in Tanzania through a review of the comprehensive literature describing decentralization in the country. The intention of this review is to link this process with the account of how budget priorities are set, particularly enquiring as to whether the participatory inputs into the budget have any real traction in the formulation of the actual budget.

Finally, to account for the role of citizen groups in accountability, this work also analyzes the capacity for civil society to oversee budget and revenue-sharing processes and to leverage moments of maladministration in order to garner an accountable response. This research included running a survey with members of civil society organizations regarding what they thought were the major impediments to achieving accountability. The survey was sent to 112 individuals; 57 responded. In addition, the research involved a review of all the known projects that have sought to “follow the money” by reconciling budget allocations with receipts at the point of service delivery. (There are 35 different reports on “follow-the-money activities” undertaken by different nongovernmental organizations [NGOs].) This work also undertook qualitative interviews with key informants/selected personnel in organizations that have played a major role in social accountability efforts in Tanzania. Further selection for interviews was based on snowball sampling undertaken during the reviews (or interviews) of the above social accountability studies.

3. REVENUE SHARING IN TANZANIA

Concerns regarding revenue sharing between the Tanzanian government and extractive companies have historically pertained to the mining sector. More recently, with the discovery of huge quantity of natural gas and prospects in oil in Tanzania, oil and gas contracts and petroleum policy have become more pertinent. This section of this report first provides technical descriptions of the formal rules by which revenues from extractive industries are meant to be collected. Following these descriptions, the section describes the political and economic dynamics that shaped these rules. The section then offers a technical description of the institutions of accountability meant to ensure that rules for revenue collection are effectively followed, and, finally, describes how such institutions of accountability might fail. The majority of the analysis is dedicated to the revenue-sharing rules of the mining industry (because this industry already exists); there is some discussion of the process by which oil and gas laws have been promulgated.

MINING

Mining activity in Tanzania is oriented according to the country's 2009 mining policy. The policy asserts that the Tanzanian government will remain the regulator and facilitator of the mineral sector, will be the promoter of private sector investment in the mineral sector, and will participate strategically in mining projects. The legal provisions for these objectives are contained in the Mining Act of 2010, which also provides for the imposition of mining taxes and royalties. The overall aims of Tanzania's Mineral Policy of 2009 are to:

- Strengthen integration of the mineral sector with other sectors of the economy;
- Improve the economic environment for investment;
- Maximize benefits from mining;
- Improve the legal environment;
- Strengthen capacity for administration of the mineral sector;
- Develop small-scale miners;
- Promote and facilitate value addition to minerals; and

- Strengthen environmental management.¹⁶

The management and administration of mining revenues are the responsibility of two ministries: the Ministry of Energy and Minerals and the Ministry of Finance. The key role of the Ministry of Energy and Minerals is “to stimulate and guide private mining investment by administering, regulating and facilitating the growth of the sector through a well-organized and efficient institutional framework.”¹⁷ The Ministry of Energy and Minerals also issues mining licenses and collects license revenues. In addition, this ministry determines the state’s willingness to enter into both mining development agreements (MDAs) and gas and oil production sharing agreements (PSAs) through the Tanzania Petroleum Development Corporation (TPDC). The role of the ministry also includes regulation, promotion, facilitation, and provision of services, especially to artisanal and small-scale mining operators. For its part, the Ministry of Finance is charged with fiscal policy issues related to tax administration.¹⁸

The Tanzania Revenue Authority (TRA) is responsible for tax collection and advises the Ministry of Finance. The TRA administers all taxes applicable to the mining sector, including taxes on consumption, value-added taxes (VAT), and customs and duties taxes, as well as taxes on income (including corporate income tax, employment taxes, and withholding taxes). Internally, the TRA is organized by function, with some degree of segmentation between taxpayers. Taxes on the mining sector are handled by the Large Taxpayers Department. Although the taxpayers addressed by this department are generally selected based on their turnover, the mining sector is brought under the Large Taxpayers Department on sector-specific criteria.¹⁹

The central government is responsible for the collection of revenues from industry in the form of royalties and corporate income taxes. The main features of revenue collection from large-scale gold mining activity—which dominates the extractives sector—were defined in the Mining Act of 1998 and include 4 percent royalties on netback value²⁰ and a 30 percent corporate tax rate on profits. In addition, withholding tax is charged at 10 percent on dividends, 3 percent on interest and technical services, and 2 percent on management fees.

¹⁶ United Republic of Tanzania (URT)/Ministry of Energy and Minerals, *Mineral Policy of Tanzania* (2009), 5-6.

¹⁷ United Republic of Tanzania (URT)/Ministry of Energy and Minerals, *Mineral Policy of Tanzania* (2009).

¹⁸ URT/Ministry of Energy and Minerals, *Mineral Policy of Tanzania*.

¹⁹ Neema G. Mrema, “Constraints to More Effective Taxation of Extractive Industry in Tanzania” (presentation, commissioner for large taxpayers, Lusaka, Zambia, April 2012); and Tonedeus K. Muganyizi, *Mining Sector Taxation in Tanzania*, International Center for Tax and Development (ICTD) Research Report 1 (Institute of Development Studies, 2012).

²⁰ Netback is calculated as gross revenue minus transport and sales costs.

The tax regime for mining was adjusted with the Income Tax Act of 2004. Under the new terms, companies enjoy deductions on exploration and development capital expenditure for extractive industry operations at 100 percent. All assets used in extractive industry are expensed at 100 percent. Mining companies experience VAT relief on imports and domestic purchases provided they are for exploration, prospecting, drilling, and mining expenditures. Extractive industries are exempt from excise duty on imported—or domestically off-bond—purchased oil for mining or exploration purposes. Mining and mineral exploration companies are refunded for fuel consumed in their mining operations.²¹

The 2010 Mining Act (as well as the 1998 Mining Act that came before it; see the discussion below) contains provisions guaranteeing a stable fiscal regime around any mining contract—a fiscal stabilization clause that states that “the fiscal terms of the agreement will not be affected by any changes to the country’s fiscal system, unless they improve on those provided in the agreement at the time of signing.”²² Notably, “[i]nvestors do not have to put up any extra cost to be offered the fiscal guarantee. Nor is there any time limit to the stabilization clause.”²³ It is worth noting that many mining contracts in Tanzania are protected by such clauses.

The result of such clauses is that many contracts still contain the more-generous terms that were established under the 1998 Mining Act. These terms include capital allowances at 100 percent and tax-free allowances of 15 percent on unredeemed capital expenditure for the year. The terms dictate royalties at 3 percent, and they also allow for losses to be carried forward indefinitely (without mine ring-fencing²⁴), limit customs duties (which also have exemptions) to a maximum of 5 percent, and offer relief from value-added tax on imports and domestic purchases. Finally, the terms include fuel levy exemptions.²⁵

OIL AND GAS

As mentioned, Tanzania has recently discovered gas. The policies and laws governing this sector are still being determined. A draft natural gas policy, developed in 2012, was updated in 2013. Additionally, in July 2015 three

²¹ Mrema, “Constraints to More Effective Taxation.”

²² Muganyizi, *Mining Sector Taxation in Tanzania*, 12

²³ Muganyizi, *Mining Sector Taxation in Tanzania*, 12–13.

²⁴ Mine ring-fencing is a protection-based transfer of assets from one destination to another, usually through the use of offshore accounting. A ring fence is meant to protect the assets from inclusion in an investor’s calculable net worth or to lower tax consequences. In Tanzania, the use of ring-fencing was meant to prevent investors from using losses from one mine to avoid paying taxes from another profitable mine. Now each mine is assessed separately for tax purposes.

²⁵ Muganyizi, *Mining Sector Taxation in Tanzania*; and Olav Lundstøl, Gaël Raballand, and Fuvya Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania: Fiscal Design, Technical Capacity or Political Will?* International Center for Tax and Development/ICTD Research Working Paper 9 (UKAID, NORAD, and Institute of Development Studies, 2013).

controversial bills related to the petroleum sector were discussed in the legislature and passed into law. The bills invoked the “emergence certificate” clause, meaning that they were passed without public scrutiny and with limited opportunities for parliamentary engagement. In addition, the bills were passed into law just a few days before the president closed the last parliamentary session of the year and dissolved Parliament ahead of the general election (which took place in October 2015). As a consequence, civil society organizations have fiercely criticized the passage of the bills, arguing that their introduction at a time so close to the elections, and the fact that they were rushed through Parliament, meant that members of Parliament (MPs) were unlikely to have fully considered their content. In addition, opposition MPs who opposed the manner in which these bills were being proposed were dismissed from the house, after they felt they were left with no choice but to stand up and make a noise in order to disrupt the bills from being submitted for discussion. In total, 43 opposition members were barred from attending the remaining parliamentary sessions; the bills passed with the support of only two opposition MPs.

Despite the manner in which these bills were passed, the process resulted in three acts: the Petroleum Act of 2015, the Tanzania Extractive Industry (Transparency and Accountability) Act of 2015, and the Oil and Gas Revenues Management Act of 2015. The president approved these acts on August 4, 2015. According to the acts, Tanzania will seek as much as an 85 percent share of profits from oil and gas, and the government will take a 60–80 percent portion of profit from onshore gas production, with the ratio varying depending on quantity. The ratio increases to a maximum of 85 percent for gas produced offshore, while the share of oil profit is set at 50–70 percent, depending on the quantity and source of extraction.

Per the 2013 National Gas Policy of Tanzania, upstream activities will be treated as separate “commercial entities” with fiscal terms (including royalties, production sharing, indirect taxes, and windfall profits taxes) to be detailed in a petroleum policy, and midstream and downstream operations will be treated as “general business entities” and will be subject to standard income tax and other taxes such as VAT, import and export duties, and local government taxes.

Unlike the mineral sector, from which revenues simply flow to the country’s treasury, the Oil and Gas Revenue Management Act establishes an Oil and Gas Fund, which will be fed by (1) revenues from petroleum royalties, (2) government profit share from the oil and gas produced, (3) dividends on government participation in oil and gas operations, and (4) corporate income tax on exploration, production, and development of oil and gas resources. According to the Natural Gas Policy of Tanzania (2013), the Oil and Gas Fund will be managed by the Bank of Tanzania.

UNDERSTANDING REVENUE-SHARING POLICY: MINING

A notable feature of the Tanzanian mineral law is the apparently generous terms it offers to companies. Such terms limit Tanzania's ability to generate revenues from the sector. Illustrative of the generosity of these terms are findings that:

[I]f Tanzania had performed on par with Chile from 1998 to 2011 in terms of the achieved relative ratios between levels of contribution to GDP and contribution to domestic revenue from mining, it would have resulted in an increase in tax revenue from mining from USD 776 million to an adjusted USD 1,831 million. This would be an increase of 136 percent: USD 1,055 million in total and USD 75 million/year.²⁶

Echoing similar sentiments, the Tanzania chapter of the Extractive Industries Transparency Initiative (EITI) reports that Tanzania is yet to benefit fully from the gold subsector in terms of economic and social dividends. For example, the report claims that if all the six major mining companies had been paying corporate taxes, the Tanzania Revenue Authority could have generated an additional 200 billion Tanzanian shillings (TSh) in government revenue by the end of December 2011 (EITI 2013).²⁷

Explanations for this failure to collect revenue are thought to lie, principally, in the significant breaks, concessions, and benefits (listed above) that are afforded to companies. For example, the EITI report revealed how the Geita Gold Mine was meant to pay 51 billion Tanzanian shillings in corporate taxes for the year in 2011; but, after negotiations with the Tanzania Revenue Authority, that amount was offset against a VAT claim and, as such, no actual tax was paid. Understanding how these generous terms came to be requires a look back at the historical development of the extractive sector in Tanzania.

Mining in Tanzania started well before Tanzania's independence in 1961 but initially suffered from a lack of direct investment. After the Arusha Declaration in 1967, which formally ushered in the country's socialist era, most mining companies in the country were placed under national control. Performance of the mining sector was poor during this period, with excessive state involvement thought to have stifled investment. Gold exports, for example, dropped from

²⁶ Lundstøl, Raballand, and Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania*, 21.

²⁷ Extractive Industries Transparency Initiative (EITI), *Third Reconciliation Report for Tanzania Extractive Industries Transparency Initiative (EITI) for the Year Ended 30 June 2011* (BDO East Africa and Paulsam Geo-Engineering Ltd., 2013), <http://eiti.org/Tanzania/report>.

500kg in 1969 to just 20kg in 1971.²⁸ The lack of investment meant that large-scale mining suffered²⁹ and small-scale mining dominated the sector.³⁰

Weak economic performance under the state-led economy was compounded by two major droughts, the global oil crisis of the 1970s, and an expensive war with Ugandan dictator Idi Amin. The result was that Tanzania's economy was brought to the point of near collapse. These local circumstances and pressure from the international financial institutions (the World Bank and International Monetary Fund [IMF]) resulted in the government undertaking economic and political reforms during the 1980s. Starting in the mid-1980s, Tanzania began replacing its socialist institutions with those of a market-led economy. Changes included a large number of economic reforms between 1984 and the late 1990s. Under the terms of structural adjustment, the country liberalized its economy, sought to stabilize prices, and promoted investment.

Economic reforms in Tanzania did not initially affect the mining sector. Instead, during President Ali Hassan Mwinyi's tenure (1985–1995) efforts were focused on centralizing the capacity of the state to capture rents from the gold sector, which was, at the time, dominated by artisanal mining and characterized by high rates of smuggling. To achieve this centralization, the state sought to encourage small-scale producers to sell their gold to the state—meaning that the state was essentially buying gold at black market prices. This practice was a partial success in terms of reducing smuggling; however, “by 1994 the bank's buying procedures and the price offered could not compete with those of illegal buyers” and an estimated 70–85 percent of gold continued to be smuggled out of the country.³¹

The liberalization of the mining sector finally occurred during the tenure of President Benjamin Mkapa (1995–2005). The Minerals Policy of 1997 was intended to replace the 1979 act, which had failed to attract large-scale investment into the country.³² In this regard, the 1997 policy was created with the intention of recognizing the opportunity and importance of mining to economic development in Tanzania. It envisaged the private sector taking the lead on exploration and development to (1) generate improvements in small-scale mining, (2) enhance social and economic infrastructure, and (3) increase government revenue. Notably, the Minerals Policy of 1997 identified fiscal policy

²⁸ Muganyizi, *Mining Sector Taxation in Tanzania*, 7.

²⁹ Muganyizi, *Mining Sector Taxation in Tanzania*.

³⁰ It is worth noting that although official records show a decline in production during this period, it has been reported that a great deal of country's minerals were leaving the country illicitly (Cooksey and Kelsall, *Political Economy of the Investment Climate in Tanzania*).

³¹ Cooksey and Kelsall, *Political Economy of the Investment Climate in Tanzania* (76-77).

³² Muganyizi, *Mining Sector Taxation in Tanzania*. The new act recognized the role of small-scale as well as large-scale mining, and it gave Tanzanians exclusive rights within the small-scale mining sector, such as rights of claimholder, broker, and dealer. The act gave the state ownership of minerals with the capacity to grant the rights to explore, develop, and produce minerals.

as an important instrument for providing incentives to investors.³³ Guided by this approach, the Mining Act of 1998 created the generous terms for mining as described above.³⁴

Given these generous terms, the next 10 years saw huge growth in mineral exploration and mining activities, including the commissioning of six large-scale gold mines.³⁵ By 2010, the mining sector contributed 2.4 percent of GDP. Of those earnings, gold accounted for 93 percent.³⁶ Despite this growth, the desire to provide a competitive tax policy meant collection had remained marginal and unpredictable, and thus the contribution to taxes was not proportional to the profits made by mining companies during the period.³⁷

The challenge of collecting a reasonable proportion of mining profits in taxes has been compounded by the issue of stabilization clauses enjoyed by a number of major gold mine operators that signed mining development agreements (MDAs) with the Tanzanian government during the 1990s. In addition to being a time when the country was trying to attract investment, this period is particular for its low commodity prices. Exemplary of this is the case of gold, which sold for \$615 per ounce in 1980, but plummeted to \$362 in 1991 and \$271 in 2001.³⁸ Because all indicators suggested that the price of gold would remain at around \$300–\$350 or fall further, the MDAs that were signed at this time reflected the pessimism of the market.

The reality, however, has been completely the reverse. Gold prices rose from \$279 per ounce in 2000 to \$1,225 per ounce in 2010. Due to stabilization agreements, however, companies have been able to continue extraction based on the generous generic terms of the 1998 Act as well as any specifically generous terms included in their mining development agreements. Although

³³ Curtis and Lissu, *Golden Opportunity?*; Muganyizi, *Mining Sector Taxation in Tanzania*; and Lundstøl, Raballand, and Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania*.

³⁴ Curtis and Lissu, *Golden Opportunity?*; Muganyizi, *Mining Sector Taxation in Tanzania*; Lundstøl, Raballand, and Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania*; and TEITI 2013 (Tanzania Extractive Industries Transparency Initiative (TEITI), *Third Reconciliation Report for Tanzania Extractive Industries Transparency Initiative (TEITI) for the Year Ended 30 June 2011* (BDO East Africa and Paulsam Geo-Engineering Ltd., 2013), <http://eiti.org/Tanzania/report>.

³⁵ Curtis and Lissu, *Golden Opportunity?*; and Muganyizi, *Mining Sector Taxation in Tanzania*. The six mines are Bulyanhulu Gold Mine, Geita Gold Mine, North Mara Gold Mine, Golden Pride Mine, Tulawaka Gold Mine, and Buzwagi Gold. Gold remains the primary mineral in Tanzania.

³⁶ Muganyizi, *Mining Sector Taxation in Tanzania*. Other minerals and gemstones include nickel, cobalt, copper, tin, tanzanite, ruby, green garnet, green tourmaline, sapphire, emerald, coal, kaolin, diatomite, gypsum, pozzolana, limestone, and meerschaum.

³⁷ Curtis and Lissu, *Golden Opportunity?*; Muganyizi, *Mining Sector Taxation in Tanzania*; and Lundstøl, Raballand, and Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania*.

³⁸ Muganyizi, *Mining Sector Taxation in Tanzania*, 12.

profit-based taxes have adjusted and captured some revenue from the increased profitability of the sector, the generous tax concessions granted on non-profit-based taxes are still enjoyed by companies.³⁹ The result is that despite the increases in production that have occurred since 1998, the Tanzanian state has been unable to fully capture the available revenues from the sector and capitalize on the commodity price boom.

In sum, as observers have noted, “[t]he mining tax regime in Tanzania was basically an outcome of efforts to make the sector more attractive, following decades of public ownership and stagnating levels of investment.”⁴⁰ That said, historical analysis shows that countries that have performed particularly well in terms of capturing revenues from their mining sectors (such as Chile and Botswana) have had a dominant—or at least significant—contribution to the overall mining revenue coming from some sort of government ownership within the sector.⁴¹ In Tanzania, no such ownership has been seriously considered since the sector was liberalized in the late 1990s. This lack of government ownership is thought by many to be the result of the well-known poor performance of many state-owned enterprises following processes of nationalization during the socialist era.⁴² Other interviewees consulted in this research, however, suggest that external pressure (from international financial institutions, donors, diplomats, and foreign companies) on local politicians and executives might have also played role in not giving state ownership serious consideration.⁴³

The last point suggests that although structural factors within the global economy played a role in shaping the state’s inability to capitalize on mining revenues, there is also a generalized belief that particular individuals and special interests could have shaped these generous terms. Although there is no firm evidence to support the belief that corruption existed in setting the generous terms of the mining policy and/or in creating specific mining development agreements, some general evidence supports this thesis. For example, it was during the Mwinyi administration (when the Mineral Policy of 1997 was being formulated), that private interests and public office are thought to have become more

³⁹ Muganyizi, *Mining Sector Taxation in Tanzania*, 13.

⁴⁰ Lundstøl, Raballand, and Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania*, 14.

⁴¹ Lundstøl, Raballand, and Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania*, 14.

⁴² It should be noted that problems within the Tanzanian state-owned sector were not all thought to be the result of national ownership of the mines. Other problems included, for example, the mining sector being dominated, on average, by low global mineral prices after the mid-1970s in a situation with small internal markets and large barriers to trade both with Africa and with the rest of the world (see Lundstøl, Raballand, and Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania*).

⁴³ These interviewees included CSO members, fair mining advocates, and long-serving politicians who served during the period of mining sector development under economic liberalization.

interconnected in the development of both private, elite accumulation and patronage-based politics⁴⁴. Likewise, in Tanzania more generally, high levels of corruption are considered to be commonplace in business ventures in other sectors. It has been observed, for example, that business inspections to ensure public environmental standards are usually carried out in an arbitrary and ad hoc manner, and bribes are extracted from companies in return for favorable treatment or expedited processing.⁴⁵

Within the mining sector, specifically, it has been suggested that the state's regulatory capacity is undermined by rent-seeking (private agents capturing policy and regulation) and looting (theft by state functionaries) and that top officials are involved in rent-seeking networks.⁴⁶ In addition, there is lack of transparency around the mining development agreements signed between foreign companies and the government, which are kept confidential.⁴⁷ Finally, repression of press freedom, and violence against journalists, has compromised the ability of the media to report on public unrest and cases of corruption, including in the extractives sector.⁴⁸

The result is that although fiscal stabilization originated as a matter of policy to encourage investments, it is possible that the policy was pursued to excessive levels in order to achieve personal gains. This outcome is especially thought to be the case regarding the 15 percent additional tax write-off, which allowed an extraordinary share of mining rents to be kept by the private sector and exported overseas. In this respect, a particular concern is that the stabilization clauses also include allowances that confer “unaccountable power to the minister of minerals to sign agreements without consulting any other government authority.”⁴⁹ There is concern among fair mining advocates in civil society organizations (CSOs) that the foreign mining companies bribed their way to such advantageous investment conditions and subsequent profits.⁵⁰

⁴⁴ Bruce Heilman and Laurean Ndumbaro, “Corruption, Politics, and Societal Values in Tanzania: An Evaluation of the Mkapa Administration's Anti-Corruption Efforts,” *African Journal of Political Science* 7, no. 1 (2002).

⁴⁵ Global Integrity, “Global Integrity Report 2010: Tanzania” (2010), <https://www.globalintegrity.org/research/reports/global-integrity-report/global-integrity-report-2010/gir-scorecard-2010-tanzania/>

⁴⁶ Cooksey, *Investment and Business Environment for Gold Exploration and Mining in Tanzania*; and Lundstøl, Raballand, and Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania*, 201.

⁴⁷ Curtis and Lissu, *Golden Opportunity?*; and PWYP, *Corporate Social Responsibility (Mining Sector) in Tanzania* and NRGi. Tanzania: NRGi Priority Country- sub-Saharan Africa <http://www.resourcegovernance.org/our-work/country/tanzania>

⁴⁸ Rhodes, T. The invisible plight of the Tanzanian Press, Committee to Protect Journalists, 2013 <https://cpj.org/reports/2013/08/the-invisible-plight-of-the-tanzanian-press.php> and Curtis and Lissu, *Golden Opportunity?*

⁴⁹ Muganyizi, *Mining Sector Taxation in Tanzania*, 12–13.

⁵⁰ Curtis and Lissu, *Golden Opportunity?*, 33.

Suggestive of the fact that tax incentives in Tanzania might have been overly generous (even allowing for the macroeconomic trends) are criticisms from both the IMF and the African Development Bank that the level of tax incentives that governments in the East African region, including Tanzania, afford foreign investors are often excessive compared with what is necessary to attract increased foreign investments.⁵¹ Likewise, the Tax Justice Network asserts that “evidence ... confirms that investment incentives—particularly tax incentives—are not an important factor in attracting foreign investment.”⁵²

Finally, even if one disregards claims of overt corruption in explaining Tanzania’s generous mining policies, it does appear that special interests were prioritized in ways that were unconstitutional and to the benefit of the business community. Illustrative of this is the manner in which mining rights were transferred from smallholder miners (who dominated the sector prior to reform) to foreign investors: the transfers were often violent, involved human rights abuses, and did not follow legal processes.⁵³

Reforms to the mining sector, whether the result of structural economic imperatives or personal attempts at individual enrichment, drove an increase in mining investment. However, the way in which these assets were transferred (against the interests of local communities, in contradiction with the law, and sometimes employing violence and resulting in human rights abuses) contributed to a groundswell of negative opinion towards foreign mining companies, resulting in the politicization of what the public perceived to be unfair mining development agreements.

In response to persistent negative public opinion the government has undertaken three reviews of the national mining policy, based on a stated desire to increase the extent to which the government was benefiting from mining. The overriding finding in all three reviews was that Tanzania has not benefited as much as it should have from the exploitation of its natural resources. Major stumbling blocks were identified as a lack of capacity to manage oversight and a need to revise fiscal incentives for companies. The reviews emphasized an urgent need to build capacity within the government, if it is to ensure sustainable development of the sector, consolidate gains from growth, and have an effective oversight function.

⁵¹ Policy Forum, *Tanzania Governance Review 2010–11: Economic Growth without Poverty Reduction* (2012), 11.

⁵² Tax Justice Network–Africa and ActionAid International. *Tax Competition in East Africa: A Race to the Bottom? Tax Incentives and Revenue Losses in Kenya* (2012). For additional examples, see also Cooksey, *Investment and Business Environment for Gold Exploration and Mining in Tanzania*, and Cooksey and Kelsall, *Political Economy of the Investment Climate in Tanzania*.

