

# U4 Expert Answer



## Tanzania: Overview of corruption and anti-corruption

### Query

**Please provide us with an overview of corruption in Tanzania, with an emphasis on corruption challenges related to joint ventures and local content development. To the extent possible, please also provide an overview of main actors in the fight against corruption and promotion of accountability and transparency.**

### Purpose

We would like to plan for activities and cooperation both with the private sector and other actors.

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### Summary

Tanzania has undergone a significant transformation since independence. Now a multi-party democracy with strong economic growth, the government has taken a variety of steps towards good governance and anti-corruption through its National Anti-Corruption Strategy and Action Plan. While there is an established media and civil society presence, the government's restrictions

on freedom of press and association limit the role these stakeholders can play in the fight against corruption.

Against this backdrop, corruption is still rampant and is an issue of particular concern in the context of the country's growing extractives industry. Corruption both within the public and the private sector risks undermining any benefit that citizens can gain from the extraction of natural resources.

Joint ventures – both in the form of public-private partnerships and between companies – are a common practice for companies wishing to gain entry into Tanzanian markets. The complex corporate nature of joint ventures presents additional corruption challenges, in particular when they are combined with local content policies aimed at adding value to the local economy. When poorly executed, these local content policies can create conditions conducive to rent-seeking behaviour.

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# 1 Overview of corruption in Tanzania<sup>1</sup>

## Background

Tanzania is often lauded as one of the most stable and peaceful countries in Africa in the post-colonial era (Bjerk 2010). Since independence, Tanzania has progressed into a multi-party democracy that assures the separation of powers (Bertelsmann Foundation 2014). Nevertheless, experts criticise the dominating role of the executive and the government's restrictions on freedom of expression and assembly (Amnesty International 2013) as well as the excessive force used against journalists (Reporters Without Borders 2013).

Since the 1990s the country has had strong economic growth and is predicted to be one of the fastest-growing countries in the world over the next decade (Cooksey and Kelsall 2012). However, according to some analysts, this growth may not have translated into poverty reduction (Cooksey 2012). For example, although Tanzania has made considerable improvements in its Human Development Index<sup>2</sup> results (moving from a score of 0.353 in 1990 to a score of 0.476 in 2012), it continues to rank among the lowest, at 152 out of 187 assessed countries (UNDP 2012).

Tanzania is also a resource-rich country. Over the last decade Tanzania has been experiencing a rapid expansion of extraction activities for minerals, oil and gas. In 2012-2013, significant off-shore amounts of natural gas were discovered, which experts estimate could attract US\$10 billion to US\$15 billion in investments (Revenue Watch 2013). However, these discoveries also carry risks. In addition to triggering disputes between Tanzania and the semi-autonomous island of Zanzibar on revenue-sharing (Trade Mark East Africa 2012), the discovery of natural resources – and its economic potential – may also create additional corruption challenges in the country.

Tanzania's efforts on combating corruption date back to 1968 with the creation of one of the oldest anti-corruption commissions in Africa (Bertelsmann

Foundation 2014). The country's anti-corruption efforts were strengthened in 1995 when the newly elected president, Benjamin Mkapa, declared a "war" on corruption (Cooksey 2011) and took a variety of steps to fight this battle. This included appointing a Presidential Commission Against Corruption to assess the state of corruption in the country and formulate recommendations. The commission produced the "Warioba report" that led in 1999 to the adoption of a comprehensive National Anti-Corruption Strategy and Action Plan (NACSAP). In 2005, the new president, Jakaya Kikwete (currently in his second and last term), renewed the country's commitment to fight corruption and has since implemented a revised NACSAP.

Moreover, Tanzania is currently in the process of revising its constitution, with the goal of having a new constitution in place by the end of 2014. Although initially hopeful about the new constitution, civil society experts have criticised the current draft for being too weak on corruption (Corruption Tracker 2013).

## Extent of corruption

Despite the government's anti-corruption efforts, Tanzania continues to suffer from rampant corruption. Corruption is cited as one of the major constraints for doing business in the country (World Economic Forum 2013). The country also ranked 111<sup>th</sup> out of 177 in Transparency International's Corruption Perceptions Index 2013, with a score of 33 out of 100 (Transparency International 2013a). However, when benchmarked against its neighbours Kenya, Uganda, and Mozambique, the country is perceived to be performing better (World Bank 2012).

Nevertheless, international assessments seem to indicate that the situation in Tanzania is deteriorating. In the 2013 Global Corruption Barometer (GCB), 69 % of respondents in Tanzania perceive the level of corruption in Tanzania to have increased in the last two years preceding the survey (Transparency International 2013b). The Global Competitiveness Report 2013-2014 reveals that respondents find corruption to have become worse and policymaking less transparent than the previous year (World Economic Forum 2014). While the World Bank's Worldwide Governance Indicators demonstrate notable improvements in terms of government effectiveness, rule of law and control of corruption from the late 1990s until the mid-2000s, the country's rating has experienced a decline since then (World Bank 2013). For example, for the control of corruption indicator, Tanzania peaked at a 50%

<sup>1</sup> While Tanzania has a political union with the semi-autonomous Zanzibar islands, this Helpdesk answer focuses on mainland Tanzania.

