



TANZANIA

CAPITAL: Dar es Salaam

POPULATION: 43.7 million

GNI PER CAPITA (PPP): \$1,230

SCORES	2006	2010
ACCOUNTABILITY AND PUBLIC VOICE:	3.74	4.09
CIVIL LIBERTIES:	3.75	4.13
RULE OF LAW:	3.05	3.68
ANTICORRUPTION AND TRANSPARENCY:	2.88	3.29

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

Bruce Heilman

INTRODUCTION

Tanzania, like most African countries, was a colonial creation. European powers demarcated Tanganyika (mainland Tanzania) and Zanzibar's territorial boundaries in line with British and German geopolitics, giving little consideration to existing political, economic, or cultural groupings. The result was a diverse country comprising approximately 140 different African ethnic groups as well as economically important non-African minorities from the Middle East and South Asia. The template for the modern state was European, designed to suit the needs of exploitative colonial occupying powers. African nationalism, meanwhile, embodied a struggle to achieve basic political rights.

With decolonization, modern Tanzania was created by the union of two independent countries, Tanganyika and the islands of Zanzibar. Tanganyika gained independence in December 1961, under a single nationalist movement—the Tanganyika African National Union (TANU) and its visionary leader Julius Nyerere. Zanzibar became independent two years later, divided by two rival nationalist movements, the Afro-Shirazi Party (ASP) and the Zanzibar Nationalist Party (ZNP). Zanzibar's first postcolonial government, formed by the ZNP in December 1963, was quickly overthrown by a revolution that transferred state power to the ASP in January 1964. Amid the uncertainty of revolution and a mainland army mutiny, the modern United Republic of Tanzania was created in April 1964 with the merger of the two entities.

Since the creation of the United Republic, four different presidents, all from the same ruling party, have struggled with the problems of extreme poverty and

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nation building. From Julius Nyerere's *Ujamaa* (African) socialism to the gradual political and economic reforms of Ali Hassan Mwinyi, Benjamin Mkapa, and Jakaya Kikwete, coping with the twin challenges of poverty and national unity has shaped Tanzania's postcolonial record on political rights and civil liberties. While little success has been achieved in alleviating poverty, there has been considerable progress in creating a shared national identity.

With a real gross domestic product per capita of US\$123 in 1960, at independence Tanganyika was an impoverished territory in an impoverished East African region.¹ As elsewhere, poverty was widespread and correlated with race, as colonial laws relegated Africans to peasant farming, manual labor, and low level administrative positions. African resentment against the colonial racial-economic order boiled over soon after independence. Trade unions initiated a series of strikes designed to redefine master-servant, racialized employment relations. In 1964 soldiers mutinied, pressing for the removal of British officers; following the restoration of order by British troops, a far-reaching program of political and economic centralization was initiated. The army was reorganized and, together with trade unions and other civil society organizations, was brought under the umbrella of the ruling TANU, which became the sole legal political party on the mainland in 1965. Tanzania embarked on a policy of *Ujamaa* socialism that stressed social welfare rights and nationalized key economic assets. By 1973 the state forcefully moved peasants into communal *Ujamaa* villages, and in 1975 TANU, similar to the Chinese Communist party, 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.

Centralizing political and economic power into a ruling party with clear hierarchical lines of authority was one aspect of building a viable national community. For aspiring politicians, loyalty to TANU took precedence over building ethnic power bases. The union was cemented under the one-party state by making the president of Zanzibar one of the two Union vice-presidents and by alternating the Union presidency between the mainland and Zanzibar.² Religious diversity, particularly between Tanzania's large and powerful Christian and Muslim communities, was accommodated by an informal alternation of power between Christian and Muslim presidents. In addition, Tanzanians also built a shared civic identity through promoting the Kiswahili language, socialist egalitarian values, and the liberation of southern Africa. From abolishing traditional chiefs and native authorities six months after independence, to the 1977 merger of the mainland's TANU with Zanzibar's ASP to create the current ruling Revolutionary Party (CCM), Tanzania continued its path of unity through centralization. This trend, however, reached its limits by the late 1970s. A string of events, including the expenses associated with the invasion of Idi Amin's Uganda and a severe economic crisis, culminated in the end of Nyerere's presidency in 1985 and the unraveling of *Ujamaa* socialism.

Starting in 1985 Tanzania embarked on a gradual process of CCM-guided economic and political liberalization. The second Union president, Ali Hassan Mwinyi, was handpicked by Nyerere and CCM elites due to his reputation as a reformer during his brief stint as Zanzibar's president. Hoping to make a transition away from Ujamaa and to secure greater external resources, Mwinyi initiated a period of cooperation with the International Monetary Fund (IMF) and World Bank. A vibrant and independent media took root. Independent societal organizations flourished and opposition political parties were legalized. But the new openness exposed strains. A simmering Zanzibar nationalism came out into the open, as did tensions between the large Christian and Muslim populations. Regionalism and tribalism among Tanzania's African ethnic groups became more pronounced, although still modest compared to the politicized ethnic identities of neighboring countries. State economic management declined, and by the end of Mwinyi's term donors once again began withholding needed aid.

The next change in power came in 1995, when the CCM's Benjamin Mkapa was elected in the country's first multiparty elections in over 30 years. Mkapa presided over a cooling of racial, ethnic, and religious tensions, and economic and political reforms were promised. Mkapa's government, in cooperation with the IMF, World Bank, United Nations, and Western donors, improved macroeconomic oversight, public finances, the civil service, local government, and the legal sector, helping create a decade of economic growth with low inflation that allowed Tanzania's GDP per capita to increase to US\$538 by 2009.³ However, little of the economic prosperity translated into poverty alleviation.⁴ Moreover, numerous high-level corruption scandals left Mkapa's successor, CCM's Jakaya Mrisho Kikwete, with a tricky clean-up job that is serving as a crucial test of institutional capacity in Tanzania.