⁵³ For more details, see extracts from Lissu, Tundu Antiphas (no date) Unpublished ms on Canadian mining interests in Tanzania) cited in Cooksey and Kelsall (2011, 73-75) on the description of the Sutton (a Canadian company) and the Bulyanhulu gold mine.

The reviews led to revisions of the 1997 Mining Act. The new policy identified opportunities for revised taxation and royalties, and a new act came into force in November 2010, paving the way for mainstreaming taxation of mineral production to align it with the Income Tax Act of 2004 as well as other laws. In addition, the basis for charging royalties was reviewed from netback value to gross sales receipts. Copper, gold, silver, and platinum's royalty rate increased from 3 percent to 4 percent, while other minerals, including gemstones and diamonds, retained the 5 percent rate. Despite these changes, the terms provided for in contracts that existed before the revisions were still honored.⁵⁴

It must be noted, however, that countering this narrative describing a need to reform fiscal incentives so that the state can capture rents from its subsoil assets, Business Monitor International has reported that the push to tighten regulations and hike taxes in the Tanzanian mining sector will make the sector less attractive to prospective investors.⁵⁵ While clearly disputable, such warnings do reflect a particular dilemma for the country, which finds itself trying to balance the desire to attract investment⁵⁶ with the need to ensure that companies pay sufficient tax so that the country's natural resource wealth can contribute to national development.

Considering all these factors, the government of Tanzania appears to have adopted a somewhat ambivalent approach to the signing of mining agreements. On the one hand, the government has repeatedly stated a desire to increase the country's share of income from its natural resources. In this respect, it has even gone so far as to conduct multiple reviews and made efforts to improve on the terms established during liberalization by reforming the mining policy. Yet, on the other hand, the government appears to continue to sign agreements that remain favorable toward companies—including, for example, the maintenance of

⁵⁴ In addition, there are other differences between the two policies. While under the 1997 policy, the minister of mining was empowered to enter into a development agreement with any company; under the 2009 policy, the company must have invested capital of more than \$100 million. Similarly, under the 2010 act, the government can obtain free equity in any mine; no equity participation was provided for in the 1998 act. See Muganyizi, *Mining Sector Taxation in Tanzania*; Lundstøl, Raballand, and Nyirongo, *Low Government Revenue from the Mining Sector in Zambia and Tanzania*; and TEITI 2013 *Third Reconciliation Report*.

⁵⁵ Mnaku Mbani, "3rd T-EITI Extractives Report Out: Tanzania Yet to Fully Benefit from Mining," *Business Times*, July 5, 2013. Mnaku Mbani writing for the *Business Times* cited the Business Monitor International, for noting the following: countries such as Ghana, Peru, and South Africa are also seeking to raise taxes on mining companies, but Tanzania is going significantly further, with plans to hike mining royalties and to introduce an Australia-style 35 percent tax on mining companies. As cited by Mbani Business Monitor International was concerned that, "These tax rises—combined with a lack of adequate infrastructure and the absence of huge mineral deposits compared with many of its neighbors—could direct investors elsewhere on the continent," the report emphasized (<http://www.businesstimes.co.tz/>):

⁵⁶ The country seeks to increase the GDP contribution from mining to 10 percent by 2025—a level that is thought to be overly optimistic (see Mbani, "3rd T-EITI Extractives Report Out").

stabilization agreements in the new policy. Explaining this apparent ambivalence, Curtis and Lissu offer the following:

First, there are differences between government departments, with the Ministry of Energy and Minerals being supportive of the companies while some others want to see more reform. Ministers also need to placate an increasingly critical population by at least being seen to take on the companies. But there are two more fundamental reasons. First, there is a fear that too much reform will upset the companies, the donors and the international institutions, none of which is championing significant, or indeed any, fiscal reform. The government is to a large extent hamstrung by arguments about “international competitiveness” and the overriding priority to continue to attract foreign investment. Second, there are concerns in Tanzania, though no evidence, that some government officials relating to the mining industry may be prone to corruption.⁵⁷

UNDERSTANDING REVENUE SHARING POLICY: PETROLEUM, OIL AND GAS

While the policies of the mining sector are well established, those of the oil and gas sector are just emerging. As was mentioned earlier, Tanzania in 2012 produced a draft National Natural Gas Policy, which was updated in 2013. Additionally, just prior to the writing of this report, three controversial bills related to the management of petroleum and gas were passed into law.

The most notable feature of the 2013 National Natural Gas Policy of Tanzania is that it appears to be an effort at compromise between wooing investors and appealing to domestic interests and concerns about making sure the country benefits from its natural resource wealth. “Tanzania first” has been a constant message in government of Tanzania gas announcements. The government recognizes that the support of the electorate is as important as international support in the successful development of a natural gas industry. As such, it has sought to propagate a sense of ownership for Tanzanian citizens in the gas sector and makes several statements regarding domestic priority, including:

- The policy notes that precedence will be given to supplying the domestic market over the export market;
- The policy includes strengthened provisions on local content issues, and particularly the role that international oil companies should play in this regard;
- There is a suggestion of local listing (on the Dar es Salaam Stock Exchange) in the policy, which states that government of Tanzania will “work with” international oil companies to “explore” this possibility; and

⁵⁷ Curtis and Lissu, *Golden Opportunity?*, 27–29.

- The government of Tanzania will ensure a contractual obligation on investors to undertake locally prioritized community development programs.

Issues of national ownership remain contentious in Tanzania. Whereas the draft policy in 2012 stated that the main gas infrastructure would be owned by the government of Tanzania through the national oil company, this statement is scaled back in the 2013 policy, which refers to the Tanzanian government participating strategically in developing and operating such infrastructure through state-owned entities and public-private partnerships to develop and operate the infrastructure. This change likely represents a concession to concerns raised by international oil companies on the draft policy. Similarly, the updated policy removed references to the Tanzania Petroleum Development Corporation and contains provisions for the split of The Corporation's current dual commercial and regulatory role into separate "relevant entities," including the National Oil Company, which the policy says may not be fully state-owned.

In addition to gaining the trust of international investors, the government appears to be focused on appeasing the electorate's concerns over the "resource curse." This goal is thought to explain the focus on creating a ring-fenced fund for the management of oil and gas revenues. In this respect, the government has further announced its intention to learn lessons from Norway in structuring such a fund.

In terms of the formulation of the recent bills, the most notable feature is the timing of the tabling of the bills, just before Parliament was dissolved, and the use of the emergence certificate clause to fast-track their passing into law. In fact, since the beginning of the economic liberalization era, in the mid-1990s, there has been a trend involving the tabling of extractive industries bills using the emergence certificate clause. This practice severely limits any serious public debate, and, as a result, public reaction has been focused on the manner in which the bills have been rushed through the Parliament rather than on their content. In this respect, while it is not clear what exactly informed the content of these bills, the means by which they were passed highlights the extent to which the executive is able to shape law without significant input or consultation from Parliament—or input from the public.

ACCOUNTABILITY IN REVENUE SHARING

Two types of institutions of accountability are relevant to the process of revenue collection from extractive industries: those "exclusive" to the industry and those that are applicable to the broader process of public financial management. The former are discussed in the following paragraphs, and the latter, which have great overlaps with the next section (on budget and expenditure), are presented there.

In the **mining** sector, the Tanzania Minerals Audit Agency (TMAA) has the mission of conducting “financial and environmental audits as well as auditing the quality and quantity of minerals produced and exported by miners in order to maximize benefits to the Government from the mining industry for sustainable development of the Country.”⁵⁸ Established by the Mineral Policy of 2009, which stipulates the need for an auditing institution that covers the mining of all minerals at large-, medium-, and small-scale mines,⁵⁹ the TMAA is a semiautonomous institution that visits major mines every year and checks their records, including main accounting summary records and underlying documentation and invoicing. After the visit, the TMAA drafts a report containing its conclusions regarding royalties and other taxes (including income taxes) and identifies total amounts affecting each tax liability. Final audit reports by the TMAA are copied to the Ministry of Energy and Minerals, the Ministry of Finance and Economic Affairs, and the commissioner general of the Tanzania Revenue Authority (TRA).⁶⁰

Although the TMAA and TRA have mutually complementary skills, they do not work together on audits. The TMAA reports are used as part of the TRA’s audit. The TMAA and TRA meet quarterly to discuss mutual concerns, and all indicators point to improved cooperation.⁶¹ Notably, the TMAA replaced the Gold Audit Programme (GAP), which had replaced the disgraced Alex Stewart Assayers Government Business Corporation (ASAGBC).⁶² This change was made after a 2008 review revealed serious weaknesses in the GAP, including limited expertise of personnel, limited scope of work (as it only covered gold), inadequate funding, a lack of autonomy, and a weak degree of harmonization and coordination with other sectors such as forests, water, environment, and financial institutions.

In terms of **oil and gas**, numerous provisions for transparency are included in the three acts passed in 2015. The Petroleum Act (applicable to oil and gas) makes it a requirement for the minister of Energy and Minerals , the new Petroleum

⁵⁸ Tanzania Minerals Audit Agency (TMAA), *TMAA Annual Report* (2011). (unnumbered introductory page after cover page)

⁵⁹ Muganyizi, *Mining Sector Taxation in Tanzania*.

⁶⁰ TMAA, *TMAA Annual Report*; Muganyizi, *Mining Sector Taxation in Tanzania*.

⁶¹ TMAA, *TMAA Annual Report*; Muganyizi, *Mining Sector Taxation in Tanzania*.

⁶² In 2003, the Bank of Tanzania hired Alex Stewart Assayers—a US company—to audit gold production and export. The company received a fee of 1.9 percent of the marketed value of the audited gold exports (the gold royalty), leaving 1.1 percent of the 3 percent royalty for the Bank of Tanzania. Alex Stewart also enjoyed tax-free status granted by Minister of Finance Basil Mramba. The royalties were worth \$0.75 million a month. For its first two-year contract, the company netted \$18 million tax free (23 billion Tanzanian shillings) and a total of \$31 million between 2003 and 2006. Subsequently, Mramba and others faced criminal charges in relation to the Alex Stewart contract, as a result of these suspiciously favorable terms and claims that the company was hired in the absence of a formal tender process (see Cooksey and Kelsall, *Political Economy of the Investment Climate in Tanzania*).

Upstream Regulatory Authority (PURA), and the Energy and Water Utilities Regulatory Authority (EWURA) “to ensure transparency” (Articles 5,14, and 31). This act allows PURA to document “details of all agreements, licenses, permits and any amendments to the licenses, permits or agreements whether valid or terminated” and “details of exemptions, variations or suspensions of conditions of license and permit”, and make them available to the public for a fee (Article 92). According to the act, EWURA is to establish a National Petroleum and Gas Information System (NPGIS), most of which “shall be available for inspection by the public.” The NPGIS will include a Central Registry of Petroleum Operations (CRPO), containing information on (1) petroleum supply and use by type, quantity, and region, (2) petroleum importation by type, quantity, and source, (3) petroleum exportation by type, quantity, and destination, (4) refinery products by type, quantity, and source, and (5) petroleum or petroleum products in transit. It will also include (6) a record of all license applications, grants, variations, transfers, suspensions, and cancellations, and (7) all relevant information on the holders and their operations and installations (Article 125).

The Oil and Gas Revenue Management Act, also passed in 2015, requires that the collection and deposit of oil and gas revenues into the Oil and Gas Fund, as well as disbursement from the fund, be transparent and accountable. In particular, “for the purpose of transparency and accountability, the records of oil and gas revenues and expenditure in whatever form, shall simultaneously be published by the Minister in the Gazette,” and also “be published online on the website of the Government and Ministry of Finance” (Article 18).

Finally, the Tanzania Extractive Industries Transparency and Accountability Act (which applies only to mainland Tanzania, but which covers mining as well as oil and gas production) establishes a Tanzania Extractive Industries (Transparency and Accountability) Committee. The committee is to be made up of five members each from the government, the private sector, and civil society. The committee’s functions include (1) developing a framework for disclosure by extractive industry companies of revenues due or paid to the government, (2) collecting from government and companies accounts of revenue paid to government, (3) collecting from companies details of the cost of production, capital expenditures, volumes of production, and export data, and (4) investigating discrepancies. The act goes further, requiring the committee to “cause the Minister to publish ... in the website or through a media which is widely accessible” (1) “all concessions, contracts and licenses relating to extractive industry companies,” (2) “individual names and shareholders who own interests in the extractive industry companies,” and (3) “implementation of Environmental Management Plans of the extractive industry companies” (Article 16).

Further to these efforts, regarding both petroleum and minerals, Tanzania announced its intention to join the Extractive Industries Transparency Initiative (EITI) in 2008. The country was granted temporary candidacy in February 2009

and has been working to meet the standards necessary to become a full member.⁶³ The Tanzania EITI (TEITI) is part of a global coalition of governments, companies, and civil society organizations. The initiative is concerned with reconciling payments (taxes, fees, royalties) that governments receive from oil, gas, or mining companies in a particular fiscal year. EITI, geared to promote material information disclosure on the legal payments that extractive companies contribute to governments' revenues, has been noted as an important step toward reducing corruption risks in the extractive industries through setting industrywide standards.⁶⁴ In addition to setting standards, EITI provides civil society organizations with the opportunity to monitor implementation of these standards.

Tanzania released its first report reconciling payments made by the extractive companies to the government in February 2011⁶⁵. Also that year, the government prepared the EITI validation report, which was forwarded to the EITI international board in Oslo for consideration of full candidacy. Tanzania subsequently released a second and third reconciliation report. Unfortunately, given the timing of the new accountability bill, it was not possible during this research to examine the extent to which it was informed by—or might be complimentary to—the EITI.

ACCOUNTABILITY PROBLEMS WITHIN THE EXTRACTIVES SECTOR

Despite these efforts to ensure accountability within the extractives sector, the sector is still thought to suffer from significant problems. As mentioned above, stabilization clauses, which persist in the Mining Policy of 2010, confer “unaccountable power to the minister of minerals to sign agreements without

⁶³ The Tanzanian chapter of the EITI (TEITI) set up a multistakeholder group (MSG) tasked with overseeing the implementation process of the EITI. The MSG is composed of five representatives each from civil society, extractive companies, and the government. Within this framework, in October 2012 the Forum of Civil Society Organisations gathered in Dar es Salaam to decide on the five civil society organization subconstituency configurations that will represent civil society in the MSG (see Publish What You Pay [PWYP], *Analysis of Tanzania EITI Reconciliation vi Reports I & II* [2013],

<http://publishwhatyoupay.org/sites/publishwhatyoupay.org/files/Tanzania%20EITI%20report%20Analysis%20Reportfinal.pdf>). The meeting brought together 70 participants representing civil society and the coalition of Publish What You Pay.

⁶⁴ “Public-Private Partnerships Susceptible to Corruption,” *Wall Street Journal*, April 19, 2013, <http://blogs.wsj.com/riskandcompliance/2013/04/19/public-private-partnerships-susceptible-to-corruption/>.

⁶⁵ TEITI, 2011. TEITI Report on the TEITI reconciliation for the period 1st July 2008 to 30 June 2009. Reconciliation of payments made by the extractive industries to the government of Tanzania conducted by Chartered Accountants of Hart Nurse Ltd (UK) in association with Chartered Accountants of BDO East Africa for TEITI. Tanzania Ministry of Energy and Minerals, 8th Feb, 2011.

consulting any other government authority.”⁶⁶ In this respect, unlike budgets (discussed below), tax exemptions contained in these agreements are not scrutinized by Parliament and are open to abuse by private companies and individuals.⁶⁷ None of the mining contracts that Tanzania has signed have, to date, been made public or available to Parliament. As such, the TEITI reports describe how the country continues to suffer from (1) a singular lack of openness/transparency in providing accounting information among the sector operators, (2) a lack of robust fiscal systems and related arrangements, and (3) a lack of political will on the part of the relevant authorities, compounded by lack of goodwill all around.⁶⁸ According to the African Development Bank, “[R]evenue performance relative to GDP was not sustained throughout the period from Tanzania Revenue Authority’s establishment (in 1995/96) up to 2007/08. This outcome has been attributed to fiscal corruption⁶⁹, however excessive tax exemptions may also have significantly cancelled out the prospective impact of the reforms on tax revenue performance.”⁷⁰ Notably, after assuming office in November 2015, President Magufuli took the Tanzania Revenue Authority (TRA) to task, immediately leading to revelations of massive corruption that have resulted in significant losses in government revenue. Consequently, the commissioner of the TRA and other TRA officials have been removed from office and charged. While the investigations were not focused on the extractive sector, they have revealed the prevalence of corruption within the TRA in particular, and across revenue collection agencies in general.

In addition to problems of transparency and oversight for mining development agreements (MDAs), local and foreign businesses routinely complain about corruption and inefficiency in related institutions such as the TRA. The main issues facing businesses are “the lack of clarity and transparency of regulations, audit and assessment processes and the open-ended nature of TRA interventions”.⁷¹ The TRA is often mentioned in relation to inconsistent tax assessments that could be in conflict with the fiscal terms of the MDAs, and tax disputes tend to drag on for many years without any effective resolution. The

⁶⁶ Muganyizi, *Mining Sector Taxation in Tanzania*, 12–13.

⁶⁷ Uwazi, *Tanzania’s Tax Exemptions: Are They Too High and Making Us Too Dependent on Foreign Aid?* Policy Brief TZ.12/2010E (2010).

⁶⁸ TEITI, *Third Reconciliation Report*; and Mbani, “3rd T-EITI Extractives Report Out.”

⁶⁹ Benno Ndulu, Lopamudra Chakraborti, Lebohang Lijane, Vijaya Ramachandran, and Jerome Wolgin, *Challenges of African Growth: Opportunities, Constraints and Strategic Directions* (World Bank, 2007).

⁷⁰ African Development Bank (AfDB), *Domestic Resource Mobilization for Poverty Reduction in East Africa: Tanzania Case Study* (November 2010), 20–21 and Benno Ndulu, Lopamudra Chakraborti, Lebohang Lijane, Vijaya Ramachandran, and Jerome Wolgin, *Challenges of African Growth: Opportunities, Constraints and Strategic Directions* (World Bank, 2007).

⁷¹ European Union, Summary of the Agreed Action Points from the First European–Tanzania Revenue Authority (EU-TRA) Dialogue Meeting of January 24, 2011, draft record of the Technical Dialogue meeting on May 7, 2011; quoted in Policy Forum, *Tanzania Governance Review 2010–11*, 11.

management of exemptions and incentives is an area where the expression of political power and interests can be seen. Often, decisions are related to individual companies and people, rather than to any strategic sector. Donors have further contributed to reinforcing this logic through their project financing and lobbying. All of these pressures are in addition to an overall emphasis on foreign direct investment, and an investment climate that has not been able to effectively rank what is important.

Governance challenges that were identified in the reviews of the mining sector do not appear to have been addressed by the reforms. As the 2013 TEITI report notes, reforms in the sector are only half-hearted and still far from being adequate for creating more-transparent, accountable, and equitable benefit-sharing arrangements.⁷² It has been noted elsewhere that proposals for substantive reforms were rejected at the very beginning of the review: “These proposals never got off the ground and were not further pursued by the government for reasons that remain unclear.”⁷³

Regarding the new oil and gas laws, while certain provisions contained within them certainly seem promising, it has yet to be seen how they will play out in practice. In this regard, broader issues around political will within the mineral sector seem pertinent, particularly when one considers the manner in which the bills were passed—using the emergence certificate and just days before Parliament was dissolved.

Further to these problems, within the Petroleum Act, despite the allowances for transparency, some articles provide for confidentiality—e.g., for “proprietary market data”—which may possibly contradict the requirements for transparency. As such, working with this law to deliver transparency may not always be straightforward.

Finally, within the oil and gas policy, although progress has been made, much work still has to be done, including addressing references to numerous pieces of legislation, policy, and regulation, including the Natural Gas Utilisation Master Plan, the Natural Gas Act, upstream policy document/petroleum policy, the Natural Gas Revenue Management Act, the Income Tax Act, and the EWURA Act. All of these will be required in order for the country to achieve a meaningful regulatory environment capable of analyzing the risks of and driving investment

⁷² Based on the examination of the section: “Commentary on contribution of gold revenues to the government: a perspective of MSG”, pg 6-8 of the TEITI Third reconciliation report.

⁷³ It was reported in July 2006, for example, in the Daily News newspaper that several proposals were on the table in the government’s consultation with the companies. These proposals included state participation in developing infrastructure at the mines; corporation tax to be paid at the start of production and not after recovering investment costs; compensation for people displaced by mining to be pegged to the value of mineral exploitation on their land; and mining companies to contribute to a government fund for environmental rehabilitation. Curtis and Lissu, *Golden Opportunity?*, 27.

into Tanzania's gas sector. It will be important therefore to watch how these institutions develop.

Considering revenue sharing in Tanzania, it seems that there is a general sentiment that the country has not been able to benefit suitably from its mineral wealth. This situation appears to be the result of large-scale structural political and economic features including the end of the cold war, the debt crisis, and low commodity prices, which resulted in the sector being reformed with the aims of attracting foreign investment. To this end, the country signed contracts with mining firms that were overly generous, and in particular included stabilization clauses that have made the sector resistant to reform. In addition to these large structural features, however, there is suspicion about the role that individual interests might have played in taking these generous terms to extreme levels in return for personal gain. The case for this lies in the generally high levels of grand-scale corruption in the country, the lack of transparency and openness around these contracts, and the fact that special interests appear to have been catered to in other parts of the reform process.

In terms of the oil and gas sector, because gas has yet to come online, it is not possible to know how well the laws and policies operating in this arena are likely to work. That being said, the sector appears to include provisions allowing for much greater levels of accountability than in mining. Part of the explanation for this situation is thought to lie with both national and international concerns regarding the potential for Tanzania to become a victim of the "resource curse."

Currently, Tanzania appears to be caught between pressures to (1) attract investment in order to expand the sector and to (2) make sure that it captures sufficient wealth from the sector to appease public pressure and drive improvements in human development. This tension is apparent in both the minerals and the petroleum sectors.

The executive appears to be able to dominate the process by which rules and reforms in the sector are made and by which revenue-sharing agreements are signed. Within the mining sector, the minister of minerals is able to sign MDAs with no oversight or transparency requirements. Within the petroleum sector, the executive has been able to create laws with relative autonomy by manipulating the process in which laws are approved, leaving them open to minimal public and parliamentary scrutiny.

Having now looked at the processes shaping Tanzania's ability to capture revenues from its extractive sector, this work turns now to examine the process by which revenues are allocated toward different ends. Because petroleum revenues (which are proposed to be managed in a dedicated fund) have yet to start flowing, and because all of the mineral revenues are managed through the budget, this research now explores Tanzania's budget process as a means for

understanding how extractive industry revenues are allocated for investment in human development.

4. BUDGET PROCESS AND REVENUE ALLOCATIONS IN TANZANIA

Government budgets are important for the implementing policy decisions to achieve social, economic, and political objectives. Budgets serve as a tool for economic and financial management as well as accountability. They also serve as a mechanism for allocating resources (including those from extractive industries) across different needs and priorities as well as for bringing economic stability and growth. This section of this report contains a technical description of the formal rules by which budget formulation and execution is meant to take place in Tanzania, as well as a description of the institutions of accountability that are meant to oversee the process. This research ignores petroleum revenues as they have not yet started flowing. In addition, it is important to note that what is presented here is a simplified version of the budget process; only salient dynamics are highlighted.

GOVERNING LAWS AND REGULATIONS

The process of budget priority-setting is directly tied to Tanzania's National Strategy for Growth and Reduction of Poverty (NSGRP; known as MKUKUTA in Kiswahili).⁷⁴ The budget cycle in Tanzania is summarized in Table 1.

Table 1. Government of Tanzania budget cycle

| | |
|--------|-------------------------------|
| July 1 | Beginning of the fiscal year. |
|--------|-------------------------------|

⁷⁴ HakiElimu and Policy Forum, *Understanding the Budget Process in Tanzania: A Civil Society Guide* (2008); and United Republic of Tanzania (URT), *Budget Background and Medium Term Framework 2011/12–2013/14* (2011) as well as URT, National Strategy for Growth and Reduction of Poverty II (NSGRPII). 2010.

| | |
|------------------|--|
| September | The Ministry of Finance and Economic Affairs, the President's Office Planning Commission, the Prime Minister's Office, regional administration and local governments, and the President's Public Services Management Office start planning for the next fiscal year. |
| November–January | The government budget frame is approved by the interministerial technical committees and the Cabinet. Plans and budget guidelines are placed on the agenda in Parliament. |
| January–February | The government budget guidelines are distributed to ministries, departments and agencies, regional secretariats, and local government authorities. |
| February–March | The ministries, departments and agencies, regional secretariats, and local government authorities engage in budget preparation. |
| April–May | Budgets are submitted to the Ministry of Finance and Economic Affairs for review; thereafter they are submitted to parliamentary subcommittees. |
| June | Parliament approves the government budget. |
| July 1 | Beginning of the new fiscal year; budget execution for previous fiscal year. |
| July 1–June 30 | Budget plans are executed: revenues are collected, grants are disbursed, and expenditures are made. |
| July 1–June 30 | Monthly and quarterly financial reports are produced. |
| July 1 | Beginning of fiscal year T+1. |

Source: Ministry of Finance and Economic Affairs⁷⁵.

