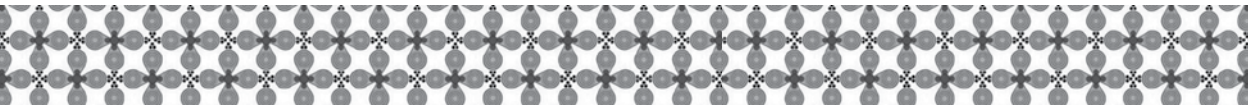


Effectiveness of Anti-Corruption Agencies in East Africa

Tanzania

AFRICA REGIONAL OFFICE (AfRO) POLICY BRIEF 2016



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Contents

I	State of corruption in Tanzania	1
II	Anti-corruption framework	5
III	Recommendations	10
	Annex: PCCB performance	14

I: State of corruption in Tanzania

Transparency International's Corruption Perception Index (CPI) 2014 ranked Tanzania 119th out of the 175 countries and territories in the index globally. The levels of corruption in Tanzania are deemed to be a threat to national security. It is estimated that between 2001 and 2008 Tanzania lost USD 1 billion (Tsh 1.6 trillion) to corrupt deals. Among the scandals that cost the nation tax monies were:

- The Bank of Tanzania's Twin Towers scandal in which a 2008 Ernest and Young audit report revealed that more than USD 116 million had been improperly paid to 22 firms through Bank of Tanzania's external payment arrears account (EPA) in one financial year alone.
- Deep Green Finance Ltd scandal in which the company was involved in the funnelling of money between Tangold Limited and Meremeta Gold Limited, before being wound up two years later, having received 'billions of shilling from the Bank of Tanzania within its relatively short lifespan'.
- British Aerospace Engineering (BAE) Systems radar deal where Tanzania purchased an obsolete USD 44 million (Tsh 70 billion) radar from them.

The East African Bribery Index by Transparency International in 2014 ranked Tanzania as the second most corrupt country within the East African Community (EAC). The experiential survey established that the likelihood of a citizen encountering a situation in the course of public service at which bribery occurs is 19% (up from 12.9% in 2013). A disturbing 42% of respondents were asked for bribes from the respective public services they interacted with and an astounding 82% of the public that interacted with the police had bribes demanded from them, and 56% of the Tanzanians interviewed admitted to have paid a bribe.¹

A 2009 Prevention and Combating of Corruption Bureau (PCCB) survey indicated that 39% of households, 49.7% of company executives and 32.5% of public officials had given bribes to a public officer in order to obtain a service.²

Contrary to the PCCB's opinion that grand corruption is on the wane, incidences of grand corruption continue to emerge. In July 2013 suspicious transactions in Independent Power Tanzania Ltd's (IPTL) escrow account amounting to USD 122 million. IPTL is a state company. The controller and auditor general (CAG) found that some of the documents related to the suspicious transactions were forged and that the withdrawals from IPTL's bank accounts were irregular. Government officials including ministers, the attorney general and judges are said to have received suspicious payments from one of the former shareholders

1 Available at <http://www.transparency.org/cpi2014/results> [accessed 3 September 2016].

2 PCCB (2009) *National Governance and Corruption Survey Report 2009* (Vols 1-4).

of IPTL. Parliamentary and public pressure from the report forced the attorney general and Judge Fredrick Werema to resign while a cabinet minister, Prof. Anna Tibaijuka, was dismissed by the President. According to the report by the attorney general, Fredrick Werema and Prof. Anna Tibaijuka received Tsh 1.4 billion and Tsh 1.6 billion (approximately USD 1 million) respectively from a former shareholder of IPTL, Mr James Rugemalila.

Politics of corruption

Over the past five years the fight against corruption has become a politically contestable agenda in most political and policy competitions. In his inaugural speech to parliament in 2005, President Jakaya Kikwete identified fighting corruption as a top priority: 'We will accelerate the war on corruption in a more scientific way and by addressing its root causes.'³ While inaugurating the PCCB headquarters in 2009, President Kikwete warned the PCCB officials to either fight corruption or quit.⁴

In 2007, Dr Wilbrod Slaa, the then chairman of the opposition political party, Chama Cha Democrasia na Maendeleo (CHADEMA) while addressing a public rally at Mwembeyanga in Dar es Salaam, published what he called a 'list of shame' of corruption sharks in Tanzania. The list included high ranking government and political officials.

