

THE OVERSIGHT PROCESSES OF LOCAL COUNCILS IN TANZANIA

FINAL REPORT

Prepared by

Research on Poverty Alleviation (REPOA)

www.repoa.or.tz

July 2008

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EXECUTIVE SUMMARY

Introduction

The sub-national government requires to be brought in line with the expectations and aspirations of the population. This is in accordance with the key principles of good governance: democratic elections, rule of law, equity, public participation, accountability, integrity and transparency. This in turn calls for robust mechanisms that enhance transparency in the management of public affairs those that facilitate citizens to apply the checks and balances on the authorities and a vibrant and competent civil society. These are essential elements of downward and social accountability. The policy and legal framework plays a critical role in enabling the realization of the principles cited earlier.

In the Tanzanian context, the legal and policy framework for the Local Government System consists of the Country's constitution, various laws that operationalise the constitution and other policy pronouncements that issued from time to time. The Constitution of the United Republic of Tanzania recognizes local government as autonomous bodies with legal status (corporate bodies) operating with discretionary powers over local affairs within the unitary system of the Republic of Tanzania. Accountability and oversight in as far as local Government reforms in Tanzania are concerned encompasses the dimensions of the election framework which involves members of local government authorities, independent agents responsible for oversight of the affairs and conduct of local government authorities, audit control, performance based structure for local government authorities and participation and involvement of the people in the affairs of local government. The Constitution also recognizes the need for the people to have an ex post control of the elected leaders. The Local Authorities Elections Act, 1979, ("the Electoral law") provides the basic legal framework for local government elections necessary to articulate the provision of the constitution regarding universal suffrage in all public elective positions, and it is an adequate framework

In line with the constitution, the policy of decentralization by devolution (D-by-D) has been followed since 1999. However, the D-by-D policy was initiated in 1996 following government endorsement via the Policy Paper on Local Government Reform of 1998. The reforms contained in the paper clearly laid out the policy of devolution of functional responsibilities versus the earlier *de facto* deconcentrated approach to governance, which had continued to persist despite the reintroduction of elected local governments. According to this policy paper on Local Government reforms have four dimensions: political decentralization, financial decentralization, administrative decentralization, and changed central-local relations. To realize the decentralization reforms, the Local Government Reform Program (LGRP) was introduced to enhance coordination of the reform process and to provide both advisory and technical support to PO-RALG and later PMO-RALG and the Local Government Authorities (LGAs) in carrying out the D-by-D policy. Local Government Reform Program (LGRP) and sector policies continue to be considered fundamental to the achievement of the ongoing National Strategy for Growth and reduction of Poverty (MKUKUTA).

It needs to be noted that the overall objective of the LGRP is to improve the quality of and access to public services provided by local governments. The LGRP has five main components which are:

- i. Governance which aimed to establish broad based community awareness of the participation in the reform process and promote principles of democracy, transparency and accountability;
- ii. Local Government Restructuring which aims to enhance the effectiveness of local government authorities in the delivery of quality services in a sustainable manner;
- iii. Finance, to increase the resources available to local government authorities and improve the efficiency of their use. Conditional block grants are provided for sensitive sectors such as education, health, roads, water and agricultural services. Unconditional block grants are provided for other development sectors such as natural resources, trade, cooperatives, lands and community development;
- iv. Human Resource Development, to improve the accountability and efficiency of human resource use at local government level the reforms aim to decentralize management of staff so that a local government authority can appoint, promote, develop and discipline its own staff.;
- v. Institutional and Legal Framework to establish the enabling legislation which will support the effective implementation of local government reforms. The revised laws through Act No.6 of 1999 gave legal effect to principles guiding the local government reforms focusing on good governance, enhanced transparency and accountability at all local government levels. Specifically, Act No. 6 of 1999 provides for:
 - The councils' authority to employ and manage their own staff;
 - The council's authority to approve their plans and budget and be accountable to them;
 - New relations between central and local government, by redefining the role and concept of the Regional Commissioner and District Commissioner, hence abolishing the existing command and control relations;
 - Establishment of new grant system of block grants and equalization grants;
 - A system of participatory democracy, accountability and transparency in the conduct of council affairs; and
 - Mechanism for devolution of powers, functions and resources from central to local government and room higher to lower levels of local government.

Thus the LGRP aims at strengthening accountability as follows: First, LGRP program aim to give Local Government Authorities (LGA) new powers to employ, discipline and dismiss their own staff and set their own staffing levels, to make operational decisions over their budgets, transferring between items and re-organizing expenditures; and to re-organize council committees and LGA functions and structures so as to deliver more effectively and efficiently the services mandated to them.

Second, strengthening accountability of LGAs staff to councilor and councilors to their electorate through:

- a) the transfer of staff responsibilities to LGAs;
- b) the introduction of a code of conduct for councilors and staff;
- c) the increased awareness of the general public over the responsibilities of the LGAs; and
- d) the improved supervision of the Government over financial management and service performance.

Three, increasing the resources available to LGAs by improving the share of viable revenue sources available to LGAs and enhancing grant financing from Central Government.

Four, Clarifying the framework for delivery of services through reforms to the grant system and parallel sectoral reforms, to give LGAs a clearer set of service responsibilities, to make it easier to monitor performance and quality assurance. This is ensured by:

- setting a clear set of national minimum standards for service delivery; and
- ensure adequate flows of finance for those services through conditional grants

Five, building capacity of LGAs for effective resource management, through training and skills-building in planning, budgeting, performance monitoring and financial management.

There were sector policies which began several years before the local government reforms. However, most of them were not sufficiently in line with the reforms and indeed the tendency in many sector reforms was to re-centralize ministerial control over important service provision activities, by-pass local authorities in relation to priority setting for such services, establish accountability to the ministry rather than to the respective councils, creating new organization machinery to provide services that are fragmented and costly, and which put heavy demands on local government, and creating substantial uncertainties among donors involved in the sector programmes as to what is government policy. The Local Government Reforms were meant to avoid this situation. It is envisaged that public services affecting a large number of people will be provided through organs accountable to the council in its respective jurisdiction. The accountability and “arm’s length” mechanisms for these delegations should now be regulated to ensure some uniformity across sectors.

In terms of governance, local governments in mainland Tanzania have two major divisions, rural and urban authorities. The urban authorities comprise of city, municipal and town councils while rural authorities comprise of district councils, and sub-district levels, including the township authorities. For administrative and electoral purposes, all urban authorities are divided into wards, and neighbourhoods (mitaa), while all district (rural) authorities are also divided into wards, villages and hamlets (sub villages). As of 2008, there are 27 urban councils, of which 4 are cities, 18 municipalities and 5 town councils and over 2,600 urban neighbourhoods. Rural authorities constitute of 106 district councils, and more than 10,000 villages and more than 56,000 hamlets. The structure of local government can be viewed in three perspectives, geographical divisions or levels, the administrative (the executive part) and the governance (the oversight part). The governance perspective is of more relevance to this study.

Local governments are divided into higher level and lower level governments. Higher level local government (HLG) governance body is constituted by elected members (Councilors), one from each of the wards and staff who are recruited either by the central government or by the councils themselves. Its role is to supervise local government executive which is headed by the Council Director. Lower level government (LLG) consists of two major organs of governance at the village level, village assembly (VA) and Village Council (VC). The Ward Development Committee (WDC) is responsible for coordinating development activities and planning at the Ward level and linking with the district level. Standing committees consist of members elected by the council, which decides the number of committees and specifies the mandate of these committees. There are two main types of committees at council level: standing/sectoral committees and ad hoc committees.

Challenges

While there is a relatively clear system of accountability in local government, the performance of accountability mechanisms remains problematic. Several reasons are usually cited to explain the poor accountability and governance that takes place in LGA. These include: poor access to information which is in turn caused by unfavorable attitude of the council staff, poor working tools and infrastructure, technocratic procedures and formats for releasing information and lack of a culture of transparency. Poor representation of the citizens by their councilors in the decision making processes and the lack of participation in these processes contribute to further undermine accountability.

As regards administrative capacity, most councils are still operating with limited human resource capacity, both in terms of numbers and expertise. The shortfalls in numbers are even more acute in the remoter areas of the country. A broader constraint faced by local governments in attracting adequate numbers of qualified staff to deliver local government services is their lack of control over local government salaries. In terms of the D-by-D policy, little progress has been made in taking forward the issues of human resource decentralization. The modest goal of amending the Public Service Regulations to bring them into line with the amended Public Service Act of 2004, and thus give effect to the role of LGAs as employing authorities has yet to be attained. Efforts to improve incentives for attracting and retaining LG staff have been frustrated by limited progress on nationwide pay reform; the decision not to extend SASE to local government and the abolition of the majority of council's own-revenues are additional challenges.

On the political side, there is a slow development of accountability at local level. This is being encouraged by gradual growth of effective politics through multi-partyism wherein representation is contested viciously by candidates from the different political parties. Secondly is the role played by top government leaders (the executive) in sensitizing the citizens to hold accountable both the representatives and the bureaucrats. Thirdly, the changing profile of the citizens where there are more educated persons, existence of more retired persons who are familiar with government systems and have high expectations on the quality of service delivered impose further pressure for transparency and accountability.

Notwithstanding these developments hurdles still exist: lack of structure, or perceived need, for MPs or councillors to consult or feedback to constituents between elections, lack of means for the Prevention and Combating of Corruption Bureau (PCCB) to follow the election process more closely, lack of attention to

civic education except in the context of national elections and weak links between NSAs and elected representatives. Further, lack of popular understanding of the role and responsibilities of councilors, lack of understanding of the planning and budgeting processes and virtual absence of LGAs appreciation of the collective inputs from especially civil society organizations related to policy advice or service delivery, are additional challenges facing accountability at local level.

The results of restructuring (strategic changes envisaged in the local government reforms e.g. restructuring Regional Administration, amendment of Local Government Laws, designing Programme Budget and Funding Arrangements etc) that have been introduced via the local government reform process have been mixed, though generally welcomed by councils. Positively, restructuring has enabled Councils to take greater charge of the reform process. It has enabled Councils to build relationships with non-state partners and to strengthen internal coordination and teamwork. Restructuring has enabled Councils to prepare strategic plans, to produce new organizational structures, rationalize staffing levels and prepare HRD plans. The process has been lengthy and faces several challenges. Notably, new structures and establishments have not been approved by central government, whilst the retrenchment exercise has incurred considerable delay and uncertainty. The process has faced a number of related constraints; lack of discretion over recurrent budget management created little incentive to retrench; more systemic problems of pay and incentives has made it difficult to attract and retain staff into key positions, compounded by long delays in the issuing of permits to proceed with recruitment. The continuing practice of centrally managed transfers has been unsettling, impacting negatively on the ability of Councils to perform in key areas. Lack of sector harmonization undermines efforts to establish organizational structures and staffing levels that are consistent with locally determined planning priorities.

With decentralization, the responsibility for most service delivery is at LGA level. At present, many sector and donor-financed programmes continue to be implemented in an uncoordinated and parallel fashion. This significantly increases the demands on limited LGA staff and overstretches the already low capacity. The varied planning, monitoring and reporting guidelines for different programmes impose acute pressure on LGAs. Attempts have been made to develop systems to streamline such requirements and to improve quality.

Conclusion

Several key messages emerge from this review. Firstly, the local government system is acknowledged as an important vehicle for establishing the voice of citizens through locally elected bodies. Secondly, although accountability is gaining momentum, several limitations still inhibit effective accountability in LGAs. Citizens are not fully aware of mechanisms at their disposal to enforce accountability and councilors are yet to fully grasp the powers given them by the changes in the law. Hence, accountability and transparency envisioned by the LGRP are yet to be meaningfully realized. The main outcomes of lack of accountability and adequate citizen participation are manifested in the service delivery arena where citizen complaints of poor services are common. However, at the village council level, the village council may resolve to recall a non performing chairman. Such powers should be extended to the rural and urban authorities, instead of waiting for five years to unseat a non performing councillor.

1. INTRODUCTION

1.1 GENERAL OVERVIEW

The Government of Tanzania is currently undertaking various initiatives towards poverty reduction and attainment of sustainable social and economic development. These initiatives are founded within the Tanzania Development Vision (TDV) 2025. The TDV 2025 stipulates the vision, mission, goals and targets to be achieved with respect to economic growth and poverty reduction by the year 2025. The National Strategy for Growth and reduction of Poverty (NSGRP or MKUKUTA) is geared toward achieving the TDV 2025. The policy framework of the Local Government Systems, including decentralization by devolution (D-by-D) which is being implemented through the Local Government Reform Program (LGRP) and sector policies are key to the achievement of the MKUKUTA. One of the three clusters of the MKUKUTA is the governance and accountability and this is considered to be the bedrock of the remaining clusters and the aim is to realize good governance by 2025 as defined in the TDV 2025.

The pursuit of good governance underpins the entire approach of the Local Government Reform Programme (LGRP). Sub-national government requires to be brought in line with the expectations and aspirations of the population, in accordance with the key principles of good governance, defined in the Medium Term Plan (MTP) (2005-2008) of the LGRP to incorporate democratically elected leaders, rule of law, equity, public participation, accountability, integrity, and transparency. It is also acknowledged that in order to ensure that good governance remains the norm at the local government level, it is necessary to ensure that there are robust mechanisms in place to enhance transparency in the management of public affairs, including mechanisms for the population to exert checks and balances on the authorities, and existence of vibrant and competent civil society. These are essential elements of downward and social accountability, both horizontally and vertically.

This report responds to the Terms of Reference (TORs) which are given in Appendix 1. In summary these Terms of Reference require three tasks to be carried out:

1. Characterization of existing local government system
2. Assessment of local actors, power –relations, and accountability relationships
3. Analysis of social accountability mechanisms within the context of council oversight.

In addressing the stated ToRs this report provides an assessment of the existing local government system in Tanzania, including an analysis of the policy framework, the legal and institutional framework, local government structures, performance of accountability mechanisms. It concludes with a discussion of challenges facing local government with respect to capacity. The report:

- Provides a clear description of the legal structure that affects local government systems, based on the national constitution, relevant acts, regulations, and administrative provisions, including the by laws. It also gives a synopsis of changes brought about as a result of local government reform based on the concept of decentralization by devolution.

- Provides a synopsis of the existing de jure and de facto oversight mechanisms available and practiced by local elected leaders such as councilors in fulfilling their mandates in planning, budgeting, monitoring and oversight in their localities. The analysis of social accountability mechanisms provides an understanding of the relationship between elected official and their electorates/citizens. It also includes the linkage of power relations and social accountability, in terms of how the former affects the latter, including dynamics around party politics. In the process, constraints and opportunities for stronger social accountability mechanisms are documented.
- Provides a description and analysis of local governance institutions and their interactions. These includes functional relationships between elected and executive officials at district and sub-district levels, central government system at local levels, civil society organizations, community interest groups, private sector organizations, and other significant social forces.

1.2 METHODOLOGY

The approach employed in carrying out this study involved review of documents including pieces of legislations (laws), policies, national development reports, budgets, monitoring and evaluation reports, available at all levels of government (national, regional and local authorities), as well as reports from independent agencies including those in the private sector, civil society organisations and donor agencies. No interviewing of key persons was carried out at this stage.

1.3 REPORT OUTLINE

The report is structured into six Chapters. This introductory Chapter is followed by Chapter Two, which reviews the legal and policy framework for existing local government system. Chapter Three examines local government structures. Chapter Four covers planning budgeting and financial management in LGA while Chapter Five explores the performance of accountability mechanisms. Chapter Six presents the conclusion, challenges and recommendations.

2. LEGAL AND POLICY FRAMEWORK FOR LOCAL GOVERNMENT SYSTEM

2.1 INTRODUCTION

The Tanzanian Local Government system is based on political devolution and decentralization of functional responsibilities, powers and resources from central government to local government and from higher levels of local government to lower levels of local government and overall empower the people to have ultimate control over their welfare. The Founding provision of the Constitution of the United Republic of Tanzania recognize local government as autonomous bodies with legal status (corporate bodies) operating with discretionary powers over local affairs within the unitary system of the Republic of Tanzania. Tanzania is a sovereign united republic and a democratic state which adheres to multiparty democracy and social justice and the local government system is designed as shaped to be inline with this national philosophy.

The Tanzania Constitution further stipulates that Local Government Authorities shall be established in each region, district, urban area and village of the United Republic, which shall be of the type and designation, prescribed by law to be enacted by Parliament for Tanzania Mainland or the House of Representatives in the case of Tanzania Zanzibar (see Table 1 below).

Local governments are *holistic*, i.e. multi-sectoral, government units with a legal status (body corporate) operating on the basis of specific and discretionary powers under the legal framework constituted by the national legislation. Local governments have a responsibility for social development and public service provision within their areas of jurisdiction; facilitation of maintenance of law and order and promotion of local development through participatory processes. The elected local councils are governments or organs which are at lower levels of one unitary Government of United Republic of Tanzania and thus required to operate within the national policy and legal framework while retaining their status as the highest political authorities within their areas of jurisdiction. The most powerful tools of councils are their annual work plans, budgets and control of resources exercised by the standing committees.

The history of local governments dates back to 1926 when it was established by the colonial government and the system has gone through changes that reflect the changing national philosophy concerning the economic and social development of the country. The most dramatic change occurred during the period 1972-1984 when the government abolished local authorities along with all the institutions which were supporting the local government system including the Local Government Service Commission and the Local Government Loans Board. By the use of its deconcentrated field offices in the regions and districts, the central government took over responsibility for the provision of and management of basic services and for planning and implementation of development projects at the local level.

The deconcentration exercise of the 1970s and early 80s could not bring about the desired results i.e. increased public participation in the development process and accelerated rural development. What turned out, instead, was rapid deterioration of service delivery in both rural and urban areas and overall decline of urban infrastructure. This necessitated a reconsideration of the system then.

At Government initiative, a number of researches and Presidential Commissions and Committees were set up to look into the performance of the local government system and recommend on how it could be improved. The research Reports and those by Commissions and Committees, among other things,

strongly recommended that steps should be taken to evolve a new local government system which would respond to the existing environment and challenges. This resulted into the current policy position.