ACCOUNTABILITY AND PUBLIC VOICE	4.09
FREE AND FAIR ELECTORAL LAWS AND ELECTIONS	3.25
EFFECTIVE AND ACCOUNTABLE GOVERNMENT	4.25
CIVIC ENGAGEMENT AND CIVIC MONITORING	5.00
MEDIA INDEPENDENCE AND FREEDOM OF EXPRESSION	3.86

Elections are held every five years, with approximately 18 registered parties contesting political office.⁵ For 2010, the National Election Commission (NEC) proposed adding 11 mainland constituencies to the existing 232 single-member, winner-take-all legislative districts. The CCM's overwhelming legislative majority is amplified by 91 appointed members of parliament (MPs), of whom 75 must be women, nominated by political parties according to their proportion of seats in parliament. There is direct voting for the president, with the winner determined by simple majority. Voting is conducted by secret

ballot. Independent electoral observers and the media are free to observe the elections and report their findings. Within the Union framework, Zanzibar is a semi-autonomous entity with its own electoral authority, the Zanzibar Electoral Commission (ZEC), responsible for Zanzibar's presidential and House of Representatives elections. The NEC is responsible for the Union elections and it usually delegates the administration of Union balloting in Zanzibar to the ZEC.

While Tanzania has the trappings of an electoral democracy, there is debate over the extent to which elections are free and fair. Both in Zanzibar and on the mainland, opposition parties complain that state officials favor the ruling party. For example, securing the necessary police permission in order to hold a public rally seems to be a simpler task for the CCM than the opposition.⁶ The Tanzania Election Monitoring Committee (TEMCO) reported that state administrative officials, such as regional and district commissioners, were actively working on behalf of the ruling party for the 2005 elections.⁷

The reintroduction of multiparty general elections in 1995 has been less problematic on the mainland than in Zanzibar, partially owing to the mainland's less competitive contests. Since 1995, the CCM has increased its percentage of the Union presidential vote and the number of its seats in parliament. In 1995, CCM's Mkapa won 62 percent of the vote, while the ruling party captured 80 percent of the elected seats in parliament. By 2005, CCM's Kikwete captured an overwhelming 80 percent of the presidential vote, while the opposition won only 7 out of 182 mainland parliamentary seats. In both 2000 and 2005, most opposition MPs came from Zanzibar constituencies. Elections on the mainland have been fairly well managed, with election observers, if not always the opposition parties, conceding that results reflect the will of the people.

In contrast to the mainland, multiparty elections in Zanzibar have been fiercely contested and often violent, with the losing party refusing to concede defeat. Following the bloody 1964 revolution through which the ASP took control, no elections were held on Zanzibar until 1984. When competitive elections returned in the 1990s, the islands were again almost evenly divided between two political parties, the CCM and the Civic United Front (CUF). The 1995 and 2000 elections featured violent conflict and credible accusations of electoral irregularities, including inaccurate vote counting in 1995 and ruling party manipulation to ensure victory in 2000.⁸

Following the disputed 1995 Zanzibar elections, the Commonwealth brokered negotiations between CCM and CUF, referred to as *Muafaka*, which centered on the CUF accepting the election results in return for electoral reforms. The CCM and CUF signed a formal agreement just prior to the 2000 contest, but the elections were again mismanaged and the results were not credible, sparking confrontations between security forces and CUF demonstrators that resulted in at least 31 deaths and hundreds of political refugees who fled to Kenya, damaging Tanzania's self-perception as a peaceful and tolerant country. In an effort to stop the violence, the CCM and CUF engaged in another round of *Muafaka* talks, with President Mkapa serving as the guarantor of the

agreement. Although the 2005 election was better managed, the CUF remained unsatisfied, with talks shifting toward the creation of a power-sharing agreement in which the losing party would be incorporated into the government. However, Zanzibar delegates strongly opposed the agreement at the March 2008 CCM National Executive Committee meeting, scuttling the deal. In the absence of good will between the parties, voter registration in Pemba was temporarily suspended in August 2009 amid acts of sabotage, CUF claims of a governmental effort to disenfranchise its supporters, and threats by the Revolutionary Government of Zanzibar—carried on the front pages of the ruling party and government newspapers—to arrest the CUF’s general secretary and the likely Zanzibar presidential candidate, Seif Shariff Hamad.⁹ In a surprise development, a November 2009 meeting between outgoing Zanzibar President Amani Karume and Hamad produced an informal agreement that reduced tensions between Zanzibar’s two main political parties.