There are a body of laws, regulations, and administrative procedures that govern the budget system including its format and timing, as well as the allocation of formal powers and rights in the budget process. The Constitution of Tanzania, in Chapter 7, Articles 135–144, outlines the provisions regarding the finances of Tanzania. The Constitution indicates who has the mandate to prepare the budget and submit it to the Parliament, it outlines the types of revenue receipts and accounts, and determines the authorization of payments.

In addition to the constitutional provisions regarding the budget, the Public Finance Act of 2001 (amended in 2004) provides the legal framework for the budget system with regard to revenue, expenditure control, and accountability. The Annual Finance Act empowers the Ministry of Finance and Economic Affairs to raise money by imposing taxes, levies, fees, and charges to mobilize funds to finance the budget. The Annual Appropriation Act empowers this ministry to draw money from the Consolidated Fund and allocate it to various votes.⁷⁶ It also provides powers for reallocation of funds between budget votes.

⁷⁵ Undated presentation: Planning and Budget Process in Tanzania. Obtained in April 2015

⁷⁶ Budget votes are administrative classifications of government expenditures whereby each of the spending units (ministries, departments, agencies, local governments, etc.) in the government receives funds through budgeting votes. Each receiving unit has a unique code (vote number) that identifies it as recipient of budget funds.

The Public Procurement Act (2004) and its corresponding regulations provide the legal framework for the procurement of goods and services using public funds. The Local Government Finance Act No. 9 of 1982 (as amended by Miscellaneous Act No. 6 of 1999) stipulates the requirements and procedures to be followed by local government authorities (LGAs) in preparing annual estimates of revenues and expenditures. Finally, the Paymaster General's circulars, issued from time to time, prescribe directives to be followed by the accounting officers in the accounting and control of government revenues and expenditures during the financial year.⁷⁷

BUDGET PROCESS

The budget process involves a number of ongoing activities that take place throughout the year. The process⁷⁸ begins with the formulation of budget policy objectives, priorities, and resource projections based on a review of macroeconomic performance. The review is facilitated by the Budget Guidelines Committee, which is charged with preparing annual budget guidelines. This committee is composed of officers from the Ministry of Finance and Economic Affairs, the President's Office - Planning Commission, the President's Office - Public Service Management Ministry, and the Prime Minister's Office - Regional Administration and Local Governments.

The review of macroeconomic performance starts with an assessment of the previous budget assumptions and targets to determine the level of achievement. Other variables reviewed include the economic growth rate, inflation, and government finance. After this review, macroeconomic policy targets are set and an overall framework for the future is formulated. This framework generally covers (1) Tanzania's projected economic growth (GDP), (2) Tanzania's level of inflation, (3) the external sector performance, (4) the sector performance, (5) the budget frame, and (6) financing.

Once the macro-policy performance review and resource projections are completed, the government sets objectives and budget priorities to be achieved in the annual and next two years of the Medium Term Expenditure Framework. In setting the priorities, ministries, departments, agencies, regional secretariats, and local government authorities are asked to complete the Strategic Budgetary System and elaborations of their requests. This stage is considered to be an

⁷⁷ HakiElimu and Policy Forum, *Understanding the Budget Process in Tanzania*.

⁷⁸ The following are important steps in the preparation of the budget, based on the simplified version of the budget process prepared by HakiElimu and Policy Forum in *Understanding the Budget Process in Tanzania* and URT, *Budget Background and Medium Term Framework 2011/12–2013/14*.

ideal time for stakeholders to be involved in the process; LGAs' input begins with ward meetings⁷⁹ (discussed in greater detail in Section 7 on decentralization).

Following the formulation of budget priorities is a process of public expenditure review, which is intended as an accountability mechanism for nongovernmental actors. The review's objective, for the public to assess the consistency of the government's allocations with the government's stated policy objectives. The process entails three distinct elements of the budget:

1. A review of the Consolidated Fund Service, which is a key component of the current budget, covering outlays for servicing the public debt (local and foreign), including amortization and interest payments. Other expenses included in this component are remunerations of specified officers (for example, the chief justice, judges, chairmen of established commissions), and State House operational costs.
2. A review of "supply votes," which includes covering current expenses for the ministries, departments and agencies, regional secretariats, and local government authorities. These funds are meant for the payment of personal emoluments (salaries and wages of government employees) and other charges (such as outlays for financing goods and services needed for government operations).
3. A review of the development budget to assess the use of aid in projects and programs that receive significant support from development partners. Reviews of the development budget are supported by the annual review process in which development partners and the government assess how budget support funds have been used and whether this funding has addressed poverty reduction.⁸⁰

Following the review, budget guidelines are submitted to the Inter-Ministerial Technical Committee, the Cabinet, and the Parliament (January House) for discussion/approval before they are distributed to spending agencies. Approval of budget guidelines is followed by the preparation of revenue and expenditure estimates. Budget estimate preparation consists of estimates of revenues, as well as recurrent and development expenditures, by ministries, departments and agencies, regional secretariats/governments and local governments. It involves linking institutional strategic plans and the budget (i.e., recurrent expenditure and development projects) and Tanzania's Medium Term Expenditure Framework. Essentially, this process is about linking institutional objectives, departmental targets, and activities, identifying inputs and their prices, and costing them for

⁷⁹ A *ward* is an administrative level between a district and a village. LGAs constitute elected district councils. Each ward has one representative who represents several villages in that ward to the district council.

⁸⁰ The annual review is also the time that development partners pledge new budget support to the country. The annual review takes place in November each year.

each year of the Medium Term Expenditure Framework. Institutional budget committees are responsible for carrying out all of these activities.

Final phases of budget preparation follow, and include scrutiny of estimates, consultations with government and development partners, the submission of estimates to the Inter-Ministerial Technical Committee and submission of the Budget Cabinet Paper to Cabinet—for approval of the proposed budget frame for revenue and expenditure. Government and development partners consultations facilitate the budget process by confirming the development partners' financial commitments in the coming annual budget and Medium Term Expenditure Framework.

The process of obtaining parliamentary authorization starts with discussions by sectoral parliamentary committees. After the sector committees of the Parliament have reviewed the estimates, the budget proposals are placed on the agenda of Parliament for debate and authorization. According to HakiElimu and Policy Forum in *Understanding the Budget Process in Tanzania*, Section 2.6:

The main responsibilities of Parliament in relation to the budget process are: scrutinising the budget through various standing committees; adopting or rejecting the budget in Parliament; monitoring the implementation of the budget and the performance of the MDAs [ministries, departments, and agencies]; and overseeing the use of public funds. Parliament does not have the power to amend the budget in Tanzania or to reallocate funds. Although Parliament can refuse to adopt the budget presented by the executive, the consequences of this step are profound; the President has the constitutional power to dissolve Parliament in response.⁸¹

After the budget has been approved by Parliament, revenue collections and service delivery begin. Execution of the budget is controlled by accounting officers who report to the accountant general. Accounting officers are appointed as receivers of revenue and are also accountable for expenditure in their respective votes.⁸² Project inspection/expenditure tracking is undertaken at different levels, from central ministries like the Ministry of Finance and Economic Affairs, the President's Office Planning Commission, the Prime Minister's Office (Regional Administration and Local Government Ministry), and President's Office (Public Service Management Ministry), to sector/ministry, department, and agency level.

⁸¹ HakiElimu and Policy Forum, *Understanding the Budget Process in Tanzania*, 12.

⁸² Their responsibilities include maintenance of proper accounts for control and accountability, reporting on budget performance (both financial and physical), and evaluation.

ACCOUNTABILITY IN THE BUDGET

Mechanisms for control and monitoring of the budget essentially entail periodic reporting and follow-up, including internal audits, external audits, parliamentary control (via oversight committees such as the Public Accounts Committee and Local Authorities Accounts Committee), public expenditure tracking efforts, physical project inspection efforts, and evaluations. This section discusses three formal oversight institutions mandated to perform some of these tasks: the controller and auditor general (CAG), the parliamentary oversight committees and the Local Authorities Accounts Committee. Features of public oversight and expenditure tracking are discussed in Section 8.

The CAG's mandate, powers, and duties are stipulated under the provisions of Article 143 of the Constitution of the United Republic of Tanzania. These provisions were amplified under Section 10 of the Public Audit Act No 11 of 2008. Formally, the Constitution and Public Audit Act mandate the CAG to authorize the use of money to be paid out of the Consolidated Fund and ensure that the payments to be charged on the Consolidated Fund are authorized by law. The CAG is also responsible for auditing and reporting on the accounts, financial statements, and financial management of (1) the ministries, independent departments, executive agencies, public authorities, and donor-funded projects, (2) the local government authorities, (3) the judiciary, and (4) the National Assembly.⁸³

The results of an audit are communicated to the organization that requested the audit and to law enforcement organs such as Criminal Investigations, the Prevention and Combat of Corruption Bureau, and Public Prosecutions. Complete audit reports for the national, regional, and local governments are normally available at the National Audit Office (the office of the CAG) website. In addition, the CAG prepares a report and submits it to the president. The final report is required to be provided by the appropriate minister to the National Assembly within seven days of the next sitting of the Assembly after the minister has received it. Where the appropriate minister fails to do this, the CAG submits a copy of the report to the speaker, who provides it to the National Assembly.

Accounting officers are required to respond to the CAG's annual audit reports and prepare action plans of the intended remedial actions for submission to the Paymaster General. On receipt of the responses and action plans, the Paymaster General submits these to the minister who, in turn, provides them to the National Assembly (in the next session). In addition, a copy of the consolidated responses and action plan is submitted to the CAG. The CAG then

⁸³ Benjamin Mashauri, "The Role of Oversight Bodies in Public Resource Management" (presentation to the Social Accountability Practitioners Conference, Dar es Salaam, August 27–29, 2013).

includes the implementation status of the action plan in the next annual audit report.

In addition to the CAG, **parliamentary oversight committees** are meant to ensure accountability within the budget process. The parliamentary oversight committees refer to the (1) Public Accounts Committee (PAC) and (2) the Local Authorities Accounts Committee. A principal task of the parliamentary oversight committees is to discuss the reports of the CAG after they have been submitted for discussion in the National Assembly. Upon completion of hearings, the parliamentary oversight committees prepare and submit reports, which may include comments and recommendations, to the National Assembly.⁸⁴

The parliamentary oversight committees operate under Sections 8 and 9 of the Constitution as well as the 2008 Public Audit Act. Current parliamentary rules require that the Tanzanian PAC is chaired by a member of the opposition. In the outgoing Parliament, 80 percent of the PAC came from the incumbent CCM government. Thus, it was particularly important in the local context to have the body chaired by a member of the opposition. The term of office for both PAC members and the chairperson used to be five years, but it has recently been reduced to two and a half years. The chairperson is elected by the members of the committee itself. The quorum for the PAC is one-third of the members. The PAC strives for consensus so that its decisions are unanimous; however, if members fail to reach unanimity, the PAC can take decision by simple majority.

The PAC is authorized to examine the accounts of a fairly large number of organizations, including government agencies within the finance portfolio, statutory authorities, government-owned corporations, local government authorities, and Parliament.⁸⁵ Further to this, the PAC has a range of powers including the ability to examine/assess:

1. The accounts and financial affairs of different government bodies;
2. The efficiency, economy, and effectiveness of government policy;
3. The efficiency and economy of policy implementation (value for money); and
4. The effectiveness of policy implementation (delivery of outcomes).

The PAC enjoys the power to pursue self-initiated inquiries and to consider budget estimates; however, this power can be revoked under certain conditions.

Finally, the PAC has the right to examine the auditor general's compliance and performance reports and to refer matters to the Controller & Auditor General

⁸⁴ Mashauri, "The Role of Oversight Bodies in Public Resource Management."

⁸⁵ Riccardo Pelizzo and Abel Kinyondo, *Public Accounts Committees in Eastern Africa: A Comparative Analysis with a Focus on Tanzania*, REPOA Brief 44 (2014); and Riccardo Pelizzo and Abel Kinyondo, "Public Accounts Committees in Eastern Africa: A Comparative Analysis" (2014), http://works.bepress.com/riccardo_pelizzo/64.

(CAG) for investigation. The PAC, however, plays a relatively marginal role in the operations of the CAG. While the PAC has the power to approve the CAG's budget and resources and to appoint an independent auditor of the Audit Office; it plays no role in the selection or approval of the CAG, it lacks the power to review/approve the Audit Office fees, it plays no role in the development of the Audit Office annual plan, it does not assess the Audit Office performance, and it can neither confer nor exempt the CAG from legislated obligations.

The PAC meets for about 80 days a year (though it has problems with members' attendance) and holds about 160 hearings a year.⁸⁶ Anybody can be summoned to testify before the committee; department officials, statutory authorities, and academics, and representatives of government bodies, interest groups, NGOs, and government service providers are regularly summoned as witnesses⁸⁷ to committee hearings. Less frequently, ministers may appear as witnesses before the PAC.

The PAC reports directly to Parliament, where its evaluations are placed on the agenda and discussed. Reports cannot be discussed out of session. The executive is required to respond to PAC assessments and recommendations within six months. Government responses are coordinated by the finance ministry and are submitted for discussion in Parliament.

The PAC enjoys the support of two dedicated staff members—a clerk and assistant clerk — and it is provided with research assistance if and when necessary. Although the PAC has this staff and research support, it does not have much financial or budgetary autonomy.

Finally, the Local Authorities Accounts Committee (LAAC), similar to the PAC in terms of composition, operating rules, and responsibilities, differs in focus: while the PAC focuses on ministries, departments, and agencies, the LAAC has responsibility for scrutinizing and responding to audit reports by the Controller Auditor General (CAG) on local government authorities. Its functions, therefore, include examining local government expenditure, financial year accounts, and any other accounts presented to the assembly as the committee deems fit. In exercise of its functions of scrutinizing the local governments finances and the report of the CAG, it is the duty of LAAC to see that monies reflected in the estimates of expenditure are expended as authorized and that expenditures were duly authorized by appropriate authorities under existing accounting procedures. The LAAC also scrutinizes all such local government accounts in respect of which inspection is conducted by the CAG under a presidential or parliamentary directive or any existing law. The LAAC also provides opinions as it deems fit

⁸⁶ Pelizzo and Kinyondo, "Public Accounts Committees in Eastern Africa: A Comparative Analysis."

⁸⁷ All witnesses are protected (Pelizzo and Kinyondo, "Public Accounts Committees in Eastern Africa: A Comparative Analysis").

after examining the use of supplementary funds allocated to local government authorities for the financial year concerned.

FAILINGS IN BUDGET ACCOUNTABILITY

Despite having such a detailed budget process—and such comprehensive oversight institutions—Tanzania experiences significant challenges regarding its budget. These challenges include difficulty in determining the resources necessary as well as the best expenditures for attaining desired goals; challenges around balancing local and donor resources in the budget; challenges in harmonizing plans from the National Strategy for Growth and Reduction of Poverty, strategic plans, and the Medium Term Expenditure Framework. Equally challenging has been how to improve public expenditure estimates in central government, local governments, and parastatals; how to improve prioritization of projects, programs, and activities by ministries, departments and agencies, regional secretariats, and local government authorities; and how to address the—late submission of reports for decision-making.⁸⁸

Regarding non-tax revenue collections, most ministries, departments and agencies, regional secretariats, and local government authorities underestimate the expected revenues to be collected and sometimes do not publish the actual collections. Not adhering to budget ceilings has been a problem; some ministries, departments and agencies, regional secretariats, and local government authorities make special requests that exceed the budget ceiling. It is difficult to know how to capture and manage the local government authorities own sources of income—many of these authorities fail to report their income. Issues of budget reallocation are still problematic as these may cause divergence from the original budget goals.⁸⁹

In addition to these procedural problems, there also appears to be an imbalance of power within the process of budget formulation. Most notably, the executive dominates the Budget Guidelines Committee (which is responsible for undertaking the macroeconomic review and preparing the budget guidelines). This committee includes officers from the Ministry of Finance and Economic Affairs, the President's Office, and the Prime Minister's Office, and therefore affords the executive a strong role in guiding the budget process.

Further to this, the limited formal powers of Parliament—which include a restricted ability to amend the budget or reallocate funds, and which result in the president having the power to dissolve Parliament should it refuse to authorize

⁸⁸ United Republic of Tanzania (URT)/Ministry of Finance and Economic Affairs (MoFEA), *Planning and Budget Process In Tanzania* (n.d.), 29–33, http://www.tenmet.org/1goaltanzania/BUDGET%20PROCESS%20PRESENTATION_Kyamani%202.pdf

⁸⁹ URT/MoFEA, *Planning and Budget Process*, 29–33.

the budget—has resulted in a view among some interviewees from civil society, that the parliamentary role in the budget is more of a rubber-stamping process than genuine oversight.⁹⁰

In addition to these problems, the controller and auditor general's (CAG) office also suffers from certain deficiencies. Firstly, the CAG's jurisdiction is limited so that the CAG is not able to audit public-private partnerships, nor is the CAG able to access financial information where the government has vested interests. Importantly, this access limitation includes extractive industries.⁹¹

Although the CAG's oversight functions were strengthened in 2001 by the Public Finance Act and in 2008 by Audit Act No 11, and although its independence is guaranteed by the Tanzanian Constitution, its budget is determined by the executive. As such, as with many other oversight institutions (discussed below), the CAG has in the past struggled with a lack of staff and resources, and it has therefore been unable to fulfill its responsibilities. Indeed, there has been great concern during the most recent parliamentary budget session which has resulted in the budget for the office of the CAG, seeing significant reductions in its budget for the financial year 2016-17.⁹² Further to these problems, despite the independence enshrined in the Constitution, appointments to the CAG often do not support its independence and may be based on nonprofessional criteria, such as political, family-based, or personal loyalties.⁹³

The CAG's annual reports are rarely followed up by action from the executives in the government's ministries, departments and agencies, or local government authorities. Indeed, this unresponsiveness has been the case over multiple assessment periods.⁹⁴ Challenges within the operation of the CAG are revealed by the findings of the CAG report for the year 2010/11⁹⁵, which showed major financial mismanagement and embezzlement of funds as well as weaknesses in internal controls, both at the national and local level.⁹⁶ Although the report led to the firing of several cabinet ministers⁹⁷ and eight district executive directors,⁹⁸

⁹⁰ Some ability to amend the budget has been introduced by the change in parliamentary regulation of 2013, as discussed above. But in practice, that role remain limited. Given that the change was introduced only two budget years ago, it remains to be seen whether it will lead to a much stronger role of Parliament in influencing the budget.

⁹¹ Mashauri, "The Role of Oversight Bodies in Public Resource Management."

⁹² Mtulya, Athuman. "Concern as CAG Office Budget Slashed By Half", *The Citizen*, Tuesday, May 31, 2016,

⁹³ Global Integrity, "Global Integrity Report 2010: Tanzania."

⁹⁴ Policy Forum, *Tanzania Governance Review 2010–11*; and Policy Forum, *Tanzania Governance Review 2012: Transparency with Impunity?* (2013).

⁹⁵ Annual General Report Of The Controller and Auditor General On the Audit of the Financial Statements of the Central Government for the year ended 30th June, 2011. The United Republic Of Tanzania National Audit Office. 31st March, 2012

⁹⁶ Legal and Human Rights Centre, *Tanzania Human Rights Report 2012* (2013).

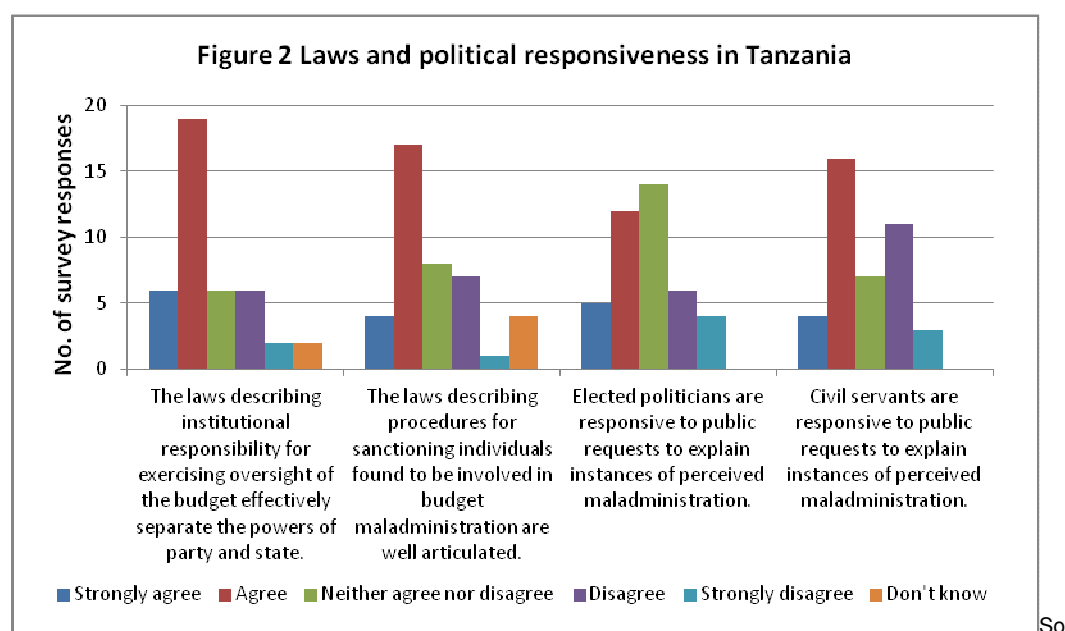
⁹⁷ Legal and Human Rights Centre, *Tanzania Human Rights Report 2012*.

some interviewees consulted in this research have indicated that such punitive measures are limited to a few individuals. In the words of one interviewee:

[I]t is a way of sacrificing a few individuals to pretend that accountability is being exercised in a system where corruption and embezzlement is widespread. Also, the punishment, which is often too mild, does not deter others. “Big fish” [high-ranking officials] are only held to account, if at all, when there is large public outcry and/or when donors freeze aid due to a major corruption scandal.⁹⁹

In this respect, action is taken against the “small fish” [lower-ranking officials]. The “big fish” often are protected by other big fish, and even if they lose their jobs as a consequence of public outcry, they are not required to return stolen funds and no criminal charges are laid against them.

The result of these dynamics is that although the Tanzanian budget process includes a number of formal means for ensuring accountability, in practice, accountability in the budget is compromised by a bureaucracy that is largely unaccountable (see Section 6 for more details). Notably, as the findings from the survey carried out as part of this work show (Figure 2), this view is held by members of civil society, who rank formal policies as more effective than actual engagement with politicians.



⁹⁸ “Tanzania: 24 Tanzanian District Officials Reprimanded for Corruption,” *AllAfrica*, August 8, 2013, <http://allafrica.com/stories/201308090516.html>.

⁹⁹ Interviews with CSO personnel involved in budget accountability, April 2014, in reference to some recent grand corruption scandals such as the Tegeta Escrow Scandal in 2014.

Despite these challenges, it is worth noting that in recent years (particularly during the tenure of outgoing President Kikwete (2005 – 2015) there have been indications that the audit capacities of the CAG have been strengthened. It is now widely believed by CSO members interviewed for this research that the National Audit Office (which houses the CAG) is performing its duties more effectively than it did in the past. Such gains notwithstanding concerns have been raised more recently as the CAG's budget has seen significant reductions, implemented under the new executive. Other analysts have also indicated that reports are now produced on time as opposed to at least a year late; they cover audited entities more thoroughly; a broader range of agencies and activities are audited; and the hard copies of the audit reports are more user-friendly than before.¹⁰⁰ Possible explanations for these improvements are discussed in Section 6. Before such a discussion, however, this text turns to examining who has particular capacities to shape the budget process—and therefore, who directs the investment of revenues from natural resources.

¹⁰⁰ Policy Forum, *Tanzania Governance Review 2012*, 26; and Peter Bofin and Daniel Kobb, *Tanzanian Institutions of Accountability: A Review and Assessment* (Development Partners Group, 2012).

5. INFLUENCING REVENUE ALLOCATIONS

With a sense of how revenues are collected from extractive industries in Tanzania as well as how the country's budget is formulated, this research turns next to an exploration of who, or what, dominates the process by which resources from extractive industries are allocated (or not) towards are spent on human development. Because the mining revenues in Tanzania have historically gone into the consolidated fund of the budget, this exploration requires examining the ways in which budget priorities are formulated. (It is still too early to explore how spending priorities will be developed regarding petroleum funds.)

As mentioned, the executive branch has significant control over the budget due both to the formal provisions it is afforded in the formulation of the budget guidelines and to the relatively marginalized position of Parliament, which renders it incapable of exerting significant influence over the process.

Tanzania is one of the largest aid recipients in East Africa; the donor community thus plays an important role in Tanzania's budget process by driving investment into certain priority sectors. In this regard, the impact of donors on the allocation of extractive industry resources is indirect in that their investment in certain areas shifts the allocations that the state makes with its domestic resources. In addition, donors also drive domestic revenue allocations by programs in which they match contributions made by the state. This practice might also shape how revenues from the extractive sector are allocated.