Table 1: Power of the People as provided in the URT Constitution

Chapter Eight: Public Authorities
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.
(2) Without prejudice to the generality of the sub article (1), of this Article, a local government authority in conformity with the provisions of the law establishing it shall have the following functions: (a) to perform the functions of local government within 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.

The introduction of these articles traces its origin to the 1983 proposals for constitutional amendment which were submitted for public debate by the National Executive Committee (“NEC”) of the ruling party CCM. Details of these proposals are given in appendix 2. The proposal leaves no doubt that the intention of the party was to devolve power to the grassroots so as to enhance democratic participation and improve accountability to the people in local governance

In 1982 a corpus of laws was passed to implement the policy decision to reintroduce local government. The most important pieces of legislation enacted then were:

- The Local Government (District Authorities) Act, 1982, No. 7 of 1982;
- The Local Government (Urban Authorities) Act, 1982, No. 8 of 1982;
- The Local Government Finances Act, 1982, No. 9 of 1982;
- The Local Government Service Act, 1982, No. 10 of 1982; and

- The Local Government Negotiating Machinery Act, 1982, No. 11 of 1982;

Thus, following the enactment of a set of local government Acts in 1982, the present system of local government was reintroduced in 1984. In the following year the Constitution of the United Republic of Tanzania was amended to effectively entrench local government in the country's system of governance. For administrative and electoral purposes, all urban authorities are divided into wards, and neighbourhoods (*mitaa*), while all district (rural) authorities are also divided into wards, villages and hamlets (sub villages). Under the present set up there are 27 urban councils, of which 4 are cities, 18 municipalities and 5 town councils and over 2,600 urban neighbourhoods. Rural authorities constitute of 106 district councils, and more than 10,000 villages and more than 56,000 hamlets. There are more than 2,500 wards country wide.

The first two Acts dealt with governance while the last two with local government staff or human resources. In 1983, another piece of legislation enabling urban and township authorities to impose and collect property tax was passed (*The Urban Authorities (Rating) Act, 1983*, No. 2 of 1983). This Act together with the Finances Act dealt with the provision of revenue for local governments.

The sub-district administration (particularly the 'village') was not considered a level of *governance*, but rather a level of administration. The village was perceived as a site of development, which was supposed to be brought from the top; it was top-down. The process of villagisation of 1972-74, resulted in the creation of development and Ujamaa villages. In 1975, the *Villages and Ujamaa Villages (Registration, Designation and Administration) Act*, No. 25 of 1975 was passed to provide for the administration of villages. With the introduction of local government in 1982, the Village Act was absorbed in the Local Government (District Authorities) Act and for the first time village governance was acknowledged as part of local government system (see generally PO-RALG 2003, Shivji & Peter Report).

Two important features marked the local government structure introduced by the 1982 laws. One was the close identification of local governance, and overlap with the ruling party i.e. the ruling party, CCM reigned supreme in relation to the government, with a party organization that reached from the national to the ten cell level. The second was that local government authorities (including at the sub-district level) remained closely supervised and managed by, and accountable to the CG through the minister for local government and or the regional commissioner who was designated the 'proper officer'. Thus, local governments were not strictly autonomous and only partially participatory. At best, therefore, the legal reforms of 1982 could be described as decentralization by delegation.

The Fifth Constitutional Amendment of 1984 first opened to debate the idea of decentralization by devolution. The Fifth Amendment introduced the bill of rights and for the first time, provided for local governance in the constitution in Chapter 8, headed Public Authorities. The intention of the original proposal contained in the proposals for a constitutional amendment made by the then National Executive Committee of the ruling party was clearly to effect decentralization by devolution, provide for autonomous local governments and, most significantly, ensure the participation of people in decision-making (see Box 2). Unfortunately, the final draft of the constitutional amendment did not fully capture this intention and ended up with two very broad articles, scanty in their content.

2.1.1 Amendments of the Local Government Laws

Until 1992, when the multiparty system was introduced, the local government laws did not undergo any major change except the passing of the *Regional Administration Act in 1997* (“the RAA). The RAA provides for the central government administration at the regional and district levels. Its thrust is decentralization (by deconcentration) of some of the powers of the central government.

The 1992 laws amended the local government laws mainly in the composition of councils by introducing three categories of councilors as follows: one member from each of the wards within a local authority, the Member of Parliament representing the constituency within which the authority is situated; and such number of women members who are qualified to be elected to the council, being not less than one third of all elected ward councilors and the member of parliament to be proposed by the political parties represented in the Council in proportional to the number of the members of those parties elected to the Council. These legal changes were meant to accommodate the multiparty system.

Local Government laws went further changes to put more emphasis on accountability and transparency. Thus, Act No. 6 of 1999 was introduced to give stress on good governance with emphasis on decentralized management of staff and finances by local government authorities. Further, The Local Government Financial (Block Grant) Regulations, 2000, the Local Government Service Regulations, 2000, the Local Government (Councilors Code of conduct) Regulations 2000 and the Local Government (Staff Code of Conduct) Regulations, 2000 were introduced to bolster accountability and transparency in local governance.

The idea of decentralization by devolution was finally revived in two major policy documents, the *Local Government Reform Agenda, 1996-2000* (“the Agenda”) published in October 1996, and the *Policy Paper on Local Government Reform* (“the Policy paper”) as part of the general public sector reform. This was followed by the enactment of The *Local Government Laws (Miscellaneous Amendments) Act, 1999*, No. 6 of 1999 (“the 1999 Act”). The 1999 Act is the current legal framework for the process of local government reform.

The 1999 Act was seen as the transitional piece of legislation, which gave legal mandate for the process of reform. Three important features marked the 1999 Act. The central feature of the law was to mandate the minister responsible for local government:

- To initiate, facilitate, co-ordinate and ensure the process of reform by, among other things, building the financial and human resources capacity of local government authorities;
- To co-ordinate with other sector ministries to devolve certain functions to LGAs; and
- To make regulations to provide for procedures of recruitment, promotion, discipline etc. of local government staff.

The second feature of the Act was to stipulate certain principles of devolution of powers to LGAs, and recognition of their autonomy, as the guiding principles in the relation between the Central and Local Government. These principles were formulated in general terms. No specific structures of operationalising the principles and resolving potential disputes between the CG and LG were created.

Thirdly, the amendments were inserted in each relevant law within the scheme and the structure of the pre-existing 1982 laws.

Two flaws regarding the minister's role in the resultant law must also be pointed out. Firstly, the minister responsible for local government is cast in an unenviable and contradictory role. On the one hand, the reform principles require him to facilitate and oversee the process of decentralization by devolution. On the other hand, under the pre-existing law he, as a CG minister, has vested in him significant executive powers of supervision and enforcement over LGAs. These two sets of provisions sit uncomfortably within the same piece of legislation, as will be shown in the subsequent chapters.

Secondly, the minister responsible for local government has a clear legal mandate to initiate, facilitate, and oversee the *reform of the LGAs*. But he has no similar clear legal mandate to reform the CG structures, polices and laws to ensure compliance with d-by-d. The local government reform, as envisaged by the Policy Paper, is not only the reform of local government but also the reform of Central Government.

The inconsistencies pointed out above have manifested themselves in the experience of the reform process so far. In the first phase of reforming 38 councils, the reform process proceeded without major problems because the reform involved the reform of LGAs. But at the same time, the process of legal and policy harmonization, which involved dealing with sector and line ministries, faced inevitable problems, as it has been well documented in various reports as well as the 2004 Joint Government/Donor Review. Matters came to a head with the enactment of the Public Service Act, 2002, that repealed several local government service laws, which were the basis of subsidiary legislation that guided the reform of the 38-reforming councils.

The Policy Paper envisaged that eventually there would be a constitutional amendment to entrench the local government system in a more elaborate fashion. It also envisaged that there would eventually be a more comprehensive local government law. The perception then seems to have been that the comprehensive constitutional and legal framework would come towards the end of the *reform process*, thus being able to benefit from the experience gained through the reform. However, the experience of the legal harmonization and the Public Service Act somewhat changed the perception of the former PO-RALG, and now the PMO-RALG, as to the appropriate moment for initiating these legal processes. As a result, it set into motion the process of constitutional amendment and the eventual making of the comprehensive law in 2004.

2.2 LOCAL GOVERNMENT POLICY (DECENTRALIZATION BY DEVOLUTION)

Decentralization has been defined as the transfer of authority and responsibility (including fiscal authority and responsibility) from the central government of subordinate or quasi-independent organization or the private sector (Litvack and Seddon, 1999). Within the Tanzanian context, therefore, decentralization is the transfer of responsibility from the Central to the Local Government. The D-by-D policy was initiated in 1996 after being endorsed by the government in the Policy Paper on Local Government Reform. The reforms contained in the policy paper clearly laid out policy of devolution of functional responsibilities versus the earlier *de facto* deconcentrated approach to governance, which had continued to persist despite the reintroduction of elected local governments. A decision was made in 1996 to give effect to a policy of decentralization by devolution rather than by de-concentration. This is reflected in what has been described as vision of future LGA which was formulated and endorsed at a National Conference:

‘towards a shared vision for Local Government in Tanzania’ in May 29th-31st, 1996. According to this shared vision, the overall objective was to improve the delivery of services to the public and the main strategy was decentralization. The key contents of the vision summarized in the Local Government Reform Agenda 1996-2000 are:

- The main reason for the devolution of the roles and authority by the central government and the existence of the local government will be the latter’s capacity and efficiency in delivering services to the people
- Local government councils will be free to make policy and operational decisions consistent with the laws of the land and government policies without interference by the central government institutions. The role of central government institutions (including the minister, proper officer, and assistant proper officer) will be confined to: facilitation and enabling of the local governments in their service provision, development and management of a policy and regulatory framework, monitoring accountability by the local government authorities, financial and performance audit and provision of adequate grants
- The vision recognizes that the strengths and effectiveness of local government institutions will be underpinned by:
 - Possession of resources and authority necessary to effectively perform the roles and functions that the individual local government authority has been mandated to perform by the local people and central government and
 - Having adequate numbers of appropriately qualified and motivated staff , who will be recruited and promoted exclusively on the basis of merit
 - Mounting necessary training and upholding professionalism in local government
 - Capacity to operate efficiently and cost effectively.
- The leadership of the local authorities will be chosen through a fully democratic process which should also extend to village councils and grassroots organizations.
- The local government will facilitate the participation of the people in deciding on matters affecting their lives, planning and executing their development programs and foster partnership with civic group.
- Each local government will have roles and functions that correspond to the demands for its services by the local people and the socio-economic conditions prevailing in the area. The structure of each local government will reflect the nature of its roles and functions
- The 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.
- Local government leaders (councilors) and staff will adhere to strict code of ethics and integrity. In particular, leaders with incontestable ethical standards will be elected to champion the cause of people’s development.

In line with the vision stated above, effective decentralization reforms began to be implemented since 2000. This followed a policy document issued in 1998 (URT, 1998). The objective of the reform is to improve service delivery by making local authorities more democratic and autonomous within the framework established by central government and under conditions of severe resource constraints. The

policy states that decentralization of government and reform of local government includes four main policy areas:

Political decentralization: Devolution of the setting of the rules and for councils and committees, the council chairperson etc. it would involve the integration of the previously centralized or de-concentrated service sectors into a holistic local government system installing councils as the most important local political body within its jurisdiction.

Financial decentralization: councils have financial discretionary powers and powers to levy local taxes. Central government in turn has the obligation to supply local governments with unconditional grants and other forms of grants. The principle also allows local councils to pass their own budgets reflecting their own priorities as well as mandatory expenditures required by legislation setting national standards.

Administrative decentralization: this principle involves de-linking local authority staff from their respective ministries and procedures for establishment of a local payroll. Local governments will thus have and recruit their own personnel staff, organized in a way decided by the respective councils in order to improve service delivery. Administrative decentralization makes local government staff accountable to local councils.

Central-local relations: the role of central government vis-à-vis local councils will be changed into a system of inter-governmental relations with central government having the over-riding powers within the framework of the constitution. Line ministries will change their role and functions into becoming: policy making bodies, supportive and capacity building bodies, monitoring and quality assurance bodies within the local government legislation framework and control bodies (legal and audits). The policy recognizes the role of the minister responsible for local governments: to coordinate central-local relations and in particular all initiatives from ministries towards local government and will be enabled to issue regulations and guidelines, but only within policy areas to be specified in the law reflecting the spirit and principles of the reform agenda.

2.3 THE LOCAL GOVERNMENT REFORM PROGRAMME (LGRP)

The Local Government Reform Program (LGRP) was established under the then President Office Regional Administration and Local Government (PO-RALG) in 1998. While the Ministry's headquarter is in Dodoma, the Secretariat of the LGRP is in Dar es Salaam and five Zonal Reform Teams located in the regions. The Ministry now has been shifted from the President Office to the Prime Minister's Office. The mandate of the LGRP is to enhance coordination of the reform process and to provide both advisory and technical support to PMO-RALG and the Local Government Authorities (LGAs); especially the Council Reform Teams staffed by LGA elected representatives and appointed officials that have been given the task of carrying forward the reforms. The LGRP had five components:

- i) *Governance:* The governance component of the LGRP has two distinct objectives. The first is to establish broad-based community awareness of and participation in the reform process. The second is to promote principles of democracy, transparency and accountability. Concretely, much of this work relates to increasing accountability with LGAs and improving and increasing the efficiency of the ways in which councils go about their business.

- ii) *Restructuring*: The restructuring component is concerned primarily with enhancing the effectiveness, efficiency and sustainability of service delivery. The core reform here is a concrete and thoroughgoing restructuring of each local authority in respect of service delivery arrangements (e.g. through contracting out, PPPs and so on), the internal institutional structure and organization of the LGA, redeployment and reorientation of staffing and the development of new budget structure.
- iii) *Finance*: The main objectives of the finance component are to increase the overall resources available to local authorities and increase the efficiency of their usage through changing the incentive structure of the existing intergovernmental fiscal system. The chief activity here is the restructuring of the conditional grants which fund most local expenditures to reduce conditionality (i.e. the introduction of “block grants”). The other main reforms include increasing the proportions of shared revenues going to local government, introducing supplementary intergovernmental transfers, improving local revenue collections, improving local financial management through rolling out the integrated financial management/accounting system (platinum) and training local officials.
- iv) *Human Resource*: The main objective of this component is to improve accountability and efficiency of human resource use at the local level. The broad intention here is to give local authorities full control over their human resource inputs through allowing them authority over the size of their establishments, appointments and promotions, management issues, and-in the long term-conditions of service. Other key activities relate to improving the internal management capacity and procedures of local authorities (through the production of various guidelines and regulations) and capacitating and training of local staff.
- v) *Legal*: The objective of the legal component is to establish the enabling legislation for effective implementation of the local government reforms. The key activity here is the codification-in law and regulation-of LGRP policy and institutional changes as these are introduced.

2.4: SECTORAL POLICIES

A number of sector policies were introduced years before the introduction of local government reforms. It was therefore natural that most of these policies did not fit with the vision of the local government reforms. Despite variations across sectors, the tendency in many sector policies was to re-centralize ministerial control over important service provision activities (such as health and urban water and sewage, by-pass local authorities in relation to priority setting for such services, establish accountability to the ministry rather than to the respective councils, create a new organization machinery to provide services that are fragmented and costly, and which will put heavy demands on local government and create substantial uncertainties among donors involved in the sector programmes as to what is government policy. One of the roles of the Local Government Reforms is to address this inconsistency by ensuring that:

- i) All public services affecting a large number of people should be provided through organs accountable to the council in its respective jurisdiction

- ii) Certain public services for which local authorities are presently responsible may be delegated to organs that are accountable to councils
- iii) The accountability and “arm’s length” mechanisms for these delegations should be regulated to ensure some uniformity across sectors. Some of the presently proposed mechanisms in sector reforms are clearly inappropriate.

2.5 FRAMEWORK FOR ACCOUNTABILITY IN LGAS

Accountability¹ and oversight is a very broad concept. This concept has become a buzzword in the management and administration of public affairs particularly in the delivery of public goods and services. In this report the following dimensions of accountability and oversight for local government have been focused on: (a) Election framework which involve members of local government authorities; (b) Independent agents responsible for oversight of the affairs and conduct of local government authorities; (c) Audit control (d) performance based structure for local government authorities (e) participation and involvement of the people in the affairs of local government.

Elections and accountability of members of local government authorities

The Constitution of the United Republic of Tanzania recognizes the need for the people of Tanzania to have an ex post control of the elected leaders. The foundation of this constitutional undertaking is provided for under the provision of article 8 which states categorically that the fountain of all governmental powers is derived from the people who have the sovereign authority on the government. This provision has been translated into electoral system of the country which is provide for under the provision of article 5 which give every citizen of the United Republic of Tanzania the right to participate in the public election. The right to participate in election includes the right to be elected into elective post and the right to vote in every public election.

Article 74 creates an Independent Electoral body (The National Election Commission) to manage election and ensure that is free, fair and democratic. The role and responsibility of the National Election Commission – NEC are clearly spelt out under the provision of the article. These include the supervision and coordination of the voters’ registration, supervision of Presidential and Parliamentary election. Beside the supervision the election of the president and the members of the parliament – the Election Commission is also mandated to supervise and manage Councilors elections. While the provision of this article ensures supervision of the election in line with the principles of free, fair and democratic, there are a number of issues which need to be addressed. The first and foremost is the fact that under the local government system there are two major sets of elections. Firstly is the election of councilors which is currently supervised by the National Election Commission. Secondly is the Grass-root election which is supervised by the Minister Responsible for Local Government and the respective Local government authorities. The discussion below shade some light on the issues involved in the structure of election under the local government system

¹ Accountability has been defined to include pro-active behaviour like information, justification, evaluation of performance in addition to rule following, the calling to account before during and after decision are made and the application of sanctions (both positive and negative). In this regard public officials are called to pro-actively to inform about their plans of action, their behaviour and results and sanctioned accordingly.