<sup>2</sup> The Human Development Index is a summary measure for assessing human development in three dimensions: life expectancy, access to knowledge and a decent standard of living. The score ranges from 0 (worst) to 1 (best).

percentile rank in 2006 and has since dropped to just over 20% in 2012 (World Bank 2013).

Corruption allegations against party members have also affected the image of Tanzania's ruling party, the Chama Cha Mapinduzi (CCM), which has been in power since the introduction of multi-party elections in 1995 (ISS Africa 2012). While several ministers have been sacked, no high-profile CCM member has so far been convicted (ISS Africa 2012). In 2012, a report by the Auditor General revealed that millions of dollars in public funds from several ministries could not be accounted for, which led to the firing of six cabinet ministers (Freedom House 2013).

In terms of citizens' experience of corruption, 61% of respondents in the GCB 2013 stated that corruption is a very serious problem in the country (Transparency International 2013b).

## Forms of corruption

### *Bureaucratic corruption*

Complex laws and lack of administrative capacity create an environment conducive to corrupt practices. Of Tanzanian respondents in the GCB 2013, 56% stated they had paid a bribe for public sector services and 85% of respondents perceived the public sector to be corrupt (Transparency International 2013b). Government officials estimate that each fiscal year, corruption is responsible for a 20% loss from the government's budget (Bertelsmann Foundation 2014). In its audit of 136 construction projects, Tanzania's Public Procurement Regulatory Authority found fraud and corruption in local governments to be a major area of concern (World Bank 2012).

Dealing with permits and licences is cumbersome and time-consuming and provides many opportunities for rent-seeking. Executives surveyed in the 2013-2014 Global Competitiveness Report list inefficient government bureaucracy as one of the most problematic factors for doing business (World Economic Forum 2013). In particular, the Tanzania Port Authority and the Tanzania Revenue Authority are cited as major hindrances to importers (US Department of State 2013). Consequently, the Global Competitiveness Report survey indicates that Tanzania has a pronounced ranking – 132 out of 148 surveyed countries – on the question about how common it is for firms to make undocumented extra payments or bribes (World Economic Forum 2013). In comparison, some of

Tanzania's neighbours score considerably better: Rwanda (24), Zambia (93), Mozambique (113), Kenya (112).

In addition, there is a low level of trust towards tax collectors. The 2012 Afrobarometer survey indicates that 86% of respondents believe that some, most or all tax officials are corrupt (Afrobarometer 2013). This is a 32% jump compared to the proportion that perceived tax officials to be corrupt in 2005.

### *Political corruption*

Since its first multi-party elections in 1995, corruption allegations have affected the political landscape in Tanzania. Recently, in 2012, the speaker of the National Assembly disbanded the parliamentary committee on energy and minerals due to corruption allegations, including allegations that some members of parliament were soliciting bribes from the ministry in order to approve the ministry's budget, and that some members of the committee had conflicts of interest with the Tanzanian Electric Supply Company (Legal and Human Rights Centre 2013).

The literature on Tanzania points to the corruption risks posed by the dominance of the Tanzanian executive. More specifically, political interference has been argued to undermine anti-corruption initiatives. Appointments to law enforcement agencies are often based on non-professional criteria, and party loyalties or personal relationships are often a decisive factor (Business Anti-Corruption Portal 2013). Law enforcement officials, most often high-level ones, can allegedly enjoy protection from criminal investigations (Business Anti-Corruption Portal 2013). In addition, elections supervisory boards have been blamed for being too partial in support of the ruling party due to limited operational autonomy from the ruling party (Babeiya 2011).

Of Tanzanian respondents in the GCB 2013, 68% felt that political parties were corrupt or extremely corrupt. There is growing concern from civil society organisations, the media and general public over an excessive use of money and other resources to influence voters (Babeiya 2011). The Traditional Hospitality Act – also known as *Takrima* in Swahili – was introduced by the CCM in 2000 as a way to ensure that those competing for political positions could reward their supporters with drinks, food and entertainment. However it appeared as a vote-buying operation and seemed to unfairly discriminate against opposition candidates who could not afford to reward their voters

(Babeiya 2011). While the *Takrima* practice is now banned, civil society organisations note that elections and by-elections are still characterised by this practice (TACOSODE 2009).

