

ASSOCIATION OF LOCAL AUTHORITIES IN TANZANIA

(ALAT)

STATE OF LOCAL DEMOCRACY AND GOOD LOCAL GOVERNANCE IN TANZANIA

(LD & GLG)

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EXECUTIVE SUMMARY

1.0. Background to the Study

The purpose of this particular research project was to analyze the state of local democracy and good local governance in Tanzania, leading to the capture of good practice and identification of areas requiring reform and or strengthening. It also aims to identify case studies of good practice and highlight areas for improving local governance. The 12 principles outlined in the Aberdeen Agenda were used throughout as the core guiding principles of local democracy and good local governance. The twelve principles in the Aberdeen Agenda are:

- 1) Constitutional and legal recognition for local democracy
- 2) Political freedom to elect local representatives
- 3) partnership and cooperation between spheres of government
- 4) defined legislative framework
- 5) Citizens participation in local decision making
- 6) Open local government – accountability
- 7) open local government – transparency
- 8) Scrutiny of the executive
- 9) Inclusiveness
- 10) Adequate and equitable resource allocation
- 11) Equitable services
- 12) Capacity building for effective leadership

Besides the above principles, the study was guided by key five research questions namely: 1) Enabling Environment; 2) Participation and Openness; 3) Equity; 4) Continuous Assessment; and 5) Good Practices. Each research question forms a chapter and followed by conclusions and recommendations. The answers to these questions were sought through extensive desk study analyzing the local democracy and governance structures, systems and processes in Tanzania. The researcher also collected evidence through literature review and limited field research as means to providing a narrative report with recommendations for reforms that may be undertaken over the coming years. The following are the key findings on each research questions.

2.0. The Enabling Environment for Local Democracy

The principal pieces of legislation for local governments in Tanzania Mainland are the Local Government Acts (7-12) of 1982 (as amended several times) and the Constitution of the United Republic of Tanzania. The following acts of parliament provide for the establishing local government authorities in Tanzania Mainland:

1. The Local Government (District Authorities) Act No 7 of 1982
2. The Local Government (Urban Authorities) Act No. 8 of 1982
3. The Local Government Finances, Act No 9 of 1982
4. The Local Government Services, Act No. 10 of 1982
5. The Local Government Negotiating Machinery Act No. 11 of 1982
6. The Decentralization of Government Administration (Interim Provisions) (Amendment) Act No. 12 of 1982.

The enactment of the above acts went concurrently with the amendment of the constitution of the United Republic of Tanzania (URT) through Act No. 145 of 1984 providing for legal status of the existence of local government authorities in Tanzania Mainland. The significance of this Constitutional amendment lies in the fact that local government system cannot be abolished in Tanzania without first tabling a motion in the National Assembly to amend the Constitution. However, the principal local government acts do provide some powers for the Minister responsible for local government to dissolve a LGA.

Still, there are only two articles in the constitution which address the whole issue of local government in Tanzania Mainland (Articles 145 and 146). These articles are rather vague in terms of describing the central-local relations as stipulated in the local government policy paper (1998). In other words, the status of the local government in the constitution is unclear as compared to the Ugandan constitution (1995) which has more detailed articles describing the status, composition and the functions of the local government authorities. In very specific terms the legal framework in Tanzania Mainland does not guarantee local governments protection from interference by the central government. The Constitution does not spell out what type of central-local relationship should exist and inform operations of the two governments.

With regard to political freedom to elect local representatives, the constitution and electoral laws provide for elections at all levels to be held once every five years using the “first-past-the-post” electoral system. The Local Government Authorities Election Act No.4 of 1979 is the principal law that governs election of councillors while elections of village leaders and sub-villages (known by their Kiswahili name *Vitongoji*) as well as the sub-ward committees in urban areas (*mitaa* in Kiswahili) are guided by respective clauses in the Local Government Authorities Acts No. 7 and 8 of 1982. Section 30(4) of the Local Government Act (District Authorities) No.7 of 1982 empowers the Minister responsible for Regional Administration and Local Government (RALG) to issue regulations for elections of *vitongoji* and *mitaa* chairpersons as well as their respective committee members.

Much work remains to be done by the Local Government Reform Programme (LGRP II) to ensure the legislative framework for decentralization conforms to the spirit of the Policy Paper (1998) on Local Government Reform

3.0. Participation and openness

The principle local government legislation provides for establishment of councils and committees where people’s representatives deliberate and make decisions on behalf of their citizens. Local governments are also required by law to conform to participatory process in planning and budgeting as well as other processes in their areas of jurisdiction. LGAs are required to prepare three-year development plans and only village plans prepared using the Opportunities and Obstacles to Development Planning (O&OD). This methodology becomes the basis of preparing the LGAs three-year development plans as stipulated in Act No. 6 of 1999.

The local government system in Tanzania Mainland has legal framework and structures that are put in place where people can get involved in policy formulation, implementation and monitoring. Local citizens can also participate in planning and budgeting as well as the making of by-laws. However, there are some constraints that inhibit realization of full participatory democracy in local governments:

- a) The capacity of the private sector at the local level as well as the role of civil society organizations remains weak and fragmented.
- b) The much better educated technocrats in the local administration are now empowered through the local government reforms, but the popularly elected councils have little opportunity to monitor the administration;
- c) The O&OD methodology is yet to be rolled out in every district/urban council let alone down at the ward or village level. And village plans are still regarded as “expression of interest” by the bureaucrats at the ward and district level. The planning cycle shows that the village is not the final authority for its plans and for that matter people’s views are only an input in the long process.

Furthermore, the corresponding central-local relations, institutional arrangements and behaviour as well as personnel management in local government authorities inhibit actualization of meaningful citizen participation in local decision making. The local government system in Tanzania as presently structured acts more as a tool for people's representation rather than participation. It is therefore necessary that a decision is made to ensure that communities are empowered through provision of information, accessing public meetings and records, rolling out O & OD to lower level local governments as well as building capacity for the private sector including CSOs. It is necessary to ensure there is a deliberate move from people's representation to people's participation

In terms of accountability and transparency, LGAs are required to be accountable for their actions. In theory this is supposed to be part of the manner in which they carry out their functions. LGAs are also expected to account to the central government for the latter provides funds with which LGAs carry out their activities. Again in theory LGAs ought to account to the central government in relation to exhibiting sound procedures for use of national resources. Accountability of LGAs is both a legal and governance requirement. Downward accountability (i.e. accountability by LGAs to the citizens) takes several forms and means including public hearings, posting of audited accounts reports on notice boards, availing citizens an opportunity to follow council deliberations while in session etc. However, these avenues are not as effective as they would seem to imply. For example, information on local governments' budget and accounts is increasingly advertised, but often difficult for citizens to make sense of the information. Another problem with accountability is that citizens do not have concrete means to call politicians or staff to explain their actions or inactions (recall mechanism).

Accountability goes hand in hand with transparency: accountability is built on the free-flow of information. This means that processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them. Efforts have been made to promote transparency in LGAs, particularly in relation to local authority finance. Villages, service facilities and councils now display budgets on notice boards as public information, along with, depending on level, information about by laws, vacant posts and competitive tenders. Local government meetings are routinely advertised, including dates of village meetings, and public participation encouraged. Guidelines, regulations and directives from the central government (PMO-RALG, MoF and PO-PSM) require and compel LGAs to publish fiscal and other resources disbursed to them as well as locally generated resources. The study notes that there are some constraining factors to transparency in general and information communication in particular. One of the biggest challenges in communication is size of the government units (both central and local government authorities). Another constraint relates to the size and distance between various local institutions. For example, some districts have between hundred and two hundred villages making visitations to such villages a huge task for council officials. The state of communication infrastructure especially poor roads complicates matters as well. Resources available to both councilors and the executive members do little to alleviate the problem. Thus, local governments do not have a public information and communication strategy. They still rely on the traditional modes of communication (letters, public meetings) despite the vast improvements in Information and Communication Technology (ICT) in the country during the past ten years. A number of measures could be instituted in that direction to improve communication and transparency

4.0. Inclusiveness

Tanzania has since independence persistently implemented policies and development strategies that aim at improving the livelihood of all citizens without discrimination. Tanzania's nationality law, for example, allows for naturalization of refugees and other immigrants. The Political Parties Act No. 5 of 1992 prohibits formation and operation of political parties based on regional, ethnic, religious or racial identities. Constitutional amendments (Act No. 16 of 1992) paved the way for the inclusion of marginalized groups (especially women) in the decision-making processes at various levels of government. The Elections Act, (1985) provides that women must constitute at least 30% of the members of parliament as well as each local government council (i.e. city, municipal, town, district and village council) – affirmative action for gender equality. In 2005 elections, Tanzania Mainland had 2,552 wards that were involved in the election of councillors and 30% translated into 766 seats for women. However, for the purpose of allocating special seats for women councillors for each party, the NEC used the number of seats won in constituencies and wards by each party in the respective Council. For the 2005 – 2010 period women constitute 38.7% of the total number of councillors. Special seats women councillors are appointed by their respective political parties. The minister responsible for local government is empowered by law to appoint up to three councillors for each Council. This provision translates into 363 additional councillors (1/3 must therefore be women) if the minister exercises his/her legal powers. This power has not been exercised by the Minister in the current life of the councils¹.

There is an overall governing principle in Tanzania Mainland for LGAs to receive funds from the central government. In this arrangement, the national government is responsible for overall provision of social services, economic infrastructure and maintenance of peace, law and order and good governance. LGAs are therefore entitled to receive grants from the central government because the latter has devolved certain functions to the former. There are also several delegated functions that LGAs perform on behalf of ministries and other agencies of the central government. All the funds that are being transferred to the LGAs can be put under three categories: Personal Emoluments, Other Charges and Development funds. Personal Emoluments and Other Charges are the two main components of the recurrent grants. PE is the funding mechanism for the salaries and wages of all government employees, which are transferred from Treasury directly to the LGAs on a monthly basis

As a matter of policy and principle LGAs provide services without discrimination although for some services (education) people have to contribute a certain amount. This system is called “cost-sharing”. In other services (e.g. water) residents of communities benefiting from such services have to pay some money (user fees) to contribute towards maintenance and servicing of machines including pumps. Most projects in these sectors are funded by the central government and donors and to ensure local ownership there are committees formed to oversee their management. A special facility – ward tribunals – has been set up to take care of administration of justice in wards and villages. The tribunals adjudicate both criminal and civil cases and where they are active they have reduced congestion of primary court cases.

¹ There will be fresh elections for Councillors in October 2010 and the current figures for women are expected to change depending on how they will perform on the competitive process.

Under the decentralization program there is a requirement that communities must be involved in the provision of services reaching the poor and marginalised communities. Some projects have clear procedures on how to involve local communities in the planning and management of their projects. For example, the Tanzania Social Action Fund (TASAF) and the Primary Education Development Programme (PEDP). TASAF implements projects through village committees while the Tanzania Community Education Fund (CEF), a matching grant program designed to empower communities to improve their primary schools, operates through village committees. More specifically, at the community (village) level there are also school committees, health committees, water committees that are responsible for overseeing the construction of classrooms and teachers' houses; running health facilities including construction of dispensaries; and managing including maintenance work on water facilities respectively. People are elected into these committees democratically and every resident of the community is eligible for membership.

5.0. Continuous Improvements

Building local leadership capacity in local government has become fundamental objective of Tanzanian government policy. Improvements in local leadership and management are regarded as a driving force in the Local Government Reform Programme (LGRP II): Decentralization-by-Devolution (D-by-D). The Prime Minister's Office -Regional Administration and Local Government (PMO-RALG) is designated to implement the capacity building policy for local governments. Under the PMO-RALG, a semi-autonomous organization called the Local Government Reform Programme- I (LGRP I) was established to oversee the implementation of the local government reform in Tanzania.

Generally, there are several achievements which were made under LGRP I worth for mentioning.

- Local government staff regulations (2003 and 2004) were amended several times, disseminated and used in all the local councils in Tanzania;
- Council Employment Boards (CEBs) were formed and now operating in all the local councils in Tanzania mainland. However, there are still legal problems related to the powers of these boards as they still have to ask permission from the Public Service Commission (PSC) to employ any new employee.
- Basic training was conducted to key personnel involved in local governments such as:

Several standardized national capacity building materials for councillors and officers in Tanzania Mainland were established under LGRP I. Innovative tools were designed to foster capacity building of the local leaders. These included: service delivery surveys, suggestion boxes, roundtables discussions, code of conduct and ethics for councillors and staff and short-term training for the council officials. Besides, the human factor, capacity building was developed on the side of financial management. As a result, LGAs can now handle large sums of money from the central government and the number of audit queries has also been significantly reduced. Previously, there was no formula based in the allocation of financial resources from the centre to the local levels.

6.0. Good Practices

Good practices come from two local councils, namely; Korogwe District (3) and Mtwara District (1) councils. These good practices are by no means unique but they represent the best that can be done to ensure good local governance. It is a truism that a good government is that government closest to the scrutiny and control by citizens. A government can be close to the citizens through a number of ways including, but not limited to, the following: (i) involving the people in the process of planning (needs identification, priority setting, budgeting and implementation); (ii) public meetings including public hearings; (iii) regular communication through various means including the media (both print and electronic) as well as fliers and posters.

Korogwe District Council has established a system of informing the people what transpires after their plans are aggregated into a district plan and sent for approval. It is a simple but very important arrangement. The Council prepares a report in a table form sector by sector detailing, among other things, the following: (i) all the projects that have been approved by location (village), (ii) the total cost and source of funding for the projects (i.e. approved budget); (iii) who will be responsible for implementation (department and officer of the Council); (iv) time frame for the implementation; and (v) procurement and transport of materials.

While Mtwara district council poses another good example on the challenges of leadership, transparency and accountability in Tanzania, there are several constraining factors to its effective communication strategy. Tanzania being a relatively large country with less developed means of communication, one has to acknowledge its limited capacity to reach its all people in the rural areas. One of the biggest challenges in communication is on the size of the government units (both central and LGAs). For example, with its about 157 villages, the council finds it difficult to keep all the villages abreast with information about its activities. Moreover, councillors (are are mandated to be the bridge between the council and the local people) hardly convene regular ward meetings to inform their electorate on various issues due to, among other factors, unfavourable material resources (e.g. transport).

7.0. Recommendations

Recommendations are based on the observations and analyses made in the substantive chapters (2 – 5) and grouped under their respective chapter titles as follows:

7.1 The enabling environment

- (i) The government to review the constitution in order to provide for local government protection from interference from central government. D by D need to be implemented in a manner that ensures the central government does not govern by directives that override local priorities and interests.
- (ii) The government to take measures to fast track the legal harmonization process and critically look at the problems of non-compliance by MDAs to the vision of LGRP with specific reference to D by D.
- (iii) Review the relevant legislation to allow councils to implement local plans reflecting local priorities and interests as identified by the party that controls the majority in the respective councils and not necessarily (and by orders) implement the ideology (party manifesto) of the national governing party.
- (iv) Amend the Elections Act (1985) and such other legislations to provide for the National Electoral Commission to manage all elections (including grassroots elections) in Tanzania. The Minister responsible for local governments should not be the managing authority for including grassroots.
- (v) To review (alongside the recommended changes to the constitution, legal harmonization and the Elections Act), the human resource management regime in local governments. Specifically, local governments need to be allowed to own the recruitment, selection, placement and development of their staff.
- (vi) To enshrine D by D in the constitution; restructure the LGDG system and other central government/sector budgetary allocations to give LGAs more resources and financial autonomy. This will facilitate MDAs to devolve functions and roles to LGAs and stop governing by directives to avoid curtailing LGA autonomy.
- (vii) To review the Election Act and related legislation to provide for a recall mechanism over local elected official as an instrument to hold non-performing local representatives accountable. Citizens have currently no real powers and instrument to exercise their legitimate role of holding their representatives accountable. At best they can decide not to re-elect such officials but this takes place only once in every five years.

7.2 Participation and openness

- (viii) To develop a strategy for ensuring communities are empowered through provision of information, accessing public meetings and records, rolling out O & OD to lower level local governments as well as building capacity for the private sector including CSOs.
- (ix) With technical support from the central government LGAs to develop simple but effective strategies for communicating information including decisions to the people in their communities. In that regard LGAs to devise a mechanism to facilitate Councillors to hold regular meetings with their people to provide regular and effective feedback as well as collect views from the people; and LGAs to forge a working partnership with CSOs to mount civic education campaigns geared to getting people to participate in governance activities between election periods.