Campaign financing favors the incumbent party. The state provides some funding to political parties based on the number of legislators in parliament. In 2009, “constituency development” funds were introduced, giving legislators thousands of dollars to spend on their own “development” priorities.¹⁰ While these resources can be channeled into campaigns, parties and individual candidates are largely responsible for raising their own funds. Given their dominant position in the legislature, the best-financed candidates belong to the CCM. However, where candidates or parties get their resources is unknown and campaign finance is largely unregulated, with opposition party leaders charging that funds involved in the Bank of Tanzania’s (BoT) External Payment Account scandal (see Anticorruption and Transparency) were channeled into the CCM’s 2005 electoral campaign.¹¹

Tanzania has a mixed presidential-parliamentary system, with a dominant executive branch. The president selects his cabinet from the unicameral National Assembly, including a prime minister who must be approved by the parliament. The executive branch has considerable leverage over parliament through the president’s position as the leader of the ruling party. The president can make use of party discipline to pass bills and protect executive branch interests. Important political matters, for example, are discussed in internal party forums and after a decision is made, CCM MPs are expected to toe the party line. The party has various committees to resolve disputes and discipline members. Rogue members can be expelled from the party, automatically losing their seats. However, a new legislative assertiveness emerged in 2007, with the questioning of mining contracts and the unearthing of Mkapa-era corruption scandals. A small but outspoken opposition, coupled with dissatisfaction among some CCM MPs over corruption allegations, led to the fall of Prime Minister Edward Lowassa’s cabinet in February 2008. In 2009 parliament helped to prevent the parastatal electricity company, Tanzania Electric Supply Company (TANESCO), from buying turbines from a scandal-plagued company called Dowans, indicating the legislature’s potential to act as a countervailing power

to the presidency. Parliament's new assertiveness has created division within the ruling party, as the old guard felt that such debates and investigations were hurting the CCM. During the party's August 2009 National Executive Committee meeting, a move was made to expel the CCM's leading reformer, Speaker of the National Assembly Samuel Sitta, from the party; in addition, CCM Ideology and Publicity Secretary John Chiligati warned other outspoken reformers to praise former President Mkapa instead of denouncing alleged corruption.¹²

Most civil service posts are filled on the basis of open competition and merit. However, a wide range of top positions are filled by presidential appointment. While competence is a key factor, loyalty to the ruling party and president are also considered. Nor is hiring at lower levels immune from bias. The press and MPs have aired accusations of patronage at preferred state employers like the Ministry of Foreign Affairs and International Cooperation, the Tanzania Revenue Authority, and the Bank of Tanzania. In regard to the BoT, local media alleged that Amatus Liyumba, the former director of personnel and administration, hired family members of top-ranking politicians. Liyumba is currently standing trial for his role in the US\$300,000,000 cost overrun for the construction of the BoT Twin Tower headquarters.¹³

Freedom of association and assembly are constitutional rights in Tanzania. The state is tolerant of civic organizations, independent trade unions, and business associations, and the political system is responsive to citizen interests. One area of concern, however, is the influence of donor countries and organizations. Tanzania receives 45 percent of its governmental budget from outside donors,¹⁴ giving Tanzania's development partners considerable political influence with the state and civil society. While donors have worked closely with the government and sought to include civil society and the legislature in the policy process, this degree of dependence raises questions about the balance of democratic accountability between citizens and funders. In addition, the monitoring of aid disbursements is uneven: a revealing recent study on the misuse of donor funds estimated that up to 50 percent of the money for a showpiece multi-year, multimillion dollar natural resources program was lost through corruption and mismanagement.¹⁵

There is a fairly easy registration process for civil society groups, which may seek and receive support from international sources. By 2007 there were nearly 1,700 fully registered nongovernmental organizations (NGOs) as well as other NGOs registered under the Companies Ordinance Act, an option taken to reduce state interference in their activities.¹⁶ The state has considerable legal powers to control civil society activities under the NGO Act of 2002, which makes it a criminal offense for NGOs to operate without registration. The NGO Act gives the government discretionary power to deregister or refuse to register organizations on the unspecified grounds of "public interest." A number of advocacy NGOs are active on issues involving economic development, social conditions, political rights, and the budget process. Despite the freedom given to civil society, there are tensions: the state encourages organizations to

play a “developmental” or service provision role, as opposed to a political or advocacy one. One month prior to the 2005 elections, the minister of education and culture threatened to deregister the education rights group HakiElimu and prohibited it from publishing its studies on education. The minister’s threats followed HakiElimu radio and TV commercials highlighting problems with basic education and poverty reduction, topics that were featured as areas of achievement in the CCM’s election campaigns. After the elections, HakiElimu tried to restart its activities but the ban was not lifted until after a 2007 meeting between HakiElimu officials and Prime Minister Edward Lowassa.¹⁷ The government also strongly discourages connections between civic organizations and opposition political parties.

Mainland Tanzania has a young, freewheeling, and critical media. Article 18 of the constitution safeguards freedoms of expression and the right to seek, impart, and receive information on important societal issues as well as on the lives and activities of prominent people. The opening of the mainland media sector accompanied the demise of the single-party system during the 1990s.¹⁸ There are no controls over access to information on the internet and in major cities there is easy access to international media via television, the internet, and radio. The 2008 Afrobarometer survey indicates that information is a problem in rural areas, where less than 40 percent of people have access to newspapers and television.¹⁹ There are currently dozens of newspapers, a handful of national television channels, and numerous regional stations.

While the state is generally tolerant of the private media, editors complain about a lack of editorial independence, with the varied personal and political agendas of media owners influencing news coverage.²⁰ Moreover, colonial and single-party era laws give the state broad leeway in setting the limits of acceptable media practices. For example, the National Security Act (1970) empowers the government, rather than the judiciary or an independent tribunal, to decide what information is classified. Reporting on, possessing, sharing, or publishing classified material is a criminal offense. The government has used its power to declare information classified in self-serving ways, as in 2007, when the Ministry of Minerals and Natural Resources, in the face of allegations of corruption, maintained that contracts with mining companies were classified. The act also allows government officials to declare parts of the country “protected places,” thereby restricting journalists’ movement.²¹ Another single-party era law, the Tanzania Newspaper Act of 1976, gives wide discretionary powers to the Ministry of Information, Culture, and Sports (MICS) to suspend newspapers from publishing for a specified period of time. Journalistic ethics and professionalism are a problem, and the government has used the law to punish what it considers violations of public morality. For example, in February 2009 the MICS threatened three newspapers with suspension for publishing provocative articles about the sex lives of prominent Tanzanians.²² In light of the explosion in the number of independent media outlets, publishers, editors, and reporters support the creation of independent professional bodies to regulate

the media, establish ethical practices, arbitrate disputes, and give accreditation to journalists. The government has been inclined to embed these powers in the state.²³ As of late 2009 a new media bill has not been passed.

