Introduction

United under the leadership of the nationalist Tanganyika National African Union (TANU) party and its visionary founder, Julius Nyerere, Tanganyika peacefully gained independence from Britain on December 9, 1961. However, political independence for the nearby Indian Ocean islands of Zanzibar was turbulent. Zanzibar became independent in December 1963, but was divided by two rival nationalist movements, the African-oriented Afro-Shirazi Party (ASP) and the Arab-oriented Zanzibar Nationalist Party (ZNP). Its first postcolonial government, formed by the ZNP, was quickly overthrown by a violent revolution that transferred state power to the ASP in January 1964. After the revolution the Zanzibar constitution was suspended and Abedi Karume and the Revolutionary Council ruled by decree. In April 1964 Zanzibar merged with Tanganyika to form the United Republic of Tanzania. Despite the union, Zanzibar’s government retained considerable autonomy over its internal affairs and political dissent on the islands was not tolerated with human rights abuses widely reported. It was not until 1980 that a semblance of rule of law returned to Zanzibar with the introduction of single party elections and in 1984 Zanzibar finally enacted a constitution.

The revolution on Zanzibar coincided with a rising tide of expectations and uncertainty on the mainland, as the lifting of colonial oppression unleashed numerous societal demands that the new government had limited means to address. Calls for jobs, higher wages, and improved access to education, health care, and water, as well as Africanization of the military, civil service, and the private sector of the economy, led to numerous strikes. A military mutiny in January 1964 forced President Nyerere into hiding, and compelled his government to call in the armed forces of its former colonial master to restore order.

Amid the uncertainty in the aftermath of the Zanzibar revolution and the mainland army mutiny, the foundations for the modern United Republic of Tanzania were laid as power was centralized into the mainland and Zanzibar’s ruling parties. TANU became the only legal party on the mainland in 1965, while the ASP became the only legal party in Zanzibar. Almost all societal organizations—such as trade unions, parents’ associations, student groups, women’s associations, agricultural cooperatives—were incorporated into either TANU or the ASP. In 1974, TANU declared itself to be above the state, placing party cadres in key positions such as regional and district commissioners, parliament, security forces, and government ministries. Later, in 1977, the ruling parties on the mainland and islands merged to form the current ruling party, Chama Cha Mapinduzi (CCM or Revolutionary Party). Despite the centralization of political power into a single ruling party, mainland Tanzania has held elections at regular five year intervals since 1960. During the era of the one party state the ruling party nominated two people for each parliamentary seat, while the president ran unopposed. All of President Nyerere’s successors have served two five year terms, thus adhering to the constitutional requirement of term limits.

In conjunction with consolidating political power into the ruling party, with the Arusha Declaration of 1967 the country embarked on a path of economic and social development based on Nyerere’s Ujamaa (African) socialism concept. Ujamaa stressed social welfare rights and led to the nationalization of key economic assets. The government
increasingly became involved in setting prices, allocating foreign exchange, and regulating imports and exports. In 1973, a rural villagization policy was introduced, with the state at times forcefully moving peasants into communal Ujamaa villages where farming was done on a collectivized basis. The results were disastrous as agricultural production fell precipitously.

By the late 1970s the post-colonial centralized political and economic system was under great strain. A war with Idi Amin’s Uganda in 1979, coupled with drought, productivity problems, and a mounting national debt, marked the beginning of the end of the socialist system. After a bitter struggle with the International Monetary Fund (IMF) and the World Bank, Nyerere left power in 1985. His successor, Ali Hassan Mwinyi (president from 1985 to 1995), reached structural adjustment agreements with international financial institutions, thereby unblocking foreign assistance. By 1992, opposition political parties were legalized and multiparty competitive general elections returned to Tanzania in 1995. While some reforms have been made to accommodate a new era of political competition, power remains concentrated in the ruling party and the president, who also heads the party.3

Although Tanzania’s socialist project of development failed, there was nonetheless considerable progress made in nation building. Nyerere and other independence era leaders took seriously in words and deed the idea of building an inclusive national identity and preventing the politicization of ethnic and religious identities. These values have been widely embraced throughout Tanzanian society. Considerable resources were devoted to spreading basic literacy in Kiswahili, the national language, which became the foundation on which national unity was built among Tanzania’s 140 or so different ethnic groups. National cultural festivals and competitions helped to create an overarching sense of identity as did a deliberate government policy of transferring students at government boarding schools, teachers, and government officials outside of their home areas. As part of the centralization of power into the ruling party, the position of traditional chiefs, who were part of the colonial era local administration, were abolished and replaced by civil servants appointed by the central government. In trying to strike a workable balance between the country’s nearly equal amount of Christian and Muslim citizens, the office of the president has alternated between Christians and Muslims (Nyerere-Christian; Mwinyi-Muslim; Mkapa-Christian; Kikwete-Muslim). While Tanzania has so far managed to keep ethnic and religious tensions at manageable levels, these tensions do exist and remain serious concerns.4 Religious intolerance and tensions between Tanzania’s large Christian and Muslim populations occasionally flare up. There are also identity-related tensions associated with the union as many Zanzibaris, in particular, feel that Zanzibar has been swallowed by the mainland and there is significant support on the islands for outright independence. The tensions between Muslims and Christians and Zanzibar and mainland became manifest in Zanzibar from May 26 to May 28, 2012 as a demonstration organized by an Islamlist organization, ostensibly in opposition to the union, turned violent and a number of Christian churches were burned.5 The third important identity conflict is within Zanzibar between people from the main island of Zanzibar (also known as Unguja) and those from the slightly smaller island of Pemba. Politically, the reintroduction of multiparty elections in Zanzibar in 1995 has given expression to the Unguja-Pemba divide in the form of close electoral competition between the CCM (associated with Unguja) and the Civic United Front (CUF, associated with Pemba) that has led to sporadic violence, and credible charges of electoral manipulations that undermined claims that election results actually represented the “will of the people.”6