The Local Authorities Elections Act, 1979, (“the Electoral law”) provides the basic legal framework for local government elections necessary to articulate the provision of the constitution regarding universal suffrage in all public elective positions. It is an adequate framework. However, three issues arise which call for policy decisions. These relate to (a) the qualifications of candidates; (b) the rule-making role of the Minister in charge of local government; and (c) the role of the Minister in setting procedures, making rules, and supervising elections at village, hamlet (Kitongoji) and neighbourhood (mtaa) levels.

Section 39(2) of the Electoral law stipulates the qualifications of candidates standing for local government election. Two of these are contested and require addressing. The first one relates to the membership and sponsorship of a political party. Some studies have argued that at the village level, this provision is unnecessarily divisive and restrictive. At that level, what matters is the integrity of the person and the confidence of the electorate rather than the membership of a political party. Some opposition political parties, civil society and academia have **recommended** that independent candidates be permitted to stand for village councils, kitongoji and mtaa. The High Court in a case filed by Rev.Christopher Mtikila, the Chairman of the Democratic Party (DP) against the Attorney General has also ruled against the government in favor of independent candidates.

The other qualification, which is controversial, is the requirement that a candidate must have ‘a lawful means of livelihood’. This is patently unconstitutional, contrary to the principle of universal suffrage and in any case arbitrary, subjective and discriminatory. A parliamentary candidate, for example, is not required to have this qualification. It is **recommended** that it should be deleted.

Section 125 (1) of the Electoral law (Act No.4 of 1979) gives the Minister power to make regulations ‘for the better carrying into effect of the purposes and the provisions of the Act.’ This is contrary to the whole election scheme, which is under the National Electoral Commission. The Commission is the proper body to make rules and regulations and not the minister. It is **recommended** that the rule-making body under the electoral law should be the National Electoral Commission and the Minister must not have any role in the electoral process for ward council elections.

Section 56(3), 14A (1) and (4) give the Minister powers to set procedures and supervise village, kitongoji and mtaa elections. To ensure free and fair elections, the Constitution provides for an independent body, the National Electoral Commission (NEC) to supervise ward council elections but the Minister responsible for Regional Administration and Local Government Administration oversees the supervision of mtaa, village and kitongoji elections. We are however of the opinion that it is NEC which should be in charge of all elections.

Act No. 7 Local Government (District Authorities) 1982, has provisions for accountability/oversight of Village Council Chairmen. For example, Section 59 (2) states that, the Village Council may by resolution supported by two thirds of the members remove the Chairman from office. Such recall powers should also be extended to cover other local council elected leaders such as Ward Councilors and Members of Parliament who are councilors by virtue of their office. Furthermore, Section 61 (2) also provides for other oversight mechanisms by stating that any village council members who absents himself from three consecutive ordinary meetings of the Village Council or of a Committee meeting of which he is a member he shall by virtue of such absence be disqualified from continuing to be a member of the village council of that committee. Other over sight, accountability and transparency provisions include section 67 (1) which states that Council Meetings shall be open to the public and Section 69 which emphasizes that the

minutes of the proceedings of a district council shall be open to inspection by members of the public. Section 71 (1) requires Councillors and other Council officials to declare their interests in any contracts and agreements the council signs. Section 71 (8) provides penalties for non compliance i.e. fine not exceeding three hundred thousand shillings or imprisonment not exceeding six months or to both fine and imprisonment. Abuse of the authority of office by Councilors is an offence and the councilor may be prosecuted under section 96 of the Penal Code. Meanwhile, it may also be pointed out that Section 129 of Act No. 7 of Local Government (District Authorities) 1982 and Section 71 (1) of Act No 8 of Local Government (Urban Authorities) 1982 grants the Minister power to enforce the performance of functions by every local authority in Tanzania.

In addition to PMO-RALG, Section 10 of Act No. 13 of the Local Government (Miscellaneous Amendments) 2006 grants Sector Ministries power to:

- (a) to supervise professionalism of personnel relating to the particular sector in the local government authorities;
- (b) to ensure quality assurance in the performance of the functions of technical personnel relating to the sector in the local government authorities;
- (c) to undertake monitoring and evaluation of the technical personnel's performance of their functions. Whether these transparency, accountability and oversight legal mechanisms work according to the spirit of the law is a subject for future research.

2.6: AGENTS RESPONSIBLE FOR ACCOUNTABILITY AND CONDUCT OF LGAS

Independent agents are part of an extended concept of instruments which are recognized to enforce accountability beyond the democratic element of election which give the citizens the right to hold state authorities and their leaders accountable. Cases resolved by these organizations and how they have functioned in relation to Local Government Authority oversight will be investigated in the next round of the study. At this point we only acknowledge their existence. The URT Constitution recognizes the need for these independent agents. There are many types of these agents and include following.

1. *Commission on human rights and good governance:* Article 129 (1) of the Constitution establishes the Commission of Human Rights and Good Governance. All the Commissioners and all the Assistant Commissioners are appointed by President after consultation with the Nomination Committee. According to Article 129 (4) of the Constitution, the Nomination Committee consists of the Chief Justice of the Court of Appeal; the Speaker of the National Assembly; the Chief Justice of Zanzibar; the Speaker of the House of Representatives; and the Deputy Attorney General, who is the Secretary of this Committee. The Commission is a high level body which serves as an Ombudsman having replaced the Permanent Commission of Enquiry. The roles of the Commission are stipulated under the provision of article 130 to include among other the following:
 - To ensure safeguarding of human rights and peoples duties;
 - To receive and deal with complaints about violation of human rights in general;

- To investigate violation of human rights and breach of principles of good governance;
- To investigate the operation of officials and institutions responsible for discharge of public responsibilities regarding violation of human rights and principles of good governance.

The scope of the work of the commission covers oversight over all public institutions including local government authorities. In ‘view of the fact that under the ongoing decentralization delivery of public goods and services will be vested on local government authorities, many of the complaints that will reach the commission will relate to poor or unfair access or delivery of services by local government authorities.

2. *Controller and auditor general:* Article 143 provides that there shall be Controller and Auditor General of the Accounts of the Government of the United Republic of Tanzania. The role of the Controller General is to ensure proper use of public finances by the Central Government and Local Governments.

3. *Other systems of accountability and oversight of LGAs:* Other oversight bodies which are established by the constitution in respect of local government authorities include the Regional Commissioner. The office of the Regional Commissioner is established under the provision of article 61 of the Constitution. The Local Government Laws gives the Regional Commission the role of legal oversight and legal audit over Local Government Authorities. The Provision of Section 78 A stipulate as follows:

In relation to the exercise of powers and performance of functions of local government authorities conferred by this Act, the role of the Regional Commissioner and District Commissioner shall be to investigate the legality when questioned of actions and decisions of local government authorities within their areas of jurisdiction and to inform the Minister or take such appropriate actions as may be required.

This discussion brings us to another level of where the system of accountability of LGA stands in view of its autonomous standing of LGA. LGAs, being separate legal personalities established by the constitution and law, have a separate existence from the CG. Their accountability, vertically upwards to the CG, is *legal*, not administrative. Within its sphere of jurisdiction, a LGA is independent. In terms of the Policy Paper, the CG, ministries and other organs have policy-making, monitoring, auditing, and inspecting the performance of LGAs but the CG has no power of issuing directives or administrative fiat to a LGA at any level. (We will discuss separately below the powers of the CG to enforce the duties and functions of LG.)

The accountability of the LG to the people, downwards, is both political and legal. It is political as far as LGAs are elected and have to account to the electorate. The other level of political accountability relates to the consultation procedures provided in the statute, that is, holding of public hearings, and receiving of objections and representations in relation to any major exercise of power or duty.

As legal persons, LGAs are legally accountable for any loss or injury they may cause to any person. Thus in private law a legal action can be taken against a LGA. As a government organ, a LGA is also liable in public law. Thus, the decisions and actions of a LGA can be scrutinised by courts in judicial review proceedings. In other jurisdictions, judicial review is one of the effective ways of making LGAs accountable for their action, inaction, or non-performance of their duties. In fact, in the United Kingdom, even the CG, through the AG, is known to file judicial review proceedings against LG. In Tanzania,

judicial review actions against LGAs are not very well developed but have the potential. The law could thus provide clearly for this type of actions against LGAs and further expand the rules of *locus standi* to enable any body of persons, including NGOs, to take action against LGAs in public interest.

One issue, which arises, is whether the property of LGAs, which is essentially public property, should be given immunity from attachment in the process of satisfying a judgment against a LGA. We are of the view that there should not be blanket immunity except that the procedure for attachment should be made more elaborate such that only as a last resort the property of a LGA may be attached. This requires a policy decision which should perhaps be preceded by a small study on the existing practice and the extent to which LGA properties are in fact vulnerable.

In line with the above we are of the view that the principle of legal autonomy of the LGAs within its own sphere of jurisdiction should be clearly provided in law. The law should also explicitly stipulate the principles of accountability of LGAs, both legal and political, and to the CG as well as to the people. Legal accountability of the LG through judicial review proceedings should be revisited and the procedures be made more amenable to citizens and body of citizens.

2.7 CONCLUSION

The Current legal framework for the implementation of the government policy on decentralisation by devolution is far from being complete. Whereas the Local Government Laws were amended by Act No. 6 of 1999 to provide a broad enabling framework for achievement of the policy, many of the Central and Sector laws are yet to be reviewed and amended to devolve functional responsibilities powers and resources to LGAs. This state of affairs impairs the capacity and competence of LGA to deliver services and goods effectively and efficiently. Beside the devolution of powers, functional responsibilities and resources, quality and compliance supervision instruments of local government by central government which is the new established role is yet to be defined clearly in law. Furthermore, recall powers granted to Village Assembly members should also be extended to cover other local council elected leaders such as Ward Councilors and Members of Parliament who are councilors by virtue of their office. Whether the transparency, accountability and oversight legal mechanisms work according to the spirit of the law or not is a subject for future research

3: LOCAL GOVERNMENT STRUCTURES

3.1 THE GEOGRAPHICAL COVERAGE

Both Tanzania Mainland and Zanzibar have local governments which have two major divisions, rural and urban authorities, however Zanzibar differs significantly from the set up in the mainland. For purpose of this study, will mainly concentrate on Mainland Tanzania. The urban authorities comprise of city, municipal and town councils while rural councils comprise of district councils, and sub-district levels, including the township authorities. In 2008, there are 27 urban councils, of which four are cities, 18 municipalities and five town councils. Rural authorities constitute of 106 district councils. Table 3.1 present distribution of LGAs in Tanzania mainland:

Table 3.1 Distribution of Local Authorities in Tanzania Mainland

Region	Local Government Authorities				
	Urban			Rural	Total
	City	Municipal	Town	District	
Arusha	0	1	0	6	7
Coast	0	0	1	6	7
Dodoma	0	1	0	5	6
Iringa	0	1	1	6	8
Kigoma	0	1	0	3	4
Kilimanjaro	0	1	0	6	7
Lindi	0	1	0	5	6
Mara	0	1	0	5	6
Mbeya	1	0	0	7	8
Morogoro	0	1	0	5	6
Mtwara	0	1	0	5	6
Mwanza	1	0	0	6	7
Ruvuma	0	1	0	4	5
Shinyanga	0	1	0	7	8
Singida	0	1	0	3	4
Tabora	0	1	0	5	6
Tanga	1	0	1	7	9

Region	Local Government Authorities				
	Urban			Rural	Total
	City	Municipal	Town	District	
Kagera	0	1	0	7	8
Dar es Salaam	1	3	0	0	4
Rukwa	0	1	1	3	5
Manyara	0	0	1	5	6
Total	4	18	5	106	133

3.2: ADMINISTRATIVE AND GOVERNANCE STRUCTURES

The structure of local government can be viewed in three perspectives, geographical divisions or levels, the administrative (the executive part) and the governance (the oversight part – comprises of elected). The Regional Commissioner and the District Commissioner who represent the executive (president) in these localities oversee local authorities in their areas of jurisdiction. In particular the Regional Secretariat ensures that all central government directives and guidelines issued by the PMO-RALG are respected and honored. Indeed some of the functions of the Regional Secretariat (Section 29 (11) of Act No. 13 Local Government Laws (Miscellaneous Amendments) 2006 is to monitor sectoral trends, monitor quality and standards of service delivery in all councils.

The District Commissioner in his capacity as Chairman of the District Consultative Committee in their respective districts oversees the same in his district. Local Authority Executive Directors attend these committee meetings. As pointed out earlier, in accordance with the law (Act No.7 and 8 of 1982, the Minister responsible for Regional Administration and Local Government has power to enforce performance functions of every local authority in Tanzania. Furthermore, according to section 9 of Act No. 13, Local Government Laws (miscellaneous Amendments) 2006, District Authorities are required to prepare quarterly progress reports of its implementation of development plans to the District Commissioner and Regional Commissioner.

Furthermore, the council consists of members of staff who offer technical support to the council and serve as secretaries to the various committees of the council, ward and village level/Mtaa level. All District and Urban Council Executive Directors also serve as secretaries in council meetings with no right to vote. Because of their professional and technical knowledge and capacity the staff exerts considerable power and influence in relation to preparing technical reports, planning and budgeting, as well as management of council affairs including personnel matters. The Council Director is the accounting officer for that particular Local Authority, in these capacities, they wield strong power and influence over council decisions pertaining not only to financial matters but also in the area of planning, project evaluation, tendering and general administration (Concern 2004).

In terms of governance, there are overlaps in the administrative and governance mechanisms. Shivji's observation in this regards is helpful.

“In practice, and bureaucratic consciousness, however, levels of governance are not always distinguished from levels of administration. Administrative levels are hierarchically organized, the lower being subordinate to the higher level. Levels of governance, on the other hand, are not hierarchical but differ in terms of their jurisdiction and powers. Local government authorities are thus autonomous within their powers but nevertheless subordinate governments because they derive their capacity from the national parliament. However, they are not subordinate to the higher level executive. Again to illustrate from Tanzania, village governments are not subordinate to Ward Development Committees” (Shivji, 2000). Table 3.1 shows the structure of LGAs in Tanzania

Table 3.2: The Structure of Local Authorities in Tanzania and Relations to Central Government

		Level	Elected	Political Appointees	Administrative Appointees	Administrative Staff
Central Government		National Level	President Members of parliament	Prime Minister Ministers Special seats	Permanent Secretaries	Technical and supporting staff
		Regional level		Regional Commissioner	Regional Administrative Secretary	Technical and supporting staff
Local Government	District/ council	District/ council	Councilors Council Chairs or Mayors	District Commissioner 3 councilors by Minister	District Administrative Secretary	Sectoral staff under – CD
		Division	NONE	Division Secretary by RC	NONE	Supporting staff
	Ward	Ward	Ward Councilor Some WDC	Some special seat – councilors	WEO	Sectoral staff
		Village/Mtaa	Village/Mtaa Chair Village council	NONE	VEO	Facility/extension staff

Divisional Secretaries are responsible and accountable to District Administrative Secretary in duties relating to defense and security matters; and Council Director in duties relating to divisional development

3.3 COUNCIL DECISION MAKING ORGANS

3.3.1 COUNCILORS AND OTHER APPOINTED LEADERS

Higher levels of local government are governed by elected members (Councilors), one from each of the wards and staff who are recruited either by the central government or by the councils themselves. The Councilors are elected in accordance with the local authorities' election laws and regulations. Members of Parliament resident or elected in the area of jurisdiction of a council are also councilors of those respective councils. In addition, there are three councilors appointed by Minister responsible for local government. As provided for by the enabling legislation (Acts No. 7 and 8 of 1982) the councilors, who are representatives of the people, own the councils. As noted earlier, members of staff (hired by their respective councils through the Public Service Commission) offer technical support to the council and they serve as secretaries of the various committees of the councils because of their professional and technical knowledge.

3.3.2 VILLAGE COUNCIL AND VILLAGE ASSEMBLY

There are two major organs of governance at the village level, village assembly (VA) and Village Council (VC). The village assembly is composed of all adult members resident in the village. The village assembly elects Village Councils of not less than 15 and not more than 25 members headed by an elected chairperson. All chairmen of Vitongoji are ex-officio.

The Village Assembly is theoretically the supreme body at the village level but in practice its only major function is to elect the council every five years. The reason is that neither in the law nor in practice does Village Assembly have ultimate legislative and executive powers, which are vested in the Village Council.

3.3.3 THE WARD DEVELOPMENT COMMITTEE (WDC)

The WDC membership includes all chairpersons of Village Governments in the Ward and all VEOs. The Councilor of the Ward chairs the WDC and the WEO is the Secretary. The WDC is just a committee responsible for coordinating development activities and planning in the Ward and linking with the district level.

3.3.4 STANDING COMMITTEES

Standing committees consist of members elected by the council, which decides the number of committees and specifies the mandate of these committees. There are two main types of committees at council level: standing/sectoral committees and ad hoc committees. With respect to standing/sectoral committees the members of the committees have to be members of the council and are elected by the council. Act no. 6 of 1999 section 13 provides for the formation of three Standing Committees in the District Council. The three Standing Committees will be:

- a) The Finance, Administration and Planning Committee
- b) The Education, Health and Water Committee
- c) The Economic Affairs, Works and Environment Committee

On the part of Urban Local Authorities, the law provides for the formation of three Standing Committees as follows:

- a) The Finance, Administration and Planning Committee
- b) The economic Affairs, Education and Health Committee
- c) The Urban planning and Environment Committee

In addition to the three Standing Committees, both district and urban councils are allowed to establish up to three more Standing Committees as a maximum. Legislation provides that the Minister responsible for local government should approve such addition of a Standing Committee. However, there is nothing against broadening the mandate of the three committees mentioned above, and this is a much more cost-effective solution than creating additional committees. Besides these Standing Committees, councils may decide to appoint subcommittees (ad hoc committees mentioned earlier) under the Standing Committees with a mandate relating to a specific task to be done. It has also been provided for councils to form service boards within the major sectors with delegated powers but referring to the council. The boards may consist of persons who are not councilors and this makes accountability to the council more crucial.