Despite the government's wide discretionary power, journalists have not been shy about criticizing the government or powerful people. At times the government has retaliated. For example, the *Mwanahalisi* newspaper was banned for three months in October 2008 for publishing a story alleging a plan to defeat President Kikwete during the ruling party's 2010 internal primary elections. In addition to banning newspapers, the government may threaten to revoke the citizenship of critical journalists, a threat carried out in 2003, to publisher and journalist Jenerali Ulimwengu, and in 2006, to newspaper reporter Richard Mgamba.

In addition to governmental intervention, media conflicts can be dealt with by the NGO Media Council's nonbinding arbitration procedures or in the courts, using civil libel and defamation laws. Disputes between media outlets over issues like the use of unauthorized pictures are often solved through Media Council arbitration. On occasion, politicians and businesspeople bring civil libel suits against newspapers, their owners, or employees. In March 2009, Minister of Home Affairs Lawrence Masha sued three newspapers in Reginald Mengi's Guardian Limited Company for approximately US\$2.5 million for articles claiming Masha inappropriately steered a multimillion dollar tender to produce national identification cards to a company called Sagem. Separately, in May 2009 the High Court ordered *Mwanahalisi* to pay Rostam Aziz, an MP and former CCM treasurer, roughly US\$2.5 million for an article alleging Aziz was part of a scandal-plagued electricity deal. In August 2009 the High Court awarded Mengi himself approximately US\$1 million for articles published in the rival *Changamoto* claiming that Mengi was funding CHADEMA party by-election campaigns. Although such suits are common, journalists and media owners nonetheless seem content to push the boundaries of acceptability and professional ethics. It also remains unclear whether settlement money is actually paid, given the drawn-out appeals process.²⁴

Although violence and other forms of intimidation are sometimes directed at reporters, the state has in general respected and protected media workers. In the case of an acid and machete assault on *Mwanahalisi* publisher Saeed Kubenea and editor Ndimara Tegambwage in January 2008, police quickly made arrests and brought the suspects to trial. Nonetheless, the 2008 African Media Barometer Report complains that the government favors "friendly" media for advertisements and that self-censorship is widely practiced by editors and reporters seeking to avoid offending their owners or the state.²⁵

In Zanzibar the situation is worse for media than on the mainland, though there are indications of improvement. Media outlets operating in Zanzibar fall under Zanzibar law and the Revolutionary Government's jurisdiction. The opening up of the island's media sector has been partial and the press remains smaller, less independent, and less vibrant than on the mainland. Television

Zanzibar is under government control, as is the radio station *Sauti ya Tanzania-Zanzibar* and the newspaper *Zanzibar Leo*. The small private radio stations and newspapers that exist often have close connections to ruling party politicians. Critical media face harassment: Reporters Without Borders notes that the Revolutionary Government is not tolerant of “the independent press, accusing it of being ‘a threat to national unity’ at the first sign of criticism.”²⁶ There are indications that the Zanzibar government is interested in reform. The Media Council has a branch on the islands, new press clubs are operating, and an editors’ forum was created in 2009.

CIVIL LIBERTIES

4.13

PROTECTION FROM STATE TERROR, UNJUSTIFIED IMPRISONMENT, AND TORTURE	3.25
GENDER EQUITY	4.33
RIGHTS OF ETHNIC, RELIGIOUS, AND OTHER DISTINCT GROUPS	4.50
FREEDOM OF CONSCIENCE AND BELIEF	5.33
FREEDOM OF ASSOCIATION AND ASSEMBLY	3.25

According to the constitution, all Tanzanians are equal under the law and citizens are protected from human rights abuses. Nonetheless, there are allegations of abuse and the use of unwarranted violence by the police. Newspapers often carry stories of suspicious police killings, like the fatal shootings of a Tunduma businessman in June 2009 and a taxi driver in Dar es Salaam in March 2009. In both cases, the press reported anti-police protests after the shootings, reflecting anger and fears among the public that the police would not fairly investigate the incidents.²⁷ Another well-publicized police shooting involved the September 2007 killing of 14 Kenyans alleged to have been carrying out a bank robbery. The NGO Legal and Human Rights Centre (LHRC) found the police account of events implausible and highlighted the need for an independent investigation, which has not yet occurred.²⁸ Incidents of torture also generally occur in the context of undisciplined police actions; torture is not applied systematically for political purposes.

Prison overcrowding is a major problem. According to the LHRC, in 2007 Tanzania possessed the capacity to house 22,669 prisoners but held 46,416, nearly half of whom were in remand. The government has attempted to alleviate prison overcrowding through means including a presidential pardon of 7,674 prisoners in 2008, construction of new facilities, and reductions in trial delays. Another effort involved the creation of the Probation and Community Services Division in 2008 to allow for non-incarceration sentences. Regardless of state efforts to improve conditions, the problem of long periods of pretrial detention remains, effectively serving as a punishment prior to conviction.