In October 2010, CCM secured another five-year mandate, winning its eleventh consecutive general election. However, on the mainland, CCM faced increased electoral competition from Chama Cha Demokrasia na Maendeleo (CHADEMA or Party of Democracy and Development), leading to widespread accusations of electoral misconduct
and unprecedented levels of election-related violence. In particular, where elections for the national assembly were close, large crowds of opposition party supporters gathered for the announcement of results at the constituency level. Very often the electoral officials took considerable time in declaring the winner, fueling opposition party fears that the ruling party was working in concert with electoral officials to change vote totals to ensure victory for CCM candidates. A widespread belief that the ruling party manipulated the elections on the mainland led to the coining of a new Kiswahili term, “chakachua,” which has become a part of everyday language used to describe situations of self-serving machinations. In a positive development, the usually problematic Zanzibar elections went smoothly, primarily because a pre-election power-sharing agreement gave both the CUF and CCM a stake in the new government, eliminating the all-or-nothing competition that had polarized Zanzibar society since the re-introduction of multiparty elections in 1995.

In a major initiative, after his second term reelection in 2010, President Jakaya Kikwete launched a wide-ranging constitutional reform process leading to the appointment on April 6, 2012 of a Constitutional Reform Commission (CRC) headed by the former Prime Minister Joseph Warioba and assisted by the former Chief Justice Augustino Ramadhani. The CRC has 30 commissioners (15 from Tanzania Mainland and 15 from Zanzibar) and will collect people’s views about a new constitution. The constitutional reform process is supposed to be complete by 2014, so that changes, or even a new constitution, will be in place before the 2015 elections.

Accountability and Public Voice

Tanzania has conducted multiparty general elections every five years since 1995, with universal suffrage and secret ballots. The CCM remains the dominant political party, controlling all levels of government from local councils, to the union and Zanzibar presidencies and legislatures. Despite its commanding position, the ruling party is facing increased competition on the mainland, in addition to its intense rivalry with the CUF in Zanzibar. For example, President Kikwete’s share of the vote declined from 80 percent in 2005 to 63 percent in 2010, while CHADEMA increased its presidential votes from 6 percent in 2005 to 27 percent in 2010. In the parliament, CCM lost 20 seats in the 2010 elections, while CHADEMA gained 18 and CUF 5.

Although the October 2010 elections were largely free in terms of opposition political parties being able to organize and run their campaigns throughout the country, there were serious complaints regarding fairness. In particular, the independence of the electoral authorities has been called into question by opposition parties and election observers. The National Electoral Commission (NEC) is appointed by the union president, and the Zanzibar Electoral Commission is appointed by Zanzibar’s president. In Zanzibar, local government officials loyal to CCM, known as Mashehas, play important electoral roles, including having final say over who can register to vote. As the Commonwealth observer mission’s interim report on the 2010 elections noted, “The legal framework provides the basic conditions for a competitive election. However, in some regards it is still framed in the old one-party mold and will need to be updated to accommodate the wider parameters of a promising multi-party democracy. For instance, NEC is appointed solely by the president and independent candidates are not permitted to contest elections.” Indeed, a major criticism of the current legal framework is a law preventing independent candidates from running for office.

In areas on the mainland where the CCM was in close competition in the 2010 elections, the losing opposition parties did not accept the results, sporadic violence broke out, and lengthy court cases challenging the results ensued. Specifically, opposition parties
claimed that the elections in Mtwar Urban, Tandahimba, Shinyanga Urban, Geita, Mbeya Rural, and Mbozi East constituencies had been manipulated by electoral authorities during the vote count to give victories to CCM candidates.

While finalizing electoral results in competitive mainland constituencies proved problematic, in Zanzibar—in contrast to all previous competitive multiparty elections—the CUF accepted the result of a very close election. This unprecedented event was the result of an understanding between CCM and CUF leaders on the islands prior to the elections that called for the leader of the losing party to become a vice president of Zanzibar. In July 2010, a constitutional referendum had passed allowing for a government of national unity, paving the way for a peaceful October election as the CUF opted to ignore electoral irregularities in return for its place as junior partner in the government.