7.3 Equity

- (x) To develop a strategy or mechanism to institute predictability and timeliness (reliability) in the transfer of development funds so that LGAs can make preliminary preparations for plan and budget implementation.
- (xi) CG/LGAs to review the formula based allocation to ensure equity for remote and less endowed LGAs. With respect to staffing there is need to also put into place special incentives to draw staff voluntarily to these LGAs. A study may be commissioned to look into the specific ways and means to effect such changes.
- (xii) CG to review the Local Government (Finances) Act and the grant system to provide for LGs to have a broad tax base to raise their own revenue. The Government needs to consider introduction of a permissive rather than restrictive tax system. Review of the Finances Act and the grant system to also provide for local governments to have discretionary powers including power to levy taxes and receive financial unconditional grants from the Central Government.
- (xiii) To implement the LGRP II with special emphasis on building capacity of LGAs to mobilize own financial resources locally and reduce dependence on central government grants.

7.4 Continuous improvement

- (xiv) Maintain the level and tempo of capacity building activities in LGAs and particularly LLGAs. Specifically the CG and LGAs need to focus on leadership and management as stated in the LGRP II. Emphasis must be directed to the following:
 - Allowing and enabling LGAs to plan on their own with technical backstopping from PMO-RALG or central/sector ministries, strategic leadership cannot exist where CG controls are unlimited and unchallenged.
 - Giving LGAs powers and authority to recruit, train, develop their own staff with the requisite incentives including career development in the LG system (serious review of the Public Service Act and related directives).
 - Councillors must not only be trained (their basic roles and relationship with executives) but also their general level of education/qualifications must be improved.

7.5 Good practices

- (xv) CG and LGAs to consider adopting strategies and mechanism put in place by Korogwe and Mtwara district councils in relation to, for example, accountability, equity, transparency and leadership. The two councils have simple strategies in place to ensure good governance practices.

ABBREVIATIONS

ALAT	Association of Local Authorities of Tanzania
BFSC	Basket Fund Steering Committee
CAG	Controller and Auditor General
CBFM	Community Based Forest Management
CBM	Central Board of Management
CDs	Council Directors
CDG	Capital Development Grant
CEBs	Council Employment Boards
CEO	Chief Executive Officer
CEF	Community Education Fund
CG	Central Government
CSOs	Civil Society Organizations
D by D	Decentralization by Devolution
DC	District Commissioner
DPs	Development Partners
GPG	General Purpose Grant
HoDs	Heads of Department
ICT	Information and Communication Technology
LAPF	Local Authorities Provident Fund
LG	Local Government
LGAs	Local Government Authorities
LGAC	Local Government Accounts Committee of Parliament
LGDG	Local Government Development Grant
LGDP	Long-term Growth and Development Plan
LGFWG	Local Government Finance Working Group
LGRP	Local Government Reform Program
LGSC	Local Government Service Commission
LLGA	Lower level Government Authority
MCs	Minimum Conditions
MDAs	Ministries, Departments and Agencies
MDGs	Millennium Development Goals
MoF	Ministry of Finance
MoFEA	Ministry of Finance and Economic Affairs
MoH	Ministry of Health
MKUKUTA	Mpango wa Kukuza Uchumi na Kupunguza Umaskini Tanzania
NACTE	National Council for Technical Education
NEC	National Electoral Commission
NGO	Non Governmental Organization
OC	Other Charges
O & OD	Obstacles and Opportunities for Development
PE	Personal Emoluments
PEDP	Primary Education Development Plan
PMO-RALG	Prime Minister's Office – Regional Administration & Local Government
PO-PSM	President's Office – Public Service Management
RC	Regional Commissioner
REDET	Research and Education for Democracy in Tanzania
TASAF	Tanzania Social Action Fund
URT	United Republic of Tanzania
UPE	Universal Primary Education
VA	Village Assembly
VEOs	Village Executive Officers
VoP	Voice of the People Review
WDC	Ward Development Committee
WEOs	Ward Executive Officers

CHAPTER 1: THE BACKGROUND

1.0. Introduction

In 2005 the Commonwealth Local Government Forum held a conference on *Deepening Local Democracy* and agreed the *Aberdeen Agenda: Commonwealth Principles for Local Democracy and Good Local Governance*. These principles were adopted across the membership of CLGF and were endorsed by Commonwealth Heads of Government. Subsequently in 2009, Commonwealth Heads of Government endorsed the Aberdeen Agenda as part of their commitment to fundamental political freedoms. This study is an undertaking to support the realization of the principles that constitute the Aberdeen Agenda in a practical and meaningful way.

The purpose of this study is to analyze the state of local democracy and good local governance in Tanzania, leading to the capture of good practice and identification of areas requiring reform and or strengthening. It also aims to identify case studies of good practice and highlight areas for improving local governance. The study aims also to identify case studies of good practice and highlight areas for improving local governance. The 12 principles outlined in the Aberdeen Agenda² are used throughout as the core guiding principles of local democracy and good local governance. In this sense, the study of the system and processes in Tanzania should be seen as the development and refinement of the methodology, which was piloted in Uganda, for use across the Commonwealth. The specific objective of this study is to capture examples of good practice that can inform policy and practice in other areas of Tanzania and the Commonwealth, identify areas in need of improvement and make recommendations on potential areas for reform and development.

It should be noted at the outset that Tanzania had been implementing the principles contained in the Aberdeen Agenda before the Agenda was formulated. Likewise, enhancing local democracy and governance, which is the central tenet of the *Aberdeen Agenda*, constitutes only one function of Tanzania's local government system. Other key functions Tanzania's local government system serves include service provision and reducing poverty. This study, attempts, therefore, to outline how the local government system is configured to achieve all those goals, how the system is functioning and what is required to improve it in terms of governance and local democracy. Three questions were asked with respect to each of the principles, namely: 1) Is there legal provision for it? 2) Is it operational? and finally 3) is it adequate? For each of the substantive chapters (2 to 4) detailed research questions were formulated and used as the main instrument for gathering information, analysis and conclusions leading to the recommendations in Chapter 6³.

² The twelve principles in the Aberdeen Agenda are: 1. Constitutional and legal recognition for local democracy; 2. Political freedom to elect local representatives; 3. Partnership and cooperation between spheres of government; 4. Defined legislative framework; 5. Citizens participation in local decision making; 6. Open local government – accountability; 7. Open local government – transparency; 8. Scrutiny of the executive; 9. Inclusiveness; 10. Adequate and equitable resource allocation; 11. Equitable services; and, 12. Capacity building for effective leadership

³ These questions appear after the references as an Annex to the report.

The researcher undertook an extensive desk study analysing the local democracy and governance structures, systems and processes in Tanzania. The researcher collected evidence through literature review and limited field research as means to providing a narrative report with recommendations for reforms that may be undertaken over the coming years.

The report is organised in six chapters. Chapter one provides the introduction. Chapter two outlines the enabling environment for local democracy; Chapter three highlights the framework for participation and openness for local democracy; Chapter four looks into issues of equity (inclusiveness and adequacy of resource sharing and equitable services); Chapter five examines what has been and is being done to continually improve how the local government system functions. Chapter six highlights some good practices from two councils and Chapter seven provides the recommendations emerging from the discussion.

CHAPTER 2: THE ENABLING ENVIRONMENT FOR LOCAL DEMOCRACY

2.1. Constitutional and Legal Recognition for Local Democracy

The evolution of local governments in Tanzania may be traced back to the colonial period when the British Colonial State introduced local governments vide the 1926 Native Authorities Ordinance (Cap 72). The British introduced local governments as part of a broader scheme to govern their colonies through a system called indirect rule. Local government as an administrative system received further endorsement and boost in 1947 with the issuing of a dispatch by - Creech Jones in his capacity as the British Secretary of State responsible for the colonies. The contents of that dispatch are very interesting, in part the dispatch read:

I believe that the key to success lies in the development of an efficient and democratic system of local government. I wish to emphasize the words efficient, democratic and local. ...I use these words because they seem to me to contain the kernel of the whole matter: local because the system of government must be close to the common people and their problems; efficient because it must be capable of managing the local services in a way which will help to raise the standard of living; and democratic because it must not only find a place for the growing class of educated men, but at the same time command the respect and support of the mass of the people (Humes, 1973).

The colonial authorities in Tanzania implemented this dispatch (order) by, among other things, enacting the Local Government Ordinance (Cap 333) of 1953 which repealed the Native Authority Ordinance (Cap 72) of 1926. The new law introduced an electoral system at the local level to give legitimacy to the local leaders. Not much else was done to the local government system as any such efforts would have contradicted the philosophy of colonialism. Colonialism was based on the philosophy that the colonized were incapable of governing themselves and therefore they had to be ruled by foreign powers.

The post colonial state inherited the British local government structures by integrating them into the national system of administration. The local authorities experienced troubled times after independence following constitutional changes that introduced the one party system in 1965. The introduction of the one party state system ushered in an era of power consolidation and centralization of both policy formulation and implementation in the country (Oyugi, 1988). Accordingly, there was very little work done to develop Local Government Authorities (LGAs). Some more changes were made in 1969 after the introduction of the Arusha Declaration of 1967. The Arusha Declaration in effect gave the central government the political basis for further consolidation and centralization of power. The changes implemented in 1969 cemented even further the centralization of power not only at the centre but also giving more powers to the then ruling party, Tanganyika African National Union (TANU).

The ensuing ruling party policy after Arusha Declaration was to reorganize the government administration so as to conform with socialist development (Mniwasa and Shauri, 2001). Reorganization of the government was supposed to provide a system that would give more space and freedom for both decision-making and participation in matters primarily of local impact to the people. To facilitate implementation of these changes, Parliament enacted the Decentralization of Government Administration (Interim Provisions) Act of 1972. This law introduced damaging changes to the system of local government that had existed from 1926. In simple terms, the Act abolished local representative councils and increased the power of the ruling party and central government bureaucrats. In other words, the LGAs were replaced by District and Development Councils bureaucrats and not the elected members forming the majority.

Nyerere (1972) called this system ‘decentralization’ but others (Oyugi 1998, Max 1991) disagree and correctly argue that it was misleading and confusing to label the 1972’s decision decentralization. This period of decentralization’ lasted for ten years and had the following key characteristics:

- First, power was consolidated at the grassroots level with centrally appointed regional and district heads (Mniwasa and Shauri, 2001).
- Secondly, there was a shift from the centre to local levels of well-trained and qualified personnel (Oyugi, 1998).
- Thirdly, during this period (1972 – 1982) there was no local government system in Tanzania. District/urban development councils replaced what might be called local government system (Mniwasa and Shauri, 2001).

It may be instructive at this juncture to state that the Nyerere administration abolished local governments for ostensibly failing to mobilize adequate resources to finance their activities including delivery of services. However, it can be strongly argued that local governments failed to perform not because they could not mobilize resources. To a great extent they failed because of the central government’s own policies and actions (Liviga, 1992). Nyerere was later to admit that abolishing local governments was one of the two big mistakes he made during his administration. In his own words, he said: “There are certain things I would not do if I were to start again. One of them is the abolition of local government, and the other is the disbanding of cooperatives. ...we had these two useful instruments of participation, and we got rid of them. It is true that the local governments were afraid of taking decisions but instead of helping them we abolished them. These were our two major mistakes (Nyerere, 1984).

In the run up to the 1980 general elections, the ruling party, Chama Cha Mapinduzi (CCM), promised to re-introduce local governments in Tanzania. After the election the party directed the government to implement the decision through the Prime Minister’s Office which appointed a committee of seven experts to look into the modalities for implementing the decision. After the committee had submitted its report, a bill was prepared and submitted to the National Assembly. Accordingly, in April 1982, five Acts were enacted to pave the way for the re-establishment of LGAs in the country. The five pieces of legislation were:

- The Local Government (District Authorities) Act No. 7 of 1982
- The Local Government (Urban Authorities) Act No. 8 of 1982
- The Local Government Finances, Act No. 9 of 1982
- The Local Government Services Act No. 10 of 1982
- The Local Government Negotiating Machinery Act No. 11 of 1982.

In addition to these five another Act, the Decentralization of Government Administration (Interim Provisions) (Amendment) Act No.12 of 1982 was also passed. The amendments provided for the removal of the decentralization structures put in place in 1972.

These Acts specify in detail the levels of local government (urban and rural, district, ward and villages), composition of the councils and committees, sources of income, personnel matters, and relations between the central government and LGAs. The Acts also specify functions to be performed by each level of LGA. With respect to levels, the local government system in the rural areas of Tanzania is a two-tier LG system with LG Councils at District and Village levels.

In addition the LG system operates with administrative committees at ward and sub-village (Kitongoji) level. In urban areas there are city, municipal and town councils. Wards are divided into Mitaa and have administrative committees and not councils (Acts No. 7 and 8 as amended). Local governments have their own sources of revenue (outlined in Act No. 8) and also enjoy substantial central government grants, about 93% of their total budget (Liviga and Uusihakala, 2008). LGAs have powers to employ their own staff excluding city, municipal, town and district directors as well as heads of departments. These are still appointed by authorities of the central government. LGAs in Tanzania relate with the central government through the Prime Minister's Office - Regional Administration and Local Government as well as other sector ministries in respect of their functions and roles they play. In this arrangement the central government still wields substantial authority (control) over LGAs.

A major and very important development in the history of local government in Tanzania took place in 1984. This involved the amendment of the Constitution of the United Republic of Tanzania through Act No 15 of 1984. Two articles (145 and 146) were inserted in the constitution clearly providing for the creation and manner of conducting local government affairs in the country. However, the principal local government acts do provide some powers for the Minister responsible for local government to dissolve a LGA. Pursuant to these changes the Constitution in Articles 145 and 146 provided for the following:

145.-(1) There shall be established local government authorities in each region, district; urban area and village in the United Republic, which shall be of the type and designation prescribed by law to be enacted by Parliament or by the House of Representatives. (2) Parliament or the House of Representatives, as the case may be, shall enact a law providing for the establishment of local government authorities, their structure and composition, sources of revenue and procedure for the conduct of their business.

146.-(1) The purpose of having local government authorities is to transfer authority to the people. Local government authorities shall have the right and power to participate, and to involve the people, in the planning and implementation of development programmes within their respective areas and generally throughout the country. Every Local Government Authority (LGA) has a constitutional mandate and obligation: (a) to perform the functions of Local Government in its area; (b) to ensure the enforcement of law and public safety of the people; and (c) to consolidate democracy within its area and to apply it to accelerate development of the people (Article 146 (2)).

The significance of this Constitutional amendment lies in the fact that local government system cannot be abolished in Tanzania without first tabling a motion in the National Assembly to amend the Constitution. The relevant local government legislation⁴ stipulates further that local governments would have three basic functions as follows: (a) maintenance of law, order and good governance; (b) promotion of economic and social welfare of the people within their areas of jurisdiction; and (c) ensuring effective and equitable delivery of qualitative and quantitative services to the people within their areas of jurisdiction.

⁴ These functions are listed in the Local Government (District Authorities) Act No. 7 of 1982 and the Local Government (Urban Authorities) Act No. 8 of 1982. Three other Acts were passed in 1982 to provide for sources of finance (Act No. 9), staffing (Act No. 10) and conflict resolution process for local governments (Act no. 11).

In addition to the basic functions, all local governments are charged with seven other functions and duties, as follows: (i) Formulation, coordination and supervision of the implementation of all plans for economic, industrial and social development in their areas of jurisdiction; (ii) Monitoring and controlling the performance of duties and functions of the council and its staff; (iii) Ensuring the collection and proper utilization of the revenues of the council; (iv) Making by-laws applicable throughout their areas of jurisdiction, and considering and improving by-laws made by village councils within their areas of jurisdiction; (v) Ensuring, regulating and coordinating development plans, projects and programmes of villages and township authorities within their areas of jurisdiction; (vi) Regulating and monitoring the collection and utilization of revenue of village councils and township authorities; and (vii) Subject to the laws in force, doing all such acts and things as may be done by a people's government.

The Government of Tanzania adopted in 1998 'Decentralization by-Devolution (D-by-D) as the policy option which could deliver improved governance and service delivery within the socio-economic and institutional context in Tanzania. The Government policy of Decentralization by Devolution (D-by-D) was articulated in its Policy Paper on Local Government Reform. The policy of 'Decentralization by Devolution' was part of the significant changes going on in Tanzania, following the move to political pluralism and multi-party democracy, economic liberalization and adoption of many tenets of new public management (Nyimbi, 2008). 'Decentralization by Devolution' was chosen as a means of bringing decision making on services closer to the people, to make government and service delivery more responsive, efficient and effective. The Policy Paper was in line with the Constitution of the United Republic of Tanzania and the LGRP is one of four key public sector reform initiatives in Tanzania⁵. Reforms initiated under the auspices of the Local Government Reform Programme (LGRP) are intended to make LGAs more accountable for resource management and service delivery in their areas. The intention is to limit the role of Central Government ministries to providing policies, setting guidelines, determining service delivery standards and to providing overall co-ordination and support. Increased funds and better financial management systems are intended to ensure that LGAs assume greater responsibility for the delivery of services such as primary education, health, local roads. The goal of the local government reform (LGR) is poverty reduction, and the main purpose is to improve service delivery. It is therefore the responsibility of the LGAs to ensure effective service delivery.