Since the 1995 multiparty elections, Chama Cha Mapinduzi (CCM) has campaigned from an anti-corruption platform while at the same time tacitly practising it in its various forms. The Traditional Hospitality Act (2000), popularly known as *takrima*, was defended by the ruling party on the basis that traditional hospitality differs from corruption. In the views of the party leadership, it was meant to ensure that those competing for political posts could extend a vote of thanks to their supporters. The party opined that there was nothing wrong with a parliamentary or any elective candidate providing drinks, food and entertainment to prospective voters as long as such things are given in what they described as good faith.

The financial inequality between ruling party candidates on the one hand and the generally opposition candidates on the other, tilted the balance of incumbent ruling party candidates. Most of the *takrima* events or activities also involved the excessive use of money from unclear or dubious sources. There is thus speculation that candidates are but agents of businesses with whom they have the undertaking to provide public contracts in case they win the elections.

The Traditional Hospitality Act was declared illegal in April 2006 by the high court following a case filed by the Legal and Human Rights Centre (LHRC), Lawyers' Environmental Action Team (LEAT) and the National Organisation for Legal Assistance (NOLA).

A 2005 report by the National Democratic Institute (NDI) noted that electioneering in Tanzania is as expensive as in any other nascent democracy. Political candidates need to finance 58% of electoral expenses with 'rallies and events' costing 44% of total expenditures.

3 Ibid.: vol. 1, p. iv.

4 Agenda Participation 2000 (2009, July) Fight Corruption or quit, says JK. *Tanzania Corruption Tracker*.

According to the report, most respondents said that what makes campaigns so expensive in Tanzania is the fact that it has become almost impossible to be elected if a candidate is not willing to spend money either on buying votes or influencing his party to field him in its list. Elections have become more about how much a person is worth and not whether they have policy-relevant ambitions. The report notes that:

the high cost of elections has turned the political process into something that can only be accessed by rich and predominantly male candidates. This has led to political parties being seen as private businesses rather than vehicles to address certain outstanding policy issues.

Parties have formed the habit of nominating only rich candidates who have the capacity to fund their own elections ...

The NDI report also notes that respondents decried the domination of wealthy individuals who seek office in order to gain access to and control over lucrative contracts, and business contributors who demand paybacks from those whom they support politically. As a result, the political establishment is often seen as a circle of wealthy individuals who make policy decisions based on private interests, rather than the common good.

It thus suffices to conclude that a significant proportion of those that wield political power in Tanzania, either benefit directly from corruptly acquired contracts, or through contributions from businesses seeking their influence.

CCM Manifesto and corruption

The 2015 CCM Manifesto promises ‘zero tolerance’ towards corruption. It further proposes to fight graft in the public and private sphere, and to end cronyism and the abuse of power in public service.

Since his inauguration in October 2015, President John Pombe Magufuli, scrapped normally lavish independence-day celebrations and clamped down on foreign travel for officials, personally vetting all trips. A crackdown on illicit sugar imports has led to shortages. He has also dismissed from office several high ranking officials for various transgressions including suspected corruption, laziness and incompetence. He is thus seen by the vast majority of the public as genuinely fighting corruption.

Human rights advocates however worry about his tendencies to run government by fiat and to take snap decisions without thinking through the consequences. In July 2016, a court sentenced a man to three years in jail for insulting the president on Facebook.

Parliament and corruption

Tanzania’s parliament has had a chequered history in the fight against corruption. It is through parliamentary pressure that the Warioba Commission, which placed corruption at the centre of the country’s socio-political discourse, was instituted in the 1990s. It also,

in 2014, successfully called for the sacking of several top officials including the attorney general and two cabinet ministers implicated in a multi-million dollar energy sector graft scandal.