While opposition parties gained strength in the National Assembly in the 2010 elections, power remains concentrated in the ruling party and president. The president (who is also chair of the CCM) appoints the NEC’s top officials, and the electoral commission uses local government officials to manage national elections. The president also directly appoints the key posts of regional and district commissioners, and has the final decision over their dismissals and geographic postings. These unelected officials are a very powerful central government presence in the regions and districts in which they reside. Although the civil service is largely selected, promoted, and dismissed on the basis of open competition and merit, local government officials, for example, report to the Prime Minister’s Office Responsible for Regional Administration and Local Government and not to the elected local officials where they work. In practice, the regional and district administrations exert considerable influence over local government. These practices have produced a system of old guard CCM cronies who, notwithstanding the transition to multiparty politics, have a stranglehold on Tanzania. The results from the last elections suggest that the public is finally beginning to demand fundamental changes in the system.

During the 2010 election campaign, the security forces issued threatening statements to opposition parties and voters. Addressing a press conference on October 1, 2010, Lieutenant General Abdulrahman Shimbo, the chief of staff of the Tanzania People’s Defense Forces (TPDF), said his forces would not tolerate, and were prepared to deal with, any person or political party that rejected the electoral results. This statement was meant to discourage voters and opposition parties from challenging suspected electoral malpractice. In an October 11 press conference, David Martin, the chief election observer of the European Union (EU), responded that the TPDF was interfering with the work of the NEC, whose role is to supervise elections and issue warnings to political parties that violate electoral rules. The statement by the TPDF was also condemned by a network of activists called FemAct. In a press conference on October 6, Yefred Myenzi, the group’s chair, argued that the TPDF’s statement was meant to favor the CCM and intimidate opposition parties and voters. According to Myenzi, the TPDF’s statement violated Article 138 of Tanzania’s constitution, which requires that the security forces refrain from interfering in the electoral process. The control that the president exercises through the regional and district commissioners, the prime minister’s office, the NEC, and the security forces has led opposition parties to firmly believe that the state apparatus works to further the ruling party interests, including manipulating election results in a number of tightly contested constituencies for the National Assembly.

Within the National Assembly, while the opposition is vocal, they are a minority and the ruling party can easily pass legislation supported by the government. A 2011 scandal involving the permanent secretary for energy and minerals, David Jairo, raised further questions about the ability of the legislative body to hold the executive branch accountable. In this scandal, Jairo was accused of soliciting funds from parastatals, companies, and organizations with ties to the Ministry of Energy and Minerals in order to make payments to
key parliamentarians to ensure passage of the ministry’s budget. Apparently Jairo wanted to prevent legislators from raising too many questions about a ministry that has been the target of many accusations of corruption and incompetence. A parliamentary select committee probing the affair accused key government officials, including Chief Secretary Philemon Luhanjio and Controller and Auditor General Ludovic Utouh, of trying to cover up the scandal, presumably to protect Jairo, a friend of the president. The probe into the Jairo scandal illustrates well the nature of parliamentary oversight in Tanzania. The committee report was uncompromising, critical, and identified by name individuals who were implicated in embezzlement, forgery, and covering up illicit activities. Though the Parliamentary Select Committee suggested that disciplinary measures should be taken against Jairo, Lusanjo, Utouh and Minister of Energy and Minerals William Ngeleja, nothing of substance was done.

Mr. Jairo was given a leave with pay from October 2011 and since then has been receiving his monthly salary and other fringe benefits of permanent secretaries, such as housing and transport. According to the Chief Permanent Secretary, Ambassador Ombeni Sefew, Jairo is entitled to salary and fringe benefits because he only has been suspended and not expelled. Mr. Luhanjio retired officially in December 2011. Utouh continues to serve as controller and auditor general and, ironically, it was his annual report that showed widespread misuse of funds in seven ministries, including the Ministry of Energy and Minerals that led Minister William Ngeleja to be dismissed in a cabinet reshuffle.

While top judges are widely considered to be independent—for instance, overruling the law forbidding candidates not officially nominated by political parties from running for office—this independence has limits. The judiciary cannot initiate cases on its own, and the president has considerable influence over what cases come before the courts. Indeed the role of the attorney general in Tanzania has been one of defending the executive often at the cost of undermining the judiciary. So, while parliament, including ruling party members, have been outspoken about a number of corruption scandals, many believe that these scandals have not been pursued by law enforcement authorities due to the control that the president exerts over which cases are investigated and brought to trial.

The National Assembly passed the Election Expenses Act on February 11, 2010, prior to the 2010 general elections. The purpose of this act was to reduce corruption during elections by setting overall spending limits for political parties (roughly $9.3 million) and presidential ($3 million), parliamentary ($49,500), and local council candidates. However, enforcing the act has been problematic, as it relies on parties and candidates to report their campaign spending, verified by receipts or other evidence of payments. It is doubtful that election participants would willingly provide evidence of their overspending. Despite the Election Expenses Act, the CCM remains the best-funded party, and has a clear advantage over its opponents. This advantage is enhanced by the open support of government officials and use of government resources, such as vehicles, during the 2010 campaign period.

Additionally, a major problem with the Election Expenses Act is that it does not apply to intraparty elections. Tanzania’s antigraft body, the Prevention and Combating of Corruption Bureau (PCCB), filed about 10 cases against members of the ruling party, who were accused of bribing voters during the party nomination process, after senior CCM officials requested that the body become involved in the 2010 intraparty election.