It may be pertinent at this juncture to address the question regarding the legal framework affording local governments' protection against the intervention of the central government. The Constitution provides for the establishment, purpose and functions of LGAs. The respective LG Acts further specify in detail the levels of local government (urban and rural), composition of the councils and committees, sources of income, and personnel matters. The Acts also specify functions to be performed by each level of LGA. With respect to levels, the local government system in the rural areas of Tanzania is a two-tier LG system with LG Councils at District and Village levels. In addition the LG system operates with administrative committees at ward and sub-village (Kitongoji) level.

⁵ The other three reform programs include the Public Service Reform Program; Legal Sector Reform and Public Finance and Management Reform. There are also sector development programs for education, health, water, and roads etc.

In urban areas there are city, municipal and town councils. Wards are divided into Mitaa (administrative committees) not councils (Acts No. 7 and 8 as amended). Local governments have their own sources of revenue (outlined in Act No. 8) and also enjoy substantial central government grants, about 93% of their total budget (Liviga and Uusihakala, 2008). LGAs have powers to employ their own staff excluding city, municipal, town and district directors as well as heads of departments. These are still appointed by authorities of the central government. LGAs in Tanzania relate with the central government through the Prime Minister's Office - Regional Administration and Local Government as well as other sector ministries. In this arrangement the central government still wields substantial authority (control) over LGAs and the manner they conduct themselves.

In very specific terms the legal framework does not guarantee LGs protection from interference by the central government. The Constitution does not spell out what type of central-local relationship should exist and inform operations of the two governments. The Policy Paper on Local Government Reform (1998) provides an answer to this in its four principles for the reform process. These are:

- a) Political decentralization implying the creation of real, multi-functional governments at the local level;
- b) Fiscal decentralization principle allows local councils to pass their own budgets reflecting their own priorities;
- c) Local governments will thus have, and recruit their own personnel, organized in a way decided by the respective councils in order to improve service delivery; and
- d) The role of central government vis-à-vis local councils will be changed into a system of inter-governmental relations.

Implementation of these key principles has been problematic to the extent that realization of the vision on local government is seriously threatened. For example, the qualifying phrases immediately after key policy statement (a) and (d) stated respectively "within the framework of the national legislation" and "with central government having the over-riding powers within the framework of the Constitution" gives the central government unlimited warrant to interfere into local government affairs and rather than guiding, the central government governs by directives sometimes disregarding the local priorities and capacities⁶.

⁶ There have been serious cases where the Government issued directives to LGAs which destabilized the plans, budgets and implementation of projects by LGAs. Construction of ward secondary schools and the purchase of power tillers are cases in point. See also section 2.3.1 below.

The Government's own assessment of achievements and challenges regarding implementation of LGRP I is instructive. It states in part:

Notable progress has been made in increasing the profile of D by D in government best illustrated by the implementation of the strategy through the national planning and budgeting system beginning in 2007. Related activities in that direction include support for the Local Government Development Grant (LGDG) system, ongoing restructuring and capacity building initiatives for LGAs and PMO-RALG. Implementation of D by D has, however, faced a few challenges mostly in the form of lack of progress on human resource decentralization, incomplete legal harmonization across sectors, LGAs revenue assignments and persistent governing by directives from the central government. It can therefore be concluded that the strategy to institutionalize D by D in the government was not adequately embedded across Ministries, Departments and Agencies (MDAs) and LGAs due to a number of reasons including lack of knowledge on vision, reluctance and fear of devolution and policy and legislative bottlenecks (United Republic of Tanzania, 2008).

In conclusion, there is in Tanzania constitutional and legal recognition for local democracy and that elected local governments are protected in the constitution. It can also be stated that there are serious challenges that should be addressed. These challenges include lack of harmonization between the constitution and various laws governing local government; central government governing by directives; and incomplete human resource decentralization. It is pertinent therefore that the Government look critically at the fundamental problem of non-compliance by central ministries and agencies to the vision of LGRP. These problems lie in the two contradictory values Tanzania pursues in relation to decentralization. These values are:

- (i) The need for the central leadership to widen its political space for effective control of national activities; and
- (ii) The need to also widen the political space of local communities for purposes of empowerment and participation (Mushi and Baregu, 1990).

These two values do not always complement each other. Thus the behaviour of institutions in Tanzania reflects the complementarity or conflicts in the implementation of policies or strategies meant to achieve these two values. Thus a paradoxical situation arises whereby while political pronouncements, policies and strategies clearly emphasize community empowerment and decentralization of power and resources, policy and decision makers have centralist behaviour in practice. The critical review of the two values should be complemented by constitutional changes to enshrine D by D in the constitution, changes that will provide for, and stated in no uncertain terms, that the relationship between CG and LGAs is based on complementarity, that is, between government and government, that the centre will not dictate and control LGAs. The changes must guarantee autonomy and capacity of LGAs by specifically entitling them, for example, to a specific share of the national cake (revenues) for development.

2.2. Political Freedom to Elect Local Representatives

In Tanzania the constitution and electoral laws provide for elections at all levels to be held once every five years using the “first-past-the-post” electoral system. The Local Government Authorities Election Act No.4 of 1979 is the principal law that governs election of councillors while elections of village leaders and sub-villages (known by their Kiswahili name *Vitongoji*) as well as the sub-ward committees in urban areas (*mitaa* in Kiswahili) are guided by respective clauses in the Local Government Authorities Acts No. 7 and 8 of 1982. Section 30(4) of the Local Government Act (District Authorities) No.7 of 1982 empowers the Minister responsible for Regional Administration and Local Government (RALG) to issue regulations for elections of *vitongoji* and *mitaa* chairpersons as well as their respective committee members. The Minister is given this authority vide section 70(c) of the Local Government (Urban Authorities) Act No. 8 of 1982. Civic elections (for lower level LG – villages and *vitongoji* and *mitaa*) are held a year earlier than the general elections. It may be instructive to state at this juncture that there are no recognized political or administrative traditional structures in Tanzania. Traditional political authorities, Chiefdoms, were abolished in 1962. Individuals who were heads of such structure retained their titles but for ceremonial purposes only. Nevertheless, the legal system in Tanzania recognizes traditions and customs and there is, for example, a special role for elders in primary courts.

All councillors are elected by universal suffrage within the council area and no restriction is imposed by law except that candidates have to be sponsored by a political party. No such discrimination applies to other political freedoms and rights based either on gender or membership of a marginal group. In fact women in all elections are accorded special seats that are allocated according to an established formula (30% of all seats). Councillors are elected from constituencies called wards and freely represent their constituents. A councillor is chair of the Ward Development Committee which is a legal administrative entity responsible for, among other things, overseeing ward development processes. Mayors and their deputies (in cities and municipal councils) as well as chairpersons of town and district councils are elected by their fellow councillors; they are not directly elected by the people.

Councillors reflect and represent views and needs of local people. The planning process, for example, requires formal meetings where people identify and prioritize their development projects. There is no pressure on Councillors to favour certain interests but collectively (sitting as a council) Councillors receive guidelines, directives and in some cases orders from the central government which they have to follow and implement. In that regard all councils have to implement the government’s policies, which are adopted from the ruling party’s election manifesto irrespective of what party (e.g. majority from opposition parties) controls the council. This arrangement creates friction between parties as each party would like to implement its own policies as contained in their respective election manifesto. Compromise is not easily reached and constant feuds are common in councils where the opposition members try to assert their rights.

Local elections have attracted many people from different parties to stand as candidates and competition has always been stiff within respective parties. The management of civic elections has not been flawless as there have been challenges that had to be addressed in all the elections. The challenges can be summarised as follows:

- The civic elections have always been managed by the Minister responsible for regional administration and local governments and not the national (and independent) electoral commission. Regulations guiding these elections are issued by the minister and for some observers, especially members of the opposition parties in Tanzania, consider this arrangement inappropriate. They point out that the Minister is one of the Members of Parliament and a member of a political party participating in the elections. This practice traverses acceptable democratic principles, which demand that the organ that manages an election should not side with any of the contestants and be above political parties. Democratic elections must be guided by the idea that the organ that manages election needs the trust and confidence of all stakeholders, and not otherwise. This was not the case in the four civic elections held in Tanzania in 1993, 1999, 2004 and 2009.

- Although the vote was by secret ballot, there was no consistency with respect to registration of voters, campaigning and funding of the elections. In 1993 registration of voters was done on polling day, that of 1999 was done by officials visiting eligible voters and registering them at home, for 2004 registration was done till voting day. In 2009 voters had to show voters' registration cards that had been acquired through the compilation exercise of the national voters' register. In 1993 the government gave each political party a grant of Tshs 5m/= to cover election costs but this was not repeated in the subsequent elections in 1999, 2004 and 2009. Parties and their candidates had to meet all the election costs on their own. In all the elections no time frame was available for official campaigns. Campaigning was done on polling day.

These challenges notwithstanding village council elections and those for *vitongoji* and *mitaa* have gained respect and now these organs stand out as institutions for local governance and popular participation. To what extent these organs are effective and capable institutions for local governance remains an open question. What is clear though is that the law and procedures for managing these organs has provided the needed framework for people to be fully involved in the decision making process. In recognition of this fact the LGRP II has identified problems that have to be addressed to strengthen these institutions. The central government through this program has committed itself to taking specific measures to ensure downward accountability of LGAs. Problems that have been identified include the following⁷:

- Voice of the people, the local communities, is insufficiently heard;
- Women are marginalized and their interests and roles ignored when village plans are integrated into district-level plans;
- People's participation is minimal in preparation of systems and formats of planning; and
- Obstacles and Opportunities for Development (O&OD), the official planning methodology for LGA/LLGA is disregarded as plans move up.

In line with its analysis the government, through LGRP II intends to address the said problems by, among other measures, the following:

- Increase local participation through provision of information in easy to read format
- Gender and diversity mainstreaming shall be given priority and the role of women in social services – health, education and water are to be taken seriously
- Councillors to be accountable to the people
- Village and ward priorities shall be the basis of district-level plans

We can at this juncture conclude this section by observing first, that there is in Tanzania political freedom in all local government areas such that citizens can freely express their will through the political process. Secondly, Councils to a great extent represent the will of the local citizens although they sometimes suffer from interference from the central government in the form of directives and orders. Thirdly, the local government system, the local government reform and legal framework provide organs where people can get involved in policy formulation, implementation and monitoring. They can also participate in planning and budgeting as well as the making of by-laws. However, the corresponding central-local relations, institutional arrangements and behaviour as well as personnel management in local government authorities inhibit actualization of participatory democracy at the grassroots/community level.

⁷ For a full account of the problems and how the government intends to tackle them see the Local Government Reform Program II (D by D), July 2008 – June 2013, PMO-RALG, 2008.

2.3 Partnership and Cooperation between Spheres of Government

2.3.1 Relations between the Central Government and Local Governments

There are three major tiers of governance in Tanzania. The first level is the central government comprising of central ministries and specialized (executive) agencies and commissions. The Judiciary and the Legislature belong to this tier and both have special relations with local governments. This tier extends also to include regions and districts. There are twenty one (21) regions on Tanzania mainland and five in the isles of Zanzibar and Pemba. In this document, analysis and recommendations made refer only to Tanzania mainland. Zanzibar has its own system of local government. The regions are divided into administrative units called districts, divisions and wards.

The second tier of governance is the urban and rural local government authorities (LGAs) currently totalling 133. Urban LGAs are comprised of city councils, municipal councils and town councils whereas; district councils, township councils as well as village councils form the rural LGAs group. The third tier is the Village Councils established by the 1975 Village Act.

Under the ongoing local government reforms there is a clear division of roles and functions between the three tiers of governance. The functions of the central organs of power – ministries – are generally stated as responsible for policy formulation, coordination, monitoring and control as well as technical backstopping. The central government for that matter is responsible for provision of an enabling environment for the regional administration, local government authorities and the private sector to perform their assigned roles and functions. The central government is responsible for, among other things, maintenance of law and order, peace and security, the constitutional and legal framework as well as institutional arrangements for the operation of the other actors.

The regional and district administrations headed respectively by a Regional and District Commissioner are responsible for two main functions. First, securing the maintenance of law and order in their respective areas of jurisdiction and, determining the specific direction of efforts in implementing the general policies of the Government. Secondly, to facilitate and assist local government authorities in their respective areas to undertake and discharge their responsibilities by providing and securing the enabling environment for successful performance of their duties and functions. Regional Commissioners (RCs) and District Commissioners (DCs) are the principal representatives of the Government within their regions and districts.

Local governments are currently designed to be holistic, i.e., multi-sectoral, government units with a legal status (body corporate) operating on the basis of discretionary, but general powers under the legal framework constituted by the national legislation. Local governments have the responsibility for social development and public service provision within their jurisdiction, facilitation of maintenance of law and order and issues of national importance such as education, health, water, roads and agriculture. Local government authorities constitute a unitary governance system all over the country based on elected councils and committees, and professional administration.

The on-going local government reforms as part and parcel of a broader public sector reform program envisaged a changed central-local relations meaning, among other things, that the role of the central government vis-à-vis local councils will be based on a system of inter-governmental relations with the central government having over-riding powers within the framework of the Constitution. In specific terms central government ministries would focus on policy making, supportive and capacity building functions as well as monitoring and quality assurance roles within the local government legislation framework. The local government reform process aims to a large extent minimized the command relations between the central government and local authorities. The relationship is expected to be guided by consultations and negotiations. It is provided in policy and law that local authorities are free to make policy and operational decisions consistent with the laws of the land and government policies without interference by the central government institutions. It is further stipulated in the policy and legal instruments that the role of the central government institutions will be confined to facilitation and enabling local governments in their service provision; development and management of policy and regulatory framework; monitoring accountability by the local government authorities; financial and performance audit and provision of adequate grants. In short, the overall objective of the reform is to improve service delivery by making local authorities more democratic and autonomous within the framework established by central government.

It is also provided in the Policy Paper on Local Government Reform program that local governments will facilitate the participation of the people in deciding on matters affecting their lives, planning and executing their development programs; and foster partnerships with civic groups (URT 1998; URT 2000). It is clearly stated that local government authorities will be transparent and accountable to the people. This will be the basis for justifying their autonomy from undue central government interference. Although one can look from several angles at the relation between central and local government authorities, it is particularly through the devolution of power and funds that the type and effectiveness of this central-local relation becomes actually visible. In Tanzania there still exists a significant gap between the intended mandates, as stated in policy documents, and the effective mandate of the local governments.

The amount of discretion available to local governments to determine their own policy priorities is undermined by legal and institutional requirements that are in place and guiding the relationship between the two tiers of governance. Local governments have to plan according to budget ceilings approved by the centre and have to follow a planning circle provided by the centre. Funds are devolved from central to local government through a grant system, which includes conditional and unconditional grants. For local governments to receive funds under the Local Government Capital Development Grant system, they have to meet conditions set by the centre (URT 2007). The grant system leaves little room for local discretionary power to allocate funds according to local priorities and needs. Local government authorities still have little effective authority over most critical aspects of personnel management, notably with regard to the conditions of service, the size of their establishment, and the power to hire and fire staff. Although in all these three areas there are positive developments (e.g., the introduction of performance related pay schemes and review of salary scales) the central government retains a decisive voice⁸.

⁸ In addition to approving the organization structure and staffing levels of LGAs the President's Office (Public Service Management) approves new staff requests from LGAs while the Ministry of Finance (the Treasury) provides the additional financial resources provided they are within acceptable budget estimates

As explained under section 2.1 above the existence and mandate for local governments in Tanzania derive from articles 145 and 146 of the Constitution and relevant legislations operationalize those two articles. However, relations between the central government and local authorities are not based on a “system of inter-governmental relations”. This particular aspect is not provided for in the Constitution. Briefly, the ideal situation would require that the two relate as governments and not one level (the local authorities) as an administrative agent of the other. In other words, articles 145 and 146 of the Constitution do not provide for devolution of power and resources.

The current pattern of relationships between the central government and local governments as provided for in the Constitution (though addressed in the local government reform program) do not allow for a distinction between governance and administration. Levels of governance are characterized by the existence of representative bodies of the people which exercise power and whose jurisdiction is defined by law. In that sense they are not administratively subordinate to any other body, although legally accountable. The practice in Tanzania has been one where the lower two tiers of governance (LGAs and Village Councils) have been subordinated to the central government and receive orders, guidelines, directives and other instructions sometimes in contravention to the people’s priorities and preferred course of action. For example, some of the functions of the Central Government defining its role – such as oversight, supervisory, regulatory and auditing – currently stated in the Policy Paper on Local Government Reform ought to have been more comprehensively and clearly expressed in the Constitution. Currently, the Constitution does not offer protection to local government organs to act freely with authority and fulfil their basic obligations as institutions of local governance.