It has however also been part of the corruption problem. In March 2016, parliament suffered a serious credibility crisis as claims of bribery of several members of parliament emerged. The speaker had to remove three parliamentary committee chairpersons and two vice chairpersons from their leadership roles after reports that members of the affected committees had solicited bribes from state parastatals whom they were investigating.

Judiciary and corruption

According to the independent watchdog site, the Tanzania Corruption Tracker System, most primary courts operate with impunity, where key decisions are made at the whim of corrupt magistrates who have developed a network to make money.

Several magistrates in lower courts have appeared before the court to answer to charges of receiving bribes with intent to influence court decisions. In 2012, the country's anti-corruption watchdog, the Prevention and Combating of Corruption Bureau (PCCB), arrested Hon. Pamela Kalala, the magistrate from Ilala district court in Dar es Salaam, accusing her of soliciting and receiving bribes from a relative of an accused person, so that she could influence the court's decision on the case. In December 2007, a district magistrate Jamila Nzota landed in court accused of soliciting Tsh 700 000 (USD 431) from a former representative of Manarth Enterprises Ltd in exchange for preferential treatment in civil case number 33/207. Other magistrates prosecuted on bribery charges include a Kisumu resident magistrate, Adolf Mahai, in 2007 and an Ukonga primary court magistrate, Ndovela Kihenga, in June 2011.

II: Anti-corruption framework

Anti-corruption is generally regulated by the Prevention and Combating of Corruption Act (PCCA) of 2007 and its substantive provisions. The Act provides a broad definition of corruption and its related offences under section 15 and includes other forms of corruption like sexual corruption (section 25) as an offence. It punishes both the giver and receiver of any form of corruption.

It prohibits corrupt transactions as an inducement to public officials (section 16), corruption in public procurement under section 18, and bribery of foreign officials and organisations (section 18). Possession of unexplained property is an offence under section 27 and embezzlement and the misappropriation of public property under section 28. On face value, the PCCA is a progressive piece of anti-corruption legislation with extensive provisions. However its effective implementation remains a challenge.

The constitution regime governing anti-corruption work in Tanzania has been a subject of ongoing debate. The Constitution of Tanzania of 1977 mentions the fight against corruption under article 9(h) of its fundamental objectives and directives of state policy in which the state commits itself to eradicate all forms of injustice, including corruption. However over the past years there were concerns that these provisions were weak and needed to be strengthened.

The anti-corruption regime has been reflected in other laws like the Anti-Money Laundering Act (AMLA) of 2006, the Economic & Organised Crimes Control Act of 2006, the Public Procurement Act of 2004 and the Election Expenses Act of 2010. The latter prohibits corruption and bribery in elections and requires all candidates and political parties to provide detailed account of their election expenses. The Public Leadership Code of Ethics Act of 1995 (section 9) requires public officials to declare their assets as a mechanism for regulating the misuse of public resources and corruption in the public service. The effective follow up and enforcement of this code has remained largely weak. In 2011 the ethics secretariat commissioner, Judge Salome Kaganda, said at a press conference that almost half of public servants had not complied with the law. Political leaders topped the list of non-compliant public officials. Between 2006 and 2009, the ethics secretariat had carried out the physical verification of only 1 466 public servants who had declared their assets.⁵

The Public Finance Act of 2001 (section 25) requires all spending agencies to abide by internationally accepted accounting standards in maintaining records and submitting accounts and reports to the controller auditor general (CAG) for auditing. The CAG is empowered by law (Public Audit Act of 2008) to audit all public expenditures and to ascertain value for money by conducting special and social audits on specific projects. There

5 PCCB (2009) *National Anti-Corruption Strategy and Action Plan-II (NACSAP II) Implementation Report*.

are efforts to increase transparency in the extractive sector by enacting a new Tanzania Extractive Industries Transparency Initiative (EITI) law. The bill is currently in draft form. There are proposals to amend the Public Procurement Act (PPA) of 2004 to enhance its efficacy against corruption. A whistleblower bill intended to protect whistleblowers and informers has been with parliament since 2011.