Mainland Tanzania has a freewheeling and critical media. Article 18 of the constitution safeguards the freedom of expression and the rights to seek, impart, and receive information on important societal issues and prominent people. The government largely respects these guarantees. International media is widely available on television, the internet, and radio in urban areas; however, gaining access to information in the rural areas, where there are few TVs and newspapers, is difficult. The government, especially under Kikwete, has refrained from controlling the media, and conditions for journalists are steadily
improving. Although violence and other forms of intimidation are sometimes directed at reporters, the state has in general respected and protected media workers.

However, despite promises to enact a new media law, strict laws from the colonial and single-party eras still give the government considerable discretion in deciding the limits of acceptable media practices. For example, the 1970 National Security Act empowers the government to decide what information is classified, and reporting on, possessing, sharing, or publishing classified material is a criminal offense. The act also allows government officials to declare parts of the country “protected places,” thereby restricting the movement of journalists. A second single-party era law, the 1976 Newspaper Act, gives wide discretionary powers to the minister for information, culture, and sports to ban newspapers from publishing for a specified period of time. The government used this law to threaten the Mwananchi and MwanaHalisi newspapers over what it perceived to be unfavorable coverage of the ruling party during the 2010 election campaign.²¹

A growing area of concern is internet freedom. In the past, internet access was completely unrestricted; however, by 2011 a number of incidents targeting Jamii Forum, a website that posts news critical of the government and powerful persons, raised concerns that authorities were behind “Chinese style” cyberattacks designed to disrupt the flow of critical news stories.²²

In Zanzibar, the media situation is worse than on the mainland, but there are indications of improvement. Media operations fall under Zanzibar law and the Zanzibar government’s jurisdiction. The opening up of the Zanzibar media sector has been partial, as state authorities have been reluctant to register independent newspapers. The island’s media is smaller, less independent, less professional, and less vibrant than on the mainland. The government controls Television Zanzibar, as well as the Sauti ya Tanzania–Zanzibar radio station and the only daily newspaper, Zanzibar Leo. A small and growing private media exists, with the Media Council of Tanzania reporting 23 FM radio stations in service and the registration of two new newspapers in 2010. However, ruling party politicians often have links to these new private outlets. Critical media can face harassment. Mainland papers are available on Zanzibar, and provide coverage of the islands.

Civil Liberties

Tanzania is a signatory to the 1948 Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the 1981 African Charter on Human and Peoples’ Rights, committing it to the promotion and protection of civil liberties. In 1984, Tanzania incorporated a Bill of Rights into its constitution to further safeguard people’s freedoms, including the freedom from torture and extrajudicial killing. However, there have been problems translating this commitment to protecting civil liberties into reality. State organs, such as the police, prisons, and militias, have been involved in torture and the extrajudicial killings of civilians. Fact-finding missions and surveys by the Legal and Human Rights Centre (LHRC), a Tanzanian NGO, revealed that 52 people were killed by police and private security guards safeguarding Barrick Gold Corporation’s North Mara Gold Mine, a significant increase from 2008 and 2009, when a total of 20 people were killed.²³ After one incident of killings at the North Mara Mine, on May 24, 2011, the police confiscated the bodies of the deceased from the Tarime District Hospital and transferred them to their home villages. The police also arrested and filed cases against nine people, including two CHADEMA legislators, Tundu Lissu and Ester Matiko, on the grounds that they had organized an illegal public rally at the hospital. According to the operational commissioner of police, Paul Chagonja, the police took the
bodies from the hospital for security reasons because CHADEMA planned to turn the paying of last respects into a public rally. After arriving in the villages, the police abandoned the bodies of the deceased, fearing that they would be attacked by angry villagers.24

Conditions in Tanzania’s prisons have gradually improved in the past decade, due in part to the passage of the Commission for Human Rights and Good Governance Act (2001), the Preventive Detention Act (2004), and the Transfer of Prisoners Act (2004). However, according to the LHRC, conditions remain harsh. Also, many of the reforms were designed to safeguard prison officers rather than to promote and protect the rights of inmates. Even so, prison officers do not receive adequate pay or housing, and they are far outnumbered by the inmates. This makes it difficult to ensure that prisoners’ human rights are protected. Tanzania has the capacity to accommodate 27,653 inmates, but with 38,140 people in custody, the prison population exceeds capacity. Vulnerable groups, such as the disabled, children, and women, are not given due attention in Tanzanian prisons, though the Ministry of Home Affairs pledged in October 2011 to improve the situation.26 However, that promise has not yet become reality. According to the Tanzania Law Society, many prisoners complain that they eat only one meal per day, and their freedom of worship and communication are denied.27

The Commission for Human Rights and Good Governance, which became operational in 2001, receives complaints and investigates allegations of human rights violations and abuse of power, and can inspect prisons at any time. By 2010, the commission had received 385 complaints of human rights violations, of which 203 were investigated and closed.28 However, according to the LHRC, the commission is not independent enough to carry out its functions impartially. The chairperson is a presidential appointee, as are the other members, who include the attorney general, the chief justice of the Court of Appeal, the chief justice of Zanzibar, and the speaker of the National Assembly. The commission is not empowered to investigate the presidents of the union or Zanzibar. Additionally, though the commission in principle has an independent budget, it depends on the allocation of funds from its parent ministry, the Ministry of Justice and Constitutional Affairs.