## Sectors affected by corruption

### Overview

Corruption affects many sectors in Tanzania, including procurement, tax administration, service-delivery, the police and the judiciary. A 2010 nationwide survey by the NGO Concern for Development in Africa (ForDIA) found that police authorities were considered most corrupt, followed by local health authorities, the judiciary, the Tanzanian Electric Supply Company and the Tanzania Revenue Authority (US Department of State 2013). These results were also reflected in the GCB 2013, in which respondents found the following sectors to be most corrupt: police (87%), judiciary (86%), health sector (79%), civil service (75%) and the education system (74%) (Transparency International 2013b).

The police forces – in particular traffic police – are considered vulnerable to corruption due to lack of resources and inefficiency (Business Anti-Corruption Portal 2013). Similarly, the judiciary is vulnerable to corruption due to underfunding, a heavy workload and political interference (Freedom House 2013). In line with this assessment, the 2012 Afrobarometer results indicate that judges, magistrates and the police are perceived to be amongst the most corrupt public officials in Tanzania (Afrobarometer 2012).

Procurement processes are also perceived to be corrupt, which is even acknowledged by President Kikwete himself (Thomas Reuters Foundation 2013a). A recent series of building collapses in Tanzania have demonstrated that corruption in procurement in construction can have very serious consequences (Thomas Reuters Foundation 2013a).

In addition, civil society organisations frequently cite the extractive industries as one of the sectors in which corruption is an issue of particular concern (TACOSODE 2009). This answer places a greater emphasis on this sector as this is most relevant in the context of the query and the economic prospects of the country.

### Extractive industries

Tanzania is one of Africa's major gold producers and has significant oil and gas resources. There are over 14 big extractives projects in the country, with over 20 foreign companies involved in petroleum exploration alone (PWYP 2012). The discovery of natural gas in 2013 has also made Tanzania a major destination for foreign investment.

Publish What You Pay (PWYP) – a global network of civil society organisations calling for an open and accountable extractive sector – warns that the pervasiveness of corruption and a weak national integrity system threaten the ability of the country's extractives industries to benefit all citizens and instead risks plunging the country into the "resource curse" syndrome (PWYP 2012). As a response to these concerns, Tanzania joined the Extractives Industries Transparency Initiative (EITI) in 2009 and has been EITI compliant since 2012. However, in the 2010-2011 report on Tanzania, EITI indicated that there was a net difference of 11 billion Tanzanian shillings (US\$6.8 million) that remained unresolved at the end of the reconciliation, representing 2.21 % of the total reported government receipts (EITI 2013). International assessments regard EITI implementation in Tanzania to be moving at a slow pace and consider government political will to implement EITI to be dwindling (PWYP 2012).

In the mining sector, experts suggest that the state's regulatory capacity is undermined by rent-seeking (private agents capturing policy and regulation) and looting (theft by state functionaries) and that top officials are involved in rent-seeking networks (Cooksey 2011). It is also argued that there is lack of transparency around the confidential Mining Development Agreements signed between foreign companies and the government, which arguably gives mining companies preferential rights (PWYP 2012). On Revenue Watch's 2013 Resource Governance Index, Tanzania ranks 27th out of 58 in the minerals category (Revenue Watch 2013). Weak institutional and legal setting, reporting practices and enabling practices were noted as particular areas of concern (Revenue Watch 2013).

On the other hand, some recent steps have tightened regulation of the extractive industries in Tanzania. Until late 2013, Production Sharing Agreements (PSAs) were the only regulatory instrument applicable in Tanzania to regulate natural gas production operations (EITI 2013). Under a PSA, the state as the owner of the natural

resources engages a foreign oil company as a contractor to provide services for exploration, which in turn receives a share of the extracted resource as a reward for the risk taken and services rendered. To strengthen its regulation, in 2013, the government unveiled a new model PSA, which, for the first time, requires energy companies operating in the country to pay 20% capital gains tax (Reuters 2013b) and includes a clause that expressly deals with bribery and corruption (Ashurst London 2013). In a November 2013 move to create a comprehensive regulatory framework, the government approved a natural gas policy which, among other things, calls for the establishment of a natural gas revenue fund to ensure transparency and accountability in the collection, allocation, expenditure and management of natural gas revenues (Reuters 2013a).

## 2 Corruption challenges associated with joint ventures and local content development

In the last decades, Tanzania has been a major recipient of foreign investment, in particular in its extractives industries. As companies enter new markets, they often do so by entering into joint ventures. In this context, joint ventures can take a variety of forms. They can refer to joint ventures between a company and a state-owned enterprise (often referred to as a public-private partnership) and between private companies alone.

These joint ventures often include a local content component, that is, regulations that help promote local industry to generate further benefit to the economy. While local content policies have the potential to stimulate economic development, when poorly executed their application can also create opportunities for rent-seeking and corruption.

### Public-private partnerships (PPPs)

According to the literature, PPPs have become a popular investment strategy in the developing world since the 1980s (Demuijnck and Ngnodjom 2011). A PPP refers to a contract between a public sector institution and a private company in which the private party provides a public service or project and assumes substantial financial technical and operational risk in the project (Demuijnck and Ngnodjom 2011).