Local government authorities have to be assessed by a team of experts using a *Manual for the Assessment of Councils Against Minimum Access Conditions and Performance Measurement Criteria* to qualify for resources under the Local Government Development Grant (LGDG) system (URT 2006). This manual has been prepared by the PMO-RALG. The assessment is done annually and the LGDG system has two grant elements, namely; the Capital Development Grant (CDG) and the Capacity Building Grant (CBG) both of which require local government authorities to meet a set of minimum conditions (MCs). The MCs are derived from laws, regulations and national guidelines such as the Local Government Finance Act 1982; Local Authorities Financial Memorandum 1997; and the Public Procurement Regulations 2005. The MCs are to ensure that funds remitted to LGAs are utilized effectively and efficiently, with integrity and that they are sustainable.

The Controller and Auditor General audits all accounts of local government authorities and produce an annual report. This report is presented to Parliament and debated every year. Councils are issued with certificates which are graded “Clean”, “Conditional” and “Adverse”. Councils with ‘adverse audit reports’ do not easily qualify for the LGDG system. It is reported for example that out of the 121 LGAs which were assessed for funding in FY 2007/08, 63 councils (52%) met all the MCs compared to 62 councils (51%) which qualified to access Capital Development Grant (CDG) during FY 2006/07. Out of the 121 LGAs, assessed 106 councils (88%) directly met MCs to access CBG in FY 2007/08 compared to 121 councils (100%) in financial year 2006/07.

The Prime Minister's Office, Regional Administration and Local Government (PMO-RALG) is the parent ministry for LGAs and has the responsibility of supervising operations of local authorities on Tanzania mainland. It is responsible for, among other things, preparing and issuing various guidelines and regulations, managing the capital transfers for roads, health, education and general capital grant. PMO-RALG is also responsible for ensuring the proper management of the finances of local government authorities. PMO-RALG ensures proper local financial management through the issuance of local budget guidelines, procedures, and instructions on the development of the local budget, as well as through the provision of technical support and capacity building.

The central government also monitors local government authorities through the inter-ministerial Local Government Finance Working Group (LGFWG). The LGFWG functions as a coordinating mechanism between technical-level stakeholders within central government on issues related to the system of local government finance. The group brings together stakeholders that are jointly responsible for the successful functioning of the system of local government finances, including oversight of the local budget plans and budget execution, the analysis of local revenue collections, and the development and application of formulas for recurrent and development grants to local government authorities. The LGFWG is chaired by the Deputy Permanent Secretary, Ministry of Finance, and co-chaired by the Deputy Permanent Secretary, PMO-RALG. Further members of the group include the Assistant Budget Commissioner, Regions and Local Government Section (MoF – Secretary); the Director of Local Government (PMO-RALG); the Assistant Commissioner for Policy Analysis, Fiscal Policy (MoF); and representatives from Ministry of Planning and Economic Empowerment (MPEE), the President's Office – public service management (PO-PSM), as well as key line ministries (health, education, water), departments and agencies as appropriate and pertinent.

The central government is disseminating and encouraging best practices in local government authorities through the provision of various guidelines, procedures and processes for planning and budgeting and carrying out performance auditing through the recently introduced formula-based grant system and assessment of LGAs against MCs to access LGDG resources. PMO-RALG has also issued a code of conduct for staff and councillors which spells out, among other things, issues and how they should be tackled by the respective officers of the LGAs. The central government through the PMO-RALG plays an important role in the process of recruitment and posting of senior officers of the councils. The selection process considers, among other things, professional qualifications, competence and experience. In the event that these officials are found guilty of contravening laid down regulations, misconduct or abuse of office the responsible appointing authority takes the appropriate action to discipline the offenders.

2.3.2. Relations between Higher and Lower Local Governments

The local government system in Tanzania does not provide for one level of local government to supervise the other. There is no hierarchical relationship with one level standing above the other. Each level is created by its own law and fulfils its tasks based on that law⁹. The geographical and administrative boundaries however place village councils under district councils and the two have the same relationship like that which exists between the central government and LGAs in general. District Councils do not treat village councils as full governments¹⁰ and instead of relating to them on the basis of government-to-government, the latter is regarded as an administrative agent of the former. To complicate this situation, Ward Executive Officers (WEOs), Mtaa Executive officers (MEOs) and Village Executive Officers (VEOs) (the equivalent of Council Directors in higher LGAs) are employed by their respective councils. In that regard they tend to pay attention to directives and orders from the top rather than accounting to the Village Assembly – a gathering of all adults of the village – in the case of the VEOs.

The regional and district administrations have special relations with both higher and lower local governments. Let it be noted first, that government at the regional level does not make policy. Policy formulation is the preserve of the national (central) government. Secondly, the regional level of government does not carry out implementation functions either. The regional level of government supervises and coordinates implementation of government policies and programs by providing technical support and giving advice to LGAs. In this sense there is extensive cooperation of government and the people's organs of local governance – the LGAs.

Local government authorities do not make policies as such but are free to make decisions including making by-laws to operationalize national policies and programs in their areas of jurisdiction. LGAs are required by law and the planning guidelines to consult widely before the Council approves annual plans and budgets. The planning process is a participatory process using Opportunities and Obstacles to Development (O&OD) methodology. It is a bottom-up planning process that starts at the village level up through the ward to the Council in the case of (rural) District Councils. The same process starts at the “*Mtaa*” level through the ward and up to the Town, Municipal or City Council in the case of urban local authorities. *Mtaa* is the lowest local government unit in urban areas. The regional and district administrations have a role in the planning process in LGAs and this is the point at which the two have working relations.

There is also a great deal of collaboration between local governments in Tanzania. Although the law does not directly provide for such cooperation it also does not prohibit a working relationship between LGAs. LGAs are free to enter into any kind of agreement with one another and they learn a lot from each other. It is common for LGAs to arrange visitations to other districts to learn and share experiences. Such delegations are facilitated by their own resources and where necessary they solicit the support of external funding. All LGAs in Tanzania are members of the Association of Local Authorities of Tanzania (ALAT) which brings all of them together and on their behalf perform the following functions: representation, communication, lobbying, training and advocacy. All ALAT members (i.e. LGAs) pay membership fees on an annual basis and meet at least twice a year to deliberate on various issues of concern to their well being and functioning.

⁹ Rural and urban local government authorities are established via Acts No. 7 and 8 of 1982 while village councils are established by the Villages and Village Registration Act, No. 5 of 1975.

¹⁰ In practice this contravenes The Villages and Ujamaa Villages (Registration, Designation and Administration) Act, No. 25 of 1975. This is the legal instrument for the establishment of Village Governments composed of two main bodies – the Village Assembly and the Village Council. The village assembly is the parliament and the village council its executive arm. This Act has not been repealed.

2.3.3. Consultation between the Central and Local Governments

There are constant consultations between the central government and local governments mainly facilitated by the Prime Minister's Office – Regional Administration and Local Government. Communication between sector ministries and LGAs is supposed to go through this ministry. There are also direct links between LGAs and the MoF (Treasury) as well as PO-PSM in relation to human resources management. Other sector ministries also relate to LGAs through provision of services where the latter are implementing and the former providing professional advice and technical backstopping. The central government also interacts with ALAT and through ALAT with LGAs on matters of policy, legislation, governance and service provision. In formulation of new LGAs laws, for example, the government normally consults with ALAT and other stakeholders before final decisions are made.

There is no one single and formal forum for the central government to meet and dialogue with LGAs but a number of such fora exist. At the national level one such forum is the ALAT annual general meeting where central government leaders (including the President, Vice president or Prime Minister) are invited to, among other things, open the meetings. At such events, LGAs take the opportunity to present their views on different issues of concern to not only ALAT but also the LG system as a whole. A second formal forum for the central government and local governments to hold dialogue would have been the inter-ministerial Local Government Finance Working Group (LGFWG) mentioned earlier on above. It is a forum where authoritative decisions are made for the betterment of LGAs financial matters. Also at the national level joint central-local government consultations happens during the annual sector reviews; periodic conferences, seminars or workshops; and the annual LGAs day (July 1) celebrations¹¹.

There are some problems with these consultative meetings. The first is that ALAT does not command the necessary resources to make it effective and members attitudes towards ALAT (lukewarm commitment to ALAT until it delivers) does little to improve the situation. The second reason is that notwithstanding its commitment to D by D the central government (MDAs) continues to behave in the “old fashion” and govern by directives, orders and interfere in LGAs activities; (iii) The legal framework for local government in Tanzania does not provide for appeal by LGAs to an independent body against the CG for arbitration or mediation in case of a dispute between the two; (iv) PMO-RALG has a double role, on the one hand it is part of the Central Government and on the other, it is supposed to take care of LGAs interests. It cannot do both at the same time effectively

2.4. Defined Legislative Framework

The constitution of the United Republic of Tanzania (1977) Articles 145 and 146 provide for the establishment, purpose and functions of local governments in Tanzania. Through five specific Acts of Parliament that were enacted in 1982, the legislation provide the framework for the establishment of local government authorities, their structure and composition, sources of revenue and procedures for the conduct of their business. The five principal Acts are: (i) The Local Government (District Authorities) Act No. 7 of 1982; (ii) The Local Government (Urban Authorities) Act No. 8 of 1982; (iii) The Local Government Finances Act No. 9 of 19982; (iv) The Local Government Service Act No. 10 of 1982; and (v) The Local Government Negotiating Machinery Act, No. 11 of 1982.

¹¹ This day is preceded by a week's activities, whose objectives are, among others, to explain what LGAs are all about, their achievements for the previous 12 months, challenges and way forward. National leaders are invited to not only officiate at opening ceremonies but also participate in some of the activities.

Act No 7 establishes the district councils and township authorities, while the Village Council, that is established by another act (Act No. 5 of 1975) is recognized under the provisions contained in section twenty five of Act No. 7. The Act further provides for these three as independent corporate bodies. In this regard there is no hierarchical relationship in the strict sense of the term. The Chairman and Vice Chairman of each council are elected by the members from among the elected councillors. Act No. 8 provides for the establishment of city, municipal and town councils with a body corporate status and according to the law they are not subordinate to any other. Mayors and their deputies are elected from among the elected councillors. Both Acts provide for the appointment by the President of Council Directors who serve as Chief Executive Officers (CEOs). The CEOs attend all meetings of their respective Councils (as Secretary) but . Act No. 9 and as its title suggests, contains provisions for the sources of revenue for both categories of local government authorities. It also has provisions for the local government authorities' procedures for their financial management. Section 33 (iv) provides that every Director of an urban and district council shall be the accounting officer for the local authority of which he/she is the chief executive.

Act No. 10 established the Local Government Service Commission (LGSC), charging it with the task of promoting, developing, maintaining and controlling a unified local government service. This Commission is now defunct and some of its functions transferred to PO-PSM¹². The Act also established a Central Board of management (CBM), responsible for the administration, management, and control of the Local Authorities Provident Fund (LAPF). The LAPF is the social security organization for councils' employees. The principal objective of Act No.11 was to establish a Local Government Staff Council. This organ had one key responsibility, and that was to develop and enhance close working relationship between local authorities as employers on the one hand and the staff as employees on the other. Three more pieces of legislation were enacted in 1983. These included the Urban Authorities (Rating) Act, No. 2 of 1983; the Local Authorities (Election) (Amendment) Act No. 3 of 1983 and; the Human Resources Deployment Act, No. 6 of 1983. Act No 2 of 1983 declared Urban and Township Authorities and empowered them to make or levy rates on property in their respective areas of jurisdiction. Act No. 3 provided for amendments to the principal legislation (Act no. 4 of 1979), specifically with respect to three things: (i) procedures in overseeing primary nominations at ward level, (ii) the appointment of urban and district council directors as returning officers for purposes of local authorities elections, and (iii) terms of office of elected members of the local government authorities.

Finally, in 1984 the Constitution of the United Republic of Tanzania was amended vide Act No. 16 of 1984. This constitutional amendment allowed the incorporation of local government authorities into the constitution as permanent institutions. The significance of this constitutional amendment is that now, unlike in the past, a constitutional amendment is required to dissolve the present local government system. The provisions of Acts No. 7, 8, 9 and 10 of 1982 have clearly defined the powers, functions, duties and financial resources of local government authorities. What the laws did not do, however, was eliminate a multiplicity of organs and institutions that interact with local government authorities. According to a Government Report of 1990, some of these relationships are unnecessary and others are derived not from the laws but from Staff Circulars and Government Directives (Kitula, et al 1990)¹³.

¹² The Public Service Act, 2000 reconfigured all service commissions and put their responsibilities under the PO-PSM. The law was later amended to allow for LGAs to seek approval for/to recruit their staff.

¹³ This problem still persists and destabilizes LGA plans and budgets as some of the directives are not accompanied by funds but require LGAs to implement activities that cost substantial amounts of money.

The government policy of D by D¹⁴ necessitated further changes to the legislative framework in general and local government legislation in particular. Subsequently, local government laws were reviewed and amendments made to the principal Act in both 1999 and 2000. These amendments were necessary to facilitate, among other things, the local government reform process and address three major bottlenecks:

- (i) First, the apparent reluctance by Central Government to devolve autonomy for human resource management to the LGAs; (ii)
- (ii) Second, lack of financial autonomy in LGAs. Most financial remittances to LGAs are controlled by MoFEA and PO-PSM, and come with strict guidelines for its expenditure, allowing little to no autonomy to the LGAs; and
- (iii) A third major bottleneck is the practice by central and sector ministries to instruct LGAs to perform certain activities with their own decentralised funds, ignoring the LGAs planning and their commitments towards their population¹⁵.

Much work remains to be done to ensure the legislative framework for decentralization conforms to the spirit of the Policy Paper on Local Government Reform. As earmarked by LGRP II the major steps to be taken include

- (i) Enshrining D by D in the constitution;
- (ii) Restructuring the LGDG system and other central government and/or sector budgetary allocations to give LGAs more resources and financial autonomy; and
- (iii) Ministries and agencies to devolve functions and roles (as well as resources) to LGAs, and stop governing by directives as they curtail LGA autonomy¹⁶.

¹⁴ The Policy Paper on Local Government Reform (1998) envisages local governments that are largely autonomous institutions, strong and effective institutions, democratically governed, deriving legitimacy from services that they provide to the people, fostering participatory development, institutions that reflect local demands and conditions, and conducting activities with transparency and accountability.

¹⁵ These problems were never completely and decisively dealt with by the implementation of LGRP I (2000 -2008). They are again the center of attention in LGRP II. For further details see LGRP II (D by D), July 2008-2013, PMO-RALG, 2008, key issues number 3 and 7.

¹⁶ The Government has begun to take action in that direction and it is instructive to note that MKUKUTA II, the government's overall framework for development and fight against poverty has recognized the place and role of LGAs. It accords LGAs a joint mandate and responsibility with MDAs, but places responsibility for delivery of primary public services on LGAs.

CHAPTER 3: PARTICIPATION AND OPENNESS

3.1. Citizen Participation in Local Decision Making

The local government system is set up to perform many important functions in the realm of governance including provision of social services. The local government structures are expected to offer opportunity for not only participatory democracy but also representation, accountability, transparency, scrutiny of the council staff, and ownership of the development process by the local communities – the people. As stated in sections 2.1 and 2.3.2 above the local government legislation provides for establishment of councils and committees where people’s representatives deliberate and make decisions on behalf of their fellow citizens. Local governments are also required by law to conform to participatory process in planning and budgeting as well as other processes in their areas of jurisdiction. LGAs are required to prepare three-year development plans and only village plans prepared using the Opportunities and Obstacles to Development Planning (O&OD) methodology become be the basis of preparing the LGAs three-year development plans as stipulated in Act No. 6 of 1999.

The Government has also issued Planning Guidelines for Villages and *Mitaa* (URT 2004a) as well as A Guide to Outsourcing of Services Delivery in Local Government Authorities (URT, 2004b). The latter aims at, among other things, the following:

- Making available to the LGAs a standard format of outsourcing service delivery;
- Creating space for the involvement of the private sector in the delivery of public services thereby enhancing public private partnerships;
- Shifting LGAs focus from being service providers of all services to facilitators of service provision; and
- Improving relationship between public and private sector so that both can work in partnership for mutual benefits.

There are several national and local initiatives the people can exercise their right to participate. For example, the Tanzania Social Action Fund (TASAF) implements projects through village committees. The Tanzania Community Education Fund (CEF), a matching grant program designed to empower communities to improve their primary schools operates through village committees. The ministry of natural resources Community Based Forest Management (CBFM) operates with the tacit involvement of the village government through what is called participatory forest management. The Wildlife Division under Tanzania’s new Wildlife Policy recognizes the need to empower local communities by giving them user rights and management opportunities and responsibilities. Also under the 1994 Marine Parks and Reserves Act, villages have been entrusted with the right to manage marine parks. All these are policy and legal provisions for people to participate in the development process.

These policies and legal regimes have been formulated with an idea to ensure and protect people's interests and needs. They are top-down rather than bottom-up initiatives. But the fact remains that efforts are being made to involve the people in decision-making at the grassroots level. In view of the above we can state that the legal framework, structures, procedures and the much needed political will exists for citizen participation in local decision making. While it is commendable that structures for participation have been put in place much remains to be done in empowering the people at the local level to enable them to participate fully in decision making.