Cases of heavy-handed actions by district commissioners are not uncommon and often go unpunished. For example, a district commissioner accused

of leading the October 2001 destruction of Nyamuma village was never disciplined and merely transferred to another district by President Kikwete in 2006.²⁹ Another case involved the Bukoba district commissioner, retired Colonel Albert Mnali, who ordered the caning of over a dozen teachers in front of their students in February 2009. After a media outcry including condemnations by human rights activists and the teachers' union, Mnali was removed from his position, though no criminal charges were filed.³⁰

Those whose rights have been abused by authorities have a number of options through which to seek redress. The governmental Commission for Human Rights and Good Governance (CHRAGG), operational since June 2001, receives complaints regarding land use and ownership, the conduct of police and prisons officers, labor relations, and violations of rights of vulnerable groups. Despite the commission's positive contributions, it suffers from several problems, including a lack of autonomy, as the president appoints commissioners and has ultimate authority over commission actions; a lack of presence, since with only five offices nationwide it is difficult for many citizens to present their grievances; and the lack of sanctioning power, as the commission essentially makes recommendations that the government may ignore.³¹ In addition to the governmental CHRAGG, complaints can be taken to a number of NGOs working on rights and governance issues.

The state is committed to protecting the rights of citizens from abuses by nonstate actors such as criminals, terrorists, and mobs. The 2008 Afrobarometer opinion poll reported that while crime is a concern of Tanzanians, over 90 percent had no or only minor crime-related problems during the past year. In addition to the police, there are hundreds of private security firms, local government militias, neighborhood watches, and vigilante groups called *Sungusungu* that often operate with state approval. Mob justice is common and often lethal. The April 1, 2009 killing of two suspected robbers by 400 people who overran an isolated police outpost in Rural Shinyanga District illustrates fundamental problems with the criminal justice system and the application of due process.³² The LHRC noted that the police recorded 307 deaths from mob justice from January to October 2007.

Mob justice is also directed against suspected witches, usually elderly people in impoverished areas of western Tanzania. The LHRC quoted the Mwanza regional police commander as saying 238 witchcraft-related killings took place in his region from 2005 to 2007.³³ Another vexing witchcraft-related problem is the targeting of albinos for body parts to concoct potions to bring good luck and wealth. According to the police, 46 albinos were killed and dozens maimed from June 2007 to January 2008.³⁴ Despite a well-publicized government campaign to stop the attacks, they continued, prompting a frustrated Prime Minister Mizengo Pinda in January 2009 to ban the practice of "traditional healing," a move that stirred controversy.³⁵ In a further attempt to protect albinos, the government carried out "opinion polls" in western Tanzania where

people were asked to place the names of criminals and those they suspected to be targeting albinos into a box, to be analyzed later by the police.

Human trafficking in Tanzania primarily involves poor children and women from rural areas sent to urban zones to engage in domestic labor, usually through informal networks and with false promises of education or good jobs. Women and children are also trafficked to work in commercial agriculture, in artisan mining, or to work as prostitutes. There are laws against the sexual exploitation of children and the Tanzanian government has worked with the U.S. government and international NGOs to address the problem.³⁶ In 2008 the government passed the Anti-trafficking in Persons Act and provided specialized training to police. However, the LHRC noted that the act conflated trafficking with sexual exploitation, thus leaving out serious problems like child labor in domestic employment.

The Tanzanian government is committed to gender equality. Tanzania is a party to a number of regional and international human rights treaties that protect women's rights. The government has a standing policy of giving preference in state hiring to female candidates when the qualifications of male and female applicants are equal. In addition, 23 percent of parliamentary seats are reserved for women, and the president has attempted to increase the number of women in key political and administrative positions such as ministers and regional and district commissioners. According to the Millennium Development Goals Monitor, Tanzania has a chance of meeting the goal of promoting gender equality and empowering women by ensuring equal access to education at all levels by 2015.³⁷

In recent years the state has modified laws and worked with community groups to reduce harmful cultural practices such as female genital mutilation, which the LHRC estimates has declined in all regions of Tanzania except Singida. However, an antiquated marriage law and traditional practices regarding domestic violence, marriage, divorce, and inheritance infringe on women's rights. Marriage, divorce, and inheritance are covered by one of three legal codes: civil law, Islamic law, or customary law, all of which, according to the LHRC, discriminate against women. Multiple marriages are legal for men but not women, and men shoulder almost no legal responsibility for the care of children out of wedlock. In part due to traditional customs, domestic violence against women is widely accepted.³⁸

The rights of Tanzania's ethnic, racial, and religious groups are respected by the state and other societal identity groups. While Tanzania deserves its reputation as a tolerant society, one problem area concerns "indigenous people," or ethnic groups that have maintained their traditional cultures, including a mode of production based on pastoralism and hunting. These groups, which include the Masai, Barbaig, Hadzabe, Ndorobo, Sandwe, Iraqw, and Gorowa, are considered backwards and tend to be socially marginalized. Conflicts have erupted with farmers, investors, and the government as traditional areas for

migration and cattle grazing are closed off and claimed for commercial and peasant farms, tourism, and commercial hunting. For example, in 2007 the government issued a license for traditional Hadzabe land to a private commercial hunting company. After community leaders and NGOs protested, the private company backed out in 2008, only for a mining company to conduct unauthorized geological surveys in the same area.³⁹ In June 2009, the Masai and the government clashed over forced evictions from land allocated to the United Arab Emirates-based Ortello Business Corporation, a commercial hunting company.⁴⁰ Peasant-pastoralist disputes occasionally turn violent, as in Kilosa District, Morogoro Region, when six people were killed and nearly 1,000 fled their homes in October 2008, nearly eight years after a similar deadly conflict in the district.⁴¹