The Anti-Money Laundering Act of 2006 (section 4) establishes a department known as the financial intelligence unit (FIU) based at the ministry of finance. The FIU is responsible (under section 6) for receiving, analysing and disseminating any suspicious transaction reports and other information regarding potential money laundering or terrorist financing received. It is supported by the national multi-disciplinary committee on anti-money laundering (section 8 of the PCCA) comprising of representatives from various government organs. Despite the symbiosis of the functions of bodies involved, the PCCB is not a member of this committee. This unusual absence of the PCCB from this committee weakens the bureau's ability to pursue its mandate effectively.

The curbing of corruption and public waste is featured in both Tanzania's Third National Strategy for Reducing Poverty (NGSRP), popularly known as MKUKUTA III, and the five-year national development plan. The country's strategy to tackle corruption was articulated in the National Anti-Corruption Strategy and Action Plan (NASCAP) II which ended in 2012. NASCAP III, whose implementation is yet to start, prioritises 'combating corruption in a more scientific way and by addressing its roots causes' as its primary goal.

Corruption thrives in an environment of secrecy. It is therefore challenging to detect and measure it with a view to designing and executing an appropriate response. The absence of an access to information law in Tanzania compromises the ability of law-enforcement, oversight and citizen institutions and individuals to recognise and act on corruption.

Prevention and Combating of Corruption Bureau

There are a number of factors which led to the establishment of the PCCB. The economic turbulence of the 1960s, 1970s and 1980s necessitated that the government took efforts to contain the misuse of public resources. The economic liberalisation and political pressure due to the advent of multiparty politics in the 1990s opened up space for wider debate on corruption and public fleecing of the country's resources. Corruption had led to the collapse of major sectors of the economy, including the parastatal sector. Pressure from civil society and the international community to fight corruption led to the formation of the Judge Joseph Warioba Commission to look into tackling corruption in Tanzania. The Warioba report made recommendations for strengthening the legal framework and establishing a strong anti-corruption body. The combination of these factors played a major role in the establishment of the agency and its subsequent expansion in 2007.

The PCCB was established by an act of parliament in 2007 and mandated by the law – (Prevention and Combating of Corruption Act No. 11 of 2007 (PCCA) – to prevent corruption, educate society about the effects of corruption and to enforce the law against corruption. The PCCB is established as an independent public body (section 5 of the PCCA). The PCCB

replaced the Prevention of Corruption Bureau (PCB) which was established in 1990s and the Anti-Corruption (Police) Squad (ACS) established in the 1970s. Despite its seeming independence, the PCCB reports directly to the office of the president. The president also has the power to appoint and remove the director general (DG) of the PCCB.

As such, there exists the public perception that such patronage by the executive seriously compromises the independence of the PCCB and its ability to perform. The DG has in the past expressed the lack of 'political will' and political interference as obstacles frustrating the agency's work.⁶

Though its constitutive act grants the permanence and continuity of the agency, the PCCB is not anchored in the constitution. This absence of rootedness as a 'constitutional body' makes the PCCB vulnerable to disbandment without any constitutional amendment process. The PCCA is silent on how the agency may be disbanded.

In 1991, following the tide of economic liberalisation and political pluralism, the PCCA was further amended through the Prevention of Corruption (Amendment) Act of 1990, which led to establishment of the Prevention of Corruption Bureau (PCB). The PCB was in 2007 amended in the Prevention and Combating of Corruption Act (PCCA) of 2007.⁷

According to the PCCB, the PCA Cap. 329 (RE 2002) had shortcomings which affected the bureau's operations and functioning as a contemporary anti-corruption agency. For example, it was silent how the agency could execute its functions; it did not give the legal mandate or opportunity to follow up and prosecute cases, and did not criminalise most corruption offences such as trading in influence or the possession of unexplained wealth. It was also silent on sexual corruption and other forms of favouritism which were on the increase.⁸ This necessitated a new law and a new institution in 2007.

The ACS and PCB were specialised security and law enforcement agencies designed to promote the economic objectives of the colonial era and the post-independence socialist (*Ujamaa*) state by tackling corruption and economic related crimes. The institutional and legal regime has evolved over time from pursuing small economic detractors of the colonial era to the pursuit of sophisticated economic crimes of post-independence governments.