In an effort to coordinate donor funds and local expenditures, donors have sought to link their spending to existing country development plans, while prioritizing poverty alleviation and anti-corruption efforts. To this end, donor funds were historically synchronized with Tanzania's Poverty Reduction Strategy (PRS) and the Performance Assessment Framework. This approach was maintained when the government of Tanzania introduced successors to these development plans: the MKUKUTA, the National Strategy for Growth and Reduction of Poverty (NSGRP); and the MKUZA, the Zanzibar Strategy for Growth and Reduction of Poverty. The MKUKUTA, as adopted in 2005, is based on Tanzania's National Vision 2025, established in 1999. Likewise, the MKUZA is linked to the Zanzibar Vision 2020. The Medium Term Expenditure Framework translates the

MKUKUTA/MKUZA into (fundable) activities.¹⁰¹ In general, donor support has been used to cover capital expenditure within the budget.

As mentioned, the prioritization of domestic funds within the budget is meant to be driven by development goals and strategic plans. It is notable that agriculture features prominently in these plans. For example, the Tanzania Development Vision 2025¹⁰² prescribes a transformation of the economy from low levels of productivity with an agricultural base to a semi-industrialized economy led by modernized and highly productive agricultural activities that are effectively integrated and buttressed by supportive industrial and service activities in rural and urban areas. Likewise, the National Strategy for Growth and Poverty Reduction (NSGRP), which was adopted by the Cabinet and Parliament in early 2005 and then updated in 2010 to NSGRP II, aims to transform the agrarian rural sector.¹⁰³ In terms of broader social investment, NSGRP II is also linked to the Development Vision 2025 and is committed to achieving the Millennium Development Goals (MDGs). The NSGRP envisaged reducing rural poverty (defined as income of less than \$1 per day per head) by 50 percent compared with the baseline in 1990, by 2010¹⁰⁴—ahead of the global MDGs, which required reaching this level of reduction by 2015.

In addition, Tanzania is among the African Union countries that made a commitment to the 2003 Maputo Declaration to increase investment in the agriculture sector to at least 10 percent of its entire national budget. This commitment was an effort to ensure adequate resources are available to fight poverty and food insecurity.¹⁰⁵ In response to frustration at a failure to meet this goal, the government signed the Comprehensive Africa Agriculture Development Programme (CAADP), in 2010, in which it again pledged the country's commitment to make agriculture a true accelerator of economic development. The CAADP task force drafted a 10-year plan known as Tanzania Agriculture and Food Security Investment Plan (TAFSIP), which is intended to address the core national problems of poverty and food insecurity in rural areas and to promote agricultural growth as well as household food and nutrition security in Tanzania. TAFSIP aims to rationalize allocation of resources to achieve 6

¹⁰¹ ITAD, *Joint Evaluation of Budget Support to Tanzania 2006–2011: Lessons Learned and Recommendations for the Future Final Report*, vol.2 (2013).

¹⁰² United Republic of Tanzania (URT), *Tanzania Development Vision 2025* (2000).

¹⁰³ United Republic of Tanzania (URT), *National Strategy for Growth and Reduction of Poverty (NSGRP)* (2005); and United Republic of Tanzania (URT), *National Strategy for Growth and Reduction of Poverty II (NSGRPII)* (2010)

¹⁰⁴ URT, NSGRP.

¹⁰⁵ Agricultural Non-State Actors Forum (ANSAF) and Policy Forum, *Investing in Agriculture: Are We Committed to the Maputo Declaration? An Analysis of Tanzania's Agriculture Budget 2012/2013*, Policy Forum Policy Brief 2 (2012); and Policy Forum, *Tanzania Governance Review 2010–11*.

percent annual agricultural GDP growth, gradually resulting in the government allocating a minimum of 10 percent of its budget to the agricultural sector.¹⁰⁶

Tanzania has also established its strategic blueprint for the development of agriculture called the Agricultural Sector Development Program (ASDP). The ASDP is largely implemented at the local government authority level through the District Agricultural Development Plans as an integral part of the District Development Plan. Recently, the government has initiated a program called Kilimo Kwanza (Agriculture First), which is intended to give impetus to ASDP implementation.¹⁰⁷

Based on these plans and strategies, it would appear that agriculture stands high on Tanzania's investment priorities. There does appear to be an effort to align with international declarations (for example, the MDGs, the Maputo Declaration, etc.), but the question is whether such effort actually translates into investments in agriculture. To explore these dynamics, this report now compares agricultural spending with spending in health and education—two other sectors identified as promoting poverty reduction.

Despite pronouncements within Tanzania's Vision 2025 and the Agricultural Sector Development Strategy that a growth rate of 11 percent in the agriculture sector was necessary to drive poverty reduction and economic growth,¹⁰⁸ the average growth in the agricultural sector from 2009 to 2012 was only 3.8 percent.¹⁰⁹

Further to this, the country has been unable to meet its Maputo Declaration commitment of allocating 10 percent of the total budget to agriculture. Since signing the Maputo Declaration allocations to the agricultural sector have varied from year to year. In 2003 (when the declaration was signed), agriculture received an allocation of 5.7 percent. The financial year 2004/05 saw the lowest allocation when this dropped to 4.6 percent. Annual allocations increased steadily thereafter until 2010/11 when they stood at 7.8 percent. In 2011/12, however, allocations dropped to 6.8 percent—despite agriculture having been stated again as a priority for that financial year.

While the above account is disheartening, a closer examination of the agricultural budget reveals a potentially more worrying picture. The budget increments reported above are in nominal terms. When inflation is accounted for, increases

¹⁰⁶ ANSAF and Policy Forum, *Investing in Agriculture*; and Policy Forum, *Tanzania Governance Review 2010–11*.

¹⁰⁷ Damian M. Gabagambi, *Study on Budgetary Allocation and Absorption in Agriculture Sector Ministries in Tanzania* (Eastern African Farmers' Federation [EAFF], 2011).

¹⁰⁸ URT, Tanzania Development Vision 2025.

¹⁰⁹ United Republic of Tanzania (URT)/Ministry of Finance, *The Economic Survey 2010* (2010); URT/Ministry of Finance, *The Economic Survey 2011* (2011); and URT/Ministry of Finance, *The Economic Survey 2011* (2011).

in the agricultural budget are thought to be lower than reported by between 4.9 and 48.4 percent,¹¹⁰ which makes the apparent increases much less profound. Furthermore, while looking at the overall budget allocations is revealing, separating capital and recurrent expenditure in agriculture is more informative. Looking at the Ministry of Agriculture Food Security and Cooperatives, for example, where data were available for the past 10 years, statistics indicate that between 2000/01 and 2011/12 the recurrent budget for the ministry has generally been increasing whereas the development budget has been decreasing. Further to this, 90 percent of the capital investment budget is funded by development partners, implying that the government spends even less money on agriculture from its own sources than reflected in the budget.¹¹¹

Even disregarding these concerns, the long-term average allocation of 6.2 percent since 2003 presents a major challenge with regard to the development of the sector. It seems evident that priorities articulated in political and policy statements do not correspond with consistent commitments in budget allocations, even in priority sectors like agriculture—even during a period when the economy has performed well.

Experiences in the **health sector** contrast with that of the agricultural sector. Not only were proportional allocations higher—moving from 9.4 percent in 2002/3 to 11 percent in 2006/7—absolute allocations have seen significant increases, tripling between 2000 and 2006.¹¹² Notably however, much of the increase in health spending during the review period is accounted for by increases in the wage bill and allowances. In 2006, allowances (mostly [untaxed] per diems) were equal to 84 percent of the wage bill.¹¹³

The impact of these allocations is thought to have generated positive outcomes, with an external evaluation for the period 1999–2006 finding that “Tanzania has made significant progress towards ... reducing infant and child mortality and some progress in ... child nutrition.”¹¹⁴ Immunization continues at high levels.¹¹⁵ Despite these positive outcomes, challenges remain in terms of continued shortages of health workers, poor infrastructure, intermittent shortages of drugs and other medical supplies, and poor and inefficient use of transport.¹¹⁶

Notably, the budget analysis by Sikika for Policy Forum for the fiscal year 2013/14 concluded that “the Government has taken the previous year’s complaints about neglecting the development budget seriously. Consequently,

¹¹⁰ Gabagambi, *Study on Budgetary Allocation and Absorption in Agriculture*.

¹¹¹ Gabagambi, *Study on Budgetary Allocation and Absorption in Agriculture*.

¹¹² COWI, Goss Gilroy, and EPOS, *Joint External Evaluation of the Health Sector in Tanzania, 1999–2006* (Ministry of Foreign Affairs, Denmark, 2007), 91.

¹¹³ Health Equity Group (HEG). *Commentary on the Health Sector Budget for 2006/7* (2007), 6.

¹¹⁴ COWI, Goss Gilroy, and EPOS, *Joint External Evaluation of the Health Sector in Tanzania*, 20

¹¹⁵ COWI, Goss Gilroy, and EPOS, *Joint External Evaluation of the Health Sector in Tanzania*, 152

¹¹⁶ COWI, Goss Gilroy, and EPOS, *Joint External Evaluation of the Health Sector in Tanzania*, 20.

the Ministry [of Health and Social Welfare] proposes in its budget proposal for the fiscal year 2013/14 to invest more into the health of its citizens.”¹¹⁷ The budget saw an increase of 172 billion Tanzanian shillings (+30 percent) compared with the previous fiscal year’s approved budget of 576 billion Tanzanian shillings. The budget also included a moderate reduction (–5 percent) of recurrent expenditures (amounting to 277 billion Tanzanian shillings) and a significant increase (+66 percent) in development expenditures (471 billion Tanzanian shillings). The large amount of capital investments signaled intent to strengthen the public health system to cope with a high burden of diseases and ailments.¹¹⁸

Notwithstanding these improvements, the report also notes some problems, including the fact that large budget allocations do not necessarily go hand in hand with efficient plans for expenditure resulting in under-expenditure of as much as 45 percent. Likewise, although the Ministry of Finance issued budget guidelines that instruct all government agencies to take austerity measures, the Ministry of Health more than doubled the allocation for foreign travel contradicting a government’s policy to control unnecessary spending.¹¹⁹ Notably, the current government, under President Magufuli, has taken significant measures to tackle unnecessary expenditures - not only in the Health Sector, but across government. This includes a directive banning all foreign travel by public officials (though emergency travel that is deemed necessary may be permitted by the President’s office¹²⁰), as well as in other measures - detailed later in the report.

An immediately notable feature of Tanzania’s **educational spending** is that it constitutes the single largest share of budget spending,¹²¹ standing at 18.3 percent of Tanzania’s total spending in 2009/10.¹²² Furthermore, within the education budget, the Primary Education Development Programme (PEDP), introduced in 2001 as an attempt to universalize primary education enrollment, has prioritized primary school investment, which has increased from 66 percent in 2000/01 to 73 percent in 2002/3. As a result, the number of teachers rose from 112,000 in 2001 to 149,000 in 2005. The net enrollment rate reached 96.1 percent in the latter year, up from 80.7 in 2001.

There is consensus that the overall impact of PEDP on the quality of school buildings and teachers’ housing has been positive. For example, about three out of five primary school students interviewed said classrooms were “nicer than

¹¹⁷ Sikika, *Perspective on the MoHSW’s Budget Proposal for 2013/14*, Policy Forum Policy Brief 4:2013 (Policy Forum, 2013).

¹¹⁸ Sikika, *Perspective on the MoHSW’s Budget Proposal for 2013/14*, 1–2.

¹¹⁹ Sikika, *Perspective on the MoHSW’s Budget Proposal for 2013/14*, 1–3.

¹²⁰ Sunday News Reporter, “[Magufuli curbs foreign travel by govt officials](#)”, *Daily News*, 08 November, 2015.

¹²¹ Policy Forum, *Can Fewer Books and Less Chalk Bring Quality Education? An Analysis of Tanzania National Budget 2009/10*, Policy Brief 5.09 (2009).

¹²² United Republic of Tanzania (URT), *Budget Digest 2009/10* (2009)

before,” compared with about one in 10 who described deterioration.¹²³ The Tanzanian research institution REPOA’s 2006 survey shows high or very high levels of public satisfaction with education services in general. Reviewing a number of official reports, the Tanzanian education CSO HakiElimu praised the implementation of PEDP, but flagged some problems, relating to space for improvements around access to disadvantaged groups, spatial variations in quality of educational facilities, and the quality of teachers.¹²⁴

Despite these improvements, problems remain in the education sector. Firstly, as with the health sector, there is significant underspending, with large portions of allocated funds not spent on the targeted activities within the allocated time frame. Secondly, it is now widely acknowledged that the Tanzanian government focused too much on quantity (for example, on raising student enrollment, building more classrooms, etc.), but did not prioritize improving the quality of education. To this end, the 2010 Public Expenditure Review noted:

There is a major problem with quality in primary education. Given that Tanzania now spends significant sums on primary education, poor quality is a value for money issue across the system. The average level of achievement in primary school is too low and means the full benefits of universal education are not being realized. Furthermore, standards of achievement have been deteriorating, with a 20 percent drop in the pass rate for the primary school leavers’ exam since 2007. Deteriorating quality can wipe out any efficiency gains made from better management or a more equal resource allocation. Moreover, at a national level, poor quality could undermine the demand for education among poor groups.¹²⁵

Reflecting on the budget process within Tanzania, the first notable point appears to be that the executive branch appears to have significant control over the budget as a consequence of both the formal provisions it is afforded and the marginalized position of Parliament. It is also worth noting that all of the sectors are heavily supported by donors, which suggests that donor priorities play an important role in directing social expenditures.

In addition to the above, it should be noted that government spending in Tanzania is meant to be driven by strategic visions and development plans. The direct impact of these visions and plans on agriculture, education, and health-sector spending (all of which are central to achieving these plans) however, is varied. In this respect, agricultural spending remains persistently lower than that

¹²³ Policy Forum. Tanzania Governance Review 2006-07. Kikwete’s first two years. 2007, 36

¹²⁴ Carlitz, Ruth. *Following the Money for Education: A Case Study in Complexity*. HakiElimu, Education Brief 07.1E, 2007 and HakiElimu. What Has Been Achieved in Primary Education? Key Findings from Government Reviews. October 2007.

¹²⁵ United Republic of Tanzania (URT), *United Republic of Tanzania Public Expenditure Review 2010*, prepared by the Members of Macro Group of the Tanzania PER Working Group, Report No. 64585-TZ (2011), vii.

of both health and education and below the stated goals and ambitions laid out in formal policy. Notably, such conditions have persisted despite numerous iterations and reformulations of policy statements seeking to increase budget allocations to agriculture. This finding suggests that formal policy statements on spending ambitions appear to have ambiguous effects when it comes to actually mobilizing resources for a sector.

It is unclear what has driven the differential spending across agriculture and health and education, but both education and health have specific Millennium Development Goals attached to them in terms of school enrollment and under-five mortality, which might explain some of the spending in these areas—while spending in agriculture does not have direct impacts on hunger. Grounds for this argument are strengthened by the fact that increases in the education budget have driven improvements in the quantity of education (that is, getting more children in school, which meets the MDG goal) while possibly compromising the quality of that education. Further to this, Tanzania has historically placed significant emphasis on education, even during the socialist era. As such, this continuing relative privileging of expenditure in education could be a consequence, too, of the institutional strength of this sector.

The variable outcomes across agriculture, education, and health make clear that the process of increasing budget allocations is not, by itself, necessarily sufficient as a means to improve outcomes. For example, the fact that growth of the education sector spending was associated with quantitative improvements but deteriorating performance/quality of education, while increased public spending on maternal and child health has had a dramatic effect on infant and child mortality rates, as a result of which Tanzania has surpassed the Millennium Development Goals target for reducing under-five mortality, suggests that specific policy choices and factors within the budget process also play an important role in shaping outcomes. In this respect, balancing the split between capital expenditure and recurrent expenditure appears to be important as there exists the possibility for budget increases to be channeled into staff benefits, rather than improvements in service provision, as has appeared to happen in both the education and health sectors.

Finally, a notable feature of both health and education budgets is that the effectiveness of increases in allocations have been limited by low capacity to execute the budgets (around 50 percent in each case). Such a finding suggests that simply allocating more money to priority sectors without addressing bottlenecks might not solve problems or improve outcomes.

6. ACCOUNTABILITY CONTEXT

So far in this report accountability has been discussed in terms of the laws and institutions that have explicit relevance for budget processes and the collection of revenues from extractive industries. However, oversight of public finances and natural resource management depends on a broader set of institutions. For example, accountability in public revenue collection and budget expenditure in Tanzania is reliant on institutions that seek to ensure the ethical conduct of public employees. As such, to more fully understand the dynamics shaping accountability (or the lack thereof) regarding the management of the extractives sector, this research undertakes an explicit examination of this broader governance architecture. This section undertakes this task by outlining the relevant institutions and then identifying problems in those institutions. The section then looks at features of the Tanzanian political economy that might cause such accountability problems to persist as well as those that might drive improvements in the political and economic context.

Beginning with generic oversight institutions that seek to ensure the separation of powers within the government; although Tanzania has a first-past-the-post election system,¹²⁶ there is also a form of proportional representation whereby parliamentary seats are allocated to political parties depending on the number of valid votes won in parliamentary elections.¹²⁷ The key roles of the **legislature** are drafting and enacting (passing, amending, and repealing) laws, and exercising oversight over the executive branch of the government. To this end, Parliament is intended to act as a countervailing force to limit the discretion of the executive and to ensure that it exercises its mandate in a transparent and accountable manner.

A second important generic oversight body within Tanzania's good governance architecture is the **judiciary**. The judiciary is tasked with ensuring that the law is applied in the name of the state and as a means to resolve disputes. The independence of the judiciary is guaranteed under Article 4 and Article 107B of the Constitution. The judiciary consists of four tiers of courts (the Court of Appeal, the High Court, Magistrates Courts, and Primary Courts), and is headed by the chief justice. Through its Legal Sector Reform Programme, the government of Tanzania aims to strengthen the capacity of its legal staff. In 2006–2008, with the

¹²⁶ Section 81 of the 2010 Tanzania National Elections Act, Cap. 343 (RE 2010).

¹²⁷ Article 78(1) of the Constitution of the United Republic of Tanzania of 1977.

support of the US Agency for International Development (USAID), the government initiated an anti-corruption training program to strengthen the judiciary's ability to investigate and prosecute corruption cases.¹²⁸ Further to this, in keeping with his election promise, the incumbent President (Magufuli) has established a special anti-corruption court to deal with high level corruption cases.¹²⁹

In addition to these generic oversight institutions, Tanzania has several oversight institutions with specific functions that are intended to improve accountability. The first piece of legislation worth noting in this regard is the 1971 Prevention of Corruption Act, amended in 2002, which constitutes the core of Tanzania's legal framework for anti-corruption efforts. Corruption is designated as an economic offence, punishable by incarceration. There are no financial penalties for economic crimes except for the recovery of stolen assets. The 1971 Act created the Anti-Corruption Squad, restructured in 1991 as the **Prevention of Corruption Bureau (PCB)**, which sits within the Office of the President. The mandate of the PCB is to investigate, raise awareness, and guide government on anti-corruption issues as well as prosecute cases of corruption, either directly or via the director of public prosecutions. In addition, the anti-corruption bill, passed in 2007, established the **Prevention and Combating of Corruption Bureau (PCCB)**, which replaced the PCB. The PCCB has a mandate to provide and maintain both a hotline service and online form through which corruption can be anonymously reported.

Also pertaining to corruption, the 2004 Public Procurement Act created the **Public Procurement Regulatory Authority (PPRA)**. The act specifically prohibits corrupt practices in procurement procedures by any public entity.¹³⁰ The PPRA is responsible for the application of fair, competitive, and transparent procurement standards and practices that are meant to be nondiscriminatory and provide value for money. Contractors must register in order to participate in public procurement, and a list of registered contractors is distributed to all tender boards. Provisions exist for blacklisting companies. Tender notices and procurement legislation can be found on the website of the PPRA. The Public

¹²⁸ Karen Hussmann and Max Mmuya, "Anti-Corruption Policy Making in Practice: Tanzania—A Country Case Study," in *Anti-Corruption Policy Making in Practice: What Can Be Learned for Implementing Article 5 of UNCAC? Report of Six Country Case Studies: Georgia, Indonesia, Nicaragua, Pakistan, Tanzania and Zambia*, ed. Karen Hussmann, U4 Report/Anti-Corruption Resource Centre (Chr. Michelsen Institute, 2007); and Samira Lindner, *Tanzania: Overview of Corruption and Anti-Corruption*, U4 Expert Answer, Transparency International/U4 Anti-Corruption Resource Centre (Chr. Michelsen Institute, 2014).

¹²⁹ Mwalimu, Saumu. "Judiciary readies for anti-graft court", *The Citizen*, July 4, 2016

¹³⁰ Legal and Human Rights Centre, *Tanzania Human Rights Report 2012*.

Procurement Act is currently under review following lessons learned from Tanzania's participation in the Construction Sector Transparency Initiative.¹³¹

The **Elections Expenses Act** of 2010 serves as a framework for controlling political parties' and candidates' mobilization and use of financial (including public funds) and other resources during elections. Civil servants and private sector employees who report cases of corruption are protected from retaliation and other negative consequences by law.¹³²

The **Commission for Human Rights and Good Governance** (CHRGG) acts as an ombudsperson's office with the mission to protect all human rights, duties, and principles of administrative justice in order to enhance democracy, rule of law, and good governance. The CHRGG can receive complaints from citizens and make nonbinding recommendations to the state. The commission can also initiate its own investigations.

The **Ethics Secretariat**¹³³ (ES) is an independent department under the President's Office entrusted with powers to oversee the ethical conduct of public leaders. The ES is responsible for implementation of the Public Leadership Code of Ethics of 1995. It manages asset declarations and acts to ensure that public officials do not engage in corrupt or illegal practices. Government members are required to file annual asset reports. The ES can initiate investigations upon receiving a complaint.¹³⁴

Finally, Tanzania is party to a variety of multilateral initiatives working to promote good governance and transparency and to combat corruption. The most notable is the Open Government Partnership (OGP). Tanzania joined the OGP in 2011 and prepared a 2012/13 action plan to enhance its commitment to global initiatives. The government has committed to improving data disclosure and to setting up a website that contains government data. Moreover, it has created a budget overview that is available in plain language.¹³⁵

Despite such a comprehensive set of efforts to ensure effective oversight, numerous problems persist across these institutions. In the **parliamentary**

¹³¹ Construction Sector Transparency Initiative (CoST), *Assessment of Procuring Entity Capacity to Disclose Project Information in Tanzania* (2013).

¹³² Section 54 of the 2007 Prevention and Combating of Corruption Act.

¹³³ This entity is sometimes called the "Ethics Commission," because the Secretariat is headed by a commissioner.

¹³⁴ Marie Chêne, *Overview of Corruption in Tanzania*, U4 Expert Answer, Transparency International/U4 Anti-Corruption Resource Center (Chr. Michelsen Institute, 2009); Global Integrity, "Global Integrity Report 2007: Tanzania" (2007), <https://www.globalintegrity.org/research/reports/global-integrity-report/global-integrity-report-2007/gir-scorecard-2007-tanzania/>; and Global Integrity, "Global Integrity Report 2010: Tanzania."

¹³⁵ Open Government Partnership Initiative, "Tanzania," [opengovpartnership.org](http://www.opengovpartnership.org), <http://www.opengovpartnership.org/country/tanzania>.

system, for example, party discipline remains strong, meaning that the executive experiences little oversight from Parliament regarding the passing of budgets and legislation. The level of executive control may have been further bolstered by a number of measures taken by the current government that took office in November 2015. These measures are likely to stifle criticism of the government both inside and outside Parliament, thereby undermining the ability of the parliament to play its oversight role vis-à-vis the executive. First, the President has taken advantage of the capacity to approve special parliamentary seats and executive positions (see below) as a means to protect members of the ruling party that lost out in the most recent elections. Such a move creates competition with ruling party MPs that won their seats, and as such it may weaken their willingness to criticize the government¹³⁶. Second, vocal, dissident opposition MPs have been suspended from attending parliamentary sessions after protesting various agendas of the current government in parliament. Third, among the general public there have been a number of actions which are expected to stifle the expression of dissent. These include a ban on political parties' public activities (meetings, rallies and protests), and the regular arrest of Government critics that have continued to hold public meetings to oppose the said ban on political parties public activities. This suppression of the opposition includes opposition leaders and dissident MPs – both of whom have been detained and regularly charged.¹³⁷

Assessments of the **judiciary**, which is nominally independent, offer mixed results. For example, the Bertelsmann Foundation deems that the Tanzanian judiciary generally functions relatively independently, but Freedom House views it as under political influence. It is considered to be largely inefficient, underfunded, and susceptible to corruption.¹³⁸ Correspondingly, executives surveyed in the Global Competitiveness Report gave judicial independence in Tanzania a score of 3.2¹³⁹ (out of 7), compared with a global average of 3.9.¹⁴⁰ The lack of an

¹³⁶ Kabwe, Zitto. “Will the real Opposition emerge under Magufuli’s repressive CCM?”, *The Citizen*, August 7, 2016. Kabwe argues that: “With this action, the President has kept most members of the 11th parliament on their toes. Losers of the primaries are being ‘fed’ to be able to go back and contest against sitting members in the next election. Sitting members will now work to please the President so that, as the chairman of their party, he doesn’t cut them off during the nomination in 2020.”