3.3.5 ROLES AND MANDATES OF STANDING COMMITTEES

The council is the decisive political body of a local government authority. The committee is thus not a body with political decision-making powers, but it is supposed to oversee the implementation of council decisions, i.e. the efficient and cost effective management of local government affairs. The committee is therefore an organ between the council and the administration. It is overseeing the work of the administrative departments, but it is not itself an administrative body, since it is composed of political leaders.

All committees have specific mandates, which reflect council objectives. The Finance, Administration and Planning Committee, for example, have the following mandate: it plays an active part in preparing the budget, assisting the sector committees and coordinating inputs from them. It also carries out regular financial performance control. The committee further looks into the management of tax registers as well as elaborating carefully designed investment plans, which incorporate activities of possible donors and NGOs dealing with the public service. It also has mandate to review and proposes any changes to the administration of the council. Committees sit regularly, typically once every three months, in order to follow-up on the activities of respective administrative departments as specified in the work plan.

In conducting Council business, departmental plans go through the three standing committees before being submitted to full Council. Two of the three standing committees have to forward their business to the Finance and Administration committee, which in turn forwards to the Council. The Standing committees have to meet only once in 3 months and when they meet they have to do so for, strictly, one day only regardless of the bulk of business they are to deliberate upon. The council forms ad hoc committees when a particular problem requires a political attention. According to regulations, ad hoc committees are given specific mandates to avoid mixing up issues and eventually encroach other areas reserved for standing/sector committees or assigned to the council or the Director.

3.3.6 CITIZENS OR COMMUNITY AND NGOS:

Government has been promoting community and NGOs participation in various development and service delivery activities in LGAs. Alongside participation, the initiative aims at cultivating ownership of various facilities and projects by the community for enhancing sustainability of development. This endeavour has led to the various sector policies directing formulation of institutions, which involve community members.

Education Sector

In the education sector the user statutory bodies include School Committees (at school level) and Education Boards at district level. The Education Board includes also community members who are neither local government officials nor Councilors. Several Councils have established Education Boards to support initiatives into other education areas such as secondary education and vocational education. Such areas are formally not the responsibility of local governments. However, since the central government capacity in providing education at those levels is absent, local governments have been responding to community pressure by interventions through Education Boards.

The School Committee is comprised of capable community members (not necessarily parents) in the village. To grant the School Committee autonomy, regulation provides that the Chairperson of the Committee should not be the Chairperson of the Village Government or any form of local government. In fact the Village Chairperson and the VEO have no voting rights in the School Committee. The role of the School Committee is, *inter alia*, to: support in planning school development; advise the village Council in matters of interest to the school's development; support day-to-day running of the school; and providing a link between the school management and the community. In most Councils, education Boards have been preoccupied with creation of openings for post-primary education to absorb primary school leavers. Thus, they are engaged in planning for community secondary and vocational schools in the district. In most cases the district council has been providing capacity to support school development. Complaints leveled against teachers are pursued in school committees which involve teachers, parents and village government officials. According to a local government formative study a good proportion of villagers (29 percent) attend school committee meetings (Braathen and Mwambe, 2007 p. 34)

Health Sector

In the Health sector, every health facility must have a Health Committee to guide the provision of services to suit users and determine priorities. Citizen complaints against health providers are also channeled through village council health committees and the Health Board. Also the health committees are very instrumental in supporting cost sharing initiatives. At district level, there are health Boards which are composed of Council health staff and stakeholders in the district. The Health Board is charged with the responsibility to also guide the provision of services by the district authorities to suit users and determining priorities. Specifically Health Boards at district level are charged with the responsibility to:

- Guide implementation of health service delivery
- Approve plans and forward to the Standing Committee of the Council responsible for social services
- Supervise health investment in the district

- Monitor and advise on income and expenditure.

The health sector has benefited more from the Health Sector Reform Programme which emphasizes public –private partnership. This has advantages in enhancing health funding and investment.

Water Sector

In the water sector national policy directs formation of Water Committees at each water source. At village level, the Water Committees are charged with the role of managing revenue collection from users for funding operation and maintenance of the water source. This takes into account operational and maintenance costs of things like borehole pump running and repair, fuel/ electricity costs and labour. In larger settlements and townships, the committees have grown into autonomous entities, which operate as companies. A case in site is the Kilimanjaro Water Entity, which is now operating autonomously as a private company. Nevertheless, the Council keeps a close eye on the company and the various water committees monitor the way water is supplied to respective council citizens.

3.4 ELECTION OF THE REPRESENTATIVES

Following the re-introduction of multi-party politics in Tanzania in 1992, local government elections in Tanzania Mainland have been held thrice. The first elections which also involved Village Councils and *Vitongoji* leadership (in rural areas) as well as *Mitaa* leadership in urban areas were held in October 1993. The second elections under multipartyism at that level were held in 1999, while the third one was held in 2004. Although councilors are part of LG, their elections were separately held in 1994 and concurrently held with general election (Presidential and Parliamentary) in 2000 and 2005.

Councilors for both district and urban councils are elected after every five years through an open election conducted in accordance with the local authorities' election Act No. 4 of 1979. Members of lower level councils i.e. Village Council, Mtaa Committee and Kitongoji chairman are elected in accordance with the electoral procedures prescribed by the Minister responsible for local government in a regulation under the provision of the Local Government (District Authorities) Act No. 7 of 1982 and Local Government (Urban Authorities) Act No. 8 of 1982 as well as Act No.4 Local Authorities (Elections) 1979..

3.4.1 VILLAGE COUNCIL

The Village Government can only be constituted in an area which has been registered as a Village. A Village Council is composed of not less than 15 and not more than 25 elected members, including the Village Chairperson and all *Vitongoji* Chairpersons under the jurisdiction of the of the Village. Village Chairpersons and *Vitongoji* Chairpersons participate in Village Government affairs as ex-officio members. (Act No. 7 of 1982) Women representation is provided for by legislation. There are women's special seats, which have to be not less than a quarter of elected seats. The VEO who is an appointee of the District Council serves as Secretary to the Village Government but has no right to vote.

4: PLANNING, BUDGETING AND FINANCIAL MANAGEMENT IN LGA

4.1 FISCAL POWERS OF LOCAL GOVERNMENTS

Local authorities have four major sources of funding own revenues, central government transfers, loans from financial institutions and development aid. In addition, user charges and various forms of self-help activities contribute to the running and maintenance of public services such as primary schools and health facilities. Although data on the extent of user charges and self-help activities is not available, anecdotal studies indicate that these contributions are significant and increasing resulting from political push and mobilization.

Local governments' own revenues represent less about 6 % of total national tax revenues in Tanzania. This share has been almost unchanged since 1996 (Fjeldstad 2003). Inter government transfers contribute between 80% - 90% of the council's total budget. Fiscal autonomy of district councils is limited both with respect to revenues and expenditures as councils' own contribution to budget is between 10% - 20%. Following the abolition of what was considered nuisance taxes, the powers of local government to raise revenues have declined. There is a limited number of revenue sources for local governments. These are summarized in Table 4.1 below. As a consequence, LGAs currently depend central government for a large pars of their funds.

Table 4.1 List of revenue sources for Local Governments

<p><i>Taxes on property</i></p> <ul style="list-style-type: none"> • Property rates <p><i>Taxes on Goods and Services</i></p> <ul style="list-style-type: none"> • Crop cess (maximum 5% of farm gate price) • Forest produce cess <p><i>Taxes on Specific Services</i></p> <ul style="list-style-type: none"> • Guest house levy <p><i>Business and Professional Licenses</i></p> <ul style="list-style-type: none"> • Commercial fishing license fee • Intoxicating liquor license fee • Private health facility license fee • Taxi license fee • Plying (transportation) permit fees • Other business licenses fees <p><i>Motor Vehicles, Other Equipment and Ferry Licenses</i></p> <ul style="list-style-type: none"> • Vehicle license fees • Fishing vessel license fees 	<p><i>Other Taxes on the Use of Goods, Permission to Use Goods</i></p> <ul style="list-style-type: none"> • Forest produce license fees • Building materials extraction license fee • Hunting licenses fees • Muzzle loading guns license fees • Scaffolding/Hoarding permit fees <p><i>Turnover Taxes</i></p> <ul style="list-style-type: none"> • Service levy <p><i>Entrepreneurial and Property Income</i></p> <ul style="list-style-type: none"> • Dividends • Other Domestic Property Income • Interest • Land rent <p><i>Other Local Revenue Sources</i></p> <ul style="list-style-type: none"> • Administrative Fees and Charges • Fines, Penalties and Forfeitures <p>“Local Governments are not allowed to levy any taxes, levies or fees which are not on this list.”</p>
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Source: Tanzania: public expenditure review annual consultative meeting local government fiduciary assessment cited in Melyoki 2006.

4.2 PLANNING AND BUDGETING IN THE CONTEXT OF DECENTRALIZATION BY DEVOLUTION

The decentralization aims to restructure local authorities so that they respond more effectively and efficiently to identify local priorities of service delivery in a sustainable manner. In support of this, a tool was designed to “identify local priorities”: the participatory planning tool called “opportunities and Obstacle to Development (O & OD). This was introduced in 2002 in several pilot districts. This kind of planning is a village based, which involved training of selected O&OD committee. The training was done under the district council facilitators prior to preparing of village plans. Under this arrangement, the plan is supposed to be discussed by village council, before it is sent to the Ward Development Committee. From her, it is sent to the Village Assembly for final adoption.

The identification of priorities is also going hand in hand with financial plans. Generally, there are projects whose financing is from the Council and there are those whose financing is from the citizens themselves. There are also those which are financed jointly with the council and citizens. In either situation, citizens tend to have a sense of ownership of such projects. Also, they are part of monitoring of implementation of the project. Since they have been part of the project from the identification to implementation, also since they know the financing of the project in terms of source, amount and timing of the disbursements, it is easier to follow the development of implementation. Consequently, they are also able to question authority in a situation of poor performance. The policy of decentralization is, thus, considered to increase awareness to the citizens on what is happening within their locality and hence are able to hold accountable authority.

The current planning and budgeting processes in the LGAs are guided by the ‘Guidelines for the preparation of LGAs’ Medium Term Plans and Budgets’ issued by PMORALG. These guidelines reflect and interpretation of the national plan and budget guidelines issued annually by Ministry of Planning and Economy and Empowerment (MPEE) and Ministry of Finance (MOF). Beside the guidelines, the preparation of budgets observes the requirements of the Local Government Finance Act no. 9 of 1982, section 43 (1), which requires the councils to have an approved annual budget two months before the beginning of the financial year.

Guidelines require the plans and budgets to be prepared in a participatory manner: the heads of department, following a participatory planning process from the grassroots level to the District/council level, submit proposals of the projects and estimates for the cost for delivery of services to the relevant Council committee meeting in which stakeholders and the civil society organisations operating in the councils’ jurisdiction should participate. The draft plan and budget has to be submitted to RAS for comments and scrutiny before it is submitted to the Finance Committee and then Full Council for approval. This requirement is yet to be fulfilled as will be further elaborated below.

4.2.1 THE PLANNING PROCESS

To ensure that plans emanate from grassroots, the Government has decided to apply the Opportunities and Obstacles to Development (O&OD) method to be used by LGAs. The introduction of O&OD is founded upon the political commitment to use participatory planning in the LGAs as a means to engender more rapid economic and social development. This commitment is underlined in the Tanzania Development Vision 2025 where the need for democratic participation at all levels in the development processes is underlined. On the legal side, there are various laws, which underline the importance of participatory planning. They include Local Government Act No. 7 of 1982, the Local Government Financial (Block

Grants) Act (paragraph 5). Act No. 7 of 1982 articulates the powers and responsibilities and functions of the various levels of LGAs in service delivery. The salient features of O & OD include the following:

- Bottom up planning process which takes advantage of knowledge accumulated in the LLG.
- Starts with opportunities rather than obstacles in order to invigorate the need to work for home grown solutions to obstacles to development.
- Operates with the structures of Local Government Authority and in line with overall national plans and budgets.
- Enables the people to formulate their plans using targets of the Tanzania Development vision 2025.
- Is multi-sectoral in that it considers the development needs of all the sectors in the area covered by the development plan.

The O&OD method will be linked to the LGCDG financing system. This means, the grant funds to councils through the LGCDG system is being used to finance the plans generated through the use of the O & OD methodology. There are important criticisms of O & OD that include the following:

- O&OD methodology lacks investment appraisal tools for LLG.
- There are no procedures for prioritization of projects against indicated planning figures (IPF) at ward level.

There are several problems experienced in the planning processes of local governments. One of these key problems relates to the planning guidelines issued by central government. The guidelines suffer two major weaknesses. The first one is the delay in issuing the guidelines with final ceilings. In practice the final indicative figures are released in May, a month before the budget session, while the planning and budgeting process in the councils is completed by March. This leads to the plans and budgets that are approved by the councils to be subjected to further changes by PMO-RALG/Ministry of Finance thus circumventing the rules and laws governing the functions of the Councils (PEFAR, 2006).

The second problem relates to the heavy dependence of the councils on the grants from the central government, grants which are already ring fenced or earmarked. On average, about eighty percent of the finances of the local councils are grants from central government. This implied that priorities for the local councils are determined by the central government, which makes the exercise of planning and budgeting less meaningful.

PEFAR (2006) has pointed out the following problems with the planning and budgeting systems:

- It was noted that the planning system is supposedly bottom up, from hamlet, village plans, to Ward Development Committee (including village representatives), to District. However, often, district and urban council planners ignore them.
- The delayed receipt of the final ceilings from the CG meant that it was impossible for the LG to stick to the budget.

- The full budget is then an aggregate of priorities within ceilings for different sources of funds rather than a coherently prioritised plan incorporating all sources.
- The first three year MTEF had been developed for 2005/06 in most Local Councils. It was reported that this MTEF linked with the council's Opportunities and Obstacles to Development (O & OD) although this was not demonstrated. Nonetheless, it seems that any understanding of the linkages between recurrent and development expenditure were weak/non-existent.
- There are multiple planning processes in place at the village and ward levels. Apart from the O&OD individual projects have their own planning and project selection processes such as TASAF and LGCDG.
- The numerous planning, budgeting and reporting mechanisms, usually presenting contradictory information, mean that no one can be sure that the information on local government finances that is held centrally is correct. This has serious implications for the fiscal decentralization process as well as for the budget process as a whole. At the very least, a much closer look at planning, budgeting and PFM systems at local government level is urgently required. Some of the issues that call for immediate attention are the following:
 - i. In most LGAs basket funding is not been integrated into the core planning and budget system and is often not presented in budgets to councilors in spite of the fact that ceilings are clearly stated in local government budget guidelines. This is deceptive for Councilors, staff and the general public.
 - ii. The MTEF format of plans and budgets prepared by LGA technical staff and presented to the budget sessions of Full Council meetings is unnecessarily complicated and not suitable for presentation to non-technical officials. The format should be simplified in order that it enables councilors to analyze and discuss the budgets.
 - iii. The rules for contesting discretionary funding (General purpose grants, LGCDG, LGCBG and LGDG) are not transparent to sectors at LG level, let alone Councillors, wards and villages. As a result there is little evidence that these sources of funding are being matched to local needs. This lack of transparency in the use of discretionary funding in some cases this applies even to Council's own sources of funding.
 - iv. The mapping of planning and reporting mechanisms, as well as audit requirements, done by the PEFAR show excessive duplication in funding mechanism reporting and audit requirements.

4.2.2 THE LOCAL GOVERNMENT CAPITAL DEVELOPMENT GRANT (LGCDG) SYSTEM INCENTIVES FOR TRANSPARENCY

On top of the guidelines issued by the government, the LGCDG System also publish indicative figure for use in preparing development plans for the lower level governments. On top of information provided, the system allows for measures to be taken that focus on enhancing accountability. Some of the instructions include:

- The posting of Indicative Planning Figures (IPFs) for Wards and Villages/Mtaa for the current financial year at the respective Council headquarters and other public places.

- The posting of approved projects of Council for the current financial year at the Council offices, sub-district offices and other public places.
- Communication to sub-district level of information on projects to be implemented in their respective areas in the current financial year using CDG and Capacity Building Grant (CBG) from the Local Government Capital Development Grant (LGCDGS) system².
- Posting of summary annual budgets plans and audited accounts on public notice board at the LGA offices.
- Evidence that participatory planning procedures have been adhered to in accordance with the planning guidelines.
- That the planning process shows evidence of the participation of other stakeholders – which would be shown in the minutes of the work of the planning officer.
- Demonstrating that gender and environmental issues have been integrated into planning.

It should be noted that with respect to financial transparency and accountability, the LGRP assessment manual actually assesses districts in terms of the extent to which they satisfy the requirements of financial transparency as stipulated in the Local Government Financial Memorandum. Failure to adhere to the criteria results in the council missing development funds.

There have been problems also with information provided under the LGCDGS system. The plans and budgets prepared under the system can be altered at PMO/RALG or Ministry of Finance. These changes dis-empower the councillors. Also the government provides information on funds allocated to councils by publishing it in newspapers. This is information meant to be useful to representatives and the public in general. The problem with this system of disseminating information is that few persons outside Dar es Salaam and other few major towns will access these newspapers. Representatives in the remote areas of the country will hardly be able to access such information.

² Development Grants issued to the Councils carry different names with earmarked purpose.

5. ASSESSMENT OF THE ACCOUNTABILITY MECHANISMS: PERFORMANCE

5.1 OVERSIGHT EXERTED BY POLITICAL REPRESENTATIVES

In the local authorities, at council level, the representatives make decisions through the Full Council which is the highest legal organ for making decisions that are to be implemented by the bureaucrats. The Full Council meets at least every quarter of the year. The Full Council is supported by a number of committees. These include Finance and Planning Committee, Economic, Works and Environment Committee and Social Services Committee. The membership of these committees is from the list of Councillors. All issues tabled in the Full Council are scrutinized first by the committees. These organs face some challenges in performing their oversight role. Some of the problems include time space for doing the work properly. According to Mushi and Melyoki (2005) there are cases in which papers for the meeting are distributed to the members during the meeting or a day before the meeting which makes it difficult to read them and contribute meaningfully to the oversight discussions. The reason given is the lack of resource to access the representatives in their wards/localities. For example, the council is unable to provide transport to the councillor when she or he comes to attend the meeting. Another major problem is the issue of capacity of these representatives to handle technical issues. There are very few of such representatives who can read financial reports and interpret them correctly and use them to influence decisions.