Tanzania's constitution protects freedom of worship, "including the freedom to change [one's] religion or faith," and ensures that "the affairs and management of religious bodies shall not be part of the activities of the state authority." The secular state fits well with Christianity's firmly entrenched separation of earthly and spiritual affairs. However, while many Muslims support secularism, Islam's holistic emphasis on the unity of religious, political, and economic life has brought up a tricky political problem concerning *Kadhi* (Islamic) courts. On the Tanzanian mainland, magistrates draw on Islamic law, African traditional practices, or civil laws in dealing with marriage, divorce, and inheritance. This has created a situation where magistrates, who often are not Muslims and may not be knowledgeable regarding Sharia, try to apply Islamic law, usually in consultation with BAKWATA (Muslim Council of Tanzania) authorities. Some Islamic activists have demanded that Kadhi courts be presided over by Muslim legal scholars and funded by the state, as is the case in predominantly Islamic Zanzibar. This demand is opposed by Christian organizations, who claim it would violate the secular nature of the Union constitution.

The state has paid scant attention to the needs of disabled people. Few schools or health centers, including hospitals, provide needed services, buildings and public transportation lack wheelchair access, and despite legal guarantees, there is little practical recourse for disabled people subjected to discrimination. However, civil society advocacy of disabled rights has attracted state attention. The LHRC notes that in 2007 the government initiated a survey to establish the number of disabled citizens and to better understand the problems they face. In 2008 the state began a review of laws, with the aim of bringing domestic law in line with international conventions regarding the disabled.⁴²

Trade unions fall under the Employment and Labor Relations Act 2004, and the state respects workers' right to freely organize. However, the right to strike is severely limited and is forbidden entirely in many public services like health, telecommunications, civil aviation, and electricity. The state can forbid strikes for vague reasons, such as endangering the life and health of the population. Legal strikes are preceded by a lengthy and complicated mediation process, and organizers of "illegal" strikes are victimized by employers or

the state. For example, during an October 2007 strike at Barrick's Bulyanhulu mine, 1,000 strikers were fired and later allowed to reapply for their positions, giving the employer an easy opportunity to victimize organizers.⁴³

Freedom of assembly has been a problematic issue in Tanzania. The police have wide powers to declare meetings and demonstrations "unlawful," which they used to break up an "illegal" teachers strike and university demonstrations in 2008, arresting and briefly detaining organizers. On occasion, the police have prevented opposition political party meetings and demonstrations. The state has also reacted against those seeking to demonstrate when foreign dignitaries visit the country, such as when the Pemba Elders were firmly warned not to demonstrate during UN Secretary General Ban-Ki Moon's February 2009 visit.⁴⁴

RULE OF LAW

3.68

INDEPENDENT JUDICIARY	3.40
PRIMACY OF RULE OF LAW IN CIVIL AND CRIMINAL MATTERS	3.40
ACCOUNTABILITY OF SECURITY FORCES AND MILITARY TO CIVILIAN AUTHORITIES	4.25
PROTECTION OF PROPERTY RIGHTS	3.67

The Tanzanian constitution guarantees judicial independence. Judges are appropriately trained, appointed by the president in consultation with an independent Judicial Service Commission, have secure tenure until retirement at age 60, and are promoted and dismissed in a fair and unbiased manner. This gives the higher-level courts considerable independence. Judicial review exists, but is mitigated by the practice of slight modifications that honor the letter but not the spirit of court declarations that given laws are unconstitutional. The judiciary is made up of primary and resident district courts, the High Court, the Court of Appeal, and the Constitutional Court. The primary and resident and district courts deal with minor civil and criminal offences; magistrates in those bodies are not always adequately trained as a law degree is not required. The High Court deals with serious criminal offenses and civil offenses involving large sums of money. The Constitutional Court is concerned with disputes between the Union and Zanzibar governments. There are also special tribunals dealing with land and various commercial and administrative matters, as well as a military court. It is possible for citizens and civil society groups to challenge the government, as seen in the April 2009 decision to overturn the government's 1997 deregistration of the National Women's Council (BAWATA) that included declaring parts of the Societies Act unconstitutional.⁴⁵

The criminal justice system suffers from serious problems with corruption and delays. The LHRC noted that corruption "has caused denial of access to justice to the majority of Tanzanians, particularly the poor. Corruption is so manifestly entrenched and institutionalized that the judiciary, the police, and

the entire justice system is wallowing under the trenches of corruption.”⁴⁶ In addition to biasing court proceedings, corruption leads to delays as police investigators and prosecutors seek bribes from defendants or plaintiffs to speed up or delay proceedings. Corruption is especially problematic in the lower courts, where poor pay tempts magistrates and court clerks to delay proceedings in order to solicit bribes. Aside from low salaries, the LHRC mentions that the number of judges, magistrates, prosecutors, and police investigators are insufficient to handle caseloads. Moreover, as of mid-2008 only 1,071 lawyers were listed on the roll of advocates—very few of whom practiced in rural areas—with approximately 50 more qualifying to practice each year. Indigent Tanzanians are therefore only provided counsel by the state in murder and treason cases. Some civil society organizations provide legal clinics, but access to legal advice remains a problem.

Tanzania’s police force is administered by the Ministry of Home Affairs. As of 2009, police undertake criminal investigations and pass on their findings to prosecutors, who decide whether to bring cases to court. Despite the recent separation of prosecutors from the police, the president still appoints all top police and prosecutorial positions, giving the executive considerable influence over whether to investigate allegations and to press criminal charges.