¹³⁷ Saleh, Ally. “STRAIGHT TALK: Concern as repression rears its ugly head”, *The Citizen*, July 17, 2016

¹³⁸ Bertelsmann Foundation (Bertelsmann Stiftung), *BTI 2014—Tanzania Country Report* (2014). <http://www.bti-project.org/en/reports/country-reports/detail/itc/tza/ity/2014/itr/esa/>; Freedom House, “Freedom in the World: Tanzania,” country profile (2013), <http://www.freedomhouse.org/report/freedom-world/2013/tanzania>; and Business Anti-Corruption Portal (BACP), “Tanzania Country Profile” (2013), <http://www.business-anti-corruption.de/country-profiles/subsaharan-africa/tanzania/snapshot.aspx>.

¹³⁹ In this scoring system, 1 indicates that the judiciary is heavily influenced and 7 indicates that it is entirely independent.

independent judiciary means that corrupt officeholders are not adequately prosecuted.¹⁴¹ They may be asked to resign or may be dismissed, but beyond that, such officials rarely suffer other punishment.¹⁴² In particular, despite provisions allowing for wealth generated by corrupt means to be recouped, this wealth is frequently retained by the corrupt officeholder.¹⁴³ Global Corruption Barometer data indicate that citizens perceive the judiciary to be one of the most corrupt institutions in the country: 86 percent of respondents characterize the judiciary as corrupt. A further 52 percent report having paid a bribe when accessing judicial services.¹⁴⁴ Thus, while the creation of the special anti-corruption court by the current government is commendable, addressing the chronic corruption problem within the judiciary would likely take a broader set of institutional reforms.

The independence of the **Prevention of Corruption Bureau (PCB)** was thought to be undermined by its location within the Office of the President and by the fact that the president appointed its members. The PCB did not have the power to prosecute cases involving public officers without the consent of the director of public prosecutions—consent that is reportedly difficult to obtain.¹⁴⁵ The PCB also suffered from lack of resources and capacity.¹⁴⁶ Prevention and Combating of Corruption Act (2007) repealed the Prevention of Corruption Act (1991, amended in 2002). The latter had established the Prevention of Corruption Bureau (PCB). As such, the 2007 Act abolished the PCB and replaced it with PCCB.¹⁴⁷

Despite the creation of the **Prevention and Combating of Corruption Bureau (PCCB)**, both the director general and the deputy director general of the PCCB are also appointed by the president. As noted, appointments are often based on political considerations, and individuals appointed often have clear party loyalties.¹⁴⁸ Critics have pointed to the PCCB's lack of independence as a significant problem in taking corrupt officials to court. The PCCB has been accused of dealing with only “small fish” and with shying away from more high-level corruption cases.¹⁴⁹ The PCCB also reportedly suffers from lack of

¹⁴⁰ World Economic Forum, *The Global Competitiveness Report 2013–2014* (2013), <http://www.weforum.org/reports/global-competitiveness-report-2013-2014>.

¹⁴¹ Legal and Human Rights Centre, *Tanzania Human Rights Report 2012*.

¹⁴² Bertelsmann Foundation, *BTI 2014—Tanzania Country Report*.

¹⁴³ Legal and Human Rights Centre, *Tanzania Human Rights Report 2012*.

¹⁴⁴ Transparency International, *Global Corruption Barometer* (2013), <http://www.transparency.org/gcb2013>.

¹⁴⁵ BACP, “Tanzania Country Profile.”

¹⁴⁶ Chêne, *Overview of Corruption in Tanzania*.

¹⁴⁷ See <http://www.pccb.go.tz/index.php/about-pccb/historical-background>. Also see the 2007 Act

¹⁴⁸ Global Integrity, “Global Integrity Report 2010: Tanzania.”

¹⁴⁹ “Tanzania: 24 Tanzanian District Officials Reprimanded for Corruption.”

resources and capacity,¹⁵⁰ and complaints made to the PCCB hotline are thought to be rarely acted upon within a reasonable time period.¹⁵¹ Finally, despite provisions intended to ensure that reports to the hotline can be made anonymously, whistleblowers often face substantial negative consequences. Recent events within the PCCB are notable: just over a month after being sworn into office, President Magufuli removed Edward Hoseah, the long-serving director general of the PCCB, due to the slow pace of the fight against graft.¹⁵² While this sends an important signal in support of incumbent government's anti-corruption efforts, it seems insufficient for addressing the myriad of challenges facing the PCCB.

The **Public Procurement Regulatory Authority (PPRA)** also faces challenges. A PPRA report for 2011/12, for example, described generic issues including “[s]election of unqualified suppliers; prices offered being comparatively higher than the market prices; suppliers refusing to supply goods at the agreed prices; suppliers colluding to supply goods at higher prices; long distances between entities and offices of the approved suppliers; suppliers failing to supply goods listed in their contracts; [and] suppliers taking a long time to supply goods.”¹⁵³ The PPRA reported an improvement in compliance with the Public Procurement Act (2004) among audited entities, from 39 percent in 2006/07 to 74 percent in 2011/12. More notable than these issues, however, is that where irregularities occur, similar to the PCCB and the CAG, the PPRA has no authority to sanction CEOs or accounting officers. “PPRA officials indicate that while they often make recommendations, such as removal of the heads of certain Procurement Management Units, or the re-composition of tender boards, it is believed that action is rarely taken.”¹⁵⁴ Although provisions exist for blacklisting companies, these are enforced infrequently.¹⁵⁵

Observers also note challenges with the implementation of the **Elections Expenses Act**, including the inability of the Office of the Registrar of Political Parties to effectively monitor parties' fundraising.¹⁵⁶ In addition, as with the PCCB, provisions for the protection of whistleblowers are not effectively

¹⁵⁰ Legal and Human Rights Centre, *Tanzania Human Rights Report 2012*.

¹⁵¹ BACP, “Tanzania Country Profile.”

¹⁵² Ng'wanakilala, Fumbuka. “Tanzanian president sacks anti-graft chief” *Reuters*, Wed Dec 16, 2015. <http://uk.reuters.com/article/uk-tanzania-corruption-idUKKBN0T2ZH820151216>

¹⁵³ United Republic of Tanzania/Public Procurement Regulatory Authority, “Summary Report of Procurement Audits in One Hundred and Twenty One Procurement Entities, FY 2011/12” (October 2012), v.

¹⁵⁴ Bofin and Kobb, *Tanzanian Institutions of Accountability*, 17, citing an interview with the head of PPRA, Ramadhani Mlinga. A major weakness is that audit processes are not capable of addressing corruption in public procurement.

¹⁵⁵ BACP, “Tanzania Country Profile.”

¹⁵⁶ Edwin Babeiya, “Electoral Corruption and the Politics of Elections Financing in Tanzania,” *Journal of Politics and Law* 4, no. 2 (2011).

enforced, and individuals often face substantial negative consequences when reporting maladministration.¹⁵⁷

The **Commission of Human Rights and Good Governance**, like the PCCB, lacks independence from the Office of the President, which it is also not authorized to investigate.¹⁵⁸ Appointments are thought to be based on political considerations, and appointed individuals may have clear political loyalties. Thus, the CHRGG is accused of being subject to the influence of the political and personal motives of its leadership and of being complicit in some abuses of power. Finally, the findings of the commission, as well as its nonbinding recommendations, are frequently ignored by government, or only given superficial attention—particularly if they concern politically sensitive issues.¹⁵⁹

The disclosure of assets by public officials to the **Ethics Secretariat** (ES) are only available to the general public under limited circumstances.¹⁶⁰ In practice, many government officials do not disclose their assets.¹⁶¹ In addition, opposition leaders have accused government officials of falsifying their asset declarations to cover up corruption.¹⁶² Even more challenging is the fact that unlike the processes with the PCCB and the Election Expenses Act, complaints to the Ethics Secretariat cannot be made anonymously.¹⁶³ Moreover, the decisions of the Ethics Secretariat's tribunal are not binding; the tribunal can only provide warnings and no punitive damages.¹⁶⁴ The ES is headed by one commissioner, who (along with staff) is appointed by the president and has extremely limited resources to investigate cases.

Given the extent to which these formal institutions are so severely compromised, the possibilities for effective horizontal accountability mechanisms to address potential abuses of power are limited. However, there is scope in Tanzania for **civil society** to play an important oversight function: development observers have noted that the renaissance of civil society since Tanzania's return to multiparty politics in 1992 is "one of the most significant political developments of this period, perhaps more important than the emergence of opposition parties."¹⁶⁵

¹⁵⁷ BACP, "Tanzania Country Profile."

¹⁵⁸ BACP, "Tanzania Country Profile."

¹⁵⁹ Global Integrity, "Global Integrity Report 2010: Tanzania."

¹⁶⁰ BACP, "Tanzania Country Profile."

¹⁶¹ BACP, "Tanzania Country Profile."

¹⁶² Kizito Makoye, "Tanzania to Quiz Public Officials Who Dodge Rules on Asset Disclosure," *Thomas Reuters Foundation News*, February 14, 2014, <http://news.trust.org//item/20140214115035-r8dxi/>.

¹⁶³ Chêne, *Overview of Corruption in Tanzania*; Global Integrity, "Global Integrity Report 2007: Tanzania"; Global Integrity, "Global Integrity Report 2010: Tanzania"; and BACP, "Tanzania Country Profile."

¹⁶⁴ Legal and Human Rights Centre, *Tanzania Human Rights Report 2012*.

¹⁶⁵ Joel Barkan, *Increasing Public Sector Accountability and Transparency in Tanzania: An Assessment of the Political Context for Economic Reform* (World Bank, 2000).

Although Tanzanian civil society is traditionally weak, experts note that civil society organizations have been able to consolidate themselves and gain importance in public life, filling a vacuum resulting from ineffectual political opposition.¹⁶⁶ In this regard some CSOs have raised challenging questions about bureaucratic ineptitude, abuse of human rights, and corruption. More details are provided in Section 8 of this report, which discusses opportunities for CSO influence.

Citizen oversight is enabled by Tanzania's efforts to disclose government information through the Tanzania Governance Noticeboard (TGN). The TGN collates and presents information that is useful for strengthening accountability. Key statistics, including budget data, audits, and other governance-related indicators, have been gathered in the TGN database.¹⁶⁷ The TGN is useful, but citizen oversight is simultaneously frustrated by the fact that Tanzania does not currently have a freedom of information act. In October 2013, President Jakaya Kikwete announced a commitment to enact a Freedom of Information law in 2014;¹⁶⁸ he has not done so, and in fact during his last year in office his government has enacted laws that seem to hinder rather than enhance freedom of information (discussed later).

The above notwithstanding, and without diminishing the importance of civil society in Tanzania, it should be noted that civil society organizations also experience major hindrances in terms of their ability to exert accountability over the state. For example, CSOs are periodically subject to state restrictions to limit their influence, such as attempts by the government to regulate their activities or to exert pressure on them to join umbrella networks that the government believes it can control¹⁶⁹—the so-called government NGOs, or GONGOs. As a result, some CSOs are timid about openly criticizing or demanding change from the political establishment. There are also concerns about corruption within NGOs, including instances of fraud,¹⁷⁰ such as the 2012 Tanzania World Wildlife Fund

¹⁶⁶ Bertelsmann Foundation, *BTI 2014—Tanzania Country Report*.

¹⁶⁷ Chêne, *Overview of Corruption in Tanzania*.

¹⁶⁸ Ben Taylor, "Closing In on Tanzania's Open Government Plans," *The Guardian* (U.K.), November 1, 2013, <http://www.theguardian.com/global-development-professionals-network/2013/nov/01/closing-tanzania-open-government-plans>.

¹⁶⁹ Hussmann and Mmuya, "Anti-Corruption Policy Making in Practice: Tanzania.", 2007.

¹⁷⁰ According to the Swedish National Audit Office, "There is considerable evidence of the level of malfeasance in the NGO sector. A 2007 report by the Swedish National Audit Office identified widespread and systematic fraud in NGOs funded through Swedish agencies in a three-country study, including Tanzania." See Riksdagen, "'Fraud in Foreign Aid: Does the Swedish International Development Co-operation Agency (Sida) Ensure Adequate Control of Foreign-Aid Operations Conducted through Nongovernmental Organizations (NGOs)?," Swedish National Audit Office (2007).

(WWF) corruption case, which received considerable media coverage both within Tanzania and internationally.¹⁷¹

There are several active NGO coalitions, such as Policy Forum, which has coordinated NGO input into official policy processes in recent years. However, the government sometimes excludes Policy Forum from important events such as annual reviews connected to general budget support.¹⁷² Likewise, although freedom of speech, association, and religion are guaranteed by the Constitution, these fundamental rights are reported to be violated frequently.¹⁷³ The current ban on political parties' public activities (meetings, rallies and demonstrations/protests)¹⁷⁴ represents a low point for democracy in Tanzania under multi-party rule. Finally, civil society efforts at accountability are frustrated by the multiplicity of laws governing the operations of NGOs, which creates confusion for the sector. In addition, a poll in 2011 found that 57 percent of consulted civil society organizations believe that the process of registration is too slow, and 42 percent said that they were subject to unfair restrictions by government.¹⁷⁵

Beyond formal, horizontal oversight institutions and civil society, a final institution worth noting for the role it plays in oversight is that of the **media**. According to Reporters Without Borders, Tanzania enjoys an active, large, and, to some extent, responsible print and electronic media, benefiting from genuine press freedom. However, media outreach is mainly limited to urban areas. A 2008 Bertelsmann Foundation report invokes unequal access to the media—in particular radio broadcasting—and limited distribution of the qualitatively weak press as factors contributing to low political participation in Tanzania. Although print and electronic media are active, they are hindered by a difficult registration process and are largely limited to major urban areas. Despite its limited rural reach, however, Tanzania features a comparatively large and varied media landscape composed of government, opposition, and independently owned media organs.¹⁷⁶ Over the years, the media has been praised for its growing independence as well as courage in promoting critical public debate and in

¹⁷¹ In May 2012, the World Wildlife Fund (WWF) released a statement on an audit report conducted in response to corruption allegations made earlier in the year. It confirmed that \$400,000 was embezzled from projects funded by the US and Norwegian governments. See “WWF Sacks 13 over Misuse of Sh320m,” *The Citizen*, March 9, 2013; and “WWF Tanzania Staff in Financial Scam,” *Daily News*, May 29, 2013.

¹⁷² Chêne, *Overview of Corruption in Tanzania*.

¹⁷³ Freedom House, “Freedom in the World: Tanzania.”

¹⁷⁴ Ng'wanakilala, Fumbuka. “Tanzania's opposition suspends pro-democracy demonstrations”. Reuters Africa, Aug 31, 2016.

<http://af.reuters.com/article/topNews/idAFKCN1162FF?pageNumber=1&virtualBrandChannel=0>

¹⁷⁵ CIVICUS, *Civil Society Profile: Tanzania* (2011),

<http://socs.civicus.org/CountryCivilSocietyProfiles/Tanzania.pdf>.

¹⁷⁶ Hussmann and Mmuya, “Anti-Corruption Policy Making in Practice: Tanzania.”

investigating major corruption schemes. Notably, the media has extensively covered recent corruption scandals.

These positives aside, it is worth noting that critical media organs have been bought by business tycoons with ties to the ruling party. Investigative journalists have been seduced into better-paying public relations jobs, and government advertising is used as a tool to exert economic pressure on the press.¹⁷⁷ Notably, although the Constitution provides for freedom of speech, it does not guarantee freedom of the press.¹⁷⁸ The 1976 newspaper registration law is often used by the government to shut media houses that the government disagrees with. In 1992, the 1976 Newspaper Act was identified by a committee (led by the now-retired Justice Francis Nyalali), as unconstitutional. Another law that has been used to stifle media freedom in the country is the 1970 National Security Act. Finally, although the growth of broadcast media has been slowed by a lack of capital investment; the number of independent television and private FM radio stations has risen in recent years.¹⁷⁹

More troubling than this compromised context, however, is the recent backsliding on media tolerance and freedom—which has seen Tanzania drop 30 places on the Press Freedom Index.¹⁸⁰ As in the case of civil society, there have been persistent attempts by the government and the ruling party to clip the media's wings and bring dissident voices back in line, mainly through tight regulations by the government's Directorate of Information and intimidation of media owners and journalists.¹⁸¹ Notable cases include the widely condemned killings of journalists by state police during public rallies of opposition parties in recent years.¹⁸² Current laws allow authorities broad discretion to restrict media on the basis of national security or public interest, which is frequently interpreted as being for the benefit of the ruling party.¹⁸³ In 2012, the government imposed an indefinite ban on the weekly investigative newspaper *MwanaHali*¹⁸⁴, and the International Federation of Journalists has raised concerns about the deteriorating situation of press freedom following the temporary ban on two additional newspapers in 2013, *Mwanachi* and *Mtanzania*.¹⁸⁵ Since 2014, *The*

¹⁷⁷ Hussmann and Mmuya, "Anti-Corruption Policy Making in Practice: Tanzania."

¹⁷⁸ Constitution of Tanzania, Article 19

¹⁷⁹ Freedom House, "Freedom in the World: Tanzania."

¹⁸⁰ Tanzania ranked 70th out of 179 in the 2013 Press Freedom Index, dropping more than 30 places compared with the 2012 index. (See Reporters Without Borders, "World Press Freedom Index: 2013; Dashed Hopes Follow Spring" (2013), <http://en.rsf.org/press-freedom-index-2013,1054.html>.)

¹⁸¹ Hussmann and Mmuya, "Anti-Corruption Policy Making in Practice: Tanzania."

¹⁸² Legal and Human Rights Center, *Tanzania Human Rights Report 2011* (2012); and Amnesty International, *Annual Report: Tanzania 2013* (2013).

¹⁸³ Freedom House, "Freedom in the World: Tanzania."

¹⁸⁴ Mwanahalisi has since September 2015 been reinstated

¹⁸⁵ International Federation of Journalists, "Tanzania: IFJ Raises Concerns about Deteriorating Situation of Press Freedom in Tanzania," news release, October 1, 2013.

East African, a widely respected newspaper in East African countries, had also been banned in Tanzania¹⁸⁶ though presently it has been allowed to resume its activities¹⁸⁷. Since the current government took office several media outlets (across newspapers, TV, and radio) have been either banned, suspended or fined for writing or broadcasting news perceived by the authorities to be seditious, particularly “insulting”, or inciting hatred against president Magufuli and/or his government¹⁸⁸. A series of bills brought to Parliament under the emergency certificate clause in 2015 have sought to further limit the ability of diverse actors to publish information, which is discussed in more detail below.

The result of these collective failings of oversight is that problems of corruption remain significant. For example, the failures of the Ethics Committee are illustrated in the fact that in 2011, 680 leaders failed to return asset declaration forms (which is noted as a big improvement on recent years).¹⁸⁹ According to press reports, in 2010, 57 percent of eligible public servants returned declarations while only 33 percent of political leaders did so.

Likewise, according to Policy Forum’s *Tanzania Governance Review (TGR) 2012 Report*, the Prevention and Combating of Corruption Bureau’s asset recovery average of 5.2 billion Tanzanian shillings per year from 2006 to 2011 is a “drop in the ocean compared to the extent of theft of public resources at all levels documented in this and previous TGRs.” In addition, the Policy Forum report notes the previous PCCB Director General, Edward Hoseah (recently removed from office by the current President), as “lamenting the growing incidence of political corruption, including vote buying in party and parliamentary elections,” and adds, “Given the [director of public prosecution’s] reluctance to prosecute the cases of alleged grand corruption that PCCB investigates, it would be reasonable to describe the institution as dealing essentially with petty corruption, and even this remarkably inefficiently.”¹⁹⁰

¹⁸⁶ The East African, January 24 2015, “Tanzania bans ‘The EastAfrican’ over coverage of govt, registration”

<http://www.theeastafican.co.ke/news/Tanzania-now-bans--The-EastAfrican--/2558-2600522-ydbvagz/index.html>

¹⁸⁷ Kidanka, Christopher. “The EastAfrican’ resumes circulation in Tanzania after one-year ban”, *Daily Nation*, January 15, 2016,

<http://www.nation.co.ke/news/1056-3035208-7nl2q8z/index.html>

¹⁸⁸ A Kiswahili weekly newspaper, Mseto, has been suspended; Dar es Salaam-based Magic FM and Radio and Arusha-based Radio Five have been shut down; Independent Television (ITV) has been fined for broadcasting an interview with an opposition MP who during the broadcast made a comment insulting the National Assembly Deputy Speaker

¹⁸⁹ Patty Magubira, “Over 680 Public Leaders Fail to Declare Wealth before Deadline,” *The Citizen*, July 3, 2012. In 2011, 93 percent of leaders returned their declarations on time. By comparison, in 2006 only 27 percent of declaration recipients returned them on time (Bofin and Kobb, *Tanzanian Institutions of Accountability*, 29); and *The Citizen*. Why the Public Leadership Code of Ethics Law is Seriously Flawed. , April 31, 2011.

¹⁹⁰ Policy Forum, *Tanzania Governance Review 2012*, 26.

Likewise, failures of implementation of the Election Expenses Act can be seen in the recent “EPA scandal” whereby the external payment arrears (EPA) account facility at the Bank of Tanzania was associated with fraudulent payment of around 133 billion Tanzanian shillings (\$96 million) from the account to 22 companies in 2005 and 2006. Media reports claim that the EPA scandal money was intended for financing of the election campaign of the ruling political party, CCM.¹⁹¹

Beyond these specific cases, such compromised institutional oversight is believed to be responsible for the high levels of corruption that are commonplace in business ventures and other sectors—such as business inspections to ensure public environmental standards being carried out—with bribes extracted from companies in return for favorable treatment or expedited processing.¹⁹² The same can be said for problems within the Tanzania Revenue Authority that were mentioned in Section 3.

Based on these observations, key to the Tanzania context is the extent to which problems of governance and accountability persist—despite the country’s efforts and reforms intended to address these problems. In fact, ethical codes of conduct for public officials and anti-corruption efforts existed during the single-party, socialist era, where corruption was seen as a form of oppression that undermined egalitarian values. Thus, it is worth reflecting briefly on the trajectory of efforts at reform to understand why they may, or may not, be successful.

UNDERSTANDING A PERSISTENT LACK OF ACCOUNTABILITY

Because concerns about corruption are so long-standing in Tanzania, understanding the persistence of institutional failure requires a look at the historical processes of institutional reform in the country. The first observation is that despite efforts aimed at addressing corruption in the socialist era, overexpansion of the state’s role in the national economy during this period resulted in the regular misuse of office, especially with regard to the management of cooperatives and parastatals.¹⁹³ That said, although corruption increased under socialism, it was with the liberalization of the economy and privatization of state assets that corruption really blossomed, enabled by the official abandonment of the Leadership Code, which had been established during the preceding (Julius Nyerere) era after a party meeting in Zanzibar (the Zanzibar

¹⁹¹ Swedish International Development Cooperation Agency (SIDA), *General Budget Support to Tanzania: An Assessment Memorandum* (2008); and Norwegian Agency for Development Cooperation (NORAD), *Joint Evaluation of Support to Anti-Corruption Efforts: Tanzania Country Report* (ITAD/LDP, June 2011).

¹⁹² Global Integrity, “Global Integrity Report 2010: Tanzania.”

¹⁹³ Heilman and Ndumbaro, “Corruption, Politics, and Societal Values in Tanzania.”

Declaration), and its subsequent replacement with a much weaker Public Leadership Code of Ethics, which is more leniently enforced by a rather weak Ethics Secretariat (as described earlier).

Following liberalization, by the second term of the second president, Ali Hassan Mwinyi (1990–1995), corruption in Tanzania had become entrenched in all sectors of the economy and politics.¹⁹⁴ Eventually, the exposure of a massive corruption scheme in the country's revenue/tax collection system prompted donors to freeze aid in November 1994.¹⁹⁵ By this point, corruption had festered to the extent that it was also a point of major public resentment, particularly against the incumbent government of the ruling party CCM.¹⁹⁶ Illustrative of the extent of this perception of corruption is that even Nyerere is popularly remembered as saying that the government under his party (CCM) “stank of corruption” and needed a presidential candidate who could address these problems.

During multiparty elections in 1995, opposition political parties attempted to transform popular anger against corruption into electoral support. Nonetheless, the ruling CCM managed to turn the anti-corruption agenda to its advantage by choosing Benjamin Mkapa as a candidate. Called “Mr. Clean,” Mkapa was then publicly “corruption-scandal free,” and was, therefore, expected to address the problems within the CCM. On the campaign trail, Mkapa successfully promised to wage a war on corruption.¹⁹⁷ This position was supported by the donor community for whom the promotion of good governance had been a key priority over the preceding decade. After being elected president,¹⁹⁸ Mkapa initiated the Presidential Commission Against Corruption, in January 1996, as a way of fulfilling his election pledge. The commission was chaired by the highly respected former judge and prime minister, Joseph Warioba, and is commonly known as the Warioba Commission.¹⁹⁹

In the first year of Mkapa's Presidency, Warioba issued *The Report of the Presidential Commission of Inquiry against Corruption* (known as the Warioba

¹⁹⁴ Joseph Warioba, *The Report of the Presidential Commission of Inquiry against Corruption* (URT, 1996), known as the Warioba report.