Apart from government commissions, NGOs such as the LHRC and the Tanganyika Law Society continue to play a significant role in helping people when their rights are violated. The LHRC researches and publishes comprehensive annual human rights reports. It also receives complaints regarding human rights violations throughout the country. The Tanganyika Law Society is an organization of practicing advocates in mainland Tanzania that provides legal assistance to people who are unable to pay for such services; it also investigates and receives complaints on legal and human rights issues.

Following the 1998 terrorist bombings of the U.S. embassies in Dar es Salaam and in Nairobi, Kenya, Tanzania enacted the Terrorism Act (2002) to address terrorism and related offenses.29 Tanzania remains vulnerable to terrorist groups, however, especially Al-Qaeda affiliated groups and the Somalia-based Al-Shabaab.30 Tanzania has been spared from the terrorist attacks that occurred in Uganda and Kenya in 2010 and 2011, respectively. However, the inspector general of police, Saidi Mwema, in October 2011 warned the public about the possibility of terrorist attacks organized by Al-Shabaab.31 Apart from the threat of terrorism, crime, especially petty crime, continues to increase in Tanzania’s major cities.

The Tanzanian government is committed to gender equality. Tanzania has ratified the UN Convention on the Elimination of All Forms of Discrimination against Women, as well as a number of regional human rights treaties that protect women’s rights. The government
has a standing policy of giving preference in hiring to female candidates when the qualifications of male and female candidates are similar. Additionally, 125 out of 364 parliamentary seats are reserved for women, and the president has prioritized increasing the number of women in key political and administrative positions, such as cabinet and assistant cabinet ministers and regional and district commissioners. Special measures have also been taken to increase female university enrolment. According to the Millennium Development Goals monitor, Tanzania is not on track to meet the goal of improving maternal health, but it has a chance of meeting the goal of promoting gender equality and empowering women by ensuring equal access to education at all levels by 2015.

In recent years the state has modified laws, including the land act, and worked with community groups to reduce harmful cultural practices that discriminate against women. However, there are still a number of laws that allow for discriminatory practices, especially in marriage, divorce, and inheritance. The Law of Marriage Act (1971) stipulates that women can be married at age 15, while the legal age for men is 18. If customary law is applied, then it is possible for a girl to be betrothed before the age of 15, as long as the marriage is not consummated until she reaches the legal age. Additionally, while men can take more than one wife, women are limited to one husband at a time. Men shoulder almost no legal responsibility for the care of children born out of wedlock. One fairly prevalent harmful cultural practice is female genital mutilation; the LHRC estimates that this affects 15 percent of Tanzanian women. In part due to traditional customs, the LHRC also notes that domestic violence against women is widely accepted.

With eight international borders and a large coastal stretch on the Indian Ocean, Tanzania has become a transit point for migrants heading to South Africa, especially from the Horn of Africa. Relative stability and strong economic growth rates over the past two decades have attracted refugees and people from neighboring countries such as Malawi, the Democratic Republic of Congo, and Burundi. With stability returning to the Great Lakes region, many refugees have returned home. The main human trafficking networks are internal and informal, linking impoverished rural areas to more affluent urban centers in order to fill the demand for cheap domestic labor and sometimes for work in the sex trade. Child labor is illegal in Tanzania, but violators are rarely prosecuted. There are laws against the sexual exploitation of children, and the Tanzanian government has worked with other governments as well as NGOs, such as the International Organization of Migration, to address the problem. In 2008, the government passed the Anti-Trafficking in Persons Act. However, the LHRC noted that the act equated trafficking with sexual exploitation, thus leaving out other problems like child labor in domestic employment.

Freedom of worship is protected by the Tanzanian constitution. This includes “the freedom to change [one’s] religion or faith.” The constitution also ensures that “the affairs and management of religious bodies shall not be part of the activities of the state authority.” Because Islam and Christianity have a large and nearly equal number of followers in Tanzania, respecting the religious rights of all citizens and treating all religions fairly is an important issue in the country. To date, the government has done well in ensuring that Tanzanians can worship as they please and religious groups can form schools and provide social services, including medical care. While the state has succeeded in protecting the interests of the various religious denominations, some Muslims have long complained that the government has been less tolerant of Islamic organizations. They have also alleged that the Muslim Council of Tanzania (BAKWATA) is still controlled by the government and the ruling party, thereby denying Muslims the same right as Christians to have independent religious organizations, such as the Christian Council of Tanzania and the Tanzania Episcopal Conference. Christians, however, have called attention to threats and church
burnings in Zanzibar to validate their feeling of being a persecuted minority in the predominantly Islamic Islands.  

The constitution guarantees freedom of association, and the government respects the rights of civil society organizations, including trade unions, to organize. The registration process for civil society groups is fairly easy. By 2010, there were nearly 4,000 fully registered nongovernmental organizations (NGOs). The most active and well-organized civil society organizations are funded by external donors, have a professional staff, and are headquartered in the administrative capital, Dar es Salaam. While the government does not always look favorably on the activities of advocacy or politically oriented civic organizations, it does little to prevent domestic and foreign donors from supporting these organizations. A number of advocacy NGOs are active in fields such as gender, health, poverty, land, media, human rights, democratization, education, mining, and private sector development. For several years, foreign government donors have been working with Tanzanian NGOs to improve their capacity to influence policy-making and to monitor the government’s budgeting process and use of state resources.