Although the occurrence of prosecutions of public officials indicates an effort by the government to respect citizen rights, many Tanzanians perceive that the preferential treatment accorded to the powerful, wealthy, and well connected creates a *de facto* two-tiered system of rights. At the top, the Tanzanian constitution offers presidents, both serving and retired, immunity from criminal and civil proceedings. Lower down, several cases illustrate the causes of resentment against the system’s functioning. In one, Abdallah Zombe, a high-ranking police officer, and 12 other officers were acquitted in August 2009 for the 2006 murder of a taxi driver and three gemstone dealers,⁴⁷ sparking protests in the victims’ home village. The case was brought only after President Kikwete intervened, ordering a special probe when media reports contradicted police accounts of the 2006 killings. Similarly, current MP and former attorney general Andrew Chenge, who killed two women after he smashed his car into a scooter in March 2009,⁴⁸ was charged with reckless driving but freed from jail pending trial. In August 2009 bus drivers protested his soft treatment compared to a multi-year prison sentence given to a bus driver convicted of killing a person after bursting a tire.⁴⁹ In another case, well-known politician Ukiwaona Ditopile Mzuzuri faced charges after shooting bus driver Hasani Mbonde in the head after a minor accident in 2006. Ditopile was initially charged with murder, but—with the help of a defense team led by a powerful CCM MP—the charge was reduced to manslaughter, allowing Ditopile to gain bail; proceedings continued at a leisurely pace until his death from natural causes in April 2008.⁵⁰ Five days of nationwide prisoner protests followed Ditopile’s release on bail; his case was viewed as an indictment of a system in which suspects were at times subject to cases lasting a decade or more.⁵¹

The military, according to a 2005 Afrobarometer survey, is the most trusted state institution.⁵² Following the 1964 mutiny, the army was disbanded and replaced by a “peoples’ army” linked to citizens through militia training and embedded into the ruling party and state. While the military formally severed its previously close ties to the CCM with the reintroduction of multiple parties, in practice the links between party, state, and military remain strong. President Kikwete, for instance, moved back and forth between the party and the military over several decades, retiring as a military colonel in 1992, when a constitutional change prohibited members of the security forces from being political party members.⁵³

Since making the transition from a centrally-planned economy to a market-based system, the principal of private property has been strongly supported by the state. People are free, by themselves or in association with others, to start private businesses. The 2009 Index of Economic Freedom ranked Tanzania 93rd out of 179 countries and 11th out of 46 African countries. According to the index, private property rights were threatened by corruption, especially in the judicial system, which could not be relied upon to enforce contracts or fairly adjudicate disputes in a timely fashion. Tanzania did better than the global average for tax rates, freedom of trade, financial and investment freedom, and limited government involvement in the economy.⁵⁴ In Zanzibar, one infringement on private property is the Clove Act of 1985, which forces clove farmers to sell to the Zanzibar government’s clove marketing board. Violations of the Clove Act are criminal offenses and the Revolutionary Government actively suppresses clove smuggling.

The move from communal-based land ownership to a private property system has brought considerable conflict. Customary and communal village land rights, which lack formal title deeds, exist alongside documented private land ownership. Special land tribunals created by law in 2002 have begun operations and are being extended throughout the country. However, different land tenure systems and a deficit of legal documentation, coupled with corruption, hinder solutions and generate considerable conflict. Land conflicts occur between business investors and occupants of informal settlements, large international mining companies and artisan miners and villagers, individuals contesting plots of land for houses, and pastoralists and peasant farmers. There is evidence that interests of the economically powerful and politically well connected take precedence in such cases.⁵⁵

ANTICORRUPTION AND TRANSPARENCY	3.29
ENVIRONMENT TO PROTECT AGAINST CORRUPTION	3.25
PROCEDURES AND SYSTEMS TO ENFORCE ANTICORRUPTION LAWS	3.00
EXISTENCE OF ANTICORRUPTION NORMS, STANDARDS, AND PROTECTIONS	3.25
GOVERNMENTAL TRANSPARENCY	3.67

Discussion of Tanzania's severe corruption problem dominates newspaper stories and parliamentary debates. The 2008 Transparency International Corruption Perceptions Index ranked Tanzania 102nd out of 180 countries.⁵⁶ Numerous criminal court cases and investigations involving officials ranging from local functionaries to former cabinet ministers indicate a serious problem with separating public and private interests—as well as at least some commitment by the state to combat such abuses.

While the level of bureaucratic red tape is not excessive, registration requirements and controls provide local and low-level officials with ample opportunities to solicit bribes. At higher levels of government, the use of state resources to enrich well-connected politicians, their business associates, and powerful multinational companies at the expense of ordinary citizens have led to numerous accusations of bribes, kickbacks, nepotism, patronage, and financial fraud. Several high-profile government scandals have surfaced in recent years. The former director of the Bank of Tanzania is currently on trial for inflating the cost of construction of the bank's headquarters, while four other bank officials were charged with inflating the cost of printing new bank notes.⁵⁷ In January 2008, Central Bank governor Daudi Ballali was removed from his post after an international audit determined that 22 fictitious companies had received funds from the bank's External Payment Accounts.⁵⁸ In addition, Britain's Serious Fraud Office has implicated several Tanzanian officials for taking bribes in connection with the 2002 government purchase of military radar equipment from the British firm BAE Systems.⁵⁹ Finally, high-level government officials, including former prime minister Edward Lowassa, have been accused of using their power to violate government tendering procedures and force TANESCO to sign unfair contracts with "briefcase" companies such as Independent Power Tanzania Limited, Richmond Development Company, and Dowans Tanzania Ltd. To many Tanzanians, these incidents reveal a political class that has commoditized and sold their public responsibilities for private economic and political gain, while undermining the state's ability to act as a dependable custodian of the economy.