There are constraints that inhibit realization of full participatory democracy in local governments:

- (i) The capacity of the private sector at the local level as well as the role of civil society organizations remains weak and fragmented.
- (ii) The much better educated technocrats in the local administration are now empowered through the local government reforms, but the popularly elected councils have little opportunity to monitor the administration;
- (iii) The O&OD methodology is yet to be rolled out in every district/urban council let alone down at the ward or village level. And village plans are still regarded as "expression of interest" by the bureaucrats at the ward and district level¹⁷. The planning cycle shows that the village is not the final authority for its plans and for that matter people's views are only an input in the long process¹⁸. As a local governance organ the village council ought to have its own plans and resources to finance those plans. According to law (Act No. 5 of 1975) the village assembly will then approve the plans and get the council to implement.

Effective participation though requires more than structures and guidelines. It requires people to have relevant and timely information, and that information should be disseminated regularly. The people must also have free access to public meetings and records. But in practice information flow is poor and the little that filters to the people arrives late. With the possible exception of the radio, access to TV and newspapers is limited by restricted coverage and distribution respectively. Full council meetings are open to the public but not many people are unable to, attend such meetings. And in fact sometimes they do not know when such meetings take place. So while the opportunity for participatory democracy may be judged to exist, there are constraints (mentioned above) that inhibit its actual realization at the grassroots level. There is for example, no formal arrangement for the people to monitor day to day activities of council staff (LG executives). This is supposedly done by Councillors but even then it is not clear how they do that as the current legislation does not specify their monitoring role.

¹⁷ It has been observed, in a study by PMO-RALG, that women's voices are filtered out in the process when village plans are integrated into district-level plans. For further details see LGRP II (2008-2013), PMO-RALG 2008, p18.

¹⁸ For a complete picture see Planning Guidelines for Village and Mitaa, President's Office, Regional Administration and Local Government, 2004.

Local governments at all levels in Tanzania have a special relationship with civil society organizations (CSOs) and the private sector. All LGAs maintain a register of CSOs operating in their areas and the latter are required to inform the former about their operations including projects they implement, location of the projects, funding of the projects, time frame for the projects for purposes of planning and harmonizing development efforts. CSOs have designated access points at different political-administrative levels for participation in policy formulation as well (Kaare, 2003). Here we are concerned with access to village and ward level policy process. CSOs are involved in two processes at village and ward level: first, the formulation and enactment of by-laws; and, second, planning and budgeting. Local authorities' by-laws can originate from village or *mtaa* or council level and each follows an elaborate route to the last stage of approval by the district/urban council. At the village level, formal bodies for the formulation of village by-laws comprise the Village Council (i.e. the village government) and the Village Assembly (the legislative body). Once a by-law is agreed by the VA it is forwarded to the Ward Development Committee for further work before it is finally sent to the District Council for approval. This is a formal channel for CSOs access to legislative process at the village level. Interested parties may contribute ideas and other inputs at any one of the following points: the *kitongoji* (the lowest subdivision of the village); the relevant village committee when discussing the by-law; the village council; and, the village assembly. Civil society may also initiate village by-laws through informal channels. These include influential political, traditional and religious leaders. All village by-laws once formulated and agreed by the VA are channelled to the Ward Development Committee for clearance and submission to the District Council for approval. The WDC is also one other point where CSOs can influence the process of formulation of by-laws.

Planning and budgeting process follows the same route and steps. CSOs have the same opportunity to influence decisions at the same points as noted above. The approval by the District Council is based on a legal consideration that the village is the second lowest level of the district council administrative structure after the ward. As we have already noted above, this is an anomaly as the village is a full fledged government which ought to relate with other levels, not as a subordinate but as an equal partner although accountable to national level with regard to policies and law.

It can be stated in summary that the local government system has in terms of policy, legal framework and structures put in place organs where people can get involved in policy formulation, implementation and monitoring. They can also participate in planning and budgeting as well as the making of by-laws. However, the corresponding central-local relations, institutional arrangements and behaviour as well as personnel management in local government authorities inhibit actualization of meaningful citizen participation in local decision making. The local government system in Tanzania as presently structured acts more as a tool for people's representation rather than participation. It is therefore necessary that a decision is made to ensure that communities are empowered through provision of information, accessing public meetings and records, rolling out O & OD to lower level local governments as well as building capacity for the private sector including CSOs. It is necessary to ensure there is a deliberate move from people's representation to people's participation.

3.2. Open Local Government - Accountability

LGAs provide services to their citizens and they are expected to account to the latter for both effectiveness and efficiency. According to the law, directives from the central government and their own regulations, LGAs are required to be accountable for their actions. In theory this is supposed to be part of the manner in which they carry out their functions. LGAs are also expected to account to the central government for the latter provides funds with which LGAs carry out their activities. Again in theory LGAs ought to account to the central government in relation to exhibiting sound procedures for use of national resources. Accountability of LGAs is both a legal and governance requirement. The 1982 Local Government Finances Act, for example, stipulates that the Council Director is the Chief Accounting Officer of the respective council and therefore responsible for all financial issues (e.g. revenue collection, expenditure and reporting). To ensure accountability of public funds local governments are required to not only keep proper books of accounts but also to produce statements of annual audited accounts. They are also required to prepare three-year development plans based on priority needs identified by their citizens. Annually, the Controller and Auditor General (CAG) audits books of accounts and financial statements of LGAs and submit reports to relevant authorities for appropriate action. The national Parliament, the Local Government Accounts Committee of Parliament (LGAC), PMO-RALG, and the Councils are among the principal recipients of these reports. Internal Auditors in LGAs are required by law to keep track and check authenticity of financial transactions in their respective councils. The LGAC frequently visits LGAs for on the spot inspection of activities including financial transactions – ensuring value for money. Upward accountability by LGAs is therefore well entrenched in the institutional and procedural conduct of LGAs in the country. The PMO-RALG has the responsibility of taking legal or disciplinary action against council official found in contravention of financial and other regulations in the LGAs. Such action has been taken against some council officers in Dodoma Municipal Council, Temeke Municipal Council and Bagamoyo District Council.

Downward accountability (i.e. accountability by LGAs to the citizens) takes several forms and means including public hearings, posting of audited accounts reports on notice boards, availing citizens an opportunity to follow council deliberations while in session etc. These avenues are not as effective as they would seem to imply. For example a study conducted by Tidemand et al (2008) notes that information on local governments' budget and accounts is increasingly advertised, but often difficult for citizens to make sense of the information. Another problem with accountability is that citizens do not have concrete means to call politicians or staff to explain their actions or inactions. A study conducted by Afrobarometer (2005)¹⁹ observed and concluded that citizens interviewed said that they did not have ways to hold their representatives accountable for their actions, and councillors held limited powers to remove non-performing or corrupt council officers. There are no effective instruments and procedures in place for ordinary people to use when they want to hold council officials accountable.

Downward accountability of LGAs in relation to service delivery is also limited because both incentives and framework are not conducive to a focus on service delivery consistent with citizen preferences. LGA executives and their staff are loyal to the central government rather than the

¹⁹ For more information see <http://www.afrobarometer.org>

local community. This is because the Prime Minister's Office-Regional Administration and Local Government (PMO-RALG) supervises the activities of local government authorities. This supervision is exercised through a variety of ways and means including the following:

- The chief accounting officer in any LGA (city, municipal or district executive director) is employed by the central government. They are appointed and posted to their places of work (councils) by the central government that also oversees their transfers, training, or promotion etc.;
- PMO-RALG scrutinize and approve LGAs budgets before they are tabled and debated in Parliament during the annual budget session in June every year;
- PMO-RALG serves as the clearing house for monies from the sector ministries to LGAs for some budgetary items including money from DPs.
- To qualify for LGCDG funds LGAs have to meet certain criteria. The assessment to ascertain that a LGA has meet the criteria is conducted under the supervision of PMO-RALG

In this way Local government authorities are accountable to this central government line ministry for what they do. The central government has power over personnel matters as well and can and does transfer chief executive officers and heads of departments and bring in new ones without prior consultation with respective LGAs. Councillors and staff are also guided by several instruments of accountability including The Local Government Service Regulations, 2000 GN 397 of 6/10/2000; The Local Government (Councillors Code of Conduct) Regulations, 2000 GN.280 of 4/8/2000; and The Local Government (Staff Code of Conduct) Regulations, 2000 GN 279 of 4/8/2000.

The Poverty and Human Development Report (URT 2007) and Views of the People Survey (VoP, 2007) are very instructive in their summaries regarding accountability and service delivery. Although the two reports do not address the issues from a LGA perspective, one can nonetheless conclude that the observations are also true for LGAs since they are the major providers of services in Tanzania. On public information and accountability the Poverty and Human Development Report notes thus: "government accountability through publicly accessible information is improving, but information about public revenue and expenditure at the local level is still lacking. On service delivery, the VoP survey shows that satisfaction levels on the part of the people is far from satisfactory. It is reported that nationally, 44% of VoP respondents perceived an improvement in the quality of basic public services, but approximately 60% reported that the poor conditions of the roads, shortages of safe drinking water and escalating costs of medical treatment were major problems (URT, 2007:73).

As far as accountability is concerned there are other pertinent issues that one can explore to fully comprehend this particular problem. One such fundamental issue (or question) is: to what extent do the LGAs (Councils) respond adequately to priorities made by the people? Available study reports reveal interesting conclusions as, for example, reported by the Joint Report by Braathen et al (2005). In that report it is stated that a citizen survey (2003) showed that water supply is the service that most citizens want to see improved in all the six councils covered by the study. However, it was found that the councils did not respond positively to this demand. It was observed further that no council spent more than 2% of their total expenditure on water supply. The study concluded that there was a deep incongruence between council plans and citizens' preferences.

The government's own assessment of the planning process in general and citizens' preferences and interests in particular reveals more needs to be done to not only accommodate people's preferences but make them fundamental issues to address. In its LGRP II document the government admits existence of serious problems relating to demand side of accountability for service delivery and resource use (URT 2008). It observes in part that voices of the people (clients of the services), the local communities, is insufficiently heard; women are marginalized and their interests and roles ignored when village plans are integrated into district-level plans; people's participation is minimal in preparation of systems and formats of planning; and O&OD, the official planning methodology for LGA/LLGA is disregarded as plans move up²⁰. Against this background it does not seem plausible to think of alternative ways and means of providing services at the local level before sorting out the issue of accountability. Nonetheless, there are already some services which have been outsourced by LGAs.

3.3. Open Local Government – Transparency

Transparency is built on the free-flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them. Efforts have been made to promote transparency in local authorities, particularly in relation to local authority finance. Villages, service facilities and councils now display budgets on notice boards as public information, along with, depending on level, information about by laws, vacant posts and competitive tenders. Local government meetings are routinely advertised, including dates of village meetings, and public participation encouraged. Guidelines, regulations and directives from the central government (PMO-RALG, MoF and PO-PSM)²¹ require and compel LGAs to publish fiscal and other resources disbursed to them as well as locally generated resources. The media extensively reports on LGA activities and together with the planning and budget process (using the O&OD methodology), and public hearings to which the public is invited, constitute information dissemination avenues. Other significant avenues that serve this purpose include council reports (audited accounts/financial statements), council plans and budgets, joint government-donor reviews of various programs including (LGRP)²² (all of which are open to the public) and the local government week. Councillors are also required by law to hold meetings with their constituents. The constitution and several information laws²³ provide a legal basis for citizens to demand information. In so far as policy, legal provisions and avenues for information dissemination are concerned, the local government system is transparent and citizens should be properly informed.

²⁰ For a full analysis of the issues, problems and solutions that the government has identified and wants to address in the on going local government reform process see LGRP II, Key Issue No. 6 under Component 3: Enhanced citizen participation and accountability.

²¹ These are the leading central government sources of guidance to LGAs. Other sector ministries also issue guidelines or directives.

²² Four joint reviews of the LGRP have been conducted and reports widely shared among stakeholders and the general public. The review process is participatory and those consulted for views are made aware of many issues regarding LGAs.

²³ There is a myriad of information laws (Acts) in Tanzania which provide for collection and dissemination of information but in some cases also restrict freedom of the individual.

Transparency is linked to both communication and accountability. Communication ensures constant contact and dialogue between the councils and citizens, the former explaining their actions or inactions to the latter thereby facilitating both vertical and horizontal accountability. While this is true in theory, the situation on the ground is different. Available research and MKUKUTA progress reports inform us that despite achievements in the availability of public information it is unclear whether links to accountability are strengthened. What is more significant is that where information is available it is often in a form not readily understood by citizens (Lawson et al 2005; REPOA 2005). PEFAR reports, for example, that “the information that is currently advertised in the media and posted on notice boards at district and village level does not appear to have the intended effect of allowing local oversight of the use of funds” (2006:17)²⁴. MKUKUTA progress report remarks that countrywide data is not yet available to assess the proportion of local government authorities posting public budgets, revenue and actual expenditure on easily accessible notice boards. Other sources report that very little information is displayed at village level and the quality and accessibility of the little available information, as well as its timeliness, are problematic (RAWG 2006).

There are other constraining factors to transparency in general and information communication in particular. One of the biggest challenges in communication is size of the government units (both central and local government authorities). Some regions are bigger than countries such as Burundi or Rwanda while several districts are bigger than Denmark or the Netherlands. Distances between villages and district head offices are enormous given the status of roads, availability of telephones and resources of local authorities. The number of villages to be visited also poses a big challenge. Some districts have between hundred and two hundred villages making visitations to such villages a huge task for council officials. The state of communication infrastructure especially poor roads complicates matters as well. Resources available to both councilors and the executive members do little to alleviate the problem.

A very reliable source of information is the people’s representatives – the councilors – who are required by law to hold monthly meetings to inform the people and also collect their views on various issues. Councilors lack the necessary logistical resources to hold these meetings regularly as required. They also face difficulties visiting all their people in their villages (due to numerical constraints) as well as size of some of their wards. Councils do not have budget lines to finance Councilors meetings in their respective wards due to inadequacy of locally generated resources in the districts. Information remains scanty for many people in such situations. This problem is complicated further by the fact that very few people follow politics and governance developments in between elections. Many citizens become active in these two areas (politics and governance) during election campaigns due to intense mobilization and information dissemination by elections candidates and their campaign teams.

²⁴ Quoted in Roy Kelly and Per Tidemand, Financial Decentralization in Tanzania: A Review of the Local Government Reform Programme Activities (1999-2006), report submitted to PMO-RALG, March 2007.

What is clear from the above is that local governments do not have a public information and communication strategy. They still rely on the traditional modes of communication (letters, public meetings) despite the vast improvements in Information and Communication Technology (ICT) in the country during the past ten years. A number of measures could be instituted in that direction to improve communication and transparency. These measures may include: (i) LGAs to develop simple but effective strategies for communicating information including decisions to the people in their communities; (ii) Councillors and other representatives to be facilitated to hold regular meetings with their people to provide regular and effective feedback as well as collect views from the people; (iii) LGAs should forge a working partnership with CSOs to mount civic education campaigns geared to getting people to participate in governance activities between election periods. The experience of REDET²⁵ in Tanzania can be more than a source of inspiration for this exercise.

3.4. Scrutiny of the Executive

The composition of LGAs in Tanzania is uniform and consists of two parts. On the one hand there are elected representatives, the Councillors and, on the other professional staff appointed by either the President (City Directors) or the Minister responsible for local government (Municipal Directors, District Executive Directors and Heads of Departments). There is a clear division of powers and responsibilities between the two parts which constitute the basis upon which each part is held responsible and accountable. The politicians are generally responsible for policy and decisions of the council whereas, the professional staff are responsible for, among other things, interpretation of policy, advising the politicians (to make informed decisions), implementation of council decisions, and at appropriate times reporting to relevant authorities. The two parts together are required by law to perform, among others, the following key tasks:

- (i) setting local priorities according to national and local policy;
- (ii) approving local development plans;
- (iii) supervising and monitoring the implementation of local and central government policies in their areas of jurisdiction;
- (iv) delivering social and other services to the inhabitants of their areas of jurisdiction; and
- (v) creating an enabling environment for other actors (e.g. civil society organizations and the private sector) to participate in development processes.

²⁵ REDET is an independent program based at the Department of Political Science and Public Administration, University of Dar es Salaam. Among other things, it conducts research on education and democracy, opinion polls, and holds a state of politics conference in Tanzania every year. REDET conducts democracy dialogue on a permanent basis in six districts on Tanzania mainland and has a school in Zanzibar.

The Councillors are collectively as well as on individual basis required to link the electorate with the Council. In order to do this effectively they are supposed to maintain close contact with their constituency – the ward and its villages. They have to consult their electorate with respect to their needs and report the same to the council for appropriate action. Councillors are also required to provide feedback from the Council to the people. All elected councillors chair their respective Ward Development Committees and in that capacity they are required to preside over all ward committee meetings, supervise the planning process, monitor implementation of programs, projects and other activities in their respective wards. Councillors are change agents and as leaders in their areas they are required to participate in all development activities in the wards.