At the lower levels, the law has provided for village council, village assemblies and Ward Development Committee. Representatives in the village government attend to matters pertaining to the village through the village councils. Issues endorsed by the village councils are then taken to the village assembly. The Ward Development Committee plays an advisory role to the village council. A major problem at the lower level is the issue of capacity and availability of resources. Many of the representatives in the village council, including some of the functionaries, have basic education and sometime no education at all. This affects their effectiveness in handling technical issues. On the other hand, village governments are not allocated operational funds by the council, and some can hardly raise any funds after the central government abolished all nuisance taxes applicable at this level (REPOA, 2007, Framework for Downward Accountability).

Representatives can effectively influence decisions at either local or national level if they can access information that they can use. The government has a system for providing information to representatives either in the form of guidelines which help them to participate in the process of formulating plans and budgets, or in the form of actual revenue and expenditure reports which can help them know the sources of finances and how such finances have been used. There are guidelines which are useful at national level applying mostly to central government institutions, and there guidelines which apply to the local government authorities.

5.2 REPRESENTATIVES' ACCESS TO INFORMATION

Financial information provided is in professional formats which cannot be understood by any professionals. For example, publication of the balance sheets and revenue and expenditure statement in format proscribed by in international financial reporting standards may pose problems to non-financial experts. The other problem is that of language used in the reported information. If information posted on

a notice board at council level or village level is in English, then it is unlikely the majority of the representatives will be able to read it.

There is therefore a problem of accessing information that is useful for discharging oversight responsibilities. The problem is compounded further by the lack of skills on the part of the representatives. Low analytical skills hamper the use of such information. The PEFAR (2006) report found the following situation in some of the councils visited:

- Local Councils either have a manual system for accounting or have shifted over to the computerized EPICOR system. Both systems have enormous challenges. The mission's finding in a local council such as Arumeru (with a manual system) was that there was systematic breach of rules due to which cheques far in excess of the bank balances were issued on a regular basis through their main operating account – the General Fund Account.
- The situation in the several of the Local Councils with the Epicor system was somewhat similar. The Epicor system, as it is operating in Mwanza and Muleba showed that it has no checks built into it. In Mwanza Bank reconciliations had not been completed for several months, and not a single bank reconciliation statement had been signed by either the District Treasurer or City Director as required by the rules. In Muleba, the bank reconciliations conducted through the Epicor system had glaring inaccuracies, and the closing balance of one month was not the opening balance of the next month. Multiple expenditure statements were available for the same month, and there were numerous instances of reallocations that could not be explained. This was truly surprising considering the fact that Epicor has been in operation in councils such as Mwanza for over six year's now. What was also surprising was the fact that these shortcomings had not been noticed or corrected by the LGRP ZRT's who had provided some of the highest ratings to councils such as Mwanza. Given the state of its financial management systems, it is also surprising that Mwanza also has access to LGCDG funding.
- In year reporting of expenditures is regular. A monthly budget report is produced by the finance department that is sent to the finance committee and published on the LG notice board. Quarterly reports are sent to the regional secretariat after the full council has passed them. However the format of the monthly reports is confusing in most Local Councils.
- The annual financial statements are prepared by the finance department within three months after the financial year-end date. The final financial statements included the budget and actuals for the year in question and the previous year's actuals for comparison purposes. These documents were not prepared in a consistent manner reducing ease of cross year comparison and difficult to understand – requiring extensive interpretation.

5.3 INDEPENDENCE OF POLITICAL REPRESENTATIVES

The majority of the political parties hardly have manifestos that would guide their members in discharging their responsibilities. The CCM party which has ruled the country for since the days of independence (earlier operating as TANU), has all along being guided by a manifesto. The manifesto has been used as the campaign guide and also the oversight guide to those elected and the bureaucrats. To ensure that the commitments in the manifesto are implemented, the administrators are required to prepare periodic reports which are submitted to the Party for review and issuing of guidance. The elected leaders

who are mostly CCM members have a responsibility of ensuring that the manifesto commitments are implemented.

5.4 FINANCIAL AND ADMINISTRATIVE SYSTEMS: CHALLENGES

Studies that have been carried out point to existence of fairly strong financial systems that assures a reasonable amount of accountability. The DFID report (2007) points out that in the last five to seven years, there have been significant improvements related to budget process, procurement, accounting and audit. These improvements have also included greater oversight and scrutiny by MPs, and strengthened capacity of the Public Accounts Committee and the Local Authority Accounts Committee, roll-out of the IFMS to all ministries and independent departments and regions. These initiatives have contributed to the creation of a conducive environment for accountability. In spite of the mentioned strength, the aforementioned report point to the following shortcoming which in the final analysis undermine accountability:

- Limited transparency and Access to Information,
- Relatively weak civil society demand for financial transparency, accountability or participation: from media, NGOs, academia etc
- Follow up from problem identification to legal action: Weaknesses in procurement, for example, are reported by the Auditor General, but action is rarely taken
- Central government accounting is much better than local government – only about 50% of local authorities have computerised accounts; proliferation of different computerised systems is not yet making significant difference to access to information at local level.
- Overturning of budget decisions made at a lower level by a higher level, often without clear justification, means that expectations are raised through by citizen's involvement in budget processes, and then are not met, leaving citizens disempowered and demotivated for further involvement.
- Imbalance of attention to expenditure over revenue: there is much more attention on for example expenditure tracking, than what revenues are available, their sources and collection.
- Budget process problems: There have been many technical advances in recent years, including MTEF, PER, Epicor, SBAS, PLANREP, but it is increasingly clear that they do not yet substantially add up to increased accountability. The level of detail and aggregation in budget figures, combined with lack of narrative to explain budget ceilings for MDAs or final choices in resource allocation, and use of the English language, mean that citizens are, by and large, not involved in what is seen to be a closed and technical process
- Limited parliamentary oversight and challenge, due to constitutional implications of rejecting a budget, and lack of independent research capacity or appropriate budget information
- Relatively weak domestic accountability vis a vis external accountability: Negotiations between GoT and DPs take place largely behind closed doors. JAST intentions to strengthen

accountability of both GoT and DPs to domestic stakeholders have yet to be realized in practice. The work of the Independent Monitoring Group (IMG) is not institutionalised.

At administrative level, over the past 15 years the government has been implementing public service reforms aimed at improving and bettering the delivery of services. The changes have been more pronounced at the central level where all ministries, departments and agencies are virtually operating under performance management systems. The system entails good planning for institution activities, good monitoring of implemented activities and entering into ‘contracts’ for service delivery standards through the client service charter. At local government level, the reforms were delayed. The process of reforming started in year 2000 after the formation of the Local Government Reform Programme (LGRP). The LGRP focused on reforming the council systems culminating in the installation of a performance management system. The process at this level has remained slow as not all the councils have completed the process of reformation. And worse still, the reform programme has not touched the lower levels of government at ward and village/Mtaa level. Other measures to improve administration systems in both the central and local government have been the implementation of the anticorruption strategy. For central government, the strategy has been implemented in all ministries in the past five years under NACSAPI, while in the local authorities the implementation has just started under NACSAP II. On top of these measures, the PCCB has established offices in virtually all districts.

The DFID report (op. cited. P. 22) points out that service user satisfaction survey indicate a 25 -50% and 50 -75% dissatisfaction for central and local government respectively. The intended administrative improvements are likely to be undermined by the unimplemented reform components at both local and central level. For example, the pay reform that the employees have been waiting for, given promises made all along by the executive/ political leaders has not been realized. This is demoralizing and certainly undermines accountability. Other challenges highlighted by the DFID report include, among others, the following:

- Problems of Access to information
- Weak records management systems
- Weaknesses in the follow up of employees rights and entitlements
- *Unresolved boundary issues of mandate and responsibility of management of local government employees.*
- Relatively weak capacity of CSOs to represent service users, and poor access to information about and understanding of appeal mechanisms where they exist (such as in client service charters)
- Only **councils performing well** receive capital development grants – those with adverse reports do not, which punishes the citizens who should be recipients of public services rather than the wrong-doers in the government system. It is expected that citizens or their representatives in the council will sieve the opportunity to ensure better performance in their council.

5.5 THE POLITICAL REPRESENTATIVES- NON-GOVERNMENT ACTORS INTERFACE

Tanzania has three levels of representation. The first level is that of parliamentarians, the second is that of councilors at council level and the third is the village/Mtaa councilors. The parliamentarians represent the constituencies in the national parliament, and they are also members of the Full Council in the councils by virtue of being members of parliament in the urban/district council. At local government level, the Councilors who represent the people in the wards, are expected to conduct public meetings to inform the people about decisions made by the Full Council, inform people about progress on implementation of development plans in the ward and answer questions on any issue related to service deliver in the ward or council for that matter etc.

The accountability of these representatives to the people is gaining momentum due to a number of factors. Foremost is the gradual growth in multi-partyism in the country where representation is contested viciously by candidates from the different political parties. Secondly is the role played by top government leaders (the executive) in sensitizing the citizens to hold accountable both the representatives and the bureaucrats. The executive has been emphasizing the need for all levels to implement the CCM manifesto, but also pro-transparency and accountability campaigns have increased after launching of the policy of Decentralization by Devolution since 2000, and in particular after the introduction of programmes such as the Primary Education Development Plan (PEDP), the Secondary Education Development Plan (SEDP), the Health Basket Fund, the Local Government Capital Development Grants System etc, all of which have taken the lowest level of government (the village in the rural councils or the ward/Mtaa in the urban councils) as center of spending for a large part of the government grants to councils and the locally contributed funds. Thirdly, the changing profile of the citizens where there are more educated persons, existence of more retired persons who are familiar with government systems and have high expectations on the quality of service delivered impose further pressure for transparency and accountability.

In spite of the efforts exerted and strides made, some studies conducted recently have pointed to some weaknesses which continue to undermine political accountability at both national and local government level. DFID report (2007) points out:

- Lack of structure, or perceived need, for MPs or councillors to consult or feedback to constituents between elections.
- Sitting allowances for attendance at matters which are clearly related to core business of MPs / councillors, provides a wrong incentive and poor precedence which is rapidly being replicated.
- Lack of means for the Prevention of Corruption Bureau to follow the election process more closely.
- Lack of attention to civic education except in the context of national elections
- Weak links between NSAs and elected representatives, which could help strengthen information sharing and which would in turn and enhance NSAs role of influencing policy design and monitoring.

In addition, at *local level*, these are particularly important issues:

- Lack of popular understanding of the role and responsibilities of councilors, and hence of the kinds of people attracted to or elected for that role
- Lack of skills and understanding of the planning and budgeting processes, to enable councillors play a useful oversight role of the executive at local government level.
- Lack of appreciation of the collective inputs from especially NSAs and FBOs related to policy advice or service delivery

The DFID report (2005) also points to weaknesses related to financial accountability which impact upon the representatives' ability to intervene and influence decisions more resourcefully as were discussed above. Excessive powers of the executive which undermine the powers of representatives and the non-government actors. This executive dominance is both at national and at lower levels of central government. As mentioned earlier, Act No. 7 and 8 give the Minister responsible for Regional Administration, currently the Prime Minister as well as the Minister of State under the Prime Minister's Office power over local authorities. The Regional Commissioners as well as District Commissioners who are lower level central government officials are also given substantial power over local government authorities. Thus, directives from the Prime Minister, for example on issues of construction of secondary schools in the Wards (all in district Councils) interfered heavily with decisions of the local councils. Village plans approved by the appropriate organs (the Village Assemblies) were put aside to accommodate the directive.

At the lower level, the District Commissioners are also very powerful; they can interfere with decisions of the local councils and get away with it. For example, in some districts e.g. Monduli it has been noted that the DC extended his mandate, contrary to procedures, to influence council plans, especially those from villages. The major reason was the pressure from above (probably from the Prime Minister) of ensuring that secondary schools in wards were built and students who had passed were enrolled.

The empowerment of the position of the District Commissioner was advanced further when in 2006 an amendment was made to the local government laws to create a District Consultative Committee (DCC) whose chair is the District Commissioner and the secretary is the council director, and whose mandate includes scrutinizing the council plans and budgets before being tabled in the Full Council. REPOA; 2007: Framework for Downward Accountability). A major positive element of the DCC is that it includes among its members a CSO representative.

5.6 ABILITY OF NON-STATE ACTORS TO HOLD GOVERNMENT ACCOUNTABLE

The most important category of non-governmental actors is the Civil Society Organizations (CSOs) which include NGOs, Faith Based Organizations (FBOs) and Community Based Organizations (CBOs). The role of CSOs has become increasingly prominent or noticeable over last decade. According to information posted on the Civil Society Foundation website, currently there, there are 84 NGOs registered internationally, 1017 with national registration, 237 registered at regional level while another 336 are registered at district level. This adds up to about 1673 NGOs. The rate of registration of CSOs is increasing monthly. This rapid increase in registration may be explained by two factors: the support that comes from the Development Partners in terms of financing which in turn attracts opportunists and

secondly, the existence of a large pool of individuals who are looking for alternative sources of employment after either involuntary retrenchment or voluntary exit (e.g. retirement) from both the public and private sector.

The government recognizes the importance of CSOs in the economy, and in lieu of this, a law has been enacted to cover issues of CSOs, and also a policy has been put in place to cover the activities of CSOs. At national level, the CSOs have been co-opted in various Technical Working Groups that have been involved in formulation of national programmes such as the Poverty Reduction Strategy (PRS) and its successor - the National Strategy for Growth and Reduction of Poverty (NSGRP); some sector based programmes such as PEDP, SEDP and Health Sector Basket etc. For NSGRP the CSOs were represented in the national wide consultations, district level consultations and village level consultations. District level consultations were conducted through workshops in which representatives from district council secretariat, FBOs and the aged, children, youth, women, persons with disabilities, persons living with HIV and AIDS, widows, orphans, CBOs, and CSOs, private sector, trade unions and informal sector were all invited and participated. The village level consultations were undertaken through the Village Assembly. On the monitoring of the NSGRP, the role of the CSOs has been prominent. They have been co-opted in the various technical working groups (TWG) as follows (REPOA, 2008: Social Economic Development study for APRM):

At the local government level, the role to be played by the CSOs is articulated in the Medium Term Plan and Budget for July 2005 – June 2008 (PO-RALG, 2005: MTP & Budget 2005 – 2008). Section 6.8.5 (see p.69) points out that ‘areas for collaboration, such as public expenditure surveys (PETS) where service users are encouraged to monitor the use of public finances, will be identified. An inventory of CSO will be prepared and cooperation agreements entered into with those organizations identified as having sufficient competence in PO-RALG areas of interest.’ The implementation of MTP is now coming to an end, and the begging question is; how many of such agreements have been signed to allow the CSOs to conduct PETS? Or rather, how many of such PETS have been conducted under the collaboration initiative? A record of such PETS is rare. Known PETS have been conducted under contract for nationally coordinated programmes like the PEDP and the Health Basket Fund. A few NGOs, out of their own initiative, have conducted PETS e.g. UNGONET in Morogoro and TGNP in Kisarawe etc. on the other hand, REPOA has conducted trainings on PETS in 22 councils which brought together council staff, council representatives and CSO/Media representatives.

Studies conducted recently show that the CSOs have been relatively weak (DFID, 2007). They point out that, ‘despite the thousands of Non-State Actors in Tanzania, it is a relatively small and high profile few, operating mainly at national level, that play an assertive role in demand side accountability.’ The report continues to say that, ‘in part, this is because ‘Civil Society’ is relatively new to Tanzania and is a product of the liberalization of the 1990s. In many cases however, local government bureaucrats exhibit a lack of understanding of the role and attitude envisaged for CSOs/NGOs and simply choose to ignore their demand for more accountability, participation, transparency and so on. Other NGOs meanwhile actively reject the more confrontational approach, seeing constructive citizen engagement as a more productive way of changing mind-sets, policy and practice, especially given the top-down planning tradition from which Tanzania is emerging, and the sense of Tanzanians working together against a common threat.

The shortfalls noted in respect of these CSOs include:

- Many NGOs in practice behave more as ‘contractors’ accountable to donors for delivering certain outputs (safety nets, services, pieces of research or advocacy) than they see themselves as having a role in accountability, let alone seeing themselves as accountable to the poor and marginalised.
- Others model themselves on a different style of development intervention, arguably more like the churches and mission organisations, or more traditionally accountable chiefs, ‘bringing development to an area’ by involving citizens in their localities to prioritize development projects, e.g. construction of water bore holes, construction of dispensaries etc.
- There is a shortage of skills amongst many civil society actors, both in running their organisations (financial management, strategic planning, monitoring etc) and in understanding the context within which they operate (whether that is government policy or the dynamics of globalisation or poverty).
- ‘Having an NGO’ is sometimes seen as a (private) income generating opportunity - often in the face of retirement or retrenchment from formal sector employment.
- The legal framework within civil society operates also remains unclear. The NGO Act has been passed but not fully operationalised, and it remains untested about what ‘compliance the Act’ entails, for example, for NGOs founded before it was passed. Issues of Access to Information remain unclear, even with the forthcoming legislation, with apparent contradictions between constitutional rights, and the usual practice of civil servants that any government matters are taken as secret unless specifically designated otherwise (DFID, 2007).

Other study findings also point out to the weaknesses of CSOs. REPOA (et al, 2005; p. 34) found out that the civil society was rather weak as source of societal accountability, this is in spite of such societies being respected especially the faith based organizations.

The Media

The liberalization of the economy has also seen a tremendous growth in media institutions and which is mainly concentrated in Dar es Salaam. Outreach to most regions and districts are limited. The newspaper houses, the television and radio houses etc are mostly concentrated in Dar, with limited circulation or transmission to the regions due to either infrastructure problems or transmission capacity limitations. The REPOA report (op. cited) points out that media is seen as a campaign tool, more than a natural check against state power. The DFID report (op. cited, p.34) gives a rather none committal assessment of the media. It points out that the media is largely free from state control and is a new phenomenon in the country, and that the boundaries of what can and cannot be said are still being tested. It further points out that there are also on-going changes, including arguably monopolizing tendencies in the ownership of media houses, which may in the medium to long term inhibit what gets published.