¹⁹⁵ Sam Kiley, “Donors Freeze Aid Over Tanzanian Tax Fraud Claims” *The Times* (London), November 25, 1994.

¹⁹⁶ Hussmann and Mmuya, “Anti-Corruption Policy Making in Practice: Tanzania.”

¹⁹⁷ Heilman and Ndumbaro, “Corruption, Politics, and Societal Values in Tanzania.”

¹⁹⁸ Notably, the opposition anti-corruption agenda presidential candidate, Augustino Lyatonga Mrema, who ran as part of the NCCR-Mageuzi Party (after defecting from the ruling CCM where he said his efforts to fight corruption were constrained), also won a sizable share of the vote (27 percent)—which indicated that a significant segment of the public supported an anti-corruption agenda.

¹⁹⁹ The Warioba report also provided the names of 60 corrupt individuals and recommendations to clean the leadership from the top. Many of these recommendations, however, have not been implemented, nor were the named individuals prosecuted. See Hussmann and Mmuya, “Anti-Corruption Policy Making in Practice: Tanzania.”

report²⁰⁰), which laid the foundation for combating corruption in Tanzania, and led to the adoption of the first comprehensive National Anti-corruption Strategy and Action Plan (NACSAP I) in 1999. This was then reviewed and enhanced in NACSAP II for the period 2008–11. By October 2010, all government ministries had developed specific corruption plans to address the risks in their respective sectors, giving rise to the legislation described earlier in this report.

Despite these efforts, however, it is clear that reforms have not been successful in addressing the core drivers of governance challenges. As seen in this report, a significant feature of many of these reforms is that they have failed to suitably empower oversight bodies. Routinely, across the different institutions, there are problems of autonomy (with the president appointing the head of oversight institutions), resourcing, jurisdiction, and ability to prosecute. Regarding the last of these, it is notable that numerous oversight bodies are only empowered to generate reports that Parliament is then meant to pursue. As such, it seems that even in cases where oversight institutions work relatively well, their inability to reshape incentives and address potential maladministration persists as a result of the dynamic between the executive and the legislature—with a compliant legislature unwilling to hold the executive to account. Because of the important role played by Parliament in stymieing the process of oversight, it is worth elaborating on the structures that shape parliamentary incentives in order to understand why they remain so compliant in terms of oversight.

Understanding parliamentary compliance with the wishes of the executive requires a reflection on the process by which parliamentarians get elected: prior to standing for election, parliamentary candidates need to first be nominated by their respective political parties. They also need to be approved by returning officers of the National Electoral Commission (NEC) in their constituencies.²⁰¹ The key outcome of this process is that it affords the party executive the capacity to sanction individuals by eliminating them from primaries. The result is that individuals are disincentivized from dissenting with the formal stance of their party, resulting in high levels of party discipline. This, in turn, enables the

²⁰⁰ Warioba, *The Report of the Presidential Commission of Inquiry against Corruption*.

²⁰¹ For candidates nominated by their respective political party, the following qualifications are necessary for election: s/he is a citizen of the United Republic of Tanzania; s/he has attained the age of 21 years; s/he can read and write in Kiswahili and English; s/he is a member of, and a nominated candidate from, a registered political party; and s/he has not been convicted for tax evasion by any court in the past five years. Furthermore, all parliamentary candidates must submit the following to their respective returning officers of the NEC on or before the nomination date: various documentation and forms required by the NEC; nominations from at least 25 registered voters from the constituency in which they stand; a statutory declaration before a magistrate to confirm that they meet the qualifications to stand for a parliamentary seat, and that there is no reason for them to be disqualified to stand; a deposit of 50,000 Tanzanian shillings (\$50) with the NEC; and four postcard-size color photographs of the candidate. See National Electoral Commission (NEC), *The Report of the National Electoral Commission on the 2005 Presidential, Parliamentary and Councilors Elections* (2005), 54.

majority party to pass both legislation and budgets without pushback, and allows the majority party to operate with relative impunity. As mentioned earlier, the recent appointments to political and executive positions, by the current president, of candidates who lost their parliamentary primaries adds a new dimension to this problem: as a matter of gratitude the appointees will likely show loyalty to the incumbent for being given a second chance; meanwhile, those who were elected by being loyal to the preceding government will fear the appointees as their future competitors under the incumbent government, which will likely disincentivize them from expressing dissent.²⁰²

Illustrative of the extent to which this process plays out are findings from a study by the CSO Uwazi that show that (1) MPs of the incumbent party are likely to be less active in Parliament than members of the minority parties, and that (2) the most active legislators appear more likely to lose their re-election bid in the coming year.²⁰³ Active and retired politicians from both the ruling party and the opposition²⁰⁴ were largely in agreement that within the CCM party loyalty comes first. Those who speak strongly against the performance of their party and its government or who reveal its corrupt acts in public are not viewed well by their peers. There are also indications that in the opposition parties, party loyalty comes first, but often at least some of the opposition parties are united with a common agenda, typically against the stand of the ruling CCM.

In addition to the dynamics around nomination, the incentives of parliamentarians were further distorted after former President Kikwete introduced a new system for selecting candidates for CCM's National Executive Committee. As well as empowering lower levels of the party to select candidates for the NEC, the new system has also decentralized corruption in the selection process. For example, former Prime Minister Frederick Sumaye (who defected to the opposition party, CHADEMA,²⁰⁵ during 2015 general elections) claimed that he was defeated corruptly in the previous CCM National Executive Committee (NEC) election.²⁰⁶ Sumaye, who lost in Hanang to Mary Nagu, former minister of state in the Prime Minister's Office, by 481 votes to 648, remarked:

Corruption in CCM elections has taken a new form. Now it has moved from one person bribing in their area, to network bribing where that

²⁰² Kabwe, Zitto. "Will the real Opposition emerge under Magufuli's repressive CCM?" *The Citizen*, August 7, 2016

²⁰³ Specifically, the study found that in the previous CCM primaries (August 2010), seven of the 10 most active legislators during the previous parliamentary term lost their re-election bid, while the 10 least active MPs won. Data for the participation in Parliament was drawn from the Uwazi brief titled *Do They Work for Us? Update on the 19th Session of the Bunge* [2010]. The brief and full dataset can be downloaded from www.uwazi.org; the data is based on information available on the Bunge (Parliament) website, and the poll results are drawn from newspaper reports.

²⁰⁴ Interviews in Dar es Salaam, Kilimanjaro, and Arusha between January 2015 and April 2015.

²⁰⁵ Chama Cha Demokrasia na Maendeleo/Party of Democracy and Development

²⁰⁶ Rose Athumani, "Sumaye Cries Foul over Defeat," *Daily News*, October 8, 2012.

person gives out money in different areas in the country, so that those voted in become his people in the journey to fulfill his dreams, ... all struggle to fight corruption in the country. But the situation is getting worse, disgracing democracy ...²⁰⁷

In October 2012, former President Kikwete condemned corruption during elections in both the ruling party and its youth wing after “the new Chama Cha Mapinduzi Youth Wing (UVCCM) national leadership was announced ... amidst protests that saw two factions accuse each other of bribery.”²⁰⁸ Former President Kikwete has also complained bitterly about rampant corruption in the internal elections in his own ruling Chama Cha Mapinduzi. He spoke of money having been poured into the election. “If the trend continues, ... the party risks losing the trust of the people due to corruption and internal divisions.”²⁰⁹ Commenting on the apparent upward trend in political corruption, “a seasoned politician and ... CCM stalwart Mzee Kingunge Ngombale Mwiru (who defected from CCM and supported a coalition of parties called UKAWA²¹⁰ during 2015 general elections) ... was quoted ... as having told delegates to the Coast Regional party electoral conference that the party was bedevilled by selfishness, corruption and power grabbing.”²¹¹ The former Prevention and Combating of Corruption Bureau Director General Dr. Edward Hoseah is quoted as telling PCCB’s annual meeting that:

Never before in the history of this country’s elections have there been [such] widely reported allegations of corruption in the ruling party ... like this year. Most political leaders are involved in corrupt dealings, and therefore are not expected to set examples in the community. The participation of some politicians in an anti-graft drive is more theoretical than practical.²¹²

Although processes like vote buying are not likely to generate a systematic skewing of incentives as complex alliances and quid pro quo agreements are established, they are thought to undermine accountability by rendering oversight subject to other interests as corruption and patronage follow MPs beyond the election cycle. For example, during the course of the enquiry into the “David Jairo

²⁰⁷ In response to Sumaye’s complaint, one commentator noted: “If nothing was done about [the Warioba] report by the [Mkapa] administration whose government was headed, for ten solid years, by Mr Sumaye ... , then the man ... has no business complaining over what he is now seeing around!” (“Why Are We Behaving as if This Country Does not Belong to Us?,” *The Guardian on Sunday* [Tanzania], October 7, 2012).

²⁰⁸ “Bribery Claims over UVCCM Election,” *The Citizen*, October 25, 2012.

²⁰⁹ “When the President Complains over Graft,” *The Citizen*, October 23, 2012.

²¹⁰ Umoja wa Katiba ya Wananchi/Coalition for Peoples’ Constitution

²¹¹ Evarist Kagaruki, “Factions and Electoral Corruption in CCM Erode Public Trust,” *The Citizen*, November 4, 2012.

²¹² Zephaniah Musendo, “Corruption: The Order of the Day in Tanzania?,” *Mirror Digest*, October 27, 2012.

saga,” it emerged that “facilitation”—of the kind involving bribing MPs and committee members to allow budgets through unchallenged—is a common practice.²¹³ It is likely that MPs who enter the Parliament with their integrity already compromised by corruption and the support of patronage networks of high-level politicians and executives are easy targets of corruption as they undertake their legislative duties. This possibility is made worse by the fact that often the executive branch uses its massive advantage in resources to dominate the legislature, the judiciary, and subnational political institutions.²¹⁴

Considering the extent to which Parliament is compliant in Tanzania, it could be noted that a compliant Parliament is only particularly useful if one party holds a significant majority in the legislature. In this regard, it is worth further noting that the dynamic of strong party loyalty is exacerbated in Tanzania by the ability of the ruling party to bolster its position in the national elections. This strengthening results partly from the first-past-the-post electoral system, based on single-seat constituencies, which provides the larger parties with a disproportionately large share of seats, while smaller parties are left with a disproportionately small share of seats (providing a “seat bonus” to large parties²¹⁵). In Tanzania, for example, the first-past-the-post electoral system in recent years has given CCM a roughly 20 percent seat bonus (in 2005 CCM gained almost 90 percent of directly elected seats in Parliament with more than 70 percent of the popular vote. The 2015 election was more tightly contested: the opposition gained more seats, and CCM recorded its lowest share of the vote in history (55% for parliamentary elections, and 58 for presidential elections). However given the first-past-the-post electoral system, the CCM still attained an outright majority - 186 of the 239 parliamentary constituencies (about 77%²¹⁶). Additionally, the allocation criteria for appointed “special seats” in Parliament for women, youth, and the disabled (which is allocated in proportion to the number of seats already won through the directly elected seats in Parliament) further pads out the ruling party’s parliamentary

²¹³ David Jairo is the former minister in the Ministry of Energy and Minerals who lost his position due to the alleged attempt to solicit funds from institutions in his ministry in order to corrupt MPs to endorse the 2011/12 budget of the Ministry of Energy and Minerals. See Policy Forum, *Tanzania Governance Review 2012*.

²¹⁴ Hoffman, “The Limits of Top-Down Reform.”

²¹⁵ Consider a simplified example under the first-past-the-post electoral system based on single-seat constituencies with three candidates from three different parties at each of the constituencies. Suppose all the larger party’s candidates win with only 45 percent of the votes each at his/her constituency. The losing (smaller parties) candidates each fail to get 45 percent of the votes, yet they collectively get 55 percent of the votes. In this simplified example, it is shown that the larger party would have won 100 percent of the seats with only 45 percent of the popular vote. While this example is exaggerated for the purpose of illustration, the discrepancy between the number of seats and the popular vote is a well-established phenomenon under this system and is appreciated in electoral systems around the world.

²¹⁶ https://en.wikipedia.org/wiki/Tanzanian_parliamentary_election,_2015

majority.²¹⁷ On top of this, the public campaign finance system awards funding in proportion to the percentage of presidential as well as parliamentary and local government seats held by a given party,²¹⁸ meaning that successful parties are given the means to further entrench their political dominance.

CCM candidates also have advantage over opposition MPs because they often benefit from a still somewhat-fuzzy boundary between state and party institutions. With the advent of multiparty democracy in the 1990s, party and state, which had been completely fused during the single-party era, were officially separated. But in practice, ruling party MPs often benefit from government resources during elections in a way that opposition MPs don't. Better finances also give these MPs better access to media exposure.²¹⁹

This fusion of state and party interests can also stifle the electoral efforts of opposition members, who find themselves harassed by police and field force units during meetings and demonstrations organized by opposition parties. According to some opposition politicians interviewed,²²⁰ violence perpetrated on opposition parties' meetings and demonstrations is often turned against them and used by members of the ruling party to paint the opposition parties (who are the victims) as perpetrators of the violence and enemies to the peace and stability built by the ruling party over the years. According to some interviewees, this tactic is used to deter the electorate from attending opposition meetings and demonstrations and/or voting for opposition candidates. Indeed, presently, the incumbent government, under the pretext of 'ensuring peace and stability' through public directives of its executives and police orders, has banned political meetings, rallies, and demonstrations "citing security reasons and warning that stern measures would be taken against defiance."²²¹ Yet the evidence provided to support such concerns has frequently been weak or not provided at all²²².

²¹⁷ Kevin Croke, *Strategies of Single Party Hegemony in Tanzania: Evidence from Survey Experiments* (World Bank, 2013).

²¹⁸ Barak D. Hoffman and Lindsay Robinson, "Tanzania's Missing Opposition," *Journal of Democracy* 20, no. 4 (2009).

²¹⁹ Babeiya, "Electoral Corruption."

²²⁰ Interviews in Kilimanjaro, Arusha, and Dar es Salaam between January 2015 and April 2015. and Ewald, Jonas. *Challenges for the democratization process in Tanzania: Moving towards consolidation years after independence?* African Books Collective 2013. and Lofchie, Michael. *The political economy of Tanzania: Decline and recovery*, University of Pennsylvania Press, 2014.

²²¹ While political activities are permitted by the Constitution of the United Republic of Tanzania, the police have imposed the ban relying under the provisions of the Police Force and Auxiliary Act, that allows the police to curtail a person's freedom of movement and to restrain or imprison him; or limit a person from exercising his freedom of movement to compel him first to comply with other obligations arising under another law – in this case "citing security reasons" (Kapima, Faustine "Police ban on political rallies, demonstration lawful", *Daily News*, 22 August, 2016. <http://dailynews.co.tz/index.php/analysis/52899-police-ban-on-political-rallies-demonstration-lawful>).

²²² Kabwe, Zitto. "Will the real Opposition emerge under Magufuli's repressive CCM?" *The Citizen*, August 7, 2016

Unprecedented too, under the current regime, is the use of scare tactics: when CHADEMA, the main opposition party, was planning pro-democracy public protests, there was a sudden appearance of armed soldiers from various armed forces training on streets and other public spaces. Simultaneously government officials issued various threats against the scheduled demonstration. President Magufuli has dared CHADEMA to go to the streets and demonstrate, and threatened in 'street' Swahili “watakiona cha mtema kuni. Wasinijaribu. Sijaribiki.” Meaning he isn't testable and he will crash them heavily²²³.

Further to these challenges, interviews with opposition MPs, for whom criticisms of the incumbent party (including revealing its scandals) is a political asset, described how they can find themselves frustrated by returning officers of the NEC who refuse to nominate them. Such accounts raise questions about the independence of the NEC and correspond with what leading Tanzanian scholars of democratic processes in the country view as the politicization of the electoral bureaucracy. It is worth noting that before the 1995 elections, the posts of returning officers and other election officials at the constituency and local government level were advertised in the media, and successful applicants were appointed as NEC personnel for the purpose of elections. However, subsequent amendments mean that all officers are now to be appointed from city, municipal, town, and district executive directors. This double loyalty (i.e., to the appointing authority and to the NEC) makes their neutrality and nonpartisanship highly questionable.²²⁴

Finally, interviews with opposition politicians revealed how their reliance on campaign messages that are critical of the ruling party obliges them to show greater levels of integrity in order to be consistent with their campaigning. This integrity means abstaining from vote buying and other forms of corruption, which undermines their competitiveness. Furthermore, even if they choose to compromise their own integrity and engage in vote buying, they are less likely to be linked to patronage networks involving wealthy businesses that tend to support those in the ruling party. Thus, these politicians may not be able to acquire campaign finances and other resources that their ruling party counterparts have access to.

The overall outcome is that the ruling party is able to maintain its hegemony in Parliament, while also being able to keep discipline within the party. The result is that Parliament is able to exercise only very limited checks on the power of the

²²³ Kabwe, Zitto. “Will the real Opposition emerge under Magufuli’s repressive CCM? *The Citizen*, August 7, 2016

²²⁴ Tanzania Election Monitoring Committee (TEMCO), *The 2000 General Elections in Tanzania: Report of the Tanzania Election Monitoring Committee* (2001); Tanzania Election Monitoring Committee (TEMCO), *The 2005 Elections in Tanzania: Report of The Tanzania Election Monitoring Committee* (2006); and Babeiya, “Electoral Corruption.”

executive, who is able to promulgate laws, policies, and budgets with little resistance from the legislature. Likewise, with oversight bodies compromised in their autonomy, underfunded, and reliant on Parliament for sanction, members of the executive are able to operate with relative impunity. Efforts at reform have not been able to break this hegemonic control.

Despite the dour picture painted above, it should be noted that an explanation that focuses on reforms simply being captured might not be sufficiently complex to explain the way in which accountability is contested in Tanzania. Rather than the government simply being able to absorb reforms, a look at Tanzania suggests that the institutional strength of oversight functions is in a state of tension, with processes simultaneously taking place that strengthen one institution, while also weakening others. To make this clear, a number of changes that are currently taking place in Tanzania are worth looking at in greater detail. These are (1) the relative improvements in the functioning of the controller and auditor general and parliamentary oversight committees – during the outgoing government under president Kikwete (2005-2015), (2) the backsliding on media freedoms during the outgoing and incumbent governments, and (3) apparently successful resistance to efforts at further undermining access to information.

Looking first at the controller and auditor general (CAG), although it was mentioned above that the architecture for governance reforms in Tanzania was laid down during the term of President Mkapa, through the Warioba Commission, it should also be noted that by his second term, Mkapa had found his own administration mired in charges of corruption. This situation created an opportunity for the presidential aspirant Jakaya Kikwete to similarly run on a presidential platform of tackling corruption. Upon election, Kikwete's government went about fulfilling this mandate by strengthening the national audit office (the CAG Office), passing laws to enable it perform its functions properly and efficiently.

Reforms included efforts to give the CAG greater autonomy²²⁵ and to expand the scope of audit beyond auditing books of accounts to include forensic audits and value-for-money audits. The government also created the office of the Internal Auditor General to strengthen internal audit capabilities within the government. The government also introduced systems for assessing these reform initiatives through the Public Expenditure and Financial Accountability (PEFA) program. These actions provide a quantitative and qualitative analysis of the public finance management performance that identifies specific strengths and weaknesses in the system.

²²⁵ As mentioned, the CAG always had its independence enshrined in the Constitution; however, previously it had been governed by the Public Finance Management Act of 2001. Kikwete's reforms created a new act that specifically mandated the actions of the CAG through the Public Audit Act.

Evidence of the success of these reforms comes from an interview with outgoing head of the CAG, Ludovick Utouh,²²⁶ who described a list of challenges and improvements to the CAG during his two four-year terms (2006–14). He notes that when he began, there was little public awareness regarding the CAG and what it does. Additionally, reports published by the CAG were not in conformity with required standards and were outdated. Also, the office did not have enough staff, and there was a lack of office space for auditors.²²⁷ Now, as he retires, the CAG employs 940 people—up from 420 people in 2006—though the office is thought to need at least 1,500 employees. The quality of reports has improved greatly. Regarding office space, as soon as he started working, Utouh sought audience with President Kikwete to discuss the issue, which resulted in a commitment to expand office space, resulting in dedicated office space to auditors in a number of regions.²²⁸

Utouh has also remarked that “With regard to public awareness, even a standard two [grade four] pupil now knows who the CAG is, and what he does. Similarly, even if you go to the remotest part of this country, the villagers there will tell you who the CAG is and what his responsibilities are ... We [the CAG] command respect within the AFROSAI-E [an organization of national audit offices in the 24 English-speaking African countries]. We take part in auditing organs for both the East African Community and Southern African Development Community]’. Utouh added that it was during his tenure that “the CAG’s office joined the United Nations Board of Auditors and became part of the team of experts who audit the UN missions.”²²⁹ Given these commendable successes during the outgoing government, it is disheartening that the new government has severely reduced the budget of the CAG, while the overall national budget has increased. Such action threatens to reverse some of the previous gains made against graft, and undermine the anti-corruption drive that has been the main thrust of President Magufuli’s election promise. Indeed, it is a major contradiction of Magufuli’s brief tenure that while his government shows a strong push for home-grown revenue collection and a strong drive around service delivery (e.g. free education from primary to secondary school) it appears to have simultaneously undermined the principal institution responsible for overseeing budget expenditure.

²²⁶ Samuel Kamndaya, “Utouh Reveals How EPA, Jairo Took Heavy Toll on Him as CAG,” *The Citizen*, September 18, 2014, <http://www.thecitizen.co.tz/News/national/Utouh-reveals-how-EPA--Jairo/-/1840392/2455948/-/11t8prvz/-/index.html>

²²⁷ As a result of these conditions, auditors were permanently accommodated in the offices of the very same institutions that they were required to audit.

²²⁸ To date, auditors in Arusha, Shinyanga, Singida, Mbeya, Morogoro, Lindi, and Manyara are working from offices that have been built by the government and its development partners. Auditors in Bukoba, Mwanza, Tabora, and Iringa operate from rented premises, and now, building is in progress for auditing headquarters in Dodoma as well as regional offices in Sumbawanga, Iringa, and Mara.

²²⁹ Utouh reveals how EPA, Jairo took heavy toll on him as CAG, *The Citizen*, September 18, 2014

In addition to having the support of national leadership as well as a reform-minded champion in charge, the successful strengthening of the CAG was facilitated by a CSO called HakiElimu (meaning Rights-to-Education), which popularized CAG reports by producing and distributing leaflets containing the CAG findings in clear and accessible language. Likewise, another CSO, called Sikika, has continuously analyzed the reports of the CAG over the past decade to flag and politicize so-called unnecessary expenditures within the Ministry of Health and Social Welfare.²³⁰ Curbing unnecessary expenditures subsequently became a political agenda of opposition parties. It was also one of the election promises among an opposition coalition (UKAWA) during the most recent (2015) election. Upon winning office, President Magufuli has appropriated this agenda and implemented policies to curb unnecessary expenditures including: banning foreign travel by public officials, cancelling expensive national celebrations (such as independence day); finding and removing ‘ghost workers’ from payrolls of Ministries, Department, Agencies and Local Governments; holding government meetings and workshops in government buildings rather than in expensive hotels; and a wide range of other cost-saving measures. Such reforms have earned him praise, even from some opposition leaders.

Regarding improvements in the Public Accounts Committee (PAC), interviewed members of civil society attested to the fact that performance has improved. These claims are bolstered by the results of a recent comparative analysis of PACs in East Africa, which found that the Tanzanian PAC performs above regional averages. Notably, this relatively good performance occurs despite the committee having fewer staff than similar committees in the rest of the region.²³¹

Increased activity within Tanzania’s parliamentary oversight committees has accompanied a strengthening of Parliament’s general oversight role, which was brought about by parliamentary rule changes engineered by the former Speaker Samwel Sitta.²³² In particular, members of civil society that were interviewed for this research believe that chairing of the PACs by opposition MPs in recent years

²³⁰ These efforts have led to high officials in the government—including Prime Minister Mizengo Pinda—to acknowledge the existence of such unnecessary expenditures. The government has, hence, taken some steps to reduce such expenditures. According to interviewed civil society actors, however, unnecessary expenditures (bloated travel schedules and workshop allowances, purchase of expensive vehicles, etc.) remain a problem.

²³¹ Pelizzo and Kinyondo, *Public Accounts Committees in Eastern Africa: A Comparative Analysis with a Focus on Tanzania*

²³² Changes include the revision of Parliament’s standing orders to allow it far greater capacity to oversee the executive branch, allowing for the strengthening parliamentary committees, including creating a planning committee to discuss budget proposals and priorities; increasing the number of committees chaired by opposition MPs; empowering standing committees to organize public hearings to discuss bills and policy proposals; and introducing prime minister question-and-answer sessions (Barak D. Hoffman, “The Limits of Top-Down Reform: Budget Transparency in Tanzania,” in *Open Budgets: The Political Economy of Transparency, Participation, and Accountability*, ed. Sanjeev Khagram, Archon Fung, and Paolo de Renzio [Brookings Institution Press, 2013], 187).

has contributed to improvements in performance, particularly during examinations that have revealed major leakages and corruption involving public funds.