However, there are specific corruption risks associated with PPPs, and it has been argued that the activities of multinational companies can reinforce corruption, especially in the extractives sector (Demuijnck and Ngnodjom 2011). These risks mainly stem from the lack of regulatory infrastructure to support the complexity of the contracts in many countries where PPPs are implemented (Wall Street Journal 2013).

Some corruption risks associated with PPPs include: the initial decision to enter into a PPP being based on improper motives or following a flawed process; an employee or their associate having a conflict of interest and not declaring it; an employee colluding with the people involved in the joint partnership; an employee accepting or soliciting a bribe to give partial consideration to the tender; an employee or the joint venture partner misusing confidential information; exchanging of gifts in breach of a code of conduct; and employees identifying too closely with the interests of the joint venture partner (Independent Anti-Corruption Agency of New South Wales 2013).

In Tanzania, with the same ruling party since 1995, lack of regime change has created specific risks of entrenchment of the political regime. There is a firm perception of favouritism and nepotism by the international private sector actors involved in Tanzania. Executives surveyed in the Global Competitiveness Report 2013-2014 gave Tanzania a 3.1, on a scale of 1 (most ethical) to 7 (corrupt and inefficient), on the extent to which government officials show favouritism to well-connected firms (World Economic Forum 2013).

In terms of the regulatory framework, the government of Tanzania has long recognised PPPs to be an important instrument for attracting private investment and improving public services (CoST Tanzania 2013). However, the government has acknowledged that PPPs face a limited enabling environment, insufficient capacity in regulations and management, inadequate risk-sharing mechanisms that often lead to the public sector carrying the full risk, and inadequate mechanisms for recovery of private investors' capital (PPP in Infrastructure Resource Center 2009). To address these challenges, the government issued a PPP policy in 2009, a PPP Act in 2010 and PPP Regulations in 2011. Furthermore, a Finance Unit has been created within the Ministry of Finance to assess, manage and monitor fiscal risk. A Coordination Unit has also been created by the Tanzania Investment Centre focusing on promotion and coordination of all matters relating to public-private partnerships. Experts also

point to the positive potential of industry-setting initiatives such as the EITI (Wall Street Journal 2013), of which Tanzania is a member.

### Joint ventures between companies

In addition to public-private joint ventures, joint ventures within the private sector are also a common way for companies to enter new markets. Joint ventures are attractive in that they draw upon local expertise and contacts and share risks, costs and resources (Lexology 2013).

As experts point out, joint ventures are a “corporate marriage of convenience” with the goal of expanding to new markets but with little focus on compliance issues (FCPA Blog 2014). As a result, one of the risks emerging from joint ventures is lack of clarity amongst the agreeing parties on who is responsible for anti-corruption compliance (FCPA Blog 2014). One consequence of this is that there is often limited staffing of compliance functions (legal, audit, and human resources) to ensure a robust approach to compliance (FCPA Blog 2014). Moreover, there may be lack of clarity on escalation policy, that is, when and what type of allegations must be escalated to the partner company (FCPA Blog 2014). For that, the UN Global Compact recommends incorporating an anti-corruption clause to contracts to allow for the ending of the contractual relationship in cases where the company or its senior management is found guilty of corruption (UN Global Compact 2010).

In the context of Tanzania, low ethical standards and corruption of Tanzanian companies constitute issues of major concern for such joint ventures. Tanzania ranks 122<sup>nd</sup> out of 148 countries surveyed in terms of the ethical behaviour of firms, in particular on its corporate ethics and ethical behaviour in interacting with public officials, politicians and other firms (World Economic Forum 2013). In addition, Tanzania ranks 102<sup>nd</sup> out of 148 on accountability of corporate governance by investors and boards of directors (World Economic Forum 2013).

Another aspect of the corruption risks associated with joint ventures relate to corporate reporting. Joint ventures often mean that companies are operating in different jurisdictions, so this also has an impact on reporting standards, in particular in countries where disclosure policies are limited. As the 2012 *Transparency in Corporate Reporting* report notes, lack of information on joint ventures can present an

incomplete understanding of risks and corporate financial flows, creating an environment favourable to corrupt activities (Transparency International 2012).

### Corruption risks associated with local content development

The purpose of local content requirements is to promote local industries, products and services, hire and train local workers, and to promote social responsibility. Laws requiring that foreign companies include a local element in their operations, known as local content policies, are increasingly prevalent in Sub-Saharan Africa, particularly in the oil, gas, and mining industries (Baker and McKenzie 2012). Local content policies are also common in resource-rich developed countries (IPP Media 2013).