The professional staff (Council Directors and Heads of Departments) constitutes the executive under the overall leadership of the Director²⁶. Professional staff are collectively responsible for, among other tasks, the following:

- (i) initiating, formulating and preparing the necessary decision proposals for deliberation and/or approval by the Council;
- (ii) preparing district development plans;
- (iii) overseeing the implementation of council policies, work plans and projects as well as central government directives;
- (iv) preparing and submitting quarterly and annual reports²⁷
 - i. reviewing financial reports (including audit queries by the CAG) and making appropriate recommendations to Council;
 - ii. coordinating the implementation of development projects undertaken by the district, central government and CSOs/NGOs in the respective LGA areas;
 - iii. serving as a communication channel between central government, the district and lower level LGAs – wards, villages, mitaa and vitongoji.

²⁶ Council Directors (CDs) are the chief executive officers for their respective councils. Like their counterparts (permanent secretaries) in the central government CDs are accounting officers as well for respective LGAs.

²⁷ Examples of these reports include quarterly reports to each basket fund (education, health and roads) funded by DP; quarterly progress reports for all projects to PMO-RALG; Preparation for assessment for qualification for LCDG detailing, among other things, staffing position and financial liquidity.; progress report on implementation of the Election Manifesto of the Ruling Party; Revenue and expenditure report for CAG; Preparation of the books of accounts ready for external auditors from the National Audit (i.e. CAG).

All LGAs in general and the executive in particular are scrutinized in Tanzania. It is an open and transparent process which employs a number of methods. First, the performance of all LGAs comes under scrutiny for qualification of the Local Government Development Grant (LGDG). The LGDG is a discretionary development grant provided to LGAs according to a formula and annual assessments of their institutional performance. The assessment reviews LGAs capacities in key functional areas such as planning, budgeting, procurement, financial management, revenue generation as well as transparency and accountability. The LGAs that fulfill the basic minimum conditions are eligible to access the development grant, whereas those LGAs that fail have to wait another year to fulfill the conditions. All LGAs are given a discretionary capacity building grant that enables them to build basic capacity for future access to the development fund. The annual assessment serves three purposes:

- (i) it provides assurance to development partners and Government that funds are safeguarded by assessment of whether LGAs fulfill a set of minimum conditions.
- (ii) It provides strong incentives for LGAs to adhere to the required benchmarks of governance as the level of funding to LGAs is determined by their scoring (and in this way also provides an incentive for LGAs to use their more easily available capacity building funds wisely).
- (iii) It provides a fairly objective and comprehensive trend in overall management performance of LGAs. The assessments are overall managed by PMORALG but outsourced to independent consultancy companies. Assessment of LGDG is done by an appointed Auditor by MoFEA.

Secondly, LGAs performance is brought under scrutiny through external auditing of their accounts and financial statements by the Controller and Auditor General (CAG) whose reports are submitted to Parliament for appropriate action. Under-performing LGAs are taken to task and those responsible in the respective councils are subject to either disciplinary action or legal action in the case of corruption. The Local Government Accounts Committee of Parliament is also involved in performance auditing during its scheduled visits to LGAs. Findings of the committee are widely reported and published in national news media for the information of the general public. In addition to these audits the government and development partners demand and receive reports from LGAs that are used for various purposes including serving as the basis for disbursement of next instalments. This is particularly critical for basket funds to LGAs.

Public Expenditure Tracking System (PETS) is another instrument for scrutinizing the executive by members of the public including CSOs and the private sector. Introduced in 2004/05 fiscal year, public expenditure tracking system – requires LGAs to provide information on transfer of public funds to units of implementation such as schools and clinics. The PET aims at encouraging local technocrats to be accountable to the local population within their areas of jurisdiction. It represents efforts to empower communities to be able to ask political representatives and technocrats more critical questions about performance

CHAPTER 4: EQUITY

4.1. Inclusiveness

Tanzania has since independence persistently implemented policies and development strategies that aim at improving the livelihood of all citizens without discrimination. It has adopted decentralization as a means of ensuring effective participation in political governance. Social accountability has been instituted to strengthen transparency in the public sector while also empowering citizens and communities to give them more voice in public decision-making processes. Tanzania's nationality law allows for naturalization of refugees and other immigrants. The Political Parties Act No. 5 of 1992 prohibits formation and operation of political parties based on regional, ethnic, religious or racial identities. Constitutional amendments (Act No. 16 of 1992) paved the way for the inclusion of marginalized groups (especially women) in the decision-making processes at various levels of government. It is provided in law (The Elections Act) that women must constitute at least 30% of the members of parliament as well as each local government council (i.e. city, municipal, town, district and village council) – affirmative action for gender equality.

Tanzania is signatory to several normative frameworks that serve to address issues of diversity to ensure inclusiveness. These frameworks include, for example, the following:

- (i) The African Charter on Human and people's Rights (2001);
- (ii) New Partnership for African Development (2001);
- (iii) African Peer Review Mechanism (2003); and
- (iv) The African Charter on Democracy, Elections and Governance (2007).

Based on the national strategy for growth and poverty reduction (popularly known in its Kiswahili acronym –MKUKUTA - Tanzania pursues policies for redressing socio-economic exclusion. These policies include:

- (i) recognition of all religions and separation between state and politics
- (ii) recognition of customary laws and traditional justice systems;
- (iii) promotion and use of one common language – Kiswahili; and
- (iv) promoting citizen participation in institutions of governance regardless of one's religion, region, ethnicity, race, ideology or any other identity.

Employment data in Tanzania does not specify employees on any other basis than gender – male and female. There is no quota system in employment for vulnerable groups either. Women are given special treatment in elective posts only. However, there is every effort by the government to appoint qualified women to executive posts and other “vulnerable” people (e.g., the disabled, youth) get equal opportunities to employment based on qualification. This is the practice at LGAs level as well. There are no special programs undertaken by LGAs to ensure LGAs are more inclusive but individual authorities have some measures put in place to encourage, for example, women presence in positions of leadership and decision making²⁸. People from marginalized groups/communities are assured representation in the planning process that starts at the village through the approved O&OD planning methodology. This approach requires that all residents of a village or their representative come together for the planning exercise. No resident is discriminated from attending planning sessions.

²⁸ Korogwe District Council has deliberately taken the decision and directed that all committees at all levels (district, ward, and village) chaired by men should have women as vice chair and vice versa.

4.1.1. Inclusiveness – Elected Officials

In all elections except the presidential election there is provision for 30% of the total seats to be allocated to women. There are 2,552 wards on mainland Tanzania that are involved in the election of councillors and 30% translates into 766 seats for women. However, in the 2005 elections for the purpose of allocating special seats for women councillors for each party, the NEC used the number of seats won in constituencies and wards by each party in the respective Council. Guided by the law that every council is required to have special seats for women councillors not less than one third (1/3) of the elected Councillors and Members of Parliament in the Council, the current total number of women councillors is 988 (NEC 2005). For the 2005 – 2010 period women constitute 38.7% of the total number of councillors. Special seats women councillors are appointed by their respective political parties. The minister responsible for local government is empowered by law to appoint up to three councillors for each Council. This provision translates into 363 additional councillors (1/3 must therefore be women) if the minister exercises his/her legal powers. This power has not been exercised by the Minister in the current life of the councils²⁹.

4.1.2. Inclusiveness - Women Members of Staff

The local government legislation (Acts No. 7 and 8 of 1982 as amended) designates members of staff (CDs and HoDs) technical advisors to the council and they also serve as secretaries of the various committees of the council. Because of their professional and technical knowledge staff wield considerable power in relation to preparing technical reports, in planning and budgeting, and in the management of council affairs (including personnel matters). The Executive Director is also the accounting officer for the council and in this capacity he/she tends to wield the dominant influence over council decisions pertaining not only to financial matters but also in the area of planning, project evaluation, tendering and general administration. The post of Council Director is therefore very critical in the administration of local authorities.

If we base classification on salary scales and seniority in terms of leadership positions in local government authorities the Council Directors (CDs), Heads of Departments and Internal Auditors (IAs) would constitute senior members of staff. There are currently 133 CDs 1330 HoDs and 133 IAs. Available data shows that there are 95 male and 38 female CDs. The proportion of women executives will rise depending on availability of qualified women and their willingness to serve in local government authorities. Appointments are based on merit. It is only for the elective positions (councillorship) that there is provision (by law) for a quota system.

4.2. Adequate and Equitable Resource Sharing

4.2.1. Inter-Governmental Fiscal Transfers

The overall governing principle for LGAs to receive funds from the central government is that the national government is responsible for overall provision of social services, economic infrastructure and maintenance of peace, law and order and good governance. LGAs are therefore entitled to receive grants from the central government because the latter has devolved certain functions to the former. There are also several delegated functions that LGAs perform on behalf of ministries and other agencies of the central government. All the funds that are being transferred to the LGAs can be put under three categories: Personal Emoluments, Other Charges and Development funds. Personal Emoluments and Other Charges are the two main components of the recurrent grants. PE is the funding mechanism for the salaries and wages of all government employees, which are transferred from Treasury directly to the LGAs on a monthly basis.

²⁹ There will be fresh elections for Councillors in October 2010 and the current figures for women are expected to change depending on how they will perform on the competitive process.

On the 10th of the month the payrolls for each district are distributed to the LGAs by EMS so that they are in place the latest on the 15th. The funds are released on the 15th to LGAs so that by the 25th all banks would have received the money. This system is working smoothly and timely unless there are sudden wage increases that require some time to make the necessary adjustments. The problem with the PE component is that the system is not formula based but based on actual staffing in LGAs. This means that the best-off LGA receive 5-6 times more in PE than the worst off councils.

Other Charges are funds that are to cover the operational needs of the LGAs. It is formula based and proportionally divided amongst councils. It covers transport, equipment and training costs amongst others. It is also disbursed on a monthly basis. This funding is less stable and clear cut than the PE, because the needs can fluctuate considerably for each month. LGAs generally acknowledge that OC funds are disbursed timely and reliably but sometimes problems occur due to “system problems” according to MoFEA³⁰.

The General Purpose Grant is a fully recurrent grant, meant mainly for administrative purposes. In the year 2008/2009, for example, it included additional funds for the planning, land, community development, trade and cooperatives departments in the LGAs. This year (2009/2010) it also included additional funds for the internal auditors.

The Foreign Development Funds are disbursed quarterly through the exchequer system. Funds include the basket funds, projects and programs that are funded by donors of which the contribution to the Local Government Development Grant (LGDG) is the most important. The LGDG has two components: (i) Capital Development Grants (CDG) and (ii) Capacity Building Grants (CBG). The introduction of the local grant system (LGDG) has undoubtedly been one of the major achievements of the Local Government Reform Programme in Tanzania. The grant transfers funds from the Central to the Local Authorities, if they comply with a number of preconditions. The funds are distributed dependent on population, area size and relative population poverty. The Local Government Authorities can invest the funds in infrastructure development, such as schools, roads, bridges, clinics, etc in accordance with local needs, as determined through a democratic local community planning processes.

The Local Government Capital Development Grant was first disbursed in 2005, when 56 out of then 113 councils qualified. In 2006, this number increased to 84 out of 122 councils. All 133 LGAs have now qualified to receive these funds. In order to qualify, councils must have a satisfactory external audit; the internal audit department needs to be fully staffed and producing quarterly reports to the council and management staff. Furthermore councils’ financial reports, annual plans, budgets, procurement procedures, council meetings and project implementation must be up to standard.

The main criteria governing the distribution of national revenue among local authorities include the following:

- (i) Grants to cover social services in priority sectors of education, health, water and roads (devolved functions for LGAs);
- (ii) LGDG to finance development/capital budget on the basis of meeting MCs set and approved by the central government;
- (iii) Grants to cover delegated functions (ministerial responsibilities implemented by LGAs); and
- (iv) Other considerations such as ability to raise revenue, population, geographical size, level of development etc.

³⁰ For details see Liviga, A. J., Maureen Roell and Amos Mhina, Effectiveness of Decentralization by Devolution: Financial Resources vs Absorption Capacity, Report submitted to MKUKUTA Secretariat, February 2010.

4.2.2. Intergovernmental Transfer System - Predictability and Timeliness

Local government authorities have mandate to raise and collect revenue from their areas of jurisdiction. In addition to their own sources LGAs receive substantial amounts of financial resources from the central government. In actual fact LGAs own sources yield only a fraction of what they receive from the central government. In the financial year 2005/06, for example, total revenue collected by all stood at TShs. 2,236,688,731,509 of which TShs 2,236 billion was collected by the central government and the regions collected only TShs. 77,006,044 (URT 2007b). In the LGAs financial year 2004/05 the total revenue collected was TShs. 90.2 billion. Expenditure figures for the central government compared to those of LGAs show that the latter are assigned 20% of the total public funds (URT 2005). In this regard LGAs collect less and spend more of the total national revenue.

The recurrent budget is mainly composed of fiscal transfers from central government, financed by Government's own revenue and General Budget Support (GBS), whereas most recurrent subventions, basket funds and development grants are entirely or mainly funded by development partners. All the large sector programs in Tanzania are mainly financed through a US dollar basket fund holding account maintained at the Bank of Tanzania, funded by DPs and managed by their respective Basket Fund steering committees (BFSC). Once basket funds are released into the exchequer account, they are treated the same as government funds. From fiscal year 2009/10 all development funds are transferred directly from MoFEA to the LGAs (except for Roads - Tanroads, which still is transferred via PMO-RALG and MSD via MoH). The only delay occurs within the MoFEA between the Commissioner of Accounts and the Accounts General. Other minor problems with PE include the delay of inserting newly employed staff in the pay roll. Another problem concerns salary adjustments for those entering new salary scales especially after getting promotion or when salary increases are effected to all public employees. These have delays of up to 6 months at times.

As indicated above, the payment of the Other Charges (OC) component of recurrent budget is generally regular even though insufficient. Experience from the field indicate however that there are some delays of a month or two mostly involving levy compensation funds, for the General Purpose Funds (GPF) around 300m the previous year. Nevertheless delays of OC are not a big problem because it is easy to make purchases of goods and services when the funds arrive because they often require only the quotation procurement procedure, which insist on a minimum 7 day period.

There is some delay in the transfer of development funds. In some cases 40-50% of the funds are received in the Months of April, May and June. Such a late receipt of development funds specifically affected the implementation of projects because the sums involved are above the Tshs100m threshold, which calls for advertisement in newspapers, which demands a minimum of 30 days for national tenders and more days for International tenders. Available information (Liviga et al. 2010) indicates funds are usually transferred in the third and fourth quarters. LGAs have Action Plans which start in July but funds are made available commencing from November, December and January, first OC funds then Development funds.

4.2.3. Locally Generated Revenues – Adequacy

Until recently, the Local Government Finance Act (1982) provided local government authorities with discretion to raise own revenues through the imposition of local taxes and non-tax revenue sources from residents and businesses within their areas of jurisdiction. While the adequacy and yield of local revenue collections have always been limited by shortcomings in local revenue structures and local revenue administration, the 2003/4 rationalization of local government revenues has put additional downward pressure on local revenue collections³¹. In 2003 and 2004, the Ministry of Finance pursued a series of restrictions on the revenue autonomy of local government authorities, primarily concerned with the efficiency and equity effects of local government revenues. In June 2003 the Minister of Finance announced the abolition of the Development Levy as well as a number of minor revenue sources (so-called nuisance taxes), while also limiting the local rate-setting discretion for other local revenue sources. Until its abolition, the Development Levy had been the main source of local revenue for rural authorities in Tanzania.

In 2004, the government imposed further measures aimed at improving business environment and removing impediments in business undertakings. While these reforms reduced license fee collections at both central and local government levels, the reforms particularly impacted local government revenue collections by virtually eliminating local business license revenues. Hitherto, business licenses had been among the most important revenue categories for urban local authorities. The most fundamental change in the local revenue legislation that resulted from the recent reforms was that prior to 2003 each local government authority was generally allowed to define its own revenue structure (including determining their own tax base and tax rates), subsequent to June 2003 local authorities were only authorized to collect revenues from specified list of local revenue sources. In essence, Tanzania moved from a permissive (or open list) approach to local government taxation to restrictive (or closed list) approach.

With respect to spending revenues the local authorities have discretion only in areas where the central government does not provide grants. Grants are provided for the following sectors with their specific formula in brackets. Primary education (number of school-aged children; 100%); health (population 70%, number of poor residents 10%, district medical vehicle route 10% and under-five mortality 10%); Agriculture Extension (number of villages 60%, rural population 20%, rainfall index 20%); Water (equal share 10% and number of unserved rural residents 90%); Local Roads (road network length 75%, land area – capped – 15% and number of poor residents 10%). From 2006/2007 local government authorities receive also a General Purpose Grant (GPG) whose formula consists of fixed lump sum 10%, total number of villages 10%, total population 50% and total number of rural residents 30%. These grants relate to recurrent expenditure in what is called “priority sectors”. In addition to the sectoral recurrent grants, local governments also receive additional recurrent transfers for local administration, as well as a compensation grant provided in compensation for local revenue sources abolished in 2003 and 2004. This compensation grant is now referred to as the General Purpose Grant (GPG).