Since its establishment in 2007, the PCCB has not seen significant changes in its powers. Meanwhile, the manifestation and magnitude of corruption has, and continues to, rapidly evolve. The PCCB is now required to deal with transnational corruption, sophisticated syndicates and cyber-crime.

Capacity

The PCCB has over 80 advocates and over 120 legal officers. It has over 2 086 permanent staff. It has a staff training plan and has developed an anti-corruption training syllabus

6 Dr Edward Hosea in his opening remarks at the Pan African Anti Corruption Conference: Corruption and Development in Africa, Serena Hotel, Dar es Salaam, 4 June 2014. Similar resentment was expressed in Dr Hosea's interview with American diplomat Mr Purnel Delly and exposed in the wikileaks.

7 See <http://www.pccb.go.tz/index.php/about-pccb/historical-background> [accessed 4 September 2016].

8 Ibid.

which all staff are required to complete. The training programmes comprise of a basic investigation course (three months), an intermediate investigation course (two months), a senior investigation course (a month), a command investigation course (two weeks), and an executive management course (two weeks).

The PCCB's mandate is articulated in section 7 of the PCCA. The agency is tasked with promoting good governance and the eradication of corruption. It has powers to examine and advise on the prevention of corruption, solicit public support in the fight against corruption, investigate upon advice from the director of public prosecutions (DPP), as per section 57 of the PCCA, and prosecute offences under the PCCA. The requirement for the DPP's clearance is seen as a major limitation to the PCCB's performance in dealing with corruption cases in an expeditious manner. It is hoped that the new constitution will broaden the PCCB's mandate to include full prosecutorial powers of all corruption offences.

The PCCB's mandate is limited to mainland Tanzania and this limits its coverage of corruption cases committed on the other side of Tanzania's union. Anti-corruption in Zanzibar is handled by the Zanzibar Anti-Corruption and Economic Crimes Authority (ZACEA). The United Republic of Tanzania has therefore two anti-corruption agencies. There is a concern that having two agencies dealing with corruption in the same country is a major weakness that undermines the effective and coordinated efforts against corruption in the country. The multiple anti-corruption agency models have proven a failure in other countries like Nigeria and South Africa. It is therefore recommended that one agency with a broad mandate covering both the mainland and Zanzibar would be the best option.

The agency has the mandate to receive information and reports on corruption, and has toll free hotlines and secure email addresses for members of the public to report cases of corruption. The location and telephone contacts of all PCCB district and regional offices and respective commanders are widely advertised in PCCB media and information materials such as calendars.

The PCCB receives large volumes of information and an evaluation is made to determine whether the available information meets a minimum threshold before being subjected to further investigation and action. The minimum threshold is that the information received should show probable cause and reasonable cause to believe that an offence has been committed.

The PCCB has powers to investigate all cases of corruption as per section 7 of the PCCA. The DG can authorise an officer of the bureau to conduct a search under section 12. However the powers to prosecute are still controlled by the DPP, who has a final determination as to whether a particular case should be prosecuted or not (section 57 of PCCA). The DPP also has powers to drop any case by filling a *nole prosequere* to the court as per section 91 of the Criminal Procedure Act of 1985.

This has often been the bone of contention between the DPP's office and the PCCB, with the bureau arguing that the DPP's office sometimes can be an obstacle to speedy prosecution of corruption cases. The PCCB has powers to transfer the files from one agency or department to another. According to the PCCB, a total of 1 711 files were transferred to

other agencies for further action between 2005 and 2014. Under section 9 of the PCCA, the DG or any officer is required to institute criminal proceedings against any person within six months from the date of seizure. In case of failure to bring charges against the accused within the six months, an application for extension for another specific period is required. This timeline is also provided in the Criminal Procedure Act of 1985. However perpetual extension without charge may lead to miscarriages of justice.