Local content policies are currently being considered in Tanzania. Private sector groups have stressed the need for the country to have a local content policy in the gas industry that cuts across the entire gas value chain (IPP Media 2013). The European Commission has also called for Tanzania to capture more value from its resources for its local people through a local content policy (Ashurst London 2013). The [new model PSA](#) presented by the Tanzanian government includes a local content component, including obligations to purchase Tanzanian goods, services and materials, make use of Tanzanian service companies, ensure unskilled manpower requirements are reserved for Tanzanian nationals only; it also includes specifications on skills transfer. Reference to local content development is also made in the [aforementioned natural gas policy of 2013](#).

However, local content policies can also have distorting effects and create corruption risks. Local content requirements allow governments to redirect the rents arising from economic undertakings – particularly in high-rent activities such as natural resource extractions – away from foreign investors and towards specific firms and groups in the country. While this can serve a legitimate purpose by ensuring that the profits and employment from natural resource extraction are channelled directly into the communities where the extraction takes place, they can also serve a negative purpose when the distribution of rents, or the local content itself, is used as a means for compensating certain individuals or firms for political reasons or to benefit them personally (UNCTAD 2013).

Moreover, local content policies can also create a politically powerful lobby of short-lived and inefficient companies that thrive on the requirement of local content (UNCTAD 2013). This is particularly the case when the government decides on a minimum level of local content that is beyond the actual capacity of the local industry (Norad 2009). In these contexts exemptions are often necessary, which can also create a situation of bureaucratic delays as applications for exemptions are processed. Thus the practice of facilitation payments may emerge in the effort to avoid such delays (Norad 2009).

To ensure that local content specifications do not fall risk to corruption, the UN Conference on Trade and Development (2013) has provided a list of mitigation strategies, including:

- The process of local content policy formulation should be open and transparent, backed by strong and accountable institutions.
- Governments should be realistic in setting local content targets and allow for them to be modified if conditions change.
- Local content policies should be gradually phased out to allow for industrial development and avoid the entrenchment of special interests that benefit from regulatory barriers.
- The process of setting and enforcing local content targets should be administered by institutions with a clear, limited mandate.
- It is necessary to have a transparent regulatory framework which is separated from operating activities in order to avoid creating a fertile ground for rent-seeking.

In addition, a previous Helpdesk answer from 2013 on “[Conflict of interest in public procurement](#)” may help governments mitigate more general corruption risks related to procurement.

### 3 Governance structure and anti-corruption efforts

#### Overview of anti-corruption efforts

According to the Bertelsmann Foundation, Tanzanian legislation is clear on how to contain corruption. The aforementioned Warioba report laid the foundation for combating corruption in Tanzania and led to the

adoption of a comprehensive National Anti-corruption Strategy and Action Plan (NACSAP) in 1999 and was reviewed and enhanced in a NACSAP II for the period 2008-2011. The plans provided for several reforms: measures aimed at removing corrupt leaders, strengthening and renaming the anti-corruption agency to the Prevention and Combat of Corruption Bureau (PCCB), appointing a minister of good governance and establishing the Commission of Ethics. According to [the website](#) of the PCCB, a third version of the NACSAP is currently under development.

In spite of these measures, 50% of Tanzanian respondents in the GCB 2013 think their government's efforts against corruption are ineffective (Transparency International 2013). The PCCB has not prevented many government officials becoming involved in wide-reaching corruption scandals (Bertelsmann Foundation 2014). While the PCCB is in a position to fight corruption, it is politically constrained (Bertelsmann Foundation 2014). Although the president took a strong stance against corruption when he came to power, observers argue that he has since taken a quieter stance in the fight (Bertelsmann Foundation 2014).

In general, corrupt officeholders are not adequately prosecuted. For example, in 2013, the Audit Office recommended that three former senior officials from Air Tanzania be prosecuted over a controversial aircraft-leasing contract that left the country with US\$41 million of debt. However, there was no indication in 2013 that the PCCB would file criminal charges against the officials (Thomas Reuters Foundation 2013b).

#### Legal framework

Overall, the consensus in the literature is that while the legal framework to fight corruption is in place, there is significant room for improvement in many areas.

The 1971 Prevention of Corruption Act that was amended in 2002 constitutes the core of Tanzania's anti-corruption legal framework. In 2007, the Prevention and Combating of Corruption Act was revised to allow for the implementation of the UN and Africa Union Conventions against corruption. It seeks to bring together anti-corruption institutions, expand the range of corruption offences and address private sector corruption (Business Anti-Corruption Portal 2013). The Anti-Money Laundering Act was enacted in 2006 and amended in 2012 to intensify the fight against capital flight and financing of terrorism (Business Anti-Corruption Portal 2013).

The 2004 Public Procurement Act, which created the Public Procurement Regulatory Authority, specifically prohibits corrupt practices in procurement procedures by any public entity. According to the Legal and Human Rights Centre (2013), the law clearly provides for barring of any procurement tender that contains corrupt elements. The Public Procurement Act is currently under review following lessons learned from Tanzania's participation in the Construction Sector Transparency Initiative (CoST 2013).