Despite the ease with which civil society organizations can form, the state maintains considerable legal powers to control their activities under the NGO Act of 2002, which makes it a criminal offense for NGOs to operate without registration by the state. The NGO Act gives the government the power to deregister, or refuse to register, organizations on the vague grounds of “public interest.” Similarly, the activities of trade unions can be restricted by the state using the 2004 Labor Relations Act, which forbids strikes in public service sectors, including health, telecommunications, civil aviation, and electricity. The state can also prohibit strikes for catch-all reasons such as jeopardizing health and safety. Laws mandate that before a strike can be declared legal, a lengthy and complicated mediation process must be followed. Organizers of strikes that are deemed illegal are often victimized by employers and the state.

On July 26, 2012, the chairperson of the Medical Association of Tanzania and leader of an illegal doctors’ strike, Dr. Stephen Ulimboka, was abducted, tortured, and beaten by an unidentified group. President Jakaya Mrisho Kiwete, his Prime Minister, Mizingo Pinda, and the Minister of Home Affairs, Dr. Emmanuel Chimbi, denied the involvement of state security agencies in the abduction and assault. The government indefinitely suspended the weekly newspaper MwanaHalisi in July after it revealed the names of state security officials allegedly involved in the attack. According to the statement that was issued by the Ministry of Information, MwanaHalisi was suspended because it published seditious materials against the Newspaper Act (1976).

In Tanzania, there is no long-term detention without trial, and activists and political opposition figures are largely left alone unless they engage in demonstrations and political protests critical of the government. For example, on December 18, 2010, opposition legislator Godbless Lema, from Arusha, was arrested and beaten by the police after he protested that improper procedures had been used to elect the city’s mayor.

Demonstrations must have police authorization. The CCM has good relations with the police, and its processions are almost always approved; even those that do not receive prior permission are not interrupted. While charity walks and officially sanctioned processions can easily obtain police permission, demonstrations that call attention to perceived rights abuses, or those that are organized by politically active civil society groups (as opposed to development-oriented groups) and opposition parties, are actively discouraged.

When deciding whether to allow a demonstration, the police base their judgment on its worthiness and on whether it appears to them that all possible legal channels for raising grievances have been exhausted. Predictably, the police usually find no justification for demonstrations that are critical of the authorities. If demonstrations are not deemed legal by
police, but nonetheless take place, they are dispersed by the Field Force Unit using tear gas and clubs. Police routinely beat demonstrators and suspected demonstration leaders. In the process of breaking up demonstrations, the police and Field Force Unit often steal demonstrators’ possessions, happily taking advantage of the chaotic situation that the police themselves create.\textsuperscript{45} Demonstration leaders and a few unlucky demonstrators are typically arrested, detained, charged, and brought before court, and after some time the cases are dropped. For instance, on February 7, 2012, the police forces banned and suppressed a demonstration of activists from 15 civil society organizations seeking to see the president about the government’s failure to find a solution to a nation-wide illegal doctors’ strike that lasted for two consecutive weeks. The police arrested Dr. Helen Kijo-Bisimba, director of the Legal and Human Rights Center and Ananilea Kya, director of the Tanzania Media Women Association (TAMWA).\textsuperscript{46}

In recent years, protecting the rights of disabled people has received increased emphasis. As part of this effort, Tanzania ratified the Convention on the Rights of Persons with Disabilities in 2009, and passed the Persons with Disabilities Act in 2010 in order to bring Tanzanian law into line with its international commitments. The rights of people with disabilities have also been actively promoted by civil society groups.

One particularly vulnerable societal group is albinos, whose body parts have long been in demand for witchcraft purposes. The government, together with local and international NGOs, has launched vigorous campaigns to protect albinos. Attacks targeting albinos have been reduced but not eliminated, with reports of amputations and stealing of limbs continuing. On the positive side, there were no albino murders reported for 2010, down from a high of 37 reported in 2008.\textsuperscript{47}

**Rule of Law**

Tanzania’s judiciary system is made up of the Court of Appeal, the High Courts for both mainland Tanzania and Zanzibar, and the Constitutional Court. Primary and magistrate courts deal with minor offenses and criminal cases. The High Courts deal with serious offenses, such as murder and grand corruption, as well as hearing all appeals from the primary and magistrate courts. The Court of Appeal is the highest court in Tanzania, dealing with appeals from all the lower courts, while the Constitutional Court handles constitutional cases. Laws in Tanzania are reviewed by the Tanzania Law Reform Commission.