The relationship between the agency and other law enforcement organs like the police is described as 'good'.⁹ The PCCB works with the integrity committees established within the police force to ensure that corruption within force ranks is addressed. The agency also depends on the police for detention of those accused of corruption pending arraignment before court and trial. However this collaborative relationship is often compromised as the police have constantly been ranked as the most corrupt institution in the country for the past three years. A PCCB study in 2009 ranked the police force and the judiciary as the most corrupt institutions, with each scoring 64.7% and 58.9% respectively.¹⁰ Similarly Transparency International's East African Bribery Index 2014 also ranked the police force and the judiciary as the most corrupt.

There is a formal relationship between the PCCB and the justice system, including the judicial institutions specialising in dealing with political corruption. There is a legal relationship between the agency and the DPP, which requires all cases to be forwarded to the DPP for determination before any prosecution can proceed (as per section 7 of the PCCA and article 59B(2) of the constitution). The PCCB uses the existing courts to prosecute all corruption cases. A legal relationship also exists between the agency and the CAG, which requires the CAG to transfer or hand over all suspected cases of corruption to the PCCB for further investigations. The PCCB can also request the CAG to audit any suspected cases of corruption.

9 Dr Edward Hosea in an interview with OSIEA Researcher, PCCB headquarters, Dar es Salaam, Tuesday 19 August 2014.

10 PCCB (2009) *National Governance and Corruption Survey Report 2009* (Vols 1–4).

III: Recommendations

In order to tackle some of these challenges the following recommendations are being made.

Strengthen overall legal framework for combating corruption

Generally, Tanzania has a robust legal framework which is well linked with continental and international anti-corruption regimes. However the effective implementation of this legal framework is problematic. At least 90% out of 13 526 respondents (households and public officials) interviewed in a PCCB commissioned study in 2009 believed that poor law enforcement or inadequate punishment of the culprits were factors responsible for causes of corruption.¹¹ Thirty-seven per cent of respondents interviewed by Transparency International saw no reason for reporting the payment of bribes because they felt no action would be taken against the culprits.¹² There is a need to address some of the legal lacunae which make enforcement and punishment of corruption difficult.

- Tanzania should support the adoption of an East African Protocol on Combating Corruption (it has been in draft form too long).
- Expedite the enactment of the Whistleblowers Act. This bill has been pending for the last five years. The government should urgently enact and pass an access to information law, which was first touted in 2006. President Kiwete also promised on 31 October 2013, to have a bill sent to parliament and gave assurances that such a law will be passed by April 2014. This bill was presented to parliament under a certificate of urgency in March 2015, but later withdrawn and progress has remained stagnant.
- Allocate resources to protect informers and implement witness protection programmes as per section 51 and 52 respectively of the PCCA, and the PCCB should make deliberate efforts to advocate for these resources to be available.
- Establish corruption courts to expedite trials of corruption cases. The volume of pioneering case law from these courts could also help in opening new frontiers in anti-corruption litigation.
- Initiate the appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with the PCCA to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds. Currently this discretion is only granted by the courts.

¹¹ PCCB (2009) *National Governance and Corruption Survey Report 2009* (Vols 1–4).

¹² Transparency International-Kenya (2013) *East African Bribery Index 2013*.

- Make legal reforms which allow mitigation based on collaboration with anti-corruption agencies. Mitigation of punishment based on collaboration with law enforcement agencies is currently only granted at the court's discretion. For this to happen, the suspects have to cooperate with the law enforcement before they have participated in a criminal act, not afterwards.
- There is a need for a reform in the anti-corruption legal framework to make provision for a plea bargain and to sign treaties to cater for plea bargains between Tanzania and other countries. This will increase intelligence and knowledge about corruption within and outside Tanzania, among other advantages.

Strengthen agency status

- Reforms are required to ensure that the PCCB is rooted in the constitution. Currently it is not a constitutional body and thus its existence is vulnerable. This constitutional rootedness needs to be driven along with the gazetting of corruption as a union matter as well.
- There is a need to secure the tenure for the head of the PCCB. The current law does not provide for security of tenure, nor is the position anchored in the constitution.
- There is a the need for an independent external oversight body to be created. Currently the PCCB's oversight structures are vague. The law is silent on this.
- Move the PCCB away from the presidency and ensure that it is free from political interference or any risk for the same to happen. This oversight role can be given to parliament or the judiciary.
- Ensure that the new constitution makes for provision of high degree of independence for the PCCB.
- Consider transforming the bureau into an anti-corruption commission with publicly vetted commissioners. This will give it more autonomy and cushion it from possible interference.
- As an anti-corruption agency, the PCCB itself might not be free from corruption. A question therefore arises as to who exercises checks on the corrupt conduct of the PCCB as an institution? If such a mechanism exists it would be crucial to be explicit about it, where it is not in place one would need to be established. Connected with this issue, it is important to have some clarity about where citizens can report corruption allegations involving senior PCCB officials, for example.