The Elections Expenses Act of 2010 acts as a framework for controlling political parties and candidates from illegal mobilisation and use of financial and other resources during elections. However, observers note that there are challenges in implementation, including the inability of the office of the registrar of political parties to effectively monitor parties' fundraising (Babeiya 2011).

Civil servants and private sector employees who report cases of corruption are protected from retaliation and other negative consequences by law (Section 54 of the 2007 Prevention and Combating of Corruption Act). However, this protection is not effectively enforced and whistle-blowers often face substantial negative consequences (Business Anti-Corruption Portal 2013). The PCCB has the mandate to provide and maintain the hotline service to which corruption can be reported. The PCCB also provides an online complaint form, which allows citizens to report corruption anonymously. However, the PCCB is said rarely to act on complaints within a reasonable time period, nor to initiate the necessary investigations (Business Anti-Corruption Portal 2013).

Tanzania currently does not have a freedom of information act, but in October 2013 President Kikwete announced a commitment to enact a freedom of information law by April 2014 (*The Guardian* 2013). Under the Public Leadership Code of Ethics Act of 1995, members of government are required to file annual reports on statements of assets. However these are only available to the public under limited circumstances (Business Anti-Corruption Portal 2013). Some assets are exempt from disclosure and some government officials simply do not disclose their assets (Business Anti-Corruption Portal 2013). In addition, opposition leaders have accused government officials of falsifying their asset declarations to cover up corruption (Thomas Reuters Foundation 2014).

Following calls for review, the government is currently working on a new constitution to be implemented before the end of 2014 (*Daily Monitor* 2014). The constitution will reportedly include stricter rules on disclosure (Thomas Reuters Foundation 2014). Nevertheless, civil society members have expressed concern about the draft not addressing governance and anti-corruption sufficiently (Corruption Tracker 2013).

## Institutional framework

### *Judiciary*

Observations on the independence of the judiciary are mixed. While the Bertelsmann Foundation (2014) notes that the judiciary generally functions relatively independently, Freedom House (2013) views it as under political influence. Many experts do perceive the judiciary to be largely inefficient, underfunded and susceptible to corruption (Bertelsmann Foundation 2014, Freedom House 2013, Business Anti-Corruption Portal 2013). In line with this assessment, executives surveyed in the Global Competitiveness Report gave judicial independence in Tanzania a 3.2 in a score of 1 (judiciary is heavily influenced) to 7 (judiciary is entirely independent), and an average of 3.9 of all measured countries (World Economic Forum 2013).

As a result, corrupt officeholders are reportedly not adequately prosecuted (Legal and Human Rights Centre 2013). Officeholders may be asked to resign or may be dismissed but beyond that, officials rarely suffer other punishment (Bertelsmann Foundation 2014). In particular, any potential wealth accrued from the alleged activities is retained by the corrupt officeholder (Bertelsmann Foundation 2014).

GCB data confirms that citizens perceive the judiciary as one of the most corrupt institutions. Of respondents in the GCB 2013, 86% state that the judiciary is corrupt, with 52% also reporting having paid a bribe when accessing judicial services (Transparency International 2013b). Through its [Legal Sector Reform Programme](#), the government of Tanzania aims to strengthen the capacity of its legal staff. In 2006-2008, with the support of USAID, the government initiated an [anti-corruption training programme](#) that would strengthen the judiciary's ability to investigate and prosecute corruption cases.

### ***Prevention and Combating of Corruption Bureau (PCCB)***

The PCCB is an independent body under Section 5 of the Prevention of Corruption Act (PCCA). Originally known as the Prevention of Corruption Bureau, it was transformed and its power enhanced in 2007. The mandate of the PCCB is to raise awareness and guide government on anti-corruption issues as well as arrest, investigate, initiate proceedings and prosecute cases of corruption, but only with the permission of the director of public prosecutions, which is reportedly difficult to obtain (Business Anti-Corruption Portal 2013).

Critics have pointed to the PCCB's lack of independence as a significant problem in taking corrupt officials to court. The PCCB has often been accused of only dealing with "small fish" and shying away from the more high-level corruption cases (AllAfrica 2013). Observers note that the PCCB is not protected from political interference in practice (Global Integrity 2010). The PCCB's director general and the deputy director general are appointed by the president. Observers note that these appointments are often based on political considerations, and individuals appointed may have clear party loyalties (Global Integrity 2010).

The PCCB also reportedly suffers from lack of resources and capacity (Legal and Human Rights Centre 2013).

### ***Controller and Auditor General (CAG)***

The CAG conducts auditing in ministries, departments, central government, local government, government-owned corporations, institutes and public agencies (Legal and Human Rights Centre 2013). The CAG's oversight functions in public finance and procurement were strengthened in 2001. Its independence is guaranteed by the constitution and the budget is determined by the executive.