Some of the CSO personnel interviewed for this research report also attributed the improved performance of the PAC to the presence of ‘younger, more aggressive, critical, and inquisitive opposition MPs’²³³. This view is supported by scholars of these reforms, who note that recent years have seen a decline of discipline and attendant rifts in the ruling party (CCM).²³⁴ The increased dynamism within Parliament is thought to have had positive spillover effects for the CAG as Parliament has engaged more thoroughly with its reports and asked for improved levels of performance and independence. Unfortunately current repression of the opposition in the parliament may also weaken the improved performance of the PAC. But this remains to be seen.

While the above cases suggest successful reforms within the Tanzanian context, the country has, at the same time, seen a significant backsliding in terms of tolerance and freedom of the media. This backsliding includes the passing of the Statistics and Cybercrimes Acts in 2015. Both acts were contested by the opposition, media groups, and activists on the grounds that the laws will prevent journalists from publishing information received from whistleblowers and make it difficult for journalists to operate with freedom. As with the petroleum bills, these pieces of legislation were placed on the agenda using the emergence certificate, meaning those media organizations, CSOs, and the public at large were not able to discuss the bills before Parliament passed them. Indeed, the Cybercrimes Act was of particular concern given the manner in which its passing by the legislature was rushed.

Although such backsliding is part of a global trend,²³⁵ it also seems that a number of local factors in Tanzania are key; media associations, activists, and opposition politicians that were interviewed for this research believe that the current backsliding was driven by the country’s imminent presidential election (October 2015). As one interviewee remarked, “There is a vested interest among the ruling party elites to sensor the media and activists by passing these draconian laws now. Just before we go into elections. ... Look at the timing. Why are they

²³³ with names such as ‘Zitto Kabwe, John Mnyika, Halima Mdee, Tundu Lissu and David Kafulila’, including others, were frequently mentioned as ‘young, educated vibrant opposition MPs who have energized the parliament due to their critical, well informed arguments meant to hold the government to account’

²³⁴ Hoffman, “The Limits of Top-Down Reform.”

²³⁵ Freedom House notes that in recent years there has been a growing attempt by governments to control news content, whether through the physical harassment of journalists covering protest movements or other sensitive news stories; restrictions on foreign reporters; or tightened constraints on online news and social media. See Karin Deutsch Karlekar and Jennifer Dunham, *Press Freedom in 2013: Media Freedom Hits Decade Low* (Freedom House, 2014), <http://freedomhouse.org/report/freedom-press/freedom-press-2014>

passing these laws now? And why is there such a rush?”²³⁶ This theory is supported by the fact that the ruling CCM party has seen its dominance in elections diminish from 80 percent in 2005 to 63 percent in 2010. Eventually, during the 2015 presidential election, it dropped to 58%. In such a circumstance, there were likely concerns about the media giving voice to the opposition or disclosing cases of maladministration, which might tarnish the government’s public image.

Several interviewed CSOs and media activists are also of the opinion that the increased role of social media activists in criticizing the incumbent government has played a part in the government decision to enact these laws, particularly the Cybercrimes Act. Media forums such as Jamii Forum (translated as the Societal Forum or Social Forum) have been vehicles for discussions of a wide range of social issues in Tanzania, including national politics. Activists and CSO actors interviewed²³⁷ argue that although Tanzanians are making increased use of social media platforms, such as Jamii Forum, to convey information about candidates and their policies, the Cybercrimes Act will impede them from sharing information freely online because the act instills fear, and hence self-censorship. But the most direct applications of the law came after the elections: There are already people that have been charged (and in some cases already jailed) for sedition, particularly insulting the president in social media.

Finally, while the passage of such bills points to backsliding on oversight made possible by a compliant Parliament, it is worth noting that other controversial bills have very recently been effectively halted. These include bills pertaining to the Access to Information Act and the Media Services Act. Although these acts were purported to strengthen free expression and access to information, opponents argued that they would have undermined those very rights. The proposed Access to Information Act would mandate a minimum 15-year prison sentence for any government officials who released information that was subject to a number of overly broad and vaguely defined exemptions.²³⁸ It likewise attached a minimum five-year prison sentence to the offense of publically sharing information received from an “information holder” and prevented the substitution of jail terms with fines—which could allow for the effective silencing of journalists.

The proposed Media Services Act would create a government-controlled media council that would oversee all publishers, from major news outlets to blogs. The

²³⁶ Interview with a local journalist, Moshi, Kilimanjaro, May 2015.

²³⁷ Phone interviews with several CSO members and activists encountered during this research to get their perspectives on the laws, July 2014.

²³⁸ Including disclosures: that are “not justified in the public interest,” that “infringe commercial interests,” or that “significantly undermine the operations of the Tanzania Broadcasting Association” (Cora Henry, “IPI Welcomes Withdrawal of Media Bills in Tanzania: Facing Criticism, Government Pledges Further Review,” International Press Institute, July 2, 2015, <http://www.freemedia.at/newssview/article/ipi-welcomes-withdrawal-of-media-bills-in-tanzania.html>).

media council would have the right to ban newspapers and to prohibit any non-accredited journalists from publishing information. Observers, including media interviewees,²³⁹ found the proposed legislation especially dismaying in light of former President Jakaya Kikwete's participation in the Open Government Partnership, a global initiative to promote transparency in government.

After resistance from opposition MPs, media groups, and activists (both nationally and internationally), the government announced that Parliament will not discuss the Access to Information Act in that session. Parliament also set aside the Media Services Act in order to give media organizations more time to review the bill. Notably, however, President Kikwete said in May, 2015, that he would sign both acts if they reached his desk.

Reflecting on the broad architecture of oversight institutions that exist to allow Tanzanian citizens to hold their leaders accountable, possibilities for oversight remain severely compromised. Central to this dynamic is the existence of a largely compliant Parliament among which party discipline is maintained through the use of an electoral system with closed lists, which allows party executives to sanction individuals who dissent by excluding them from subsequent primary elections. With high levels of party discipline, the hegemony of the ruling party is maintained in a number of ways including through formal rules that benefit the incumbent party and through the blurring of lines between party and state, which allow public resources to be put to the use of the party.

Problems of a compliant Parliament are exacerbated by severely compromised oversight bodies, which, in general, are accountable to the president, who tends to have control over the leadership of such institutions and who also determines their resourcing. Even in cases where investigations take place, however, they are usually reliant on the Parliament to enact sanction—and because Parliament is compliant with the wishes of the party, the result is that sanction is rarely enforced and when it is it is most fiercely directed toward lower-level officials while immunity from sanction or oversight is afforded to a small elite in the country, consisting of the presidency and the central committee of the ruling party.²⁴⁰

A notable feature of Tanzania is that this lack of oversight persists despite numerous efforts to reform institutions and improve oversight. The reason these reforms have failed is thought to be due to the fact that they have largely been implemented by powerful presidents sitting on top of a fairly disciplined and hegemonic party, in return for foreign assistance.²⁴¹

²³⁹ Interviews were with local journalists in Kilimanjaro and Dar es Salaam, July 2015.

²⁴⁰ Stevens Tucker, Barak Hoffman, and Rwekaza Mukandala, *Democracy and Governance Assessment of Tanzania: Final* (USAID, 2010 ; see also Policy Forum. *Tanzania Governance Review 2012: Transparency with Impunity?* 2013.

²⁴¹ Hoffman, "The Limits of Top-Down Reform."

Despite these challenges to oversight, it should be noted that slippages in power do appear to have manifest in Tanzania, allowing for improvements in transparency to be wrought in certain areas. Improvements in the performance of the CAG as well as the parliamentary oversight committees appear to be the result of competition between factions within the ruling party. Also important in this respect has been the work of reform-minded champions within the civil service, who have been able to advocate for resourcing, as well as civil society efforts to effectively politicize the functions and findings of oversight bodies.

Although noting these improvements, one should be wary of inferring a positive trend in oversight in Tanzania. For as much as oversight and openness might have improved in certain spaces, accountability appears to have been undermined by the passing of laws that heavily restrict media freedom and deter whistleblowing. The fact that the country was simultaneously backsliding on media freedom but improving parliamentary oversight (prior to the current round of repression) suggests that changes in accountability might be nonlinear, haphazard, and manifest in a context of ongoing contest. The fact that certain legislation that would have further compromised oversight was effectively stopped by public outcry further highlights how battles over the oversight architecture in Tanzania remain contested.

Having now explored the accountability architecture in Tanzania, this report moves to appraise the country's efforts at decentralization in order to assess to what extent participatory inputs into the budget are meaningfully formulated at the local level.

7. A NOTE ON DECENTRALIZATION

Now that the manner in which resources are captured and allocated at the national level has been examined, it should be noted Tanzania has undertaken significant efforts at decentralization. A detailed account of how decentralization affects budget allocations was beyond the scope of this work; however, it is useful to reflect briefly on the general literature on decentralization in Tanzania to get a sense of the extent to which power has been decentralized and whether local authorities have significant control over budget allocations. This section briefly reviews the status of decentralization in Tanzania and its impacts on service delivery. It also provides a conclusion on the extent that local authorities have been empowered to allocate resources within their budget.

The process of decentralization in Tanzania has followed an erratic path. Beginning soon after independence, in 1961, decentralization was embraced as a means to more effectively achieve development outcomes. Thus, soon after independence chiefdoms and native authorities were replaced by district councils, which were for the most part concerned with the provision of social services.²⁴²

District councils largely underperformed due to, among other reasons, a lack of financial resources to fund service provision; a lack of qualified personnel; gross mismanagement of funds collected and granted by central government, and little or no capacity to maintain and manage infrastructure constructed by the central government. Hence, local authorities were abolished in 1972 and replaced by a direct central government rule, in a policy paradoxically known as “decentralization.”²⁴³

During the era of “decentralization” between 1972 and 1984, the central government adopted direct management of the development process and provision of social services via its deconcentrated authorities. Notably, this period also coincided with the Arusha Declaration, which set the country on a path embracing socialist ideals of development.²⁴⁴ The process of “decentralization”

²⁴² United Republic of Tanzania (URT), Rural Development Policy, Regional Administration and Local Government (2003).

²⁴³ Julius Nyerere, *Decentralization* (Government Printer, 1972).

²⁴⁴ Nyerere, Julius K. “The Arusha Declaration.”, 1968.

therefore coincided with the socialist project of “villagization” (1967–76), which sought to facilitate collective production and provide government services.²⁴⁵

Under socialism, poverty reduction came to receive greater focus and came to dominate investment from the central government, which expanded facilities for the delivery of basic social services—education, health, and water. As part of this process, a number of committees were established in the villages, wards, districts, and regions as vehicles for people’s participation. Through this process, the regions became the primary drivers of rural development planning and implementation. The result, however, was that centralized government control was extended to the village level.²⁴⁶

The process of villagization achieved mixed results. On the one hand, it has been criticized for being paternalistic and “un-democratic, allowing the state to achieve large scale control rather than local participation.”²⁴⁷ On the other hand, some commentators note that the period was not a total failure: Tanzania is seen as having achieved notable success in terms of education²⁴⁸ despite facing significant challenges²⁴⁹ and having a small economic base.

Regardless of its achievements, by its end, the “decentralization policy” resulted in a tremendous increase in government expenditure and the extension of state bureaucracy to the level of the village. All funds for recurrent and capital investment at the local level came from the national budget, with local authorities

²⁴⁵ Issa G. Shivji, “Tanzania: The Silent Class Struggle,” in *The Silent Class Struggle* (Tanzania Publishing House, 1973); and Issa G. Shivji, *Class Struggles in Tanzania* (Tanzania Publishing House, 1975); Thomas

Biersteker, “Self-Reliance in Theory and Practice in Tanzanian Trade Relations” *International Organization* 34, no. 2 (1980): 229–64; and Leander Schneider, “Freedom and Unfreedom in Rural Development: Julius Nyerere, *Ujamaa Vijijini*, and Villagization,” *Canadian Journal of African Studies* 38, no. 2 (2004): 344–92.

²⁴⁶ Shivji, “Tanzania: The Silent Class Struggle”; and Shivji, *Class Struggles in Tanzania*.

²⁴⁷ Jannik Boesen, Birgit Storgaard Madsen, and Tony Moody, *Ujamaa: Socialism from Above* (Scandinavian Institute of African Studies, 1977); Michaela von Freyhold, *Ujamaa Villages in Tanzania: Analysis of a Social Experiment* (Heinemann, 1979); Richard E. Stren, “Ujamaa Vijijini and Bureaucracy in Tanzania,” review of *Ujama—Socialism from Above*, by Jannik Boesen, Birgit Störgard Madsen, and Tony Moody, and *Ujamaa Villages in Tanzania—Analysis of a Social Experiment*, by Michaela von Freyhold, *Canadian Journal of African Studies* 15, no. 3 (1981): 591–98; Shivji “Tanzania: The Silent Class Struggle”.

²⁴⁸ These included tripling the number of students enrolled in primary schools between 1966 and 1976, and then tripling enrollment again between 1976 and 1981. By 1981 the gross enrollment rate had reached 97 percent (70 percent, if we restrict this to school-aged children, aged between 7 and 13), and the ratio of girls was 47.7 percent. See Lene Buchert, *Education in the Development of Tanzania 1919–90* (J. Currey, 1994), 112–13. According to World Bank statistics (<http://beta.data.worldbank.org/>) the gross primary enrollment rate in Tanzania in 1980 was around 93 percent and declined rapidly afterwards and largely remained below 70 in the 80s and 90s, and began to increase again in mid 2000s.

²⁴⁹ As mentioned earlier, these challenges include the oil shocks, two major droughts, and a war with Uganda.

unable to raise their own funds. Genuine participation was almost impossible owing to the absence of elected representatives, and as a result the sustainability of development projects was compromised.²⁵⁰

In 1980, prior to the process of economic liberalization and as a precursor to political reform, the ruling political party (CCM) ordered the revival of the local government system across the country. In 1982, the Tanzania Local Government Act of 1982 instituted district councils and village councils to constitute local governments composed of elected councilors. The councils have both executive and legislative (bylaw-making) powers. The village council acts on behalf of its electorate (the village assembly), which is the supreme authority in the community on all matters of village policymaking.²⁵¹ Constitutional amendments of 1984 that reinstated power to the people through sound local governments under Clauses 8, 145, and 146 reinforced this change. Local government elections took place in 1983, and Acts 7 and 8 reintroduced rural and urban local government authorities, respectively, which became effective in January 1984.

The reintroduction of local government authorities raised hopes for improved performance on service delivery. However, the focus during this period was principally on liberalizing the economy and dealing with structural adjustment, leaving little space for focusing on the delivery of services in sectors such as education, health, and agriculture. It was expected that the increased role of the private sector and “private citizens” (cost-sharing) would fill the vacuum left by the rolling-back of the state. However, the anticipated improvements were not achieved. The Prime Minister’s Office undertook a study to understand this failure, concluding with the following as being among the underlying reasons:

- The human resource capacity and management was weak and this seriously constrained performance by Local Government Authorities;
- Weak leadership and poor management of the councils;
- Shortage of properly qualified, disciplined and committed personnel;
- Shortage of revenue due to narrow tax base;
- Overemployment within the Councils;
- Lack of transparency and accountability in the conduct of Councils’ business.²⁵²

Although local government strengthening efforts were initially included in the more generic process of structural adjustment, investments in local government were very limited during the early 1990s. By 1997, however, following interest

²⁵⁰ United Republic of Tanzania (URT)/Prime Minister’s Office, Regional Administration and Local Government (PMO-RALG), “Local Government Reform Programme”. Local Governments Background Document(n.d.).

²⁵¹ United Republic of Tanzania (URT), Local Government (district authorities) Act. No. 7 of 1982 (1982).

²⁵² URT/PMO-RALG, “Local Government Reform Programme”.

from the donors, Tanzania had developed a Local Government Reform Programme (LGRP), which was implemented with the aim of addressing the problems mentioned above. Through the program, the government intended to strengthen local authorities and transform them into effective instruments of social and economic development at the local level. The program was made actionable through the formulation of a Local Government Reform Policy Paper of 1998. The main, long-term, goal of LGRP is to contribute to the government's efforts at reducing the proportion of Tanzanians living in poverty by improving the quality, access, and equitable delivery of public services, particularly to poor people. These services were to be provided, again, through reformed and autonomous local authorities.²⁵³

Despite the publishing of this policy in 1998, it was not until 2000 that implementation began. Since then, responsibility for local government has moved through a number of executive offices. Initially, local government was under the President's Office, in the form of Regional Administration and Local Government (PO-RALG), in Dodoma. However, the operational responsibility for the reforms was subsequently delegated to a new secretariat: the Local Government Reform Team, based in Dar es Salaam.²⁵⁴ In 2006, local government matters were again moved, this time from the President's Office to the Prime Minister's Office, in the form of Regional Administration and Local Government (PMO-RALG). Currently, under President Magufuli, local government has been moved again: it is now under the President's Office, in the form of Regional Administration and Local Government (PO-RALG). Overall reforms to local government have been aimed at:

1. Letting people participate in government at the local level and letting them elect their leaders (such as village councilors, and street [*mtaa*] and hamlet [*kitongoji*] leaders);
2. Bringing public services under the control of people through their local councils;
3. Giving local councils powers (political devolution) over all local affairs;
4. Determining appropriate and cost-effective organizational structures for local government authorities;
5. Improving financial and political accountability;
6. Securing finances for better public services;
7. Creating a new local government administration answerable to local councils and to local needs;
8. Delinking local administrative leaders from their former ministries;

²⁵³ URT/PMO-RALG, "Local Government Reform Programme". Local Governments Background Document (n.d.).

²⁵⁴ Einar Braathen, Amon Chaligha, and Odd-Helge Fjeldstad, *Local Governance, Finances and Service Delivery in Tanzania: A Summary of Findings from Six Councils*, Joint Working Paper 2005 NIBR/CMI/REPOA (Norwegian Institute for Urban and Regional Research, 2005), 4.

9. Creating new central-local relations based not on orders but on legislation and dialogue; and
10. Creating good governance based on political and financial accountability, democratic procedures, and public participation.²⁵⁵

Despite such substantial efforts at reform, the results are mixed. For example, a study on the impact of reforms between 1998 and 2008 found evidence of increased electoral and civic participation, increased access to information, increased trust in local government, and reduced corruption (though still perceived to be a major problem by a majority)²⁵⁶. Compared with previous years, financial accountability, as well as the capacity for financial management,²⁵⁷ improved among local government authorities, as did the participation of women and young people.²⁵⁸ At the same time, more than three-quarters of (78 percent) interviewed citizens²⁵⁹ in 2006 agreed that “local government reforms are helping to improve service delivery” (from 58 percent in 2003). In 2006, over 75 percent thought that services had improved in the preceding two years (compared with only 54 percent in 2003). Urban dwellers were more likely to note improvements than rural dwellers. Interviewees were more satisfied with all key sectoral services in 2006. They were particularly pleased with progress in education: 91 percent thought that primary schools had improved in the past two years, while 67 percent thought secondary schools had improved. Over half of respondents also thought that dispensaries and district hospitals were getting better. However, less than a quarter of interviewed citizens were happy with the state of their roads, markets, health clinics, water, electricity supply, and agricultural extension services. Law and order were felt to be improving (by 44 percent), although only 35 percent declared themselves “generally satisfied.”

Notwithstanding such progress, overall satisfaction with services remains relatively low, and apart from education, less than half of respondents said they were satisfied with service in any sector.²⁶⁰ Likewise, issues of corruption, though improved, were still perceived to be an extremely serious problem. Men were still

²⁵⁵ URT/PMO-RALG, “Local Government Reform Programme”. Local Governments Background Document (n.d.).

²⁵⁶ Per Tidemand and Jamal Msami, *The Impact of Local Government Reforms in Tanzania, 1998–2008*, Special Paper 10/1 (REPOA, 2010), viii.

²⁵⁷ Odd-Helge Fjelstad, Lucas Katera, Jamal Msami, and Erasto Ngalewa, *Local Government Finances and Finance Management in Tanzania: Empirical Evidence of Trends 2000–2007*, Special Paper 10/2 (REPOA, 2010), v.

²⁵⁸ Per Tidemand and Jamal Msami, *The Impact of Local Government Reforms in Tanzania, 1998–2008*, Special Paper 10/1 (REPOA, 2010), viii.

²⁵⁹ Per Tidemand and Jamal Msami, *The Impact of Local Government Reforms in Tanzania, methods (2)* analyze two consecutive citizen surveys carried out by REPOA in 2003 and 2006, which amalgamate the changing views and perceptions of the 1260 citizens about the state of governance and service delivery in Tanzania

²⁶⁰ Tidemand and Msami, *The Impact of Local Government Reforms in Tanzania*, viii–ix.

more active in local government leadership than women, and elders more so than youth. The majority of people thought that local council staff did not take local people's concerns seriously. Only a small proportion of people reported seeing local government financial data.²⁶¹

Although the LGRP brought significant increases in financial resources to the local level, and despite the fact that these have come in the form of discretionary grants intended to support and facilitate autonomous local government spending, control of those resources is thought to be limited due to possible interferences in staff allocation and management by the central government.²⁶² Fiscal autonomy is considered compromised because of dependence on central government financing and because of central government dictates, which increasingly direct the spending of supposedly discretionary funding, such as the Local Government Capital Development Grant. As such, the central government currently contributes to the bulk of local government revenue through transfers, and still largely determines local budget priorities.²⁶³ Overall, local government authorities are not thought to be "significantly more powerful than they were in 2000."²⁶⁴

An overarching problem in this respect is that ward and village executive officers, who are normally entrusted with village and ward finances, including revenue collection and management, are appointed officials and are only upwardly accountable to their superiors. In cases of mismanagement of funds, therefore, citizens cannot hold them accountable via the ballot box. They can only write to the district executive directors who initially employed them. In such cases, it is common that if action is taken at all, the offenders are simply transferred to other villages or other wards.

Confirming the above, interviews with district councilors, conducted as part of this research, described how they feel denied of adequate discretionary power to implement their development priorities, and to generate and expend funds for that purpose. Implementing development plans is often constrained by dismal budget allocations for "actual implementation of development activities."²⁶⁵

The intention of decentralization of local government in Tanzania was to increase participatory planning through bottom-up planning processes in which the

²⁶¹ Tidemand and Msami, *The Impact of Local Government Reforms in Tanzania*; and Amon Chaligha, *Transparency and Accountability in Local Governance in Tanzania*, REPOA Brief 45 (July 2014).

²⁶² Tidemand and Msami, *The Impact of Local Government Reforms in Tanzania*, ix–x.

²⁶³ Fjellstad, Katera, Msami, and Ngalewa, *Local Government Finances and Finance Management in Tanzania*, v.

²⁶⁴ Fjellstad, Katera, Msami, and Ngalewa, *Local Government Finances and Finance Management in Tanzania*, v.

²⁶⁵ Based on interviews with representative district councilors in selected districts namely Moshi Rural, Rombo and Hai in Kilimanjaro Region, Iringa Rural in Iringa Region, and Morogoro Rural and Kilosa in Morogoro Region.

hamlets and villages would design plans and send them, via the wards, to the district council, where they would be deliberated upon and from which allocations would be made. According to the said councilors interviewed for this research, however, the process is dominated by executives and technocrats and attenuated by the administrative structure and culture of bureaucratic control. Interviewed councilors described how the planning process felt like it was dominated by elite executives at the district and regional level. Illustrative of such deficiencies is recent budget drama in the Hai district council. There, councilors protested the 2012/13 budget because it did not differ much from the one presented the previous year and therefore didn't reflect local citizens' deliberations. The budget was simply placed before councilors, requiring their "rubber stamp" to endorse it. In fact, it turned out that the budget had already been submitted to the Prime Minister's Office, Regional Administration and Local Government, for scrutiny without the deliberations of the councilors and inclusion of proposals from villages and wards.

Likewise, regarding corruption, despite the existence of numerous codes of conduct that are meant to apply to politicians, interviewees in this research (members of NGOs and CSOs) at the district level believe that there exist great deficiencies in practice, particularly surrounding cases of embezzlement and mismanagement, though some of those involved have been held accountable.²⁶⁶ The budget process and fund management are thought to typically lack transparency. Such circumstances drive a sense that corruption and fund mismanagement is widespread.

It is evident that efforts at decentralization are long-standing in Tanzania and have taken haphazard forms under different government and developmental ideologies—which have vacillated between increasing and decreasing the concentration of power within the central government. The motivation for decentralization has largely been that greater local input and ownership will create a more effective architecture for delivering services.

Since 2000, significant efforts have been put in place to realize the decentralization reforms first articulated in the late 1980s. Although these reforms appear to have done a good job of improving service delivery, in general, many challenges persist with overall levels satisfaction around service delivery remaining low. In addition, young people and women still have limited influence in local authorities.

Significantly, despite decentralization reforms transferring significant resources to local administration, reforms do not appear to have empowered local authorities to determine their own budget allocations, with appointed officials, technocrats,

²⁶⁶ Some cases involving local governments have been reported in newspapers. See, for example, *Nipashe*, February 9, 2011; *Nipashe*, April 19, 2011; *Nipashe*, May 9, 2012 for some cases of embezzlement in local governments and some measures of accountability that have been taken.

and authorities at higher levels still determining budget allocations—even regarding the use of nominally discretionary funds.