The Village Assemblies

Ordinary citizens have room to influence decisions on the local government through the village assemblies or Mtaa meetings. The village assemblies are statutory meetings intended to approve all

matters approved by the village council or government. All citizens can attend the meetings and raise any question to the leaders. Also given that the village assembly meeting is a statutory meeting, the minutes of such meeting are sent to the council, in which case the issues raised therein will be known to the bureaucrats and any body else interested in knowing what is happening in the lower levels of government.

Studies conducted (REPOA 2005; Understanding Patterns of Accountability in Tanzania, p. 17) have shown that many people (%) make use of the meetings. It is pointed out that people attend meetings, they write letter to the administration, visit local offices, and complain about local government performance in the presence of leaders, and so on. The report further points out that the complaints are picked up by the elected officials, who would then challenge and scrutinize appointed officials in the hope of holding them to account.

Influence of the multi-Party politics on local accountability

In Tanzania there about 23 active political parties which are either have full or provisional registration (see appendix 3). Reports available have shown that the only party that influences decisions in Tanzania is CCM. The DFID report (op. cited, p. 13) points out those political parties other than CCM tend to be fragmented and dominated by a few well known individuals, who tend to have relatively weak linkages with grassroots and remoter parts of the country. These other parties are therefore weak in influencing decisions at council or parliament or executive level.

5.7 INCENTIVES AVAILABLE FOR COUNCILORS TO PERFORM

The bottom line for any elected official is being re-elected. Research findings support this view. According to the REPOA report (2005, pp.17-18), it is found out that, appointed officials criticized the elected politicians for their unrealistic promises and for their cynical concern for re-election. It is further pointed out that impending elections appeared to be improving the responsiveness of elected politicians. From the latter, it is obvious that the representatives would like to see the appointed leaders and other technocrats delivering those services promised through the annual plans and budgets. Where there is failure, the elected officials will put unlimited pressure on the government officials, and this for purposes of impressing the electorate. According to the REPOA report (op. cited. P. 28) the findings from the interviewed MPs showed that ‘MPs are largely judged by voters according to their ability to “bring the goods home”. As a result, MPs see themselves as ‘accountable’ for providing tangible benefits to their constituencies.’ Thus where the system fails to deliver, it is pointed out that the MPs may resource to informal mechanisms like lobbying through personal networks and approaching donors and international NGOs. Some MPs even dig deep into their own pockets to provide resources needed by the electorates.

Although the report talks about MPs, the same observations could be made for the councillors who are working with the electorate daily. According to the report (op. cited. P. 28), the elected politicians ‘need the right incentives – in terms of encouragement by their political parties, along with the necessary information and resources and a commitment from the party leadership to demonstrate accountability is important.’

It may however be noted that the power of the local government authorities to hire and fire their own senior staff is limited because hiring such staff is done through the Public Service Commission (PSC). According to the Public Service Act, No. 8 of 2002, Section 10 it is the PSC which is responsible for the

appointment of officer grade in any local government authority in Tanzania. It is also the PSC which monitors and evaluates the performance by officials in the public service.

6. CONCLUSION, CHALLENGES AND RECOMMENDATIONS

6.1. CONCLUSION

Several key messages emerge from this review. Firstly, local government system has been seen as an important vehicle for establishing the voice of citizens through locally elected bodies. Secondly, while the policy framework for the implementation of the government policy on decentralisation by devolution is sound, the current legal framework is far from being complete. Thirdly, although it is gaining momentum, several limitations still inhibit effective accountability in LGAs. Fourthly, the local government system still suffers from flaws in capacity and institutional design, and therefore has been unable to deliver services effectively. The main outcomes in the service delivery arena have been fragile and achievement on local development weak. Weakness in the revenue framework is one of the most glaring deficiencies. Financial dependence makes the local government system function largely in a deconcentrated rather than devolved manner. However, there remains a tall list of challenges that need to be overcome. These are presented next.

6.2 CHALLENGES

6.2.1 SYSTEMIC, POLITICAL AND BUREAUCRATIC CHALLENGES

Weak Political Opposition: Political opposition in the Councils is still very weak. Absence of strong political parties in the opposition has weakened the element of influence on decision making. Stronger opposition would provide for checks and balance in decision making to ensure that power is not misused to serve peripheral interests. Also strong opposition could check against undesirable practices such as corruption and mismanagement of funds.

Perception and Assumptions of Councils' Staff: Councils management tend to assume management reports used at Council level can be used at lower levels, when in fact these lower level Governments cannot read and understand those reports. Likewise, there is exaggerated emphasis on the lack of interest by citizens to read and use information. The situation on the ground is, citizens want to be informed. There is an over assumption that the political process which involves the interaction between Councillors and Council management on one hand, and Councillors and citizens on the other, would enhance transparency. But this is not the case in practice because the interactions with citizens are limited.

National Level Policy Position on Transparency: No guidelines and clear instructions from the centre to LGAs on the issue of transparency, especially financial transparency. Mostly communications either through meetings, or circulars which only superficially do they touch on transparency. A lot of key instructions to LGAs are obtained through meetings organised by the ministry etc. rather than through formal written communication.

Council approach to transparency: Most councils lack internal policy on transparency and the use of the notice board which are key in enhancing transparency. In addition, there is little follow up on what happens at meetings held at village level, to check whether the Councillors are attending those meetings, and if not, take appropriate action. There is no formal management structure in place to address the issue of transparency. No formats have been developed to transfer information to lower levels of Government

and sharing with the citizens. The formats used for management purposes are the ones used for sharing information with lower levels.

Physical and Infrastructural Limitations: Lack of infrastructure to support transparency to enhance accountability e.g. villages don't have photocopiers/no power, and where they receive reports, only one copy is provided. So they are confronted with the decisions: what do you do with the single copy, file it or put it on notice board? Issue of distances where working facilities (e.g. transport) are limited, affects the extent to which information can be shared. The situation is more critical during the rainy season when the roads are not passable.

Planning Process at Village and Ward Levels: In most cases, it has been noted that the consolidation of plans does not take place at the ward level, which underlines two things:

- i. Infrastructural capacity to do it at ward level is absent as there are no computers and even electric power;
- ii. Skills to handle the mass of information is also lacking, given that this would be done by the WEO and maybe with the assistance of the sector activity coordinators, whose skills for this kind of work could be low as well.

Record Keeping: Record keeping system of the village Government is extremely poor, e.g. it is very difficult to trace files. The infrastructure in the office is inadequate and this has implication on financial management especially when funds are sent and spent at the village level.

6.2.2 HUMAN RESOURCES CHALLENGES

Today, most Councils are still operating with limited human resource capacity, both in terms of numbers and expertise. The shortfalls in numbers are even more acute in the remoter areas of the country. A broader constraint faced by local governments in attracting adequate numbers of qualified staff to deliver local government services is their lack of control over local government salaries. Providing local governments greater control in determining local government salaries -or allowing LGAs to top up the salaries of local government employees within the context of their available resources- would improve the ability of local authorities to attract and retain staff, especially in rural and remote parts of the country.

The Government's 1998 Policy on Decentralisation identified administrative decentralization as one of the four key pillars. This implied de-linking local authority staff from their respective ministries and making local government staff accountable to locally-elected councils. It was envisaged that councils would be the appointing authority and employer of all staff³. Councils were expected to become fully responsible for planning, recruiting, rewarding, promoting, disciplining, developing and firing their personnel. HR decentralization is a corner stone of D-by-D, and the Government Policy in Tanzania is quite clear on this issues, and indeed the Policy paper of 1998 is quite specific about LGAs having control

³ Although provision was made for council directors to be appointed by central government as an interim arrangement.

over the management of their own staff, and about locally posted staff being “de-linked” from their parent ministries.

Since 2001, progress in granting Councils greater autonomy over personnel management was reversed and the situation regarding Government intentions has remained ambiguous. The key event was the enactment of the new Public Service Act (no.8) of 2002 and the subsequent promulgation of the 2003 Public Service Regulations. These challenge the principle of devolved responsibility for personnel management by introducing deconcentrated personnel management within a unified public service. Within this framework, Councils are ascribed only limited authority over staff.

Little progress has been made in taking forward the issues of human resource decentralization. The modest goal of amending the Public Service Regulations to bring them into line with the amended Public Service Act of 2004, and thus give effect to the role of LGAs as employing authorities has yet to be attained. According to PMO-RALG, all attempts at progressing this issue have been frustrated, and the commitment of PO-PSM to play its part in giving effect to changes must be seriously questioned.⁴

Meanwhile, progress made in advancing fiscal decentralization through the development of formula based recurrent transfers offers prospects for Councils to have greater control over the management of PE and may enable more efficient deployment and reward of LG personnel. Efforts to improve incentives for attracting and retaining LG staff have been frustrated by limited progress on nationwide pay reform; the decision not to extend SASE to local government and the abolition of the majority of council’s own-revenues.

Overall, local governments today face the same constraints to managing human resources that were identified in the 2001. Conditions of service are set centrally; there is little discretion over the size of the establishment; councils have limited power over hire, fire and recruitment of key staff. Councils are exposed to centrally-sanctioned staff transfers and parallel procedures have been put in place for the management of teachers. Despite these enduring constraints, progress has been made in strengthening the organizational and individual capabilities of LGAs. General awareness of reform has also been enhanced across major cadres (councilors, directors and senior management, village and ward officials and elected representatives) through various training workshops. Phase 1 districts have completed the restructuring process and that is now being extended to the remaining councils. Restructuring has helped build commitment to change, prepared councils to plan more effectively, and yielded some tangible “quick wins”, notably in contracting-out. Although it is not yet possible to ascribe direct improvements in service delivery to this process, indicators of increased efficiency and effectiveness are positive.

Another important development has been the finalization of the LG-CDG. This system will offer discretionary funding to Councils linked to performance indicators, beginning in 2005. This will create a stronger incentive framework for Councils to work towards sustained performance improvement. The accompanying Capacity Building Grant creates a demand-driven financing facility for systems and HRD, and establishes a direct link between capacity building and performance improvement.

⁴ LGRP Progress Report July-December 2007.

6.2.3 FINANCES AND FINANCIAL MANAGEMENT

The Government's objectives in fiscal decentralization are derived from the Policy Paper on LG Reform of 1998 and expressed in Outcome 3 which states that "*LGA locally generated and centrally disbursed financial resources enhanced and management efficiently*". The Outcome statement thus embraces three elements: increased LGA own source revenue, including improved tax compliance and streamlined and rational tax structure and administration; increased volume, transparency and equity in fiscal transfers; and improved financial management issues, enabling LGAs to manage increased funds efficiently and transparently.

As mentioned earlier, between 80-90% of local authority budgets (especially rural authorities) are derived from transfers from the central government, while the balance comes from local revenue sources that include fees (taxi registration, bus stands, forestry products); licenses (road and liquor); property taxes and rents. Government transfers and donor basket funds are the most significant income sources for local authorities. The bulk of these resources are conditional grant transfers, which are linked to sector ministries responsible for education, health, water, roads and extensions services, which are also the key services provided, by local governments. Other smaller transfers are in the form of unconditional grants and equalization grants.

Since the 2001, there has been a significant increase in the amount of funds available for LGA service delivery. An indicator of this is the increase in the recurrent grants to LGAs, which more than tripled from TZS104.5bn. in 1998/99 to TZS386.8bn. in 2004/05. However LGA own-source revenues and the autonomy to make discretionary decisions and priorities have diminished in recent years to the point where the viability and sustainability of the own-revenue system has been questioned. The LGA share of the total public expenditure has also remained broadly stable.

Whilst the local governments have a clear mandate for service provision in both rural and urban areas, their roles are undermined by the dependence on the centre, which makes them very weak when it comes to planning and implementation. They have limited discretion when the funding is all conditional and earmarked. Urban local authorities which are able to generate their own revenues have stronger leverage in terms of service provision and have responsibilities met through their own generated revenues.

Significant progress has recently been made within the area of intergovernmental fiscal transfers. Changes in the recurrent grant system should lead to a clearer, more transparent and equitable allocation of resources. The impending introduction of development capital grants will provide LGAs with discretion to address local needs for investments in service delivery, linked to improved incentives for LGAs to enhance performance. Finally, there has been a modest improvement in the financial management performance of LGAs, although with considerable scope and need for further improvement.

LGRP has addressed several of the fiscal issues identified making a positive contribution in: i) preparation of a sound analytic basis for LG financing; ii) the development of a formula-based recurrent grant allocation system, initially including health and education, and extending to other sectors from 2005/06, iii) the detailed design of the LG-CDG system with discretionary non-sectoral grants to LGAs for investments in improved service delivery, linked to incentives for LGAs to improve performance iii) contributed actively to improved LGA financial management, although this is an area, where the LGA performance still leaves much to be desired.

Various studies and evidence from the field suggest that there has been an improvement in the quantity and coverage of the services delivered, especially within health and education. The increase in grants to LGAs and various basket-fund arrangements have been source of expansion of services. Because of reforms within sectors and numerous other programmes, it is difficult to isolate the impact LGRP in service delivery. The Programme does not transfer additional resources to LGAs, but by improving the LGA FM performance, and through advocacy for decentralization of funds, the Programme plays an essential supporting role.

Reform of the allocation criteria within the recurrent grant system (although not yet implemented) will lead to a more needs-based, fair and equal distribution of funds and better targeting of poorer areas. LG-CDG will significantly increase investment in infrastructure and service delivery in priority areas and strengthen incentives for efficiency. However major programmes in water, education and agriculture are yet to be properly integrated with LG structures and systems and the growth of multiple planning, budgeting, reporting and auditing systems through these parallel vertical programmes imposes an unnecessary burden and transaction costs on weak and over-stretched LGAs.

A key problem in the monitoring of LGA finance has been the weak collection and consolidation of LGA expenditure and revenue data. Due to weak capacity in PO-RALG and different LGA reporting systems, most data analyses are based on sampled LGAs. Further, the results from the various benchmarking exercises, audit reports and other reviews warrant further consolidation and QA to establish a clearer base-line for financial management performance. A future task will be to strengthen the capacity in PO-RALG to collect and process data, and to harmonize and streamline the various reporting and assessment tools to be able to track development in LGA performance.

6.2.4 CENTRAL-LOCAL RELATIONS: INSTITUTIONAL ISSUES

Although the reform agenda is supported by the highest levels in the government, there are fractions of government which tend to lose from a far reaching decentralisation process. These are departments within line ministries at the centre which do not want to see their role transformed from an implementing agency with considerable operational powers to a mere policy formulation and guidance body. And there is considerable confusion about the role of the Regional Administrative Secretariats (RAS), the formerly powerful and deconcentrated organs of central government, whose role has diminished to that of facilitation, technical advice and monitoring. In view of 114 districts, which the Centre is practically unable to deal with directly, the RAS could play a useful intermediary role, not only for advising, but also for articulating and aggregating the demand of local governments. But current practice shows that its new mandate and responsibility has not been sufficiently accepted internally, as well as externally. RAS still gives orders to the districts, whereas district administrations, empowered through new responsibilities and budgets, have started to communicate on essential matters with central organs, thereby circumventing new directives.

Local government reforms have been reviewed and modified based on earlier concerns about complexity and the readiness of some councils to engage in the process. The results of restructuring have, however, been mixed, though generally welcomed by councils. Positively, restructuring has enabled Councils to take greater charge of the reform process. It has enabled Councils to build relationships with non-state partners and to strengthen internal coordination and teamwork. In some cases, it has helped boost staff morale and confidence. Restructuring has enabled Councils to prepare strategic plans, to produce new

organizational structures, rationalize staffing levels and prepare HRD plans. “Quick wins” have enabled councils to make tangible improvements in service delivery and revenue collection, and financial assistance has enabled councils to improve equipment and the work environment.

The limited capacity of the implementation of the restructuring process which existed in the 38 Phase 1 councils has now been improved because in the next Phase, Councils undertaking the restructuring process are progressing well. The use of local consultants to assist and backup councils in the restructuring process has not only assisted councils to hasten the process, but also built capacity in LGAs to undertake the restructuring process themselves. However, the process has been lengthy, and some areas recommended are yet to be implemented. Notably, new structures and establishments have not been approved by central government, whilst the retrenchment exercise has incurred considerable delay and uncertainty. The process has faced a number of related constraints; lack of discretion over recurrent budget management created little incentive to retrench; more systemic problems of pay and incentives has made it difficult to attract and retain staff into key positions, compounded by long delays in the issuing of permits to proceed with recruitment. The continuing practice of centrally managed transfers has been unsettling, impacting negatively on the ability of Councils to perform in key areas. Lack of sector harmonization undermines efforts to establish organizational structures and staffing levels that are consistent with locally determined planning priorities.

Looking to the future, key challenges will be to determine the best way to rollout the process to a larger number of councils, a good number of which are organizationally weak and financially fragile, while avoiding the process becoming instrumentalised. A balance has to be struck between ensuring a time-bound completion of the exercise while adapting to local conditions; spreading assistance across a larger number of districts while providing sufficient contact time. At the national level, attention must go to clearing blockages that have persistently held back implementation of restructuring. This is particularly important with regard to approval of new structures and establishment and processing of retrenchments.

6.2.5 LGA MANAGEMENT INFORMATION SYSTEMS

Under decentralization policy, the responsibility for most service delivery is at LGA level. At present, many sector and donor-financed programmes continue to be implemented in an uncoordinated and parallel fashion. This significantly increases the demands on limited LGA staff and capacity. The varied planning, monitoring and reporting guidelines for different programmes impose acute pressure on LGAs. Attempts have been made to develop systems to streamline such requirements and to improve quality.

The Local Government Monitoring Database (LG-MD) has been developed to provide essential routine data on service delivery. The database currently has indicators covering priority poverty sectors, governance and poverty. LG-MD is integrated into Government’s poverty monitoring system and can be linked to the Socio Economic Database managed by the Bureau of Statistics. The LG-MD can be expanded to incorporate new data requirement, which is essential if it is to be accepted and internalized by sector ministries.