In early 2012 the CAG's office released its report on the 2010/2011 financial year, which revealed major financial mismanagement and embezzlement of funds as well as weaknesses in internal controls both at the national and local level (Legal and Human Rights Centre 2013). While the report led to the firing of several cabinet ministers, at the time of its publication no district executive directors had been taken to court, a situation criticised by observers (Legal and Human Rights Centre 2013). Since then, however, eight district executive directors been removed from their positions and 16 have been reprimanded (AllAfrica 2013a).

As with many other institutions, the CAG lacks staff and resources to fulfil its responsibilities effectively. According to Global Integrity, appointments to the CAG often do not support its independence and may be based on non-professional criteria, such as political, family-based or personal loyalties (Global Integrity 2010).

### ***Commission for Human Rights and Good Governance (CHRGG)***

The CHRGG acts as an Ombudsman office that can receive complaints from citizens and make non-binding recommendations to the state. The Commission can also initiate its own investigations, except into the dealings of the president's office (Business Anti-Corruption Portal 2013).

According to Global Integrity, the CHRGG is sometimes influenced by political and personal motives of its leadership and exposed to some abuses of power (Global Integrity 2010). Appointments are sometimes made based on political considerations, and appointed individuals may sometimes have clear professional loyalties. Global Integrity asserts that the government often ignores the findings of the CHRGG or only gives them superficial attention, particularly if they concern politically sensitive issues.

### ***Ethics Secretariat (ES)***

The ES is the implementing institution of the 1995 Public Leadership Code of Ethics, and sits in the President's Office. The chief executive of the ES, the ethics commissioner, is appointed by the president, as is the staff of the ES. The ES administers asset disclosures and ensures that elected politicians and public servants do not engage in illegal or unethical activities.

The ES faces a variety of challenges linked to its capacity and independence. While the ES can instigate investigations upon receiving a complaint, the complaint – which cannot be filed anonymously – must first be verified by the ES before it may launch an investigation for further evidence (Business Anti-Corruption Portal 2013). Moreover, the decisions of the ES tribunal are not binding; it can only provide warnings and no punitive damages (Legal and Human Rights Centre 2013).

### *Public Procurement Regulatory Authority (PPRA)*

Established by the 2004 Public Procurement Act, the PPRA is responsible for the application of fair, competitive, transparent, non-discriminatory and value-for-money procurement standards and practices. There are provisions for blacklisting of companies, which are said to be rarely enforced (Business Anti-Corruption Portal 2013). Contractors must register in order to participate in public procurement and a list of registered contractors is distributed to all tender boards. Tender notices and procurement legislation can be found on [the website of the PPRA](#). The authority reports to the minister of finance and all tenders must be published in the media.

The PPRA is preparing a National Procurement Policy in a bid to address current challenges, including improving the framework to manage procurement more efficiently (CoST 2013). In addition, the PPRA is reported to be submitting input into the constitutional review so that procurement matters feature in the new constitution (CoST 2014).

## 4 Other actors in the fight against corruption

### Multilateral initiatives

Tanzania is party to a variety of multilateral initiatives with the explicit aim of combating corruption and promoting transparency. For the purpose of this query, three will be elaborated on: the Extractive Industries Transparency Initiative, the Construction Sector Transparency Initiative, and the Open Government Partnership.

#### *Extractive Industries Transparency Initiative (EITI)*

The EITI is a global standard for revenue transparency in the extractive industries and consists of a global coalition of governments, companies and civil society organisations. Tanzania was accepted as an EITI implementing country in 2009. To date, three reports on Tanzania's implementation of the EITI standards have been published, accessible [here](#). The EITI has been noted as an important step towards reducing corruption risks in the extractive industries through setting industry-wide standards (Wall Street Journal 2013).

In addition to setting standards, the EITI provides civil society organisations with the opportunity to monitor implementation. The Tanzanian chapter of the EITI set up a Multi-Stakeholder Group (MSG) tasked with overseeing the implementation process. The MSG is composed of five representatives each from civil society, extractive companies and the government. Within this framework, in October 2012 the Forum of Civil Society Organisations gathered in Dar es Salaam to decide on the five civil society organisation sub-constituency configurations that will represent civil society in the MSG (PWYP 2013). The meeting brought together 70 participants representing civil society and the coalition of Publish What You Pay.

#### *Construction Sector Transparency Initiative (CoST)*

Due to its large construction sector, which contributes about 5.6% of Tanzania's Gross Domestic Product (CoST 2013), in 2008 Tanzania was one of the first countries to join the CoST, an initiative promoting transparency and accountability in publicly financed construction through a multi-stakeholder approach. However, recent building collapses indicate that corruption is still a problem in the construction sector (Thomas Reuters Foundation 2013a).