Article 13 of the 1977 constitution establishes that “all persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law.” In 2008, Tanzania passed the National Prosecution Service Act (NPSA), which empowers state attorneys or legal personnel selected by the Director of Public Prosecution (DPP) to file and prosecute criminal cases. This act removed the monopoly that police personnel previously had over filing, investigating, and prosecuting criminal cases. Prior to the act, there had been complaints that police control over the investigation and prosecution of criminal cases allowed for abuses, such as the fabrication of crimes.\textsuperscript{48} In the 2008/2009 financial year, the government established one new regional office in Shinyang and expanded and renovated the regional offices in Tabora, Songea, Mwanza, Arusha, Tanga, and Mbeya to accommodate 197 newly recruited attorneys. As such, the number of inmates decreased from 44,100 in 2006 to 38,908 in 2009.\textsuperscript{49}

Article 10 (b) of the constitution states that the judiciary is free and independent. However, according to the LHRC, the judiciary’s independence had been compromised by a “lack of resources, weak procedures of judicial appointment and poor remuneration of judicial personnel, especially at the lower ranks.”\textsuperscript{50} All judges are presidential appointees,
undermining the separation of powers. The legislature cannot reject any presidential appointments, except for the prime minister.

According to the LHRC, since Tanzania’s judiciary does not have an independent budget, it is very difficult to be free from executive influence. Low pay and a difficult work environment can be incentives for magistrates, particularly those in the lower courts, to demand bribes. According to the 2011 East African Bribery Index, the judicial branch is the second-most-corrupt institution in Tanzania, behind the police force. An investigation by the LHRC found that court clerks demand money from inmates who ask for legal assistance. Furthermore, magistrates delay cases unnecessarily to create an environment for corruption.

The courts also suffer from a chronic lack of facilities and inadequate human resources. In many rural areas, magistrates serve more than one primary court, and have to travel long distances to hear cases, causing overcrowding and further delays. In an attempt to increase efficiency, rural cases are sometimes heard in urban areas, where there are computers and electricity, but this burdens people in rural communities, who must travel far to attend hearings. As a result of the backlog in court cases, the number of detainees waiting for hearings continued to increase significantly. In 2010, detainees in Mara, Morogoro, Dar es Salaam, and Arusha regions boycotted court proceedings due to delays in their cases. In November 2010, nearly 75 inmates from Arusha Main Prison refused to enter the courtroom, protesting that their cases had been delayed for more than four years even though they had been going to court sessions twice a month.

The right to property ownership, especially land, remains controversial, and the laws are regarded as unfair by many local land owners. Tanzania’s land laws are a confusing blend of pre-colonial, colonial, ujamaa era, and liberal influences. The 1998 Land Act and the 2009 Land Policy regard land as public property under the authority of the president, who oversees the land on behalf of all Tanzanians. In this respect, all land owners in Tanzania are tenants of the president. The Land Act allows the government to acquire any piece of land if deemed necessary for the public interest, which has included transferring village land to multinational mining corporations and for the establishment of large hunting blocks for foreign investors. For instance, in July 2009, armed police officers forcefully demolished eight Maasai villages in Loliiondo, Manyara region, in order to make way for a hunting block reserved for an investor from Dubai. Villagers’ crops and houses were burnt, and as a result, about 3,000 villagers were rendered homeless. In Kilwa, in the south, a Dutch and Belgian company, BioShape, seized more than 30,000 hectares of land to cultivate the jatropha plant to generate biofuel. Villagers in Kilwa have complained that they are running out of food because their farms were expropriated.

The Land Act does not provide for compensation for any mineral wealth found under the land. This has contributed to violent conflicts in the Mara region of western Tanzania, where villagers have complained about the low compensation they received from Barrick Gold. For the case of North Mara Barrick Gold Mine, villagers, as per the land act, were compensated for their land over and near the gold deposits. Villagers claimed the their land was undervalued, fuelling resentment against central government authorities and the Barrick Gold Mine.

**Anticorruption and Transparency**

Tanzania has a number of agencies to fight corruption. The PCCB, the Controller and Auditor General (CAG), the Good Governance Coordination Unit (GGCU), the Ethics Commission, and the Commission for Human Rights and Good Governance (CHRGG) constitute the institutional framework for combating corruption in Tanzania. The PCCB is mandated to
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investigate, raise awareness, and guide the government on anticorruption issues, and to prosecute cases of corruption, either directly or via the director of public prosecutions. The CAG has oversight functions in public finance and procurement. The CHRGG acts as an ombudsman that can receive complaints from citizens and make nonbinding recommendations to the state, although these are rarely followed. The Ethics Commission is responsible for the implementation of the Public Leadership Code of Ethics, which was enacted in 1995. However, while there are many anticorruption bodies, they are weak and their proliferation does little to curtail corruption. Tanzania is ranked 100 out of 182 in Transparency International’s 2011 Corruption Perception Index.

In 2010, a presidential committee was formed to advise the government on how to effectively deal with corruption. Nonetheless, corruption continues to increase, with an estimated 20 percent of the national budget being lost in 2009 and 2010 as a result of forgery and theft. In the 2005–06 financial year, nearly $120 million was embezzled from the Bank of Tanzania, the central bank, and paid to 22 fake local companies. In a similar vein, in the 2009–10 financial year, the government lost approximately $15.2 million in payments made to ghost workers. The 2010/2011 report of the Controller and Auditor General (CAG) revealed that the government spent $348 million without a parliament approval and $641,025 was used to pay ghost workers.