Local government authorities receive also recurrent resources outside the sectoral grant mechanism. Such sources of funding include transfers within ministerial budgets intended to fund responsibilities that are delegated by the central government ministries to the local government level but not devolved. Local government authorities receive a sectoral transfer (from the Road Fund) for road maintenance, and drugs from the Ministry of Health for the provision of basic health services in their areas of jurisdiction. There are also sectoral transfer schemes notably the Common Health Basket Fund that provides local authorities with supplementary recurrent funding for health care services while the Primary Education Development Program (PEDP) provides additional funding to LGAs for primary education.

³¹ In 2003 the central government announced the abolition of several taxes (sources of revenue for LGAs) occasioning loss of revenue and subsequent need to introduce a special grant to compensate LGAs for such losses

4.3. Equitable Services

4.3.1. Steps being taken to Ensure Local Services are Accessible to All

As a matter of policy and principle LGAs provide services without discrimination although for some services (education) people have to contribute a certain amount. This system is called “cost-sharing”. In other services (e.g. water) residents of communities benefiting from such services have to pay some money (user fees) to contribute towards maintenance and servicing of machines including pumps. Most projects in these sectors are funded by the central government and donors and to ensure local ownership there are committees formed to oversee their management. A special facility – ward tribunals – has been set up to take care of administration of justice in wards and villages. The tribunals adjudicate both criminal and civil cases and where they are active they have reduced congestion of primary court cases.

4.3.2. Services Reaching Poor and Marginalized Communities

Under the decentralization program there is a requirement that communities must be involved in the provision of services. There is also under the different national programs (e.g. Tanzania Social Action Fund -TASAF, and Primary Education Development Programme –PEDP) a requirement that implementing agencies must have committees to manage not only the construction of facilities but also procurement and financial management in general. TASAF implements projects through village committees. The Tanzania Community Education Fund (CEF) a matching grant program designed to empower communities to improve their primary schools operates through village committees. At the community (village) level there are also school committees, health committees, water committees that are responsible for overseeing the construction of classrooms and teachers’ houses; running health facilities including construction of dispensaries; and managing including maintenance work on water facilities respectively. People are elected into these committees democratically and every resident of the community is eligible for membership.

4.3.3. Pro-Poor Policies Adopted by Local Governments

LGAs do not have pro-poor policies. All LGAs follow policies, directives and guidelines issued by the central government in providing services. There are sector standards issued by individual sector ministries (e.g. education, health and water) that are strictly enforced by relevant sector agencies. In education, for example, NACTE is responsible for approving curricula and teachers qualifications such that no education institution can provide certain courses if it does not have the right number and academic credentials for its staff. LGAs are now responsible for running primary and secondary schools in their areas of jurisdiction. National standards for service delivery have been established only in few sectors and this poses as a challenge to LGAs. Another serious challenge is that LGAs do not generate adequate own revenues and central government fiscal transfers do not cater for all the needs of LGAs in that respect.

4.3.4. Relationship between Local Priorities and National Priorities and Standards

Development Vision 2025 and the National Strategy for Growth and Poverty Reduction (MKUKUTA) provides the broad national framework for planning and prioritizing the activities or projects to be implemented by LGAs every fiscal year. MKUKUTA has, in no uncertain terms, identified areas which should be given priority by each LGA. Implementation of Development Vision 2025 will be informed by a Long Term Growth and Development Plan (LGDP) which is under preparation. The current MKUKUTA II marks the first five years of the LGDP spanning 2010-2025. MKUKUTA emphasizes under its Cluster I, among others, the following:

- Income generation especially for the poor sections of society – for this LGAs contribute 10% of their revenue to women and youth funds. These funds are used to assist the respective groups to engage in productive projects;
- Creation of productive and decent employment for all, especially women and youth and disadvantaged groups – as above;
- Potential for increasing growth, paying particular attention to environmental sustainability issues and productivity, especially in rural areas – for these LGAs are involved in a number of projects including, for example, community based natural resources management: forestry, marine and wildlife.

Under Cluster II MKUKUTA II focuses on how to deliver quality social services (education, survival, health and nutrition, clean and safe water, sanitation, decent shelter and safe and sustainable environment) that are better in quality and reach more of the targeted majority of poor. In response to this item LGAs have, for example, completed one major exercise: construction of one secondary school in each of their wards. Prior to and during MKUKUTA I LGAs have been implementing Universal Primary Education (UPE) which enabled all children of school going age to access primary education. This program has been expanded and benefits from the Tanzania Community Education Fund (CEF). There are currently plans to construct a health facility in each of the wards. The biggest challenges in all these endeavours remain resources – both fiscal and human. It is not uncommon to find a primary school or even a secondary school with one or two teachers. The teachers are poorly trained some through a crash program lasting no more than two weeks. Facilities including books, desks, and laboratory equipments are in short supply. All these affect the quality of education provided in the schools.

CHAPTER 5: CONTINUOUS IMPROVEMENTS

5.1 Capacity Building for Effective Leadership

Building local leadership capacity in local government has become fundamental objective of Tanzanian government policy. Improvements in local leadership and management are regarded as a driving force in the Local Government Reform Programme (LGRP II): Decentralization-by-Devolution (D-by-D). The Prime Minister's Office -Regional Administration and Local Government (PMO-RALG) is designated to implement the capacity building policy for local governments. Under the PMO-RALG, a semi-autonomous organization called the Local Government Reform Programme- I (LGRP I) was established to oversee the implementation of the local government reform in Tanzania. The organization's motto was to restructure the councils' departments, especially the human resource, so as to move with the idea of D-by-D. Although the main objective was not specifically on training the local staff, the programme provided the local officials with working tools such as computers, software, and furniture (especially in the financial and auditing departments). In that regard, capacity building in human resource was relatively strengthened. LGRP I also developed awareness, acquiring of new knowledge and skills for the local leaders through a series of small workshops and conferences. Moreover, it assisted local authorities to perform their responsibilities and to provide public services. It also facilitated the reorganization of the local councils' internal structures and preparation of Medium Term Plans and identified capacity building for development partners as well as for the central government.

Besides this, the Association of Local Authorities in Tanzania (ALAT) is also in charge of bringing together the leaders who work in the local governments to share information and experiences, build networks and initiate policy dialogue. Although, there is little impact which has been so far recorded on its contribution to effective leadership in local governments, the association has managed to identify the needs of members particularly on human capacity building and constituted a good source of information gathering for the development partners and the government. However, ALAT lacks independence from central government and weak technical capacity resources to enforce some of its policies.

Generally, there are several achievements which were made under LGRP I worth for mentioning.

- Local government staff regulations (2003 and 2004) were amended several times, disseminated and used in all the local councils in Tanzania;
- Council Employment Boards (CEBs) were formed and now operating in all the local councils in Tanzania mainland. However, there are still legal problems related to the powers of these boards as they still have to ask permission from the Public Service Commission (PSC) to employ any new employee.
- Basic training was conducted to key personnel involved in local governments such as:
 - All District Commissioners in Tanzania Mainland;
 - 106 District Executive Directors (DEDs);
 - 2,537 Ward Executive Officers (WEOs);
 - 3,447 councillors;
 - 3,940 Village Executive Officers (VEOs);
 - All village, *vitongoji* and *mitaa* chairpersons;
 - Training for records keeping and registry management in all the local councils in Tanzania. In addition, open and confidential registries were restructured and improved

All these measures were aimed at strengthening the capacity of the local leaders and their working environments. However, considerable concern is expressed about the extent to which the LGRP II is pushing forward this agenda in developing capacity building for the local leaders.

On the legal side, the principal local government Acts, which to a large extent were in unconformity to the policy paper on decentralization (1998), have been reviewed through an Amendment Act No. 6 of 1999. This was in line with the enactment of a Parliament Act No. 19 of 2004 that amended the Public Service Act No. 8 of 2002 to allow the local governments to recruit their own staff. Initially, there were two major problems to overcome with regard to human resources in local governments. First, the policy paper on decentralization stipulated that all human resources functions would be devolved to local authorities. On the contrary, the Public Service Regulations (2002) stated that the PSC should be in charge of all human resources issues in local governments. This contradiction paved the way for a second Public Service Regulations (2003) which again did not clear out the existing contradiction and instead added that “every local council shall have a Council Employment Board (CEB), which will facilitate the appointment of public servants of the local government authorities ... working under directives issued by the PSC”. Ironically, all the powers of recruitment could have been said to lie with the CEB but in the real sense it was the PSC which was controlling the scene. Even now, the same regulations still oblige the local governments to ask for permission from PSC to recruit their own staff, and worst of all, they still have no powers to discipline their directors. The only improvement which could be mentioned here with regard to these regulations is the establishment of some clear recruitment procedures as compared to when the council recruitment committees were in place under the Local Government Service Commission (LGSC)

There are several standardised national capacity building materials for councillors and officers in Tanzania Mainland. Innovative tools have been designed to foster capacity building of the local leaders. These include: service delivery surveys, suggestion boxes, roundtables discussions, code of conduct and ethics for councillors and staff and short-term training for the council officials. Moreover, the council officials have undergone training on election regulations for grassroots elections, and preparation of budgets based on computer software. Experience shows that these innovative tools have helped to reduce a number of conflicts between the elected officials and appointed officials. They have also created new windows for transparency and accountability in the management of council affairs although this area remains not fully improved. A key feature from all these efforts has been instrumental in developing good relationships among the council officials and between council officials and civil society organizations (CSOs). In assessing the impact of these efforts on the quality of leadership at the local levels, one has to look at the local citizens’ satisfaction with their leaders and quality of services rendered by the local councils. One of the key areas that a significant number of local people and researchers have hailed as success is on education, health and agriculture. These areas have produced tangible outcomes in terms of infrastructure and participation of the local people. For example, in educational sector, the number of enrolment in primary schools has risen significantly and new classrooms have also been constructed with more availability of textbooks to the teachers and pupils. This has been a result of implementing the Primary Education Development Programme (PEDP). However, the illiteracy remains high in Tanzania: about 28.6 per cent of Tanzanians cannot read and write in any language.

The Tanzania Social Fund (TASAF I & II), a joint project between the Government of Tanzania and the World Bank, was also behind this successful story. The main objective of TASAF II is to empower communities to access opportunities so that they can request, implement and monitor sub projects that contribute to improved livelihoods. These opportunities are linked to the Millennium Development Goals (MDGs) also incorporated in the National Strategy for Growth and Reduction of Poverty (MKUKUTA). TASAF has a capacity building component represented at ward, district/municipal levels which assist Tanzania to meet its target especially in health, education, water and sanitation, savings mobilization and access to market by the poor.

5.2. Resources for Capacity Building

Besides the human factor, capacity building has been developed on the side of financial management. Local governments can now handle large sums of money from the central government and the number of audit queries has also been significantly reduced. Previously, there was no formula based in the allocation of financial resources from the centre to the local levels. For example, prior to 2004, allocation transfers across local authorities in Tanzania followed a complicated process in which the wealthier and urban councils received more than the poor and rural councils. Currently, large shares are being transferred through a development grant called *local government development grant* (LGDG) with emphasis on sound financial management. One shortcoming of this system is the persistence of central government control because the plans and budgets prepared by the local councils can be altered by PMO-RALG. The introduction of formula based system for intergovernmental transfer had also some important improvements in the finance and auditing departments. Prior 2004, most of the finance departments were inadequately staffed, the financial records were grossly inaccurate and poorly organised. With the new formula based system for transferring grants from the centre to the local level, there was a concern over the capacity of the local councils in handling such considerable sums of money. Hence, several issues were addressed to solve this problem. On the one hand, internal audit departments have been staffed with qualified personnel in almost all the local councils in Tanzania. On the other hand, external audit departments have been staffed with more skilled people. Generally, the reports by the Controller and Auditor General (CAG) have shown some significant improvements in the number of queries from local councils. For example, adverse audit reports have been considerably reduced to zero per cent in 2006/2007. Moreover, all the local government finances are now available online and on most of the local councils' notice boards. There has also been a greater scrutiny from the elected members and the local people over the local executives. Since the local council meetings are expected to provide oversight on the local executives, the central government has retooled the elected members on budgetary control. Although it might be argued that the move is a significant improvement on the side of the elected members, this cannot automatically empower the elected members to control the council officials. This is because the majority of the councillors lack skills and supportive facilities to effectively carry out their oversight role. Despite these capacity building efforts, the local executives have continued to be all-powerful by using their technical skills to coerce key legislative support and apparently embezzlement of council funds. Corruption in local councils in Tanzania continues to be an issue. Perhaps, the central government should now focus its efforts to deepen democracy and decentralise governance to all the local councils in Tanzania.

Overall, capacity building efforts for local leaders in Tanzania have focused on improving the ability of local leaders to deliver public services. In particular, skills, competencies and ensuring finances are available to fulfil their assigned responsibilities has been the main priority of the Government under President Kikwete. Nevertheless, local finance in Tanzania has continued to be characterised by limited discretion. Apart from the central subsidies, most local councils can only collect about 5 per cent of their public revenues. Despite considerable improvements related to budget, accounting and auditing systems, and capacity to handle huge sums of money from the central government, there is a problem to consolidate the local budget information. For example, the presence of numerous computerised systems at the local councils makes accessibility to information rather difficult.

International organizations have also played a major role in the capacity building for local governance in Tanzania. These organizations have largely concentrated mainly on facilitating the creation of favourable legal and political environment. This involved advice and technical support for framing the local government agenda (2000) and later the policy paper on decentralization (1998). They also supported workshops and seminars on the key players in the local government reform. At the stage of the implementation of the reform, they assisted the government of Tanzania in training programmes for local government officials, various CSOs and professional associations on good local governance. These efforts further deepened and sustained LGRP I. Now, with the end of LGRP I and the launch of LGRP II in 2008 (which has been mainstreamed into the PMO-RALG), some important questions remain unanswered with regard to the sustainability of the new programme. It is becoming clearer nowadays that the drivers of the reforms in Tanzania seem to be the international donors. With the renewed LGRP II which is to be steered by the central government with some collaboration with development partners, the risk of non-implementation of the programme is also high. Given the past poor performance of the Ministry of Local Government in Tanzania, there are few people who will agree that things are going to be different. However, decentralisation is not simply a complex technical and managerial process that depends only on donors' support. It is also a political process that needs high level of commitment from the national leadership and local bureaucrats during the implementation stage. This is seen as the main challenge for LGRP II.

CHAPTER 6: GOOD PRACTICES

This chapter presents good practices that have been observed in two councils in Tanzania. The chapter contains four cases, three (3) from Korogwe District Council, and one from Mtwara District Council. These good practices from the said districts are by no means unique but they represent the best that can be done to ensure good local governance. It is a truism that a good government is that government closest to the scrutiny and control by citizens. A government can be close to the citizens through a number of ways including, but not limited to, the following: (i) involving the people in the process of planning (needs identification, priority setting, budgeting and implementation); (ii) public meetings including public hearings; (iii) regular communication through various means including the media (both print and electronic) as well as fliers and posters.

At the local level in Tanzania involvement of the people in the planning process is normally done through the official planning methodology, O&OD – Opportunities and Obstacles for Development – exercise. In LGAs this exercise starts at the village level and continues upwards to the district level where villages and wards' plans are aggregated into a district plan and budget. All district plans are thereafter sent to the national level for approval and allocation of the required funding. Feedback to the people in the villages is the responsibility of the respective LGAs (city, municipal or town council in urban areas and district councils in respect of rural areas). It is instructive therefore to look at what the two districts have accomplished in relation to principles of good local governance.

6.1. Korogwe District Council: Accountability

Korogwe District Council has established a system of informing the people what transpires after their plans are aggregated into a district plan and sent for approval. It is a simple but very important arrangement. The Council prepares a report in a table form sector by sector detailing, among other things, the following: (i) all the projects that have been approved by location (village), (ii) the total cost and source of funding for the projects (i.e. approved budget); (iii) who will be responsible for implementation (department and officer of the Council); (iv) time frame for the implementation; and (v) procurement and transport of materials.

The report contains also details of projects that are to be implemented by the Council at the district level. These are projects that cut across several villages including, for example, provision of social services such as education, health, water and socio-economic infrastructure such as feeder roads. Sources of funds for these projects are also indicated in figures. The report is printed, bound and is distributed to every village for the use of the people. A copy is also posted on the Council notice board at head office for the general public and interested readers. This is a good initiative that responds to three principles of the Aberdeen Agenda namely, citizen participation in local decision making; open local government – accountability; and open government – transparency.