Strengthen PCCB mandate and inter-agency collaboration

- Extend the jurisdiction and mandate of the PCCB to include Zanzibar, with the ZACEA working as a sub-agency under the PCCB.
- At the moment it appears there is no clarity regarding how the mainland and Zanzibar work together to monitor and fight corruption. However, the anti-corruption agencies may gain constitutional recognition in the proposed constitution. In the event that corruption is given status as a union matter, it will

be important that the institutions involved (mainland and Zanzibar) to chart out a framework for collaboration that will allow addressing corruption as a whole country issue.

- There is a need to expand the mandate of the PCCB in dealing with cases. For example, embezzlement cases under the Penal Code when sent to the DPP are referred to the police and not brought forward to the PCCB. There have been few cases under the PCCA because the DPP prefers to have cases under the Penal Code.
- There is a need for more inter agency collaboration (INTACO). As with inter-governmental cooperation between the mainland and Zanzibar, there is clearly a challenge as regards inter-agency cooperation and information sharing. This needs to be improved across the board to avoid the possibility that agencies do their own thing and undermine the effectiveness of sanctions that are imposed from time to time. An example was given of a Chinese firm that had been blacklisted by the Public Procurement Regulatory Authority (PPRA) winning a bid for a Dar Port project, which raised questions as to whether government institutions indeed collaborate and whether sanctions by anti-corruption bodies mean anything.
- There is limited inter-agency collaboration between the PCCB, FIU, the police and the DPP. According to the PCCB, the need for the DPP's consent presents challenges in practice because of delays and the fact that the DPP has a large workload involving all criminal matters. Pending receipt of consent, suspects are out on bail. The DPP has assigned special officers to deal with corruption cases, however, there is a need to enhance the DPP's understanding to handle corruption prosecutions.
- There should be an investigation of the constraining factors that limit efficiency and effectiveness in the cooperation arrangement between the PCCB and the DPP, and that the underlying issues that limit progress in prosecution be addressed.
- There is the need for increased high-level advocacy against secrecy jurisdictions and complex financial systems which enable corruption to thrive. The PCCB needs to openly join this global campaign for global financial transparency.
- Increase the collaboration with non-state actors and their active participation in PCCB's anti-corruption work. Currently this collaboration is not formalised and the level of engagement is erratic.

Improve agency financing, independence and sustainability

- In respect of financial independence, efforts are needed to make sure that there is enough budgeting and fund allocation to enable the PCCB to execute its mandated functions without any delay. Key anti-corruption projects and programmes like the NACSAP have been reliant on heavy donor funding and as such their continuity is not guaranteed. The study recommends that, to the extent possible, the PCCB should be fully funded from internal resources in order to avoid the problems caused by unreliability of donor financing.

Strengthen administration, staff capacity and infrastructure

The PCCB is a well-established institution and, from the available information, it is evident the capacity of the organisation has been increasing. The number of its legal staff has increased and now stands at 80 advocates and 120 legal officers. However this experience and the performance of the institution needs to be improved. To improve on its efficiency the organisation needs to:

- Invest in sophisticated technology to track suspected corrupt transactions and criminals within and outside the borders;
- Solicit more onsite assistance from corruption experts on modern ways of combating corruption, including staging of sting operations and anti-corruption raids;
- Enlist legal advice on legislative drafting and prosecution from competent individuals and institutions given that the PCCB is staffed with young legal officers and advocates whose experience may not match the top-notch senior advocates and law firms enlisted by corruption suspects;
- Conduct specialised training on investigative skills and prosecution techniques, involving the judiciary, DPP, PCCB and police because the PCCA is not well understood by judges and understanding complex corruption offences (like sexual corruption, trading in influence and determining the level of guilt) is sometimes a challenge to some judicial officers;
- Use the available corruption study reports to mount anti-corruption operations, for example sting operations, laying traps and surveillance on corruption-prone departments and public service points;
- Invest in more community sensitisation about the impact of corruption on social service delivery and the overall development of communities and the entire country as sharing vivid examples of corruption cases and their impact could be vital in enlisting more support from the public;
- Share good practices and model legislation from other countries to improve the organisation's performance;
- Communicate regularly with the public with regards to its performance and practically demonstrate this with actual figures of arrests and prosecutions conducted on a periodic (either a monthly or bi-monthly basis) across the country since the level of public interface with the agency is limited;
- Improve on the quality of corruption-case statistical data collection as to date statistics are collected and presented at aggregate level, which needs to be disaggregated further by type of corruption offence and possibly by sector as well;
- Establish and implement an innovative, functional feedback mechanism capable of providing the public with regular updates (monthly or quarterly) on what happens to the tip-offs, updates on PCCB investigation and prosecutorial activities, etc.

Annex

PCCB performance

The key strength of the agency has been its expansion over the past years. The organisation now has a presence in most parts of mainland Tanzania. During this period, the head of government has been supportive and constantly urging it to deliver results. The PCCB has over 2 086 permanent staff. However, the major challenge has been to translate this infrastructure into an effective machine to combat corruption.

Case management and resources recovered

The number of successful cases prosecuted and resources recovered by the agency over the past six years is still low. According to PCCB case statistics, 473 convictions were secured and Tsh 86.6 billion recovered for the period between 2005 and June 2014¹³ (approximately Tsh 93 billion (USD 59 million) recovered since 1995).

The annual amounts recovered were in 2011, Tshs 4.639 billion (USD 3 million); in 2010; Tshs. 10.123 billion (USD 6.7 million) in 2009; Tshs. 436 132 million (USD 290 000) and Tshs 13.204 billion (USD 8.8 million) in 2008.¹⁴ Out of the total recovered, it is not clear how much was from grand corruption cases like the Bank of Tanzania External Payment Accounts (EPA) scandal in 2005. It is also not clear how much has been recovered from corrupt dealings and savings in offshore accounts or assets frozen from outside Tanzania.

Table 1: PCCB case statics and resources recovered 200 to June 2014

Years	*Allegations received	Cases investigated	Completed investigation files	Administrative actions taken	Files transferred to other agencies	Files sent to DPP	New cases into courts	Total cases prosecuted	Conviction cases	Acquittal cases	Saved money/ Asset recovered
2005	3 121	677	540	111	2	20	50	218	6	10	2 500 600 000/=
2006	6 320	1 528	1 781	209	496	22	71	251	18	28	1 301 492 528/=
2007	8 235	1 266	1 966	280	460	38	196	352	35	45	1 580 099 081/=
2008	6 137	928	1 038	74	184	119	147	416	37	71	13 203 459 357/=
2009	5 930	884	1 188	40	152	156	222	463	46	73	436 132 336/=
2010	5 685	870	924	29	135	112	224	587	56	98	10 123 258 300/=
2011	4 765	819	868	30	84	143	193	709	52	61	4 638 939 558/=
2012	5 084	1 178	881	27	72	221	288	723	47	71	9 667 354 594/=
2013	5 456	1 100	1 027	19	98	358	343	894	89	62	4 235 401 591/=
(Jan-June) 2014	2 765	391	415	6	28	143	166	837	87	55	38 959 726 644/=
TOTAL	53 498	9 641	10 628	825	1 711	1 368	1 900	5 450*	473*	574	86 671 105 989/=

*USD equivalent

13 Available at PCCB Statistics: <http://www.pccb.go.tz/index.php/investigation/sport-news/case-statistics/579-statistics-as-from-2005-to-june-2014> [accessed 12 September 2016].

14 UNCAC (2011) Review. p. 34.