In the first half of 2010, the PCCB received 2,896 reports of corruption, of which only 413 cases, or 14.2 percent, were investigated and 104 filed as cases. The PCCB reported that it recovered $35,000 from corrupt public officials between 1995 and December 2011. The increase of corruption, especially grand corruption, suggests that the capacity of the PCCB to prevent and combat these crimes is limited. According to the LHRC, the PCCB concentrates on petty corruption, ignoring many cases of grand corruption. For instance, the PCCB in November 2010 claimed that there was not enough evidence to support accusations of corruption against Andrew Chenge, a current legislator and former attorney general, in connection with a 1998 $40 million radar deal with Britain’s BAE Systems. However, two days later, the British High Commission in Dar es Salaam issued a statement arguing that it was too early to absolve Chenge because the case had yet to be decided in court. Further, on November 30, 2011, WikiLeaks published on its website documents that claimed the Tanzanian government was an obstacle to prosecuting the suspects in the radar scandal. According to WikiLeaks, it has not been possible to prosecute the suspects of the radar scandal because of a lack of willingness to prosecute current and retired senior government officials. Due to a court case in Britain, BAE agreed to refund money to the Tanzanian government due to irregularities in the radar purchase. The prime minister told the National Assembly in April 2012 that the government through the central bank had received $40 million from BAE and would use this money to support education. There is no indication on the part of the Tanzanian government that it wants to take any action to investigate anyone associated with what is widely believed to be a corrupt BAE radar purchase.

In 2010, the PCCB won a case of grand corruption involving Amatus Liyumba, a director of administration and finance with the central bank during President Benjamin Mkapa’s administration. Liyumba was sentenced to two years in jail by the resident magistrate court of Kisutu, Dar es Salaam, for inflating the construction costs of the bank’s twin towers buildings. But the court dropped a second charge of causing the government to lose $126.1 million. In May 2011, the PCCB won another case of grand corruption involving Rajabu Maranda and Farijala Hussein, two businessmen who are also CCM cadres. They were sentenced to five years by the Kisutu court for stealing approximately $1.6 million from the central bank’s External Payment Arrears account. Maranda and Hussein were also ordered to pay back the money after finishing their sentence. However, no cases have been launched against Chenge, Edward Lowasa, and Rostam Azziz, the so-called three twins—
powerful politicians who were instrumental in Kikwete’s rise to the presidency—despite widespread allegations of corruption. While the allegations resulted in Lowasa resigning from the post of prime minister (but keeping his seat in parliament) and Azziz, “voluntarily” vacating his parliamentary seat, no formal legal proceedings have been launched against them. Indeed, the head of the PCCB was caught up in the WikiLeaks saga when records revealed that a U.S. embassy official reported that PCCB head Edward Hosea had told him that the PCCB was unable to pursue cases against high-level officials without the president’s approval.\textsuperscript{65}

The Public Ethics Secretariat monitors the abuse of power by public servants. It is empowered by the 2001 Public Leadership Code of Ethics Act to summon senior public officials who fail to fill in and return annual forms declaring their wealth. In 2010, 59.9 percent of senior judicial officials declared their wealth, whereas only 4.5 percent of top executives and parliamentary officials did so. In the first half of 2011, the Public Ethics Secretariat summoned 23 public servants who failed to declare their wealth. According to the Public Ethics Secretariat, the public servants who failed to declare their wealth in the first half of 2011 lost their eligibility to hold public office, but in reality none were removed from their positions. According to the LHRC, the Public Ethics Secretariat is toothless because it is accountable to the president, who appoints many senior public servants. The LHRC proposes that the Public Ethics Secretariat be made accountable to parliament in order to make it stronger and to lessen the influence of the executive branch.

Recommendations

- The constitutional reform process must be conducted in an open and inclusive manner and include frank discussions on the nature of the union between the mainland and Zanzibar.
- The posts of regional and district commissioners should be elected rather than appointed. Short of that, the positions should be filled by an independent body rather than by the president.
- Police should not have the power to judge whether a demonstration is necessary; rather, this should be decided by the courts. In managing demonstrations, the police need to be held accountable for using excessive force against demonstrators and those in police custody.
- An effective set of checks and balances should be put in place in the new constitution. This includes creating an independent criminal justice system where the police, the PCCB, and prosecutors have the independence to investigate and charge high-ranking government officials who are suspected of breaking the law.
- The Commission for Human Rights and Good Governance should be made independent of the executive branch, and its members should be appointed by an independent commission.
- Land laws should be amended so that those who have a legal right to use the land are compensated for the mineral wealth found on or under that land.
- The Public Ethics Secretariat should be made available to the public.

\footnote{Bruce Heilman and William John work in the Department of Political Science and Public Administration at the University of Dar es Salaam, in Tanzania.}
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20 A 2008 Afrobarometer survey indicates that less than 40 percent of people have access to newspapers and TV in rural areas. Afrobarometer, Summary of Results: Round 4 Afrobarometer Survey in Tanzania, (Michigan State University and REPOA, 2008), http://hakimadini.org/wp-content/plugins/downloads-manager/upload/Afrobarometer%20Summary%20of%20Round%204%20Results%202008.pdf, 9-10.