8. OPPORTUNITIES FOR CSO INFLUENCE

Having now documented the technical procedures shaping revenue-sharing outcomes and the budget process, as well as the politics of accountability in which these processes play themselves out, the final task of this research report is to explore the capacity for civil society to play a role in this process. For the purposes of this analysis, this text now turns to the possibilities for civil society to effectively oversee budget expenditures in order to address issues of budget leakage. This text also reflects briefly on some civil society efforts to improve the efficiency of resource allocations within various pro-poor sectors. The findings in this section are outcomes of interviews with key informants from CSOs, experts, citizen representatives in the government, and ordinary citizens. The main focus of the interviews was on the experiences—both successes and challenges—of these various actors in shaping budget priorities. In addition, this section relies heavily on the analysis of previous efforts to “follow the money” in Tanzania, looking at the successes and frustrations of these efforts.

A key finding is that civil society plays a number of different roles in the budget process. CSOs have participated in the Public Expenditure Review (a formal step in the budget process, as noted in Table 1) and related processes, though these are all only consultative roles. In addition, informal roles have included analyzing public budgets, producing simplified and popular versions of the budget and related documents, playing a watchdog role, tracking expenditure at the local level, and advocating for improvements in terms of specific requests and overall transparency and accountability. A number of respondents interviewed for this research report the sentiment that civil society’s informal role in the budget process had been more influential than its formal roles.²⁶⁷

In terms of budget analysis and tracking efforts, civil society has had some significant achievements, despite operating in a context of limited transparency. For example, budget analysis efforts have revealed substantial underresourcing of education services.²⁶⁸ Where funding has been made available, projects have also been able to identify failings in the delivery of services²⁶⁹ and identify that

²⁶⁷ See also HakiElimu and Policy Forum, *Understanding the Budget Process in Tanzania*.

²⁶⁸ TACOSODE (Tanzania Council for Social Development), *Social Accountability Monitoring Project Conducted at Lindi District Council—Primary Education Sector* (2012).

²⁶⁹ USAID and PACT Tanzania, *Public Expenditure Track Survey (PETS) in HIV/AIDS Health Sector in Iringa Region* (n.d.); and Policy Forum and KCS Forum, *Accountability in Iteto: Analysis of Public Resource Management in Kiteto District Council* (2012).

the quality of services is poor at local clinics, given the resources available.²⁷⁰ Budget tracking efforts have been able to reveal instances in which the formally reported budget allocations do not match the reports of funding received by both health clinics²⁷¹ and schools.²⁷²

In addition to problems surrounding budget transfers and allocations, efforts at budget tracking and social auditing have been able to identify inadequate processes for budget planning²⁷³ and a lack of accountability in the management of development funds at the local level.²⁷⁴ These efforts have also been able to identify inappropriate accounting for government assets,²⁷⁵ including findings that local councils continue to receive funding regardless of whether they are able to show any ability to spend it.²⁷⁶ Still other efforts have successfully identified cases in which funds have been misused (underspending and spending from unauthorized accounts),²⁷⁷ irregularities have occurred in bidding processes,²⁷⁸ and ghost employees have appeared on the payroll.²⁷⁹ Finally, efforts have successfully revealed cases of corruption in school construction²⁸⁰ as well as poor-quality construction of educational infrastructure.²⁸¹

²⁷⁰ MIICO, *Monitoring Rural Service Delivery in the Health Sector in Southern Tanzania* (2010); and Uwazi, *Where Does the Primary Education Money Go?* Uwazi Monitoring Brief 1 (2011).

²⁷¹ National Youth Information Centre (NICE), *Public Expenditure Tracking in Secondary Schools of Mbarali, Mbozi and Makete Districts* (2011).

²⁷² TACOSODE (Tanzania Council for Social Development), *Enhancing Transparency, Accountability and Responsibility in Service Delivery by Building the Capacity of CSOs and Community on Planning, Budget Process and Public Expenditure Tracking in Health Sector in Njombe District Council Project* (2011).

²⁷³ TACOSODE, *Social Accountability Monitoring Project Conducted at Lindi District Council—Primary Education Sector*.

²⁷⁴ AFNET, *Report on Public Expenditure Tracking Survey on HIV/AIDS Funds for Simanjiro District—Manyara* (2009), and TACOSODE, *Social Accountability Monitoring Project Conducted at Lindi District Council—Primary Education Sector*.

²⁷⁵ Policy Forum and MACSNET, *Accountability in Babati: Analysis of Public Resource Management in Babati District Council* (2012).

²⁷⁶ Policy Forum and UNGO MOROGORO, *Monitoring Resources: Social Accountability Monitoring Report 2010/11—Morogoro District Council* (2012).

²⁷⁷ NICE, *Public Expenditure Tracking in Secondary Schools*; TACOSODE (Tanzania Council for Social Development), *STAR PETS Project: Enhancing Transparency, Accountability and Responsibility in Service Delivery by Building the Capacity of CSOs and Community on Planning, Budget Process and Public Expenditure Tracking in Health Sector in Njombe District Council Project* (2011); TACOSODE, *Social Accountability Monitoring Project Conducted at Lindi District Council—Primary Education Sector*; and Policy Forum and MIICO, *Monitoring Resources: Social Accountability Monitoring Report 2010/2011—Ileje District Council* (2012).

²⁷⁸ Policy Forum and MACSNET, *Accountability in Babati*.

²⁷⁹ Policy Forum and MACSNET, *Accountability in Babati*.

²⁸⁰ International Budget Partnership (IBP), “Hakikazi Catalyst Uses PIMA Cards in Tanzania,” in *Our Money, Our Responsibility: A Citizens’ Guide to Monitoring Government Expenditure* (2008).

²⁸¹ TACOSODE, *Social Accountability Monitoring Project Conducted at Lindi District Council—Primary Education Sector*.

A notable feature of the Tanzanian case is that such successes have often been achieved despite major constraints in accessing budget data at all levels. CSO groups have managed to overcome these challenges through the effective use of surveys to support investigations²⁸² or by ensuring the participation of the government (which eased access to data).²⁸³

Strategies for engaging the government have included ensuring government participation as early as possible in the project²⁸⁴—or even before it starts.²⁸⁵ Making the management for the project broad and inclusive was also thought to be important in driving success.²⁸⁶ Notably, however, this approach was reliant on there being established and good relations between the implementing CSO and the local government.²⁸⁷ It also required assurances to the government that the exercise was not an audit.²⁸⁸

Despite such CSO monitoring successes, it should be noted that even when efforts at including the local government were made—and even when relations between civil society and the government were generally good—there is still no guarantee of support from the government, and exercises can still be frustrated by cases in which central officials refuse to provide civil society organizations with access to information necessary for tracking the budget.²⁸⁹ In this regard, specific efforts at budget tracking were frustrated by local officials²⁹⁰ and service administrators²⁹¹ who refused to participate in, or respond to, surveys. At other times there were problems of service administrators only providing information in unhelpful formats and then simply refusing requests for explanations.²⁹² This was the case among elected officials as much as it was civil servants.²⁹³

²⁸² USAID and PACT Tanzania, *Public Expenditure Track Survey (PETS) in HIV/AIDS Health Sector*; and AFNET, *Report on Public Expenditure Tracking Survey on HIV/AIDS Funds for Simanjiro District—Manyara*.

²⁸³ Jens Claussen and Mussa J. Assad, *Public Expenditure Tracking Survey for Primary and Secondary Education in Mainland Tanzania* (Ministry of Education and Vocational Education, 2010); and NICE, *Public Expenditure Tracking in Secondary Schools*.

²⁸⁴ NICE, *Public Expenditure Tracking in Secondary Schools*.

²⁸⁵ TACOSODE, *STAR PETS Project*.

²⁸⁶ TACOSODE, *Social Accountability Monitoring Project Conducted at Lindi District Council—Primary Education Sector*.

²⁸⁷ MIICO, *Monitoring Rural Service Delivery in the Health Sector*.

²⁸⁸ TACOSODE, *STAR PETS Project*.

²⁸⁹ FOGOTA, *Public Expenditure Tracking Project Iringa Municipal Council* (2011)

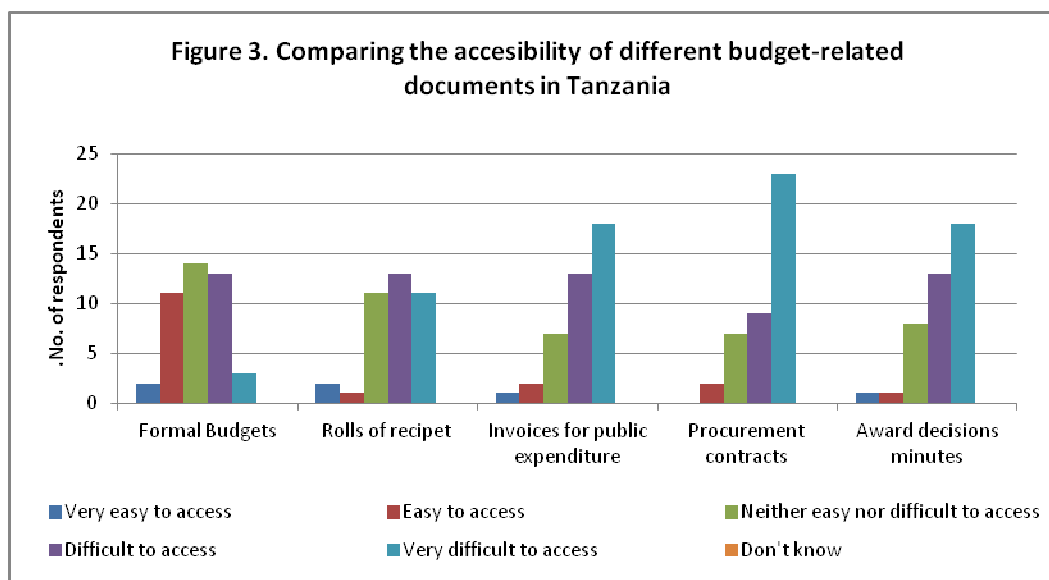
²⁹⁰ AFNET, *Report on Public Expenditure Tracking Survey on HIV/AIDS Funds for Hai District—Kilimanjaro* (2009); and FOGOTA, *Public Expenditure Tracking Project Iringa*.

²⁹¹ NICE, *Public Expenditure Tracking in Secondary Schools*; and Uwazi, *Improving Quality in Secondary Education: Is the Money Reaching the Schools?* Uwazi Monitoring Brief 2 (2011).

²⁹² TaWaSaNet, *Budget and Expenditure Monitoring: Enhancing Transparency and Accountability for Improved Access to WASH* (2011).

²⁹³ Center for Women and Children Development (CWCD), *PETS in Health Sector* (2011); and Policy Forum and UNGO MOROGORO, *Monitoring Resources*.

In addition to the challenges around cooperation, another significant barrier to civil society organizations' ability to track the budget was that data frequently did not exist at the local level,²⁹⁴ a consequence of poor record keeping²⁹⁵ and accounting practices.²⁹⁶ Particular problems included poor record keeping of payroll data,²⁹⁷ poor financial record keeping,²⁹⁸ and opaque and inconsistent budgets.²⁹⁹ There is also no official registry of accounting data, including transfers to schools, and no national registry of primary school data³⁰⁰ disaggregated at the local level. Finally, voucher³⁰¹ and grant systems³⁰² made funding difficult to track. Respondents to this research's survey believed problems of access were worst at the local level and applied most acutely to more-detailed budget-related documents (Figure 3).



Source: Research survey.

²⁹⁴ Claussen and Assad, *Public Expenditure Tracking Survey for Primary and Secondary Education*.

²⁹⁵ USAID and PACT Tanzania, *Public Expenditure Track Survey (PETS) in HIV/AIDS Health Sector*.

²⁹⁶ Claussen and Assad, *Public Expenditure Tracking Survey for Primary and Secondary Education*; NICE, *Public Expenditure Tracking in Secondary Schools*; and REPOA, *Tanzania Public Expenditure Tracking Study: Study of the Financial and Non-Financial PEDP Flows from Central Government to Schools in 2002 and 2003* (Ministry of Finance, Tanzania, 2003).

²⁹⁷ Claussen and Assad, *Public Expenditure Tracking Survey for Primary and Secondary Education*.

²⁹⁸ FOGOTA, *Public Expenditure Tracking Project Iringa*.

²⁹⁹ IBP, "Hakikazi Catalyst Uses PIMA Cards in Tanzania."

³⁰⁰ Claussen and Assad, *Public Expenditure Tracking Survey for Primary and Secondary Education*.

³⁰¹ Tanzania Council for Social Development (TACOSODE), *Enhance Transparency, Accountability and Responsibility in Service Delivery by Building the Capacity of CSOs and Community on Planning, Budget Process and Public Expenditure Tracking in Health Sector for Singida and Manyoni District Project* (2011).

³⁰² Uwazi, *Improving Quality in Secondary Education*.

In Tanzania, issues of access extend beyond just the state; one effort to follow the money documents that the international NGO World Vision, which was implementing service delivery, was unwilling to answer questions or provide access to information on its work, saying that it would only respond to requests from funders.³⁰³

In addition to problems of access, efforts to follow the money also met significant operational challenges, including difficulty in accessing rural areas due to poor road infrastructure,³⁰⁴ delays in funding,³⁰⁵ insufficient funding to complete projects,³⁰⁶ language barriers when working with certain rural constituents,³⁰⁷ difficulties in getting local groups to understand the exercise of budget tracking,³⁰⁸ and local budget committees not knowing that their civil rights allow for their access to information, resulting in them being fearful and therefore reticent in undertaking this work.³⁰⁹

Once maladministration was identified, there are some instances of it being effectively communicated to the appropriate authorities; for example, one report notes a complaint made to the Prevention of Corruption Bureau³¹⁰ and another cites findings of offices failing to execute their budgets taken to the district commissioner and district executive director.³¹¹ The reports on these efforts revealed that formal responses were more likely when NGOs involved in social accountability exercises were able to effectively link with the media (television and radio) to broadcast their findings.³¹² In this regard, two instances of eventual follow-up action included a ward officer being sentenced by a court for “misappropriation of funds allocated for ward development activities”³¹³ and complaints about limited access to data in the health services being passed to

³⁰³ AFNET, *Report on Public Expenditure Tracking Survey on HIV/AIDS Funds for Simanjiro District—Manyara*.

³⁰⁴ AFNET, *Report on Public Expenditure Tracking Survey on HIV/AIDS Funds for Simanjiro District—Manyara*.

³⁰⁵ AFNET, *Report on Public Expenditure Tracking Survey on HIV/AIDS Funds for Simanjiro District—Manyara*; and AFNET, *Report on Public Expenditure Tracking Survey on HIV/AIDS Funds for Hai District—Kilimanjaro*.

³⁰⁶ AFNET, *Report on Public Expenditure Tracking Survey on HIV/AIDS Funds for Hai District—Kilimanjaro*; and Lawyers’ Environmental Action Team (LEAT), *Wami Mbiki Wildlife Management Area: Bagamoyo and Mvomero Districts* (2011).

³⁰⁷ AFNET, *Report on Public Expenditure Tracking Survey on HIV/AIDS Funds for Hai District—Kilimanjaro*; and CWCD, *PETS in Health Sector*.

³⁰⁸ Policy Forum and UNGO MOROGORO, *Monitoring Resources*.

³⁰⁹ FOGOTA, *Public Expenditure Tracking Project Iringa*.

³¹⁰ IBP, “Hakikazi Catalyst Uses PIMA Cards in Tanzania.”

³¹¹ MIICO, *Monitoring Rural Service Delivery in the Health Sector*.

³¹² MIICO, *Monitoring Rural Service Delivery in the Health Sector*.

³¹³ Policy Forum and MIICO, *Monitoring Resources: Social Accountability Monitoring Report 2010/2011—Ileje District Council*.

the district commissioner, district executive director, and the district medical officer, who then passed these concerns on to Ministry of Health.³¹⁴

In addition to these “successes,” efforts to keep the budget in the public eye also ensured that allocations within the budget prioritized social expenditure.³¹⁵ In this case, success was the result not only of close relationships with the media but also of a sophisticated understanding of political incentives, allowing for alliances to be formed and opponents to be identified.³¹⁶

The above notwithstanding, other instances existed in which no formal response was forthcoming despite evidence of maladministration and despite effective engagement with the media. Although such results are disappointing, they were thought to be effective, considering the extent to which anti-corruption and good governance institutions in the country are compromised.³¹⁷

Efforts at budget tracking and social audits were also thought to have made impacts on improving service delivery, including improvements in the maintenance of certain school facilities, as well as their rehabilitation,³¹⁸ and improvements in the quality of dispensaries (they were painted, registered, and rendered operational).³¹⁹ Significantly, however, reports of these improvements noted that they cannot simply be attributed to social accountability efforts because other factors may have contributed as well.

In addition to simply tracking the budget, interviews with civil society organization members revealed two other outcomes of budget reform considered notable for their accomplishments in reprioritizing budget expenditure. The first success is local health NGO Sikika’s focus on so-called unnecessary expenditure items, such as “training” (domestic and foreign), “allowances” (nondiscretionary, discretionary, and in-kind), “travel” (in-country and out-of-country), “acquisition of new vehicles,” “fuel, oil, and lubricants,” and “hospitality supplies and services.” Budget analysis efforts by Sikika have revealed how unnecessary expenditure items received disproportionate allocations in budgets, while more necessary/priority expenditures receive less. After public statements and campaigning around unnecessary expenditure within the Ministry of Health and Social Welfare, Prime Minister Mizengo Pinda acknowledged the existence of unnecessary expenditures in the government budget and announced efforts to increase control over and economize those expenditures. The outcomes have

³¹⁴ MIICO, *Monitoring Rural Service Delivery in the Health Sector*.

³¹⁵ Peter Bofin, *Freeing Funds to Meet Priorities and Needs: Sikika’s Campaign to Curb Unnecessary Expenditure in Tanzania*, IBP Case Studies (International Budget Partnership, 2012).

³¹⁶ Bofin, *Freeing Funds to Meet Priorities and Needs: Sikika’s Campaign*.

³¹⁷ TACOSODE, *Social Accountability Monitoring Project Conducted at Lindi District Council—Primary Education Sector*; and Policy Forum and MACSNET, *Accountability in Babati*.

³¹⁸ TACOSODE, *Social Accountability Monitoring Project Conducted at Lindi District Council—Primary Education Sector*.

³¹⁹ MIICO, *Monitoring Rural Service Delivery in the Health Sector*.

been variable, however, with some departments reducing expenditures, while others have increased theirs. Regardless, the issue is now prominent among CSOs and the public. Notable is that prior to and during the last general elections opposition parties further politicized the issue of unnecessary expenditures and some made it an election agenda to. As reported earlier, after assuming office, the current president has appropriated the agenda, and has undertaken a wide range of measures to curb unnecessary expenditures. This shows that efforts by CSO can indeed transform and inform national politics and subsequent policies and actions.

The second success was the education civil society organization HakiElimu's efforts to promote the quality (rather than simply the quantity) of education in Tanzania. Budget analysis and campaigning are thought to have shifted allocations away from simply increasing enrollment, hiring teachers, and building classrooms (increasing the quantity of education) to providing quality textbooks, training teachers to higher levels, and investing in well-resourced classrooms (increasing the quality of education).

Finally, in addition to shifting budget priorities, CSOs claim to have successfully promoted overall budget transparency. Support for this claim is seen in CSO efforts to get the government to produce a "citizens' budget"—which explains the budget in simple language that can be understood by ordinary citizens- as is an output supported by the International Budget Partnership. In 2010–11, the CSO Budget Working Group, led by the NGO Policy Forum, prepared its own Citizens Budget, which it then lobbied the Tanzanian Treasury to endorse. After their concerted lobbying, the Treasury agreed to endorse the Citizen Budget for 2011/12, which was again prepared by Budget Working Group.³²⁰ Subsequently, the Public Finance Management Reform Programme allocated 100 million Tanzanian shillings for the production of a 2012–13 Citizen Budget.

CSOs' efforts in shaping resource allocations and ensuring that resources reach their intended point of service provision have resulted in mixed outcomes. On the one hand, efforts to improve service delivery by following money through the budget to the point of expenditure appear to have generated only limited impacts. The work is generally expensive and time-consuming, and access to data is compromised by a lack of records—and where records do exist, access to them can easily be frustrated by uncooperative officials. Likewise, it is rare for cases of maladministration to be met with sanction. It seems then, that such efforts do not systematically alter the incentives of officials to render them more accountable to their constituents.

³²⁰ Policy Forum, *Tanzania Governance Review 2010–11*; Policy Forum Annual Report 2012, page 1-2. The Citizens' Budget is available at the Ministry of Finance website, <http://www.mof.go.tz/mofdocs/budget/Citizens%20Budget/CITIZENS%20BUDGET%202012-2013%20-%20English.pdf>

On the other hand, CSO budget analysis efforts that have sought to politicize expense allocations seem to have had greater (although still limited) success in terms of altering allocations—even if the impacts on poverty and service provision are untested. It seems that the same might be said of efforts to improve generic transparency, although it is impossible to discern from this analysis whether such improvements in transparency have had any impact on poverty or service provision. Nonetheless, overall the efforts of civil society in Tanzania have been remarkably successful, operating as they are in such a constrained political space.

9. CONCLUSION

Looking at processes of revenue sharing, revenue allocation, and accountability in Tanzania, the most salient feature is the dominant position of the executive. This dominant position is maintained through the executive's efficacy in limiting parliamentary dissent by excluding dissident voices from the primary elections for parliamentary seats. This ability to exclude, in turn, creates a strong culture of party discipline, which, given the ruling party's dominance in the legislature, subsequently allows the executive to pass both laws and budgets with little opposition. The ability to pass laws means that the ruling party has also been able to hamstring efforts at reforming governance institutions by rendering new oversight bodies subject to political influence. In practice, this executive undermining has entailed centralizing control of the ability to appoint the leadership of oversight institutions, limiting their jurisdictional and prosecutorial authority, and constraining their access to resources. Given limited oversight and a compliant Parliament, the ruling party is able to act with relative impunity.

The above notwithstanding, looking at the process of revenue sharing more closely, it does appear that the power of the national executive is partially limited by macroeconomic factors. In this regard, low prices, high levels of debt, and weak economic performance have been responsible for shaping extractive policy so that it has been historically generous toward companies. More recently, higher commodity prices have caused the government to review its mineral policy, but even with the current policy, it is apparent that the country's ability to formulate its own extractive policy is informed by a compromise between a desire to continue to attract foreign investment while at the same time ensuring a sufficient government take to drive social development.

In addition to macroeconomic concerns, the will of the party is not immutable to the influence of the donor community, which plays a significant role in budget support and thereby shapes budget allocations. Likewise, the donor community is viewed as having been an important player in driving governance reforms in the 1990s via the threat of withholding aid. Pressure from donors has been augmented by popular discontent over high levels of corruption; this popular discontent has also been important in shaping the electoral landscape and driving further governance reforms.

Two recent and notable features of the power dynamics in Tanzania have been the growth and increasing activity of civil society in the country, and the executive's relative loss of control within Parliament, which the current government seems to be attempting to re-establish. The former has played an important role in raising public concern around the management of future oil

revenues, resulting in the creation of special earmarked funds for the management of these revenues, as well as in the creation of dedicated oversight institutions. The loss of the executive's control of the Parliament is thought to be the outcome of (1) younger, more aggressive, and inquisitive individuals being elected, and (2) rifts that have formed within the ruling party. The result is that the parliamentary oversight institutions (most clearly in the form of the parliamentary oversight committees), as well as the institutions that support those institutions (most notably, the CAG), have seen improved performance during the last decade. Such changes are also thought to have been facilitated by champions of reform within the civil service and through the efforts of civil society to popularize and politicize the functions of oversight bodies.

Despite these gains, improvements in oversight in Tanzania are not linear: While parliamentary oversight might have increased, before the current ongoing repression, the country has also seen significant backsliding in terms of media freedom. This situation suggests that changes in overall accountability are haphazard, with certain institutions growing stronger while others are simultaneously undermined. Such a dynamic indicates that changes in accountability manifest from focused contests for power that play out in an ongoing and unpredictable manner.

Given these dynamics, the possibilities for civil society to improve terms of revenue collection and allocation appear simultaneously hopeful and constrained. On the one hand, the evident capacity for the state to pass laws that undermine oversight and effectively exacerbate impunity is likely to create a sense of despair among reformers who view such acts as evidence of the ongoing hegemony of the ruling party and the relatively weak position held by civil society. On the other hand, the positive momentum for change within Parliament, the support from donors, and the popular appetite for improvements in governance all suggest that many avenues exist for effective campaigning around improving the use of natural resource revenues. In this respect, productive efforts might entail campaigning for improved budget allocations and undertaking efforts to popularize and politicize the existing oversight institutions in an attempt to improve their performance. Another possibility might be capitalizing on issues of parliamentary control, perhaps by popularizing and politicizing the records of individual parliamentarians in an attempt to tie their future electability to the extent to which they have supported progressive mandates that place the needs of their constituents and their commitments to good governance front and center. Such efforts would be bolstered if donor support were offered for creating the political conditions necessary to improve the function of existing institutions, rather than simply on pushing for the creation of new institutions.

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