Public officials must declare their assets before taking office. However, because access to this information is tightly controlled, judgment of the system's effectiveness is difficult. The 2007 Prevention and Combating Corruption Act strengthened the legal regime regulating corruption by expanding the list of corruption offenses to include contract and procurement fraud, embezzlement and misappropriation of funds, abuse of power, and bribery.⁶⁰ Nevertheless, enforcement remains a problem. The 2007 act also renamed, reorganized, and strengthened the anticorruption bureau. Signaling a greater emphasis on criminal prosecutions as opposed to the educational efforts associated with President Mkapa, the word "Combating" was added to what is now known as the Prevention and Combating of Corruption Bureau (PCCB). The PCCB was also given increased powers to conduct investigations and take action against corrupt officials and now operates throughout the country. In recent years, the

PCCB has increased its efforts to receive and respond to complaints lodged by victims of corruption, and its greater presence throughout the country has improved the ability of citizens to pursue their rights. Its efforts have been complemented by those of the CHRAGG, which has expanded its anticorruption mandate to include the receipt of complaints.

The PCCB has achieved some success prosecuting cases involving public sector companies and at the local government level. However, the finding of nothing untoward in a 2007 investigation of TANESCO's dealings with Richmond raised questions about the bureau's competence and independence. After a November 2007 special parliamentary committee report uncovered numerous corruption-related problems with TANESCO's Richmond contract, there were calls from parliament, civil society, and in the press for PCCB Director General Edward Hoseah to resign. He did not, but Prime Minister Edward Lowassa and two other ministers did due to their alleged roles in the scandal. The unwillingness of the PCCB to pursue corruption cases against high-profile politicians suggests insufficient independence. While the body is nominally autonomous and its board includes representatives from both civil society and the private sector, it remains accountable to the executive branch, which exerts considerable influence over its activities.

The media report widely on corruption and constitute an essential force in the fight against corruption, and media that report on official corruption enjoy less government interference under Kikwete than under his predecessors. However, the personal and political agendas of media owners and editors sometimes bias or distort corruption coverage. For example, Reginald Mengi, the executive chairman of the IPP media conglomerate, has utilized his outlets to aggressively cover corruption stories concerning a group of five businesspeople that he has labeled the "corruption sharks."⁶¹ In response, one of the targets, former CCM treasurer and current MP Rostam Aziz, has employed his own media outlets to retaliate by featuring numerous corruption stories concerning Mengi and his business dealings (see *Accountability and Public Voice*).⁶² The 2007 act also improved the legal environment to protect whistleblowers from retaliation, though its provisions are not always observed in practice.⁶³

The level of corruption in the education sector remains substantial, but the state has increased its efforts to address the issue. Both monetary bribes and sexual favors are sometimes paid to teachers or school officials in order to influence grading and admissions. In addition, there have been repeated instances of national exam leakages and alterations of official certificates. The state has carried out thorough investigations into the exam leakages and reorganized the national body responsible for national exams.

The transparency of government operations has improved in recent years, but much remains to be done to increase the availability of government information. Although Kikwete promised in 2006 to grant citizens a legal right to information as part of a comprehensive media law, intensive civil society advocacy by groups such as the Freedom of Information Bill Coalition have yet

to bear fruit.⁶⁴ In the absence of such a law, access to information remains restricted. It is estimated that 90 percent of all government documents remain classified.⁶⁵

Past improvements to the budget-making process have been sustained under Kikwete. The annual budget proposal is submitted to parliamentary committees for review after receiving input from donors and civil society members, and is released to the public. However, the Open Budget Initiative awards Tanzania a score of just 35 percent in its 2008 edition due to the incompleteness of released information.⁶⁶ While expenditures are reviewed by the National Audit Office, efforts to better manage government funds have failed to achieve measurable results. In a July 2009 speech, Kikwete stated that up to 30 percent of the budget is “eaten” by senior government officials.⁶⁷

Although official tendering procedures are designed to ensure competition, opacity characterizes the system in practice. This is especially true in the extractive industries, where the process is cloaked in complete secrecy and the disclosure of contract-related information can result in legal action. For example, in 2006, MP Zitto Kabwe was suspended from his position after he revealed the details of a government mining contract.⁶⁸ As mentioned above, the government often cites national security issues in order to avoid public debate or disclosure. The World Bank’s 2006 Enterprise Survey revealed that 43 percent of foreign companies expect to give a gift in order to obtain a contract.⁶⁹

RECOMMENDATIONS

- End ministers’ legal authority to ban media outlets or deregister media and civil society organizations. Independent media and civil society tribunals should be created for handling disputes with the option to appeal their decisions to the courts.
- Increase the autonomy of the Commission for Human Rights and Good Governance, and grant it the authority to initiate civil and criminal cases.
- Appoint the Director of Public Prosecution, Director of the Prevention and Combating Corruption Bureau, the Director of Criminal Investigations, and the Inspector General of Police to five-year fixed terms to reduce influence of the executive branch over their activities.
- In order to instill confidence in the judicial system, focus reforms on reducing corruption in the lower courts and reducing delays in the adjudication of cases.
- Implement the *Muafaka* power-sharing agreement as a means to reducing political tensions and finding common political ground toward the achievement of meaningful democratic reforms on the islands.
- Protect the interests of women and children by implementing the long-anticipated reform of the 1971 Marriage Act and other personal status laws.

NOTES

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