The CoST works by engaging stakeholders such as procuring bodies, public financial management bodies, construction companies and associations, civil society organisations and external providers of finance and loans. In Tanzania, the CoST works closely with the PPRA, with which it has signed a Memorandum of Understanding, and in 2011 made adjustments to the amendments to the Public Procurement Act based on recommendations by the CoST (Business Anti-Corruption Portal 2013). The civil society participants in the CoST MSG are Front Against Corrupt Elements in Tanzania (FACEIT) and ForDIA, a non-profit organisation facilitating people-centred development efforts.

#### *Open Government Partnership (OGP)*

Civil society organisations have noted the unnecessary bureaucracy involved in accessing government data (Legal and Human Rights Centre 2013). The OGP is an initiative to enhance government performance in providing up-to-date information. It was launched in 2011 and promotes transparency and accountability of governments. Tanzania joined the OGP in 2011 and prepared a 2012/2013 action plan to enhance its

commitment to global initiatives. The government has committed to improving data disclosure and setting up a [website that contains government data](#). Moreover, it has created a budget overview in plain language (OGP 2013).

## Media

While the media can play an important role in uncovering and fighting corruption, experts note that the Tanzanian media faces restrictions. The constitution provides for freedom of speech, but it does not guarantee freedom of the press (Article 19 2011). Although print and electronic media are active, they are hindered by a difficult registration process and are largely limited to major urban areas (Freedom House 2013). The growth of broadcast media has been slowed by a lack of capital investment; however, the number of independent television and private FM radio stations has risen in recent years (Freedom House 2013).

Current laws allow authorities broad discretion to restrict media on the basis of national security or public interest, which is frequently interpreted for the benefit of the ruling party (Freedom House 2013). In 2012, the government imposed an indefinite ban on the weekly investigative newspaper *MwanaHalisi*, for which it received criticism within the country (In2eastAfrica.net 2012). The International Federation of Journalists has raised concerns about the deteriorating situation of press freedom following the ban on two additional newspapers in 2013, *Mwanachi* and *Mtanzania* (AIIAfrica 2013).

Moreover, Tanzania ranked 70<sup>th</sup> out of 179 in the 2013 Press Freedom Index, dropping more than 30 places compared to the 2012 index, due to the killing of two journalists (Reporters Without Borders 2013).

## Civil society

Civil society involvement in anti-corruption efforts is an important avenue for combating corruption. However, although freedom of speech, association and religion are guaranteed by the constitution, these fundamental rights are reportedly frequently violated (Freedom House 2013). The multiplicity of laws governing the operations of NGOs is a source of confusion. Fifty-seven per cent of civil society organisations consulted believe registration is too slow, and 42% said that they were subject to unfair restrictions by government (CIVICUS 2011).

While Tanzanian civil society is traditionally weak, experts note that civil society organisations have been able to consolidate themselves and gain importance in public life, filling a vacuum due to a weak political opposition (Bertelsmann Foundation 2014). In the NACSAP II, greater emphasis was placed on non-state actors' involvement in the fight against corruption (Legal and Human Rights Centre 2013). The involvement of civil society is also being strengthened by the aforementioned multilateral initiatives.

Below is an illustrative list of the organisations identified through desk research and in consultation with experts:

- The [Tanzania Council for Social Development](#) (TACOSODE) is a national umbrella organisation for NGOs in Tanzania founded in 1965. It improves the capacities of NGOs to deliver quality services. For example, it builds the capacity of its members in conducting public expenditure tracking systems that monitor public spending.
- The [Policy Forum](#) coordinates NGO input into official policy processes. It provides a useful online [database](#) of civil society organisations working in Tanzania.
- [Research on Poverty Alleviation](#) (REPOA) is an NGO involved in anti-corruption work. REPOA conducts research, awareness-raising workshops and training on poverty reduction and governance-related issues. In 2008 it published a study on regional perceptions of corruption as well as on local taxation systems.
- Another NGO working on anti-corruption is [Agenda Participation 2000](#), which works to promote a culture of good governance and democracy in Tanzania and hosts the [Tanzania Corruption Tracker System](#). The purpose of the tracker system is to keep a record of publicly available information on presumed or confirmed cases of corruption in order to increase accountability and responsiveness in the fight against corruption.
- The [Foundation for Civil Society](#) is a Tanzanian non-profit agency that started in 2003 and provides grants to contribute to the development of a vibrant civil society sector in Tanzania. It supports organisations in helping citizens access information and understand policies, engage in policy formulation, and hold the government and private sector to account.

- [Business Action against Corruption \(BAAC\)](#) aims to promote public-private partnership across Africa to fight corruption. In 2011 Tanzania opened the [Tanzania Chapter](#) of the BAAC.
- The [Legal and Human Rights Centre](#) is an NGO that works on promoting and safeguarding human rights and good governance in Tanzania through legal and civic education, and advocacy for reform. It releases an annual review of legal and human rights in Tanzania, which can be accessed [here](#).

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