A planning and reporting database (Plan Rep) has been developed, which links MTEF planning targets with revenue projections, funds received, physical implementation and expenditures. Plan Rep can also be linked to Epicor, and will help increase transparency and reduce the workload of LGA staff.

6.3 RECOMMENDATIONS

6.3.1 AMENDMENTS TO THE LOCAL GOVERNMENT ACT

It is recommended that both Acts Nos. 7 and 8 of 1982 should be amended or overhauled in general to provide not only the functions of the Council but to provide in details the rights and duties of the councils (i.e. all categories of councils from the village level) Sections 111A and 54 of Act Nos. 7 and 8 respectively which set out the objectives for the functions of the LGAs are not sufficient and above all they appear to be vague. Both Acts should contain what are called the rights and the duties to be performed by the councils. And this should be sectioned at the beginning of the Act in order to set parameters for the subsequent provisions which will reflect these rights and duties. Some of the duties of the council may include the duty to:

- i. Exercise its executive and legislative authority within a system of co-operation with the local communities;
- ii. Use the resources of the council in the best interests of the local communities;
- iii. Within its financial and administrative capacity to have the duty to provide democratic and accountable government to the people;
- iv. Be responsive to the needs of the local community;
- v. Consult the local community about the level, quality, range and impact of services provided by the district council either directly or through another service provider on behalf of the council and the available options for service delivery;
- vi. Give members of the local community equitable access to the council services to which they are entitled;
- vii. Contribute, together with the other governmental organs, to the progressive realization of the basic rights and duties contained in the Constitution;
- viii. Facilitate a culture of public service and accountability amongst staff;
- ix. Establish clear relationships, and facilitate co-operation and communication between the council and the community;
- x. Give members of the community full and accurate information about the level and standard of council services they are entitled to receive;
- xi. Inform the local community how the council is managed, of the costs involved and the persons in charge;
- xii. Introduce independent candidates for all council elected positions (Ward Councilor, Village Chairman, Village Assembly Members, Kitongoji Chairman, Mtaa Chairman, etc.);
- xiii. Expand provision for women special seats to also cover the disabled citizens in localities;
- xiv. Sufficiently empower the council to oversee the executive by giving Councilors power to hire and fire all council staff,

- xv. Raise the minimum level of education of councilors from only having ability to read and write Kiswahili or English to at least form four.

The rights of the council may include, but not limited to:

- i. Govern on its own initiatives and subject to government policies and law the local government affairs;
- ii. Exercise the council's executive and legislative authority, and to do so without improper interference;
- iii. Finance the affairs of the council by: charging fees for services and imposing rates, levies, duties, other taxes and penalty, to the extent authorized by the Act.

It is after setting out clearly the rights and duties of the council that the functions of the councils can be stipulated. The advantage for this is that when the citizens know clearly the duties of the council they will be able to demand their rights and in this way it is easy to lever accountability to service users. It is further recommended that the law should contain, for instance, the following rights to the members of the community:

- i. To demand that the proceedings of the council and those of its committees must be: open to the public subject to certain specified conditions; conducted impartially and without prejudice; and untainted by personal self-interest;
- ii. To be informed of decisions of the councils, or another political structure or any political office bearer affecting their rights, property and reasonable expectations;
- iii. Through mechanisms and in accordance with processes and procedures provided for in terms of the Act or any other applicable legislation to: contribute to the decision-making processes of the council and, submit written or oral recommendations, representations and complaints to the council or to another political structure or a political office bearer or the administration in the council;
- iv. To receive regular disclosure of the state of affairs of the council, including its finances;
- v. To prompt responses to their written or oral communications, including complaints, to the council or to another political structure or a political office bearer or the administration of the council;
- vi. To have access to council services which the council provides;
- vii. To use and enjoyment of public facilities.

After setting out in clear terms the rights of the community members then the law should also state their obligations/duties, like the duty to:

- i. To comply with by-laws of the council applicable to them;
- ii. To respect the council rights and rights of other members of the community;

- iii. To allow council officials reasonable access to their property for the performance of the council functions;
- iv. When exercising their rights, to observe the mechanisms, processes and procedures set out in the Act and regulations;
- v. To pay promptly service fees, rates on property and other taxes, levies and duties imposed legally by the council.

6.3.2 PROVISION OF MECHANISMS FOR HEARING AND APPEALS AGAINST ADMINISTRATIVE DECISIONS

It is recommended that in order to promote an efficient administration and good governance when a person has been adversely affected by a decision or action, he should be afforded an opportunity to make representation and reasons for such administrative action or decision and there should be a provision which provides for a mechanism of review and/or appeal, both internally and externally for any person who is affected by the decision or administrative action taken by any person mentioned above. For example, when a person is affected by an administrative action or decision taken by an executive officer, there could be a special committee of the council that is charged with responsibility of hearing complains, followed by a right to further appeal to a court of law if necessary. Currently an aggrieved council employee can only appeal to external mediators i.e. to the Public Service Commission or the Commission for Human Rights, the Labor Tribunal, the courts of law etc. Hence, the need for internal appeal mechanisms. Nevertheless, according to the Public Service Act, No. 8 of 2002, Section 23 (2), a public service employee in Tanzania can only be dismissed after a disciplinary charge has been formally presented to the employee and the public servant has been afforded an adequate opportunity to answer the charge and an inquiry is held into the charge, and the findings of the inquiry are conclusive or upon conviction on a criminal charge..

6.3.3 AMENDMENTS TO ENHANCE TRANSPARENCY TOWARDS CLIENTELE

It is recommended that the following provisions be considered for inclusion into the law in order to mandate effective customer care and management of service delivery. In relation to the charging/levying of rates and other taxes by the council and the charging of fees for services rendered by the council, the council must, within its financial and administrative capacity do the following:

- i. Establish a sound customer management system that aims to create a positive and reciprocal relationship between person liable for these payments and the council or service provider as the case may be;
- ii. Establish mechanisms for users of services and tax payers to give feedback to the council or other service provider regarding the quality of the services and the performance of the service provider; (in India for example they use Citizen Report Cards);
- iii. Take reasonable steps to ensure that users of the services are informed of the costs involved in service provision, the reasons for the payments of service fees, and the manner in which monies raised from services are utilized;
- iv. Ensure that persons liable for payments receive regular and accurate accounts that indicate the basis for calculating the amounts due;

- v. Provide accessible mechanisms for those persons to query or verify the amounts charged, for dealing with complaints from such persons, to receive prompt redress for inaccurate charges together with prompt replies for any of their queries and complaints and appeal procedures.

6.3.4 UPDATING LOCAL GOVERNMENT FINANCE ACT AND REGULATIONS

The Local Government Finance Act and its implementing regulations (the local government financial memorandum 1997) currently do not provide a complete and well structured legal and regulatory framework for guiding local government finances. The act has provisions which have been superseded by provisions in the Public Finance Act (2001). E.g. The Act and the regulations should be reviewed and updated.

6.3.5 IMPROVING LAWS GOVERNING ACTIVITIES AT WARD AND VILLAGE LEVEL

At Ward level, the law is not categorically clear on the mandate of the WDC, hence the need to review the laws governing activities of the WDC to reflect government policy intentions. In particular, the law should emphasize the major functions of the WDC to include, inter alia:

- i. Building capacity of the village/mitaa local government authority, in collaboration with the district/town/municipal council, to enable them to deliver services to the users in the most efficient manner;
- ii. Facilitate and promote participation of the people, CBOs and civil societies in the planning and execution of development plans;
- iii. Encourage and sensitize the public within its area of jurisdiction of the duty of the village council/ mitaa committee to be accountable to the people. The law should clearly define the relationship between authorities coordinated by the WDC without creating a room of encroachment of the powers of the village authority.

At Village level the mandates of the Village Assembly also are not clearly stipulated. The supremacy of the Village assembly is questionable. As already pointed out above, the village council makes by laws instead of having the same been done by the village assembly. Also issues of overruling the decisions of the village council are not clearly stipulated. The laws should be revisited and updated to make sure the village assembly is empowered sufficient to oversee the activities of the village government.

6.3.6 STRENGTHENING CSOs, CBOs, AND OTHER GRASSROOTS ORGANISATIONS

It is recommended that the law should provide the participatory mandate for CSOs and CBOs in the councils as well as in the committees. This is aimed at strengthening partnership between local government and civil society. It is so suggested because the practice in some places has shown that those CSOs with the greatest voice tend to be isolated. The idea generally here is to broaden the scope of dialogue and sharing of experiences. So, the following can be done:

- i. CSOs can be given a share in the political processes of the LGAs by being given a seat in the councils and the council committees. A challenge exists though, as to how the CSOs will be represented. Using CSOs networking forums for decisions on representations could deal with this challenge

- ii. CSOs can play a significant role in the planning, budgeting and monitoring processes in the LGAs, especially if they can mobilise themselves to conduct expenditure tracking and budget monitoring. This role is already recognised in PMORALG/LGRP documents (e.g. the MTP July 2005 – June 2008)
- iii. Given the findings in terms infrastructure for enhancing transparency including office at the village level, the physical and technical limitations (knowledge and skills) CSOs have a significant role to play in helping *citizens* to build the capacity to access and use information to demand accountability. On issues of CSOs working in the villages, the Councillors have been instrumental in mobilising communities to contribute to activities being undertaken by NGOs. This represents an opportunity to be used to further information sharing
- iv. CSOs's role in the Councils could be enhanced through formation of forums for dealing with sector issues. The forum would operate as a committee that would draw members from both the LGAs and the CSOs. These forums could operate at all levels of the LGAs depending on where such CSOs are providing services

6.3.7 MOTIVATE PEOPLE TO DEMAND AND USE INFORMATION

The constitution has provided for the people's right to get information, but also there are various laws and policy/guidelines which compel government officials to provide information to the public. The question is whether people are aware of these rights and whether they take advantage of them. Quite likely the people are ignorant of these rights, and even if they were aware, other obstacles stand on their way of getting information. For example, resistance of official to provide information under the disguise of confidentiality is an issue. But also the cultural phenomenon where people are afraid of questioning their leaders is an issue; and finally apathy in the sense that people do not feel they can make a difference in the way the government does its things. To overcome the barriers, people need to be motivated to ask questions and demand answers. Various interventions already taken are likely to motivate people to demand for information. For example, people's participation in generating development plans and budgets through O & OD; the management of funds at village/ mtaa level; communities contributing to projects in the villages etc. add confidence to the people.

However, some measure still need to be taken to remove the veil of fear to ask questions and demand for information. The message to the public about officials being servants and not kings must be clearly put to the public. Secondly, people must be encouraged to work in groups i.e. form CSO which can work as pressure groups to demand for rights. But also issues such as gender, environment, HIV/AIDS must be put to the people in very clear terms to help them expand their scope for raising questions. Finally, people have to be informed about what the leaders are expected to do in terms of providing them with information either through the media or public meetings or through press release.

6.3.8 ADEQUATE DISCLOSURE OF INFORMATION AT ALL LEVELS

The people should be able to obtain information routinely. This means that those entrusted with powers to execute government functions are duty bound to produce information as required by law and existing government policies and use appropriate channels for reaching the users. This therefore calls for disclosure of information using appropriate formats and channels such as notice boards, mass media,

newspapers etc. This is important to enhance transparency and accountability in the management of public affairs and delivery of services.

Essentially, the public should be able to question decisions made by the public officials and in turn influence the way public resources are handled. It is through such practices that downward accountability can be enforced. As such there will be required additional interventions to ensure the disclosed information meet the criteria of relevance, understandable, timeliness, realistic and materiality etc. Information has to be re-engineered to be attractive enough to the users. The PEFAR 2006 categorically points out that ‘the information that is currently advertised in the media and posted notice boards at district and village level, do not appear to have the intended effect of allowing local oversight of the use of funds’ and hence the need to take action in terms of developing and agreeing of formats to use. Each level of governance will therefore prepare information for the public and the other levels of government in line with its functional responsibility.

Where as existing laws and policies emphasize disclosure of information which is financial nature, it is important to realize that the beneficiaries and the public at large need to now more than just the financial matters. The information should tell more about the outcome or results of resources spent. In this vein therefore, provision of non-financial information because critical.

At all levels the mechanisms for identifying, accessing and supplying non financial information should be in place. The onus for ensuring that this happens lies with PMORALG. The latter should require LGAs to report non –financial information, as these provide a big picture approach to participation and feedback to citizens. This feedback should be provided in formats that are use-friendly and easy for ordinary citizens to follow as proposed under this framework.

6.3.9 UNDERSTANDABILITY OF PLANNING AND BUDGETING

The participation of communities, CSOs, political representatives, and officials at all levels of local government in planning and budgeting is critical to ensuring accountability and transparency. It is within the planning and budgeting processes that resources are allocated and used to achieve government set goals. The majority of those participating are likely to be non- professionals who can understand the complicated structures of plans and budgets. Therefore, the information provided to them on plans and budgets must bear the quality of simplicity and understandability.

Councils and all other levels should be encouraged to innovate ways of making the information available more consistently and in formats that are easily understood and comparable. It is not likely that this could be done through the use of notice boards only, as some of the documentation is very bulky.

An essential quality of the formats is ability to present or convey information in ways which are less technical to the majority of the users, especially those who makes decisions such as counselors, WDC, and Village Assembly). Also they add an additional feature of enhancing transparency by exposing both grants from Central Government and own sources revenues. The formats should be integrated with Planrep so that Planrep can automatically generate the information. The adoption of the formats being recommended would also lead to rationalization of the reports which are being produced at the moment, most of which are not user friendly in the lower levels of local government. It is understood that this work is already being undertaken by PMORALG in the context of the support for implementation of Public Expenditure Tracking System (PETS).

6.3.10 ESTABLISHING PUBLIC INFORMATION CENTERS

The use of the notice board or publication of information in newspapers etc as an avenue for releasing information to the public has been seen to have some limitations. The flow of information in the LGAs is tremendous, and some of it is very bulky. Whereas some of the information can be summarized and then presented to the public, however, there could be some individuals in the society who might be keen in reading the full text of the plans/budgets/ reports or even council meeting minutes. Such people should be given an opportunity to do so.

It is recommended that there be established a Public Information Centre (PIC) to operate as an information resource centre, in each local authority, where people can access budget information, revenue and expenditure reports and up-to-date financial data, audit reports, council minutes, data on business, revenue collection, by-laws and land allocation.

6.3.11 ENHANCED ROLE OF MEDIA

The media should be encouraged and supported to publish and air discussions on plans, budgets, and implementation reports. Council leaders should be given chance to respond to questions asked, having community members to seek clarification and express grievances. The role of local media such radio stations, television stations, local news papers can also be put to use in sending information to the public.

6.3.12 CENTRAL GOVERNMENT TO PROMOTE THE PRINCIPLE OF D-BY-D AND DOWNWARD ACCOUNTABILITY

This recommendation is concerned mainly with the role of the central government in promoting and reinforcing accountability in the LGAs. The institutions in question are the PMO-RALG, the MOF/MPEE, RAS, and Regional Consultative Council, the District Commissioner, the District Consultative Committee and the Divisional Secretary office. Main recommendation is to ensure compliance to defined responsibility and functions of each with respect to ensuring downward accountability. These institutions have to support the LGAs to operate within given legal mandates and honor their decision. The example of plans and budget being changed by the center without considering the legal mandates of the Full Council is a clear example of non-compliance to assigned responsibilities and functions

6.3.13 LGA ADMINISTRATIVE/ BUREAUCRATIC SYSTEMS TO COMPLY WITH DD AND DA

When looking at downward accountability, one would expect that the systems for executing functions in the LGA systems would be supportive of it. It is uncertain whether the administrative system have changed to support downward accountability, and whether functions and roles are defined in terms officials being accountable and answerable to the key stakeholders especially the wider public.

As of now, the reform process has taken place in many of the LGAs (with differing stages of reforming) but not at ward or village/mtaa level. Even where reform has taken place, the focus has been on issues related to financing issues, human resource management, legal and financial systems. Most likely, these changes have not extended to updating the standing orders (rules governing the procedures for recruitment, selection, placement, evaluation, promotion and discipline of local government employees), which are the backbone of the civil servant behaviours. If standing orders have not been updated to reflect the new paradigm, then it is obvious that the order of administration has not changed. Bureaucrats are guided by standing orders and it is difficult for any bureaucrat to act contrary to the standing orders.

And no wonder, people are bent on working only with directives, simply because that is what is emphasized in the standing orders.

6.3.14 OPERATIONAL RULES FOR ELECTED LEADERS

The people elect representatives to different political institutions with wide expectations. Currently electoral rules have been strengthened. But after elections, are there operational rules for these elected leaders, or mechanisms in place which define what an elected official should do as part of his responsibilities and as such be assessed on the basis of such mechanisms? Quite often we hear of the electorate complain about elected leaders who do not even bother to visit their constituencies, a clear indication that the rules for working with the constituencies are not clear. And yet, these officials sit in important meetings where they make decisions about development and service provision issues. One would expect an elected leader to come back to the constituency and hold public meetings and rallies to explain to the people what has been decided upon, and perhaps listen and address their concerns. The lack of mechanism is not the only obstacle, the cultural tendencies where people don't confront their leaders is also an issue. Otherwise, those leaders who don't respond to the needs of the electorate would be sanctioned, and perhaps even be recalled. The need to raise public awareness is vital given that is their right to get information from those they have voted into office.

6.3.15 ANNUAL ACCOUNTABILITY REPORTS

All council chairpersons/mayors are required to issue an annual accountability report to be presented in LG day (July 1). These reports need to be simple, concise, and uniform in formats across councils. At minimum, the reports should provide information on revenue and expenditure; staff and capacity development; audit reports; corruption issues; land allocations, and performance view of council management in terms of actual vs plans and reasons for any deviation.