6.1.2. Korogwe District Council: Justice

Administration of justice is one of the key issues in ensuring good governance and democracy in society. Timely and fair adjudication of cases guaranteed justice to people in their communities on both sides, that is, plaintiffs and defendants. Fair and timely administration of justice requires, among other things, knowledge and skill in law, adequate legal personnel in the courts, adequate working facilities including office space, reference materials, stationery, etc. It also requires courts to operate in a manner devoid of corruption in all forms of the vice. This calls for the judicial system, for example, to accord the relevant staff (e.g. magistrates etc.) reasonable pay and incentives. Administration of justice is acknowledged to be poor at the local level especially in primary courts where all resources are inadequate and of poor quality. Corruption in primary courts is rampant³² and justice is rarely served. Cases take too long to be heard and judgment passed. Primary courts are congested with cases and this complicates the delivery of justice at this level. Residents of Mazinde Ward in Korogwe District Council have gone some way to solve this judicial problem by establishing and running a ward tribunal which has worked very well.

The Mazinde Ward Tribunal was established in 1992 to address case congestion in primary courts. The tribunal is composed of nine (9) members one from each of the nine villages in the ward. Members have received legal training conducted by the district and regional legal personnel three times between 1992 and 2007. The tribunal handles both criminal and civil cases including, for example, land disputes, marriage cases (reconciliation), cases on environmental destruction including bush fires, etc. All complaints or cases are first received as cases for conciliation but with disagreement between the parties they are referred for normal criminal or civil procedures. Such reference (i.e. the decision) cannot be made without the presence of women members of the tribunal. Upon passing judgment either party to the case has a right to appeal within 60 days for all cases except land disputes which require 45 days. The tribunal meets twice a week and members are highly motivated to work although the task is voluntary. They are motivated to work because they are elected by their respective villages and that is trust and honour bestowed on them.

The tribunal is regarded as a success by residents of the ward and in Korogwe district for several reasons: (i) it has heard and judged cases with very few appeals and majority of which appeals have been rejected at the district court; (ii) the primary courts have fewer cases to handle and therefore less congestion; (iii) the proceedings take less time to complete compared to the primary courts, litigants accept arbitration/reconciliation before their cases could be referred to the normal criminal or civil procedures; (iv) members of the tribunal are not paid salaries or allowances and therefore payments in any form are not a constraint for running the tribunal. Such success has been recorded despite some problems the tribunal faces especially with regard to inadequate working facilities – office space, stationery, and security during hearings.

³² For further details of this problem see the Warioba Commission Report (1996), 'Report of the Presidential Commission of Inquiry Against Corruption' (1&2), Dar es Salaam, Government Printer.

6.1.3. Korogwe District Council: Equity

In whichever way we look at democracy, and its definitions differ and evolve, it can be understood as a system of government with four key elements: (i) a political system for choosing and replacing the government through free and fair elections; (ii) the active participation of the people, as citizens, in politics and civic life; (iii) protection of the human rights of all citizens; and (iv) a rule of law, in which the laws and procedures apply equally to all citizens. At the national level Tanzania can be proud of reaching the 30% mark for women MPs in its parliament as well as having in its current Cabinet more women ministers than ever before. But the fact remains that women participation in politics is marginal. For the past fifteen years women candidates have not exceeded 20% in all election categories (presidential, parliamentary and local or civic elections). In the 2005 parliamentary elections a total of 1,222 candidates were nominated by the 18 parties to contest in the 232 constituencies. Women candidates numbered only 159 (13%) whereas the corresponding numbers for the local government (councillors') election was 7,561 candidates for 2,552 seats with women candidates numbering only 441 (5.8%). Nomination of women to contest elections is more than wanting, it is woefully inadequate and bordering discrimination.

Women in positions of decision making are therefore underrepresented. For instance, women constitute only 19 percent of all senior civil servants in the country. Also, only about 32 percent of the government employees are women.³³ The rate of women's participation as leaders in political parties is even more disappointing. National chairpersons of all 18 political parties in Tanzania are men. Only three political parties have women as vice-chairpersons. In most LGAs the number of women in positions of decision making (i.e. Council Chair, Council Director, Councillors, Heads of Department) is very small. Various mechanisms have been used to encourage women to contest elections but have fallen short of the expected results – increased numbers of women in positions of decision making. Special seats for women in parliament and councils have not raised the number of women to at least 50% in those institutions³⁴.

Korogwe District Council has realized the dire need to have women in positions of leadership especially at the community level. It has decreed, for example, that all committees must have either a woman chair or deputy chair where the chair is taken by a man. This ensures representation and active participation of the women, as citizens, in politics and civic life as well as in decision making. It is a good and innovative practice that supports, extends and promotes the realization of the principles contained, for example, in the Aberdeen Agenda.

³³ “Mafanikio ya Maendeleo ya Wanawake na Usawa wa Jinsia” in REDET (2006) *Serikali ya Awamu ya Tatu: Tathmini ya Utendaji Wake*, p. 178

³⁴ Women enjoy substantial representation in parliament in several other countries. For example, currently, women represent almost half of the MPs in Rwanda, 45% in Sweden, 38% in Denmark and Seychelles has 58% in local government.

6.4. Mtwara District Council: Leadership, Transparency and Accountability

One of the cardinal principles in a democratic setting is communication between the governors and the governed, that is, between the government and its citizens. Communication is important for a number of reasons including the following: (i) to ensure constant contact and dialogue between the two sides so as to facilitate channelling of ideas, needs, demands of the latter to the former for appropriate action; (ii) the governors need to account, i.e. explain their actions or inactions to the citizens on a regular basis so as to ensure continued legitimacy of their decisions while in power; (iii) both parties need to stay informed of developments in all spheres affecting both their positions as well as their lives; (iv) communication is important for both vertical and horizontal accountability and citizens need to be informed in order to make meaningful contribution to the decision making process in their communities.

There are several constraining factors to effective communication in Tanzania (being relatively a large country with less developed means of communication) that need urgent attention if governance is to be democratic. One of the biggest challenges in communication is size of the government units (both central and local government authorities). Some regions are bigger than countries such as Burundi or Rwanda while several districts are bigger than Denmark or the Netherlands. Distances between villages and district head offices are enormous given the status of roads, availability of telephones and resources of local authorities. Mtwara District Council has 157 villages and the Council finds it difficult to keep abreast with issues in the villages for the said reasons. People in the villages are also starved of information and know very little of what is transpiring in their council. Councillors hardly convene regular ward meetings to inform their electorate on various issues due to, among other factors, unfavourable material resources (e.g. transport).

The council authorities have therefore devised a mechanism of collecting information from the villages and communicating with the same using council staff other than councillors. All senior staff (heads of department) have been assigned a number of villages they have to visit and either inform the people or hear from them about development issues. Irrespective of ones professional background the staff have to listen and take note of peoples needs, demands, and provide answers to questions on issues raised by the people during such visits. The visits complement other means of communication (letters, media and posters) and ensure constant communication between the council and the people in villages. It is an innovation that is doing wonders for a district faced with large number of villages with few council staff. It is an innovation that promotes the realization of the principles of the Aberdeen Agenda notably, capacity building for effective leadership, inclusiveness, scrutiny of the executive and open local government (accountability and transparency).

CHAPTER 7: RECOMMENDATIONS

This chapter presents recommendations based on the observations and analysis made in the substantive chapters (2 – 5) above. The recommendations are grouped under their respective chapter titles as follows:

7.1 The Enabling Environment

- i. The government to review the constitution in order to provide for local government protection from interference from central government. D by D need to be implemented in a manner that ensures the central government does not govern by directives that override local priorities and interests.
- ii. The government to take measures to fast track the legal harmonization process and critically look at the problems of non-compliance by MDAs to the vision of LGRP with specific reference to D by D.
- iii. Review the relevant legislation to allow councils to implement local plans reflecting local priorities and interests as identified by the party that controls the majority in the respective councils and not necessarily (and by orders) implement the ideology (party manifesto) of the national governing party.
- iv. Amend the Elections Act (1985) and such other legislations to provide for the National Electoral Commission to manage all elections (including grassroots elections) in Tanzania. The Minister responsible for local governments should not be the managing authority for including grassroots.
- v. To review (alongside the recommended changes to the constitution, legal harmonization and the Elections Act), the human resource management regime in local governments. Specifically, local governments need to be allowed to own the recruitment, selection, placement and development of their staff.
- vi. To enshrine D by D in the constitution; restructure the LGDG system and other central government/sector budgetary allocations to give LGAs more resources and financial autonomy. This will facilitate MDAs to devolve functions and roles to LGAs and stop governing by directives to avoid curtailing LGA autonomy.
- vii. To review the Election Act and related legislation to provide for a recall mechanism over local elected official as an instrument to hold non-performing local representatives accountable. Citizens have currently no real powers and instrument to exercise their legitimate role of holding their representatives accountable. At best they can decide not to re-elect such officials but this takes place only once in every five years.

7.2 Participation and Openness

- viii. To develop a strategy for ensuring communities are empowered through provision of information, accessing public meetings and records, rolling out O & OD to lower level local governments as well as building capacity for the private sector including CSOs.
- ix. With technical support from the central government LGAs to develop simple but effective strategies for communicating information including decisions to the people in their communities. In that regard LGAs to devise a mechanism to facilitate Councillors to hold regular meetings with their people to provide regular and effective feedback as well as collect views from the people; and LGAs to forge a working partnership with CSOs to mount civic education campaigns geared to getting people to participate in governance activities between election periods.

7.3 Equity

- x. To develop a strategy or mechanism to institute predictability and timeliness (reliability) in the transfer of development funds so that LGAs can make preliminary preparations for plan and budget implementation.
- xi. CG/LGAs to review the formula based allocation to ensure equity for remote and less endowed LGAs. With respect to staffing there is need to also put into place special incentives to draw staff voluntarily to these LGAs. A study may be commissioned to look into the specific ways and means to effect such changes.
- xii. CG to review the Local Government (Finances) Act and the grant system to provide for LGs to have a broad tax base to raise their own revenue. The Government needs to consider introduction of a permissive rather than restrictive tax system. Review of the Finances Act and the grant system to also provide for local governments to have discretionary powers including power to levy taxes and receive financial unconditional grants from the Central Government.
- xiii. To implement the LGRP II with special emphasis on building capacity of LGAs to mobilize own financial resources locally and reduce dependence on central government grants.
- xiv. The LGRP II should find a way of improving the demand side of accountability by reinvigorate the former development levy so as people can have a sense of holding the LGAs accountable for what they pay for. As of now, the general perception of the people seems to be that all revenues by the LGAs are provided by the central government for more than 90%, which implies that local citizens do not have to pay.

7.4 Continuous Improvement

- xv. Maintain the level and tempo of capacity building activities in LGAs and particularly LLGAs. Specifically the CG and LGAs need to focus on leadership and management as stated in the LGRP II. Emphasis must be directed to the following:
- Allowing and enabling LGAs to plan on their own with technical backstopping from PMO-RALG or central/sector ministries, strategic leadership cannot exist where CG controls are unlimited and unchallenged.
 - Giving LGAs powers and authority to recruit, train, develop their own staff with the requisite incentives including career development in the LG system (serious review of the Public Service Act and related directives).
 - Councillors must not only be trained (their basic roles and relationship with executives) but also their general level of education/qualifications must be improved.

7.5 Good Practices

- xvi. CG and LGAs to consider adopting strategies and mechanism put in place by Korogwe and Mtwara district councils in relation to, for example, accountability, equity, transparency and leadership. The two councils have simple strategies in place to ensure good governance practices.

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ANNEX 1 5.0 Research Questions

1. The enabling environment

a) Constitutional and legal recognition for local democracy

- (i) To what extent does the legal framework facilitate local democracy to prevail?
- (ii) Is local government protected in the constitution? If so, quote section.
- (iii) If local government is not enshrined in the constitution, is it created by statute? How much protection does that legislation afford local government against the intervention of central government.
- (iv) Is local democracy, that is elected local government, protected in the constitution? If so, quote section.
- (v) If local democracy is not enshrined in the constitution is it protected by legislation? How much protection does that legislation afford local democracy against the intervention of central government?
- (vi) Are there any other means by which local government and local democracy are protected, eg international agreements?
- (vii) Are the constitution and various laws governing local government sufficiently harmonised or are there points of serious conflict?

b) Political freedom to elect local representatives

- (i) Does political freedom exist in all local government areas such that citizens can freely express their will through the political process and do the councils elected represent the will of the local citizens?
- (ii) What system is used to elect local representatives?
- (iii) How many seats were uncontested at the last election?
- (iv) How frequent are elections?
- (v) Are elections held according to legislative time scales?
- (vi) Are all councillors and mayors elected by universal suffrage within the council area
- (vii) Are councillors able to reflect the views and needs of local people or is their undue pressure on them to favour the views and needs of special interest groups including central government, their own party etc.?
- (viii) Are political freedoms restricted according to gender or membership of a marginal group?

c) Partnership and cooperation between spheres of government

- (i) What mechanisms are in place to ensure that intergovernmental relations enhance dialogue and promote local democracy?
- (ii) Is there a forum for inter-governmental dialogue? Is this permanently established or ad-hoc? How often does it meet? What bodies and ministries are involved? Is the level of representation at these meetings normally high enough to make dialogue meaningful?

d) Defined legislative framework

- (i) Are the roles and responsibilities of local government and central government clearly delineated and does local government have sufficient powers to carry out its mandates?
- (ii) Are the responsibilities appropriately distributed?
- (iii) Are there any omissions from the documents detailing which sphere of government is responsible for what?

2. Participation and openness

a) Citizen participation in local decision making

- (i) Are there mechanisms and channels in place to enable citizen participation in local decision making? Does local government have a legislative “duty to consult” to which it must adhere?
- (ii) Does local government have any specified areas of consultation eg planning permission, participatory budgeting
- (iii) Is there a local government-civil society consultation forum in place and operating at the local level?
- (iv) Do districts have a register of the civil society organisations operating in their area?
- (v) How does local government reach out to civil society in its consultations?
- (vi) How is civil society able to engage in the local decision making process of local government?

b) Open local government – accountability

- (i) Is a robust and independent regulatory body in place to safeguard against corruption, mismanagement and the inappropriate use of resources by local government? Is this body accessible to the population and is its role clearly understood?
- (ii) Does local government account for its actions to the local community and if so how? Consider political, fiscal and bureaucratic aspects.
- (iii) How can local citizens call their councils to account?

c) Open local government – transparency

- (i) Do local governments have a public information and communications strategy? Does this take into account the difficult to reach sections of society?
- (ii) How does local government communicate its decisions to local people?
- (iii) Are council meetings open to the public?
- (iv) What mechanisms do local governments have to receive and respond to issues raised by citizens?

d) Scrutiny of the Executive

- (i) Do the internal structures of local government provide for formal scrutiny of the political executive?
- (ii) Is the executive scrutinised by non-executive councillors? By civil society organisations or community individuals?
- (iii) Is scrutiny encouraged and are non-executive councillors and non-councillors given the opportunity to gain the skills to scrutinise the executive intelligently and constructively?

3. Equity

- (i) What mechanisms are in place to promote effective inclusiveness?
- (ii) What percentage of councillors are women?
- (iii) If there is a system of reserved places for women in place, what percentage of the number of councillors does this represent? [note that the answer to ii. may be 40% and the answer to iii. may be 25%.] If there is a system of reserved places please describe how it operates. Are there reserved places for any other groups and if so, please describe.
- (iv) What percentage of local government staff are women?
- (v) What percentage of senior local government staff are women?
- (vi) What percentage of councillors is from marginalised ethnic groups and socio-economic groups?
- (v) How does local government ensure that people from marginalised communities are given adequate voice in the policy making processes of the local government?
- (vi) Are there any programmes in place to make local government more inclusive? Please describe.
- (vii) Adequate and equitable resource sharing
- (viii) Do local governments have adequate funding to fulfil their basic mandates?
- (ix) On average, what percentage of their budgets do local governments raise locally?
- (x) Is there a mechanism for financial equalisation between local authorities?
- (xi) How are central transfers determined? Are there institutions in place to support them, i.e. local government finance commissions? Are transfer payments governed by a formula, an agreement between central and local government or a legal framework?
- (xii) Are the transfers predictable and timely?

b) Equitable services

- (i) What steps are taken to ensure that local services are accessible to all?
- (ii) Are the services provided relevant to and reaching poor and marginalised communities?
- (iii) What pro-poor policies do local governments adopt?
- (iv) Is there a relationship between local priorities and national priorities and standards?

4. Continuous improvement

a) Capacity building for effective leadership

- (i) Is there a policy responsible for building the capacity of councillors, officers and local governance institutions?
- (ii) Is there a body designated to implement the capacity building policy?
- (iii) Are there standardised national capacity building materials for councillors and officers?
- (iv) What impact is this capacity building having?
- (v) What is the role of international organisations in supporting capacity building?

b) Resources for capacity building.