6.3.16 ENHANCING THE PLANNING AND BUDGETING CYCLE

Plans and budgets have to be prepared in the most participatory manner. The processes involved have to involve the key stakeholders. Through such involvement, the people shall own the resulting plans and budgets. A set of recommendations are made to enhance planning and budgeting in LGAs;

- i. O & OD methodology has been adopted by the government as a means of evolving plans and budgets, which is very participatory in its nature. To make O & OD effective, it is recommended that a strategy be adopted where the O & OD is conducted every three years. Once the planning process is conducted, the plans generated should be assumed to be valid for a period of three years after which another round of planning can be executed. Resources allowing, updating of the plans could take place in a less intensive manner in the intervening period. Annual plans should then be drawn from the three year plan until all the plans in the 3-year plans have been implemented. This will encourage citizens that their plans are taken seriously and implemented. This means that when the O & OD is carried out, it should be well-facilitated as the output will be a document valid for 3 years. But the major constraint in this case is getting reliable financing indications from the Central Government that cover the planning period. Failure to get reliable indications will turn the Village MTEF into a useless document. The national guidelines should reflect this reality.
- ii. Full Council should meet to consider changes made on plans and budgets by the Central Government. Where changes are very significant, as for example if there is a cut of the budget by

more than 25%, the Council should the plans and budgets back to the Ward Development Committee for revision and prioritization. Furthermore, at the end of the half year, the Council should carry out a major review of the plans and budgets for purposes of reallocating idle resources.

- iii. Quite often, the Full Council concentrate more on the development plans and budgets. They don't work intensively on the recurrent plans and budgets. The council management should the responsibility for preparing the latter budget. This should not be the case. The Full Council has full responsibility for all resources available in the council. Failure of the Councilors to decide on the recurrent resources has led to non allocation of resources to the lower levels (wards and villages) and even under funding of activities in the service outlets. Two recommendations are made with respect to this:
 - Raise awareness of the Full Council concerning its responsibility over recurrent resources. They should scrutinize all both items of PE and OC and make sure there is fair allocation between the Council and the lower levels. This is critical given the added roles to the village government and wards in handling development resources.
 - PMORALG/MOF should quickly introduce a system that requires all councils to show in its budget the share of its Other Charges and Own Source Revenues that is allocated and to be transferred to Ward Offices and Village Government bank accounts for office running, servicing of schools, health facilities and other public utilities.

6.3.17 OTHER RECOMMENDATIONS

Supportive resources to be allocated to lower levels: At the lower level, there is a need to prioritize the allocation of sufficient financial and non-financial resources to manage the administration according to a bare minimum of requirements, such as the availability of offices, notice boards, filing systems and offices. This recommendation is made with recognition that under the current environment where resources will also be flowing through to lower levels, infrastructure will be needed from which to keep and manage resources, but will also likely spur demand for information.

Addressing human resource capacity at lower levels: Human capacity at village/mtaa government level and ward level is a major constraint. Huge responsibilities are being placed on the shoulders of village government and ward leaders. These leaders must have competences to imagine and initiate projects, prepare short and long term plans, prepare budgets, maintain financial and non-financial records, produce reports and oversee the mobilization and spending of money, both from the community and government.

Addressing physical resource capacity: Availability of basic or even more advanced infrastructure at lower levels is important for promoting downward accountability. Reform measures have to be put in place to ensure these lower levels of government function properly. Capacity development in the long run could also include rolling out the e-governance, especially by taking advantage of great advances in telecommunication system and networking across many LGAs and villages as well. Executing government functions from a brief case undermines the basic principles of good governance. Government functions must be executed in properly organized structures.

Issues relating to planning and budgeting guidelines: PMORALG is currently preparing draft guidelines which provide instructions and information regarding preparation LGA plans and budgets. These guidelines have indicative planning and budgeting figures. This is considered to be essential information for reinforcement of downward accountability. It is recommended that mechanism be put in place for making the indicative planning figures more reliable. Secondly, the guidelines should be written in Swahili for purposes of those at ward and village level to be able to read them and use them.

Issues relating to human resource capacity building: The government policies on local government have tended to look for convergence/uniformity in the way things are done in these authorities. The issue of capacity building must have that macro picture. As regards human resource capacity building, the long run, PMO-RALG must develop a strategy to prepare special cadres for running the business of village councils and wards. There must be some form of targeting in the training. Just as students are given scholarships for doing teacher training, scholarships could be created for LLG officer training in designated colleges. Currently, there is a window of opportunity for getting people who could serve in the villages. The current efforts to establish secondary schools in the wards offer a rare opportunity for recruiting people who are likely to be interested in working in the villages. The graduates from these schools could be recruited, trained and bonded for a number of years and deployed in the villages and wards.

Issues Relating To Information Resource Production Capacity

The ever increasing responsibilities at village government level to handle resources imply increase in capacity to produce information to satisfy the accountability requirements. Going by the principle of convergence/uniformity in the way functions are executed at this level, PMORALG has an obligation to ensure that all villages have adequate information production systems. As said before, both financial and non-financial data have to be compiled, processed and disseminated to all stakeholders. Hence PMO-RALG should design systems that can be used at village level to satisfy information requirements

Regional Level

The regional level of government (the RAS) has limited decision powers on matters of planning and budgeting. Their role is that of ensuring that the plans and budgets prepared by LGAs adhere to existing regulations, policies, government guidelines and directives. However, they prepare summaries of budgets of the LGAs in the region which are submitted to PMO-RALG. These summaries should be shared with the lower levels, as well as being posted on a notice board for members of the public to view. The Regional level also deals with other non-financial information. E.g. corruption issues, land issues, gender issues, HIV/AIDS issues etc. Whenever there is a formal meeting to discuss these issues, then summaries of conclusions/recommendations should be sent to all levels of government in the region for the people's attention.

Council Level

The Council is the highest tier in the LGA system and therefore has an overarching responsibility over the lower levels. It must be committed and exemplary in practicing downward accountability. A number of recommendations are appropriate at this level:

- i. The council should inform the village government and the public in general about its activities to promote accountability and transparency. The information to be disclosed includes those of revenue collections and expenditures made.
- ii. The Planning and Budget Guidelines issued by PMO-RALG stress dissemination of information by the councils. These guidelines encourage Local Governments to become transparent through the planning and budgeting process by sharing plans and budgets with a number of stakeholders including civil society organisations. Moreover, the approved plans and budgets should also be posted at public places of the Council offices and extracts of the plan and budget should be posted in public places at the Wards, Villages and Mtaa.
- iii. The Councils should provide the village/mtaa governments with Indicative Planning Figures in line with the LGDCG system. Efforts should be made to ensure that the IPF are very close to what is likely to be made available for funding development activities in the villages/mtaa.

Empowering Village Assemblies: It is recommended that the Village Assembly should have the final decision making powers over major activities, projects and initiatives to be implemented in the village. It should have powers of passing a vote of no confidence to the village council and the effective powers to recall any member of the village council before the expiration of the tenure of bearers of office. Some administrative circulars be drawn defining the accountability of the village council to higher organs like the WDC vis a vis the village assembly. It is recommended that meetings of all citizens in the village take place as required by law. Through such meetings, residents of the village will have enough opportunities to know the progress of their development projects, raise issues and make proposals at village levels which some of them might be taken up to higher authorities for further deliberations and funding. It should be noted that, interest of people to participate in these meetings depends on their potential to influence their livelihoods through their voices.

Imitating Village Type Governance Structures in Urban Areas: It is recommended that an imitative institutional structure of the village authority should be established in urban areas where people will be involved and participate in the planning process, implementation and monitoring. Otherwise there will be no basis and mechanisms of ensuring downward accountability to the local urban residents at the level of *mitaa* like in the case for rural village.

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APPENDICES

APPENDIX 1: TERMS OF REFERENCE

Task 1. Characterization of existing local government system

This will require a clear description of the legal structure that affects local government systems, based on the national constitution, relevant acts, regulations, and administrative provisions, including the by laws. It will also require a synopsis of changes that might have been brought about as a result of local government reform based on the concept of decentralization by devolution. A clear link and relationship between local government and the central government in fiscal, administrative, and political affairs is an integral and essential component of analysis required under this task.

It will also require a synopsis of the existing de jure and de facto oversight mechanisms available and practiced by local elected leaders such as councilors in fulfilling their mandates in planning, budgeting, monitoring and oversight in their localities. The analysis of the incentive structures or lack of with respect to the exercise of oversight functions is an important part of characterization, as is the case with capacity assessment, both in terms of human resources and physical infrastructure. Again, the analysis of the impact of reforms in this area is critical.

Task 2. Assessment of local actors, power –relations, and accountability relationships

This assessment requires one to gain a thorough understanding of local institutions and their interactions. These includes functional relationships between elected and executive officials at district and sub-district levels, central government system at local levels, civil society organizations, community interest groups, private sector organizations, and other significant social forces. These relationships have to be viewed with respect to power relations that affect service provision, planning process, resource allocations, and accountability; and how the recent decentralization by devolution has affected these power relations. Attention has also to be made on special social groups, usually needing special windows for their voices and participation such as children, people with disabilities, people living with AIDS, and other social groups considered to be vulnerable and marginalized.

Task 3. Analysis of social accountability mechanisms

This analysis mainly entails obtaining an understanding of the relationship between elected official and their electorates/citizens. In includes and understand of how elected leaders and their organs implements their oversight functions, and how the citizens holds these officials to account, including awareness, roles of media, NGOs, and CBOs in enhancing social accountability. The analysis should also include the linkage of power relations and social accountability, in terms of how the former affects the latter, including dynamics around party politics. In the process, constraints and opportunities for stronger social accountability mechanisms would have to be documented.

APPENDIX 2: 1983 PARTY PROPOSALS ON CONSTITUTIONAL ENTRENCHMENT OF LOCAL GOVERNMENT CONSOLIDATION OF PEOPLES' POWER

The Union Constitution provides for governmental institutions only at national level. The Guidelines have directed that the Party should review this situation for the purpose of establishing a basis for consolidating the people's power from the village to the national level. In carrying out the review, the National Executive Committee has taken note of the admirable example on this matter set by the Constitution of the Revolutionary Government of Zanzibar. That Constitution provides for the establishment of local government organs in each Region, District and Area, and specifies the main functions of those organs. In the case of Mainland Tanzania the established procedure is for the Minister responsible for local government to establish them.

Existing legislation (Acts No. 7 and 8 of 1982) provide that the Minister may, after consultation with the President, establish such councils in such district or urban area, as he may deem necessary, for the purposes of local government, but he is not compelled to establish such governments in every district. Where the Minister intends to establish a council in any district or urban area, he is required by law to declare the intention by publishing a notice in the Gazette and in any national newspaper or newspapers ordinarily circulating in the district or urban area in which a local council is intended to be established. After the notice of intention has so been published, two clear months should elapse before the minister takes the next step. The interval of two months is intended to afford opportunity for any person wishing to object to the proposal of the Minister to lodge such objection or make any other representations. Where no objection or other representations are made in relation to the intention of the Minister within the special period, the Minister may then establish the local government council in the district or urban area intended.

The National Executive Committee is of the view that it is the citizens entitlement as of right to have organs of people's power [i.e. local government authorities - IGS] in urban areas, district and villages and that it is not proper to leave the decision on whether or not to establish a local government authority in a particular area to the discretion of the Minister. It is therefore proposed that the Union Constitution should also provide expressly, as in the case of the Constitution of the Revolutionary Government of Zanzibar, that there will be established local government councils in every village, every district and every urban area. The Constitution should also declare the main functions of local government councils, and the principles which govern the relationship between those governments and the Central Government

The 1983 Party proposals express the intention of the Party which eventually resulted in the inclusion of articles 145 and 146 in the Constitution. There are a number of important aspects of these proposals that need to be underscored because of their immediate relevance to possible constitutional revision to entrench a devolved system of local governance. *Firstly*, the proposals very clearly expressed the view that the local government was seen as an expression of grassroot democracy. *Secondly*, the existence of local government organs was considered the right of the citizens to be entrenched in the constitution and not left to the discretion of the Central Government or its organs. *Thirdly*, the proposals envisaged that (at the minimum) (i) the levels of local government, which were identified as urban areas, districts and villages; (ii) the functions of the local government and (iii) the principles governing the relationship between those governments and the Central Government, should be provided for in the Constitution.

Finally, the proposals clearly reflect the commitment of the ruling party, CCM, and therefore its government, that local government should be a constitutional category and be provided for in the Constitution rather than simply in an Act of Parliament.

As it turns out, the final two articles eventually included in the Constitution did not fully carry out this intention. There are three major omissions. First, that local government is the right of citizens was not fully translated into law. One way of doing it would have been, not only to make the establishment of local government authorities a constitutional imperative, but to entrench it by requiring a special procedure for disestablishment of a local government authority. The second omission was the non-inclusion of the functions of local government. What is said to be the functions of the local government in article 146 is very general and rather circuitous. The third omission was very fundamental and relates to non-inclusion of the principles governing the relationship between the Central Government and local government authorities in the Constitution.

APPENDIX 3: STATUS OF POLITICAL PARTIES

Political Parties with full registration:

Chama Cha Mapinduzi (CCM), The Civic United Front (CUF), Chama Cha Demokrasia na Maendeleo (CHADEMA), Union for Multiparty Democracy (UMD), National Convention for Construction and Reform (NCCR Mageuzi), National League for Democracy (NLD), National Reconstruction for Alliance (NRA), Tanzania Democratic Alliance Party (TADEA), Tanzania Labour Party (TLP), United Democratic Party (UDP), Demokrasia Makini (MAKINI), United Peoples Democratic Party (UPDP), Chama cha Haki na Ustawi (CHAUSTA), The Forum for Restoration of Democracy (FORD), Democratic Party (DP), Progressive Party of Tanzania (PPT-MAENDELEO), Jahazi Asilia, Sauti ya Umma.

Political parties with Provisional Registration:

National Democratic Union of Tanzania (NDUTA), Tanzania People's Organization for Democracy and Development (TAPODD), Chama Cha Ukombozi wa Demokrasia ya Watu Masikini (CHUDEWAMA), Solidarity of United Party (SUPA), National Democratic Party for Rehabilitation (NDPRMAREJESHO), National Patriotic Front (NPF).

APPENDIX 4: ELECTION REGULATIONS AND PROCEDURES

There are two different authorities involved in Local Government elections. While PMO-RALG supervises the Village, *Vitongoji* and Mitaa level elections, the NEC supervises Ward level elections. The Village, *Vitongoji* and Mitaa elections are conducted in accordance to the rules and regulations made by the Minister responsible for Local Government. According to these procedures, the council director is the Returning Officer for the elections while the WEO and VEO are Assistant Returning Officers.

With the re-introduction of multiparty politics, the Tanzania Constitution was amended by Act No. 7 of 1993 to make NEC the Local Government Electoral Authority. Article 74(6) of the Constitution of the United Republic of Tanzania entrusts NEC with the responsibility to supervise and coordinate Local Government (Council) elections. These are elections at the Ward level. The *Mtaa*, Village and *Kitongoji* elections are not covered by this NEC responsibility. Why the Village *Mtaa* and *Vitongoji* elections have not been transferred to the NEC has left many questions among political analysts. That the elections at this level are managed and administered by the government authorities has made opposition political parties to doubt how the ‘partisan government officials’ can exercise impartiality in performing their role¹.

Procedures for electing *Vitongoji* Chairpersons are provided under Section 30 (4) of the Local Government (District Authorities) Act No. 7 of 1982, and those for electing *Mtaa* Chairpersons are provided under Section 70 (c) of the Local Government (Urban Authorities) Act No. 8 of 1982. Also those for the Village Chairpersons are provided under Section 56 (3) of the Local Government (District Authorities) Act No. 7 of 1982.

Registration of voters requires that the voter must be a citizen who has reached the age of 18 years. Apart from that, the voter should be a person of sound mind, who does not have dual citizenship and who is not under court sentence of death or imprisonment exceeding six months. Besides the voter should be a resident of the ward, Village, *Kitongoji* or *Mtaa* in which they register. With regard to candidates for the leadership positions, the following qualifications have to be fulfilled:

- a) must be a citizen of the United Republic of Tanzania
- b) Should have reached the age of 21 years or above
- c) Should have lawful means of livelihood
- d) Should be able to read and write in Kiswahili or English
- e) Should be a member of and fully supported by a political party
- f) Should be a resident of the respective Ward, Village, *Kitongoji* or *Mtaa* in which they vie for leadership
- g) Should have paid all Local Government and Central Government taxes
- h) Should not be under court sentence of death or serving a sentence of imprisonment exceeding six months
- i) Should be of sound mind.

¹ The study conducted by REDET on the 1999 *Vitongoji*, *Mtaa* and Village Council elections in Tanzania further recommends combining of the voting for *the Kitongoji*, Village and Ward to be carried out on the same day. Besides the report observes that better organised and better managed elections would reflect upon the level of seriousness attached to the elections and also attract more voters. (p.16)

Voting Procedures at the *Mtaa* level

Mtaa Committees have six elected committee members: three members who may be men or women, two women special seats and a Chairperson. The procedure at this level is as follows:

- a) Voters elect three *Mtaa* Committee members
- b) After voting the three members, the electors are required to vote for two women Committee members. All women candidates are eligible.
- c) Lastly, the electors elect the *Mtaa* Chairperson.

Voting Procedures at the *Kitongoji* level

At the *Kitongoji* level, the electors vote directly for the *Kitongoji* Chairperson in a special election meeting convened for this specific purpose. Both men and women who are resident in the *Kitongoji* jurisdiction and who are nominated and fully sponsored by fully registered political parties are allowed to contest.

Voting at the Village Council level

At the village level, residents vote for three categories of leaders, namely, Village Council Members (Men and women), women special seats, and the Village Chairperson (Both men and women can contest). Women special seats are 7, which is 25% of the total 25 members. The process in these elections is guided by the following regulations:

- a) The first step is to vote for the Village Council members. Both men and women can contest for membership in the Village Council
- b) The second step is to vote for women special seats.
- c) Lastly, the villagers vote for the Village Council Chairperson.

Before electing the Village Council members, the RO has to ascertain the number of *Vitongoji* in the village so as to deduct the number of *Vitongoji* from the 17 electable members. Together with the re-introduction of multipartyism, the participation in influencing political decisions by the opposition is still very low.