



LEGAL AND HUMAN RIGHTS CENTRE



**PERFORMANCE ASSESSMENT REPORT OF THE
10TH PARLIAMENT OF THE UNITED REPUBLIC OF
TANZANIA
2010-2015**

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ABBREVIATIONS AND ACRONYMS

ANC	African National Congress
APF	l'Assemblée Parlementaire de la Francophonie
BAKWATA	Baraza la Waislamu Tanzania
CAG	Controller and Auditor General
CCM	Chama cha Mapinduzi
CDF	Constituency Development Fund
CHADEMA	Chama cha Demokrasia na Maendeleo
CPA	Commonwealth Parliamentary Association
CSO	Civil Society Organisation
CUF	Civic United Front
CWT	Chama Cha Walimu Tanzania
DAS	District Administrative Secretary
DEP	Deepening Democracy in Tanzania Project
DED	District Executive Director
GDP	Gross Domestic Product
IPU	Inter-Parliamentary Union
LEGCO	Legislative Council
LGA	Local Government Authority
LGAC	Local Government Accounts Committee
LHRC	Legal and Human Rights Centre
MoFEA	Ministry of Finance and Economic Affairs
NA	National Assembly
NCCR-M	National Convention for Construction and Reform
NDI	National Democratic Institute for International Affairs
NEC	National Electoral Commission
NGO	Non -Governmental Organisation
NLD	National League for Democracy
NSSF	National Social Security Fund
OGP	Open Government Partnership
OUT	Open University of Tanzania
PAC	Public Account Committee
PCCB	Prevention and Combating of Corruption Bureau
POAC	Public Parastatal Organization Accounts Committee
PWDs	People with Disabilities
RAS	Region Administration Secretary
SADC PF	Southern African Development Community Parliamentary Forum
SADC	Southern Africa Development Community
SPSS	Statistical Package for Social Sciences
TANAPA	Tanzania National Parks Authority
TANESCO	Tanzania Electricity Supply Company

TANU	Tanganyika African National Union
TBC	Tanzania Broadcasting Corporation
TLP	Tanzania Labour Party
TLS	Tanganyika Law Society
UDSM	University of Dar es Salaam
UNDP	United Nations Development Programme
URT	United Republic of Tanzania
UTP	United Tanganyika Party
WBI	World Bank Institute

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EXECUTIVE SUMMARY

This is the second report by the Legal and Human Rights Centre to assess the performance of Tanzanian Parliament during the five years period. The first study covered the ninth Parliament (2005-2010) and the present study covers the tenth Parliament (2010-2015). The present study employed the six criteria endorsed by the SADC Parliamentary Forum's Benchmarks for Democratic Legislatures in Southern Africa (2012). The six criteria are as follows: (i) Separation of Powers (ii) Accessibility of Parliament (iii) Ethical Governance (iv) Representativeness of Parliament (v) Transparency and Accountability; and (vi) Tolerance and Respect of Opinion during Debating.

The study employed three main techniques in data collection, namely documentary reviews, expert opinion survey, and in-depth interviews. The expert opinion survey involved 121 respondents from different categories, namely members of Parliament, Parliamentary secretariat, Parliamentary committees, government agencies, academics, CSOs, political parties, students, the business community, religious leaders and persons with disabilities (PWDs). The in-depth interviews involved 16 key informants who were purposefully and carefully selected from the above categories of respondents.

The key findings of the study are as follows: First, some progress had been registered by the Parliament with respect to discharging its oversight role over the executive branch of government. The 10th Parliament was vibrant and to a considerable extent capable of supervising the executive and holding public officials to account on unethical conduct and, in the process, embezzlement, fraud and other types of misconduct were revealed. This prompted the Parliament to take steps that led to the sacking or resignation of ministers and deputy ministers or reshuffling of the cabinet by the President at different times. It was also the 10th Parliament that, for the first time, the CAG report was presented to it, discussed and deliberated upon. Some Parliamentary Standing Committees did a commendable job that is appreciated by the public, media, Civil Society Organizations, Political Parties and academics. The Parliament, increasingly worked constructively with Civil Society Organizations and the donor community to further enhance its capacity to serve the people.

In spite of the impressive record, the Parliament was not as effective as the electorate would expect it to be due to a wide range of factors including constraining constitutional and legal provisions, inadequate expertise in Parliamentary committees, inadequate research based information and capacity of MPs, limited scope for the Parliament to scrutinize appointment to executive posts and excessive partisanship. Besides, the time allocated for discussion and scrutiny of important issues such as budget and Bills was usually inadequate for the Parliament to exercise effective oversight over the government.

Secondly, with regards to the legislative function of Parliament (with respect to the infrastructure of law making, time to scrutinize and pass Bills, citizens' participation, engagement with civil society, Parliamentary supremacy, and Parliament adherence to international standards) , the findings indicate that the performance of the 2010-2015 Parliament was moderately impressive. However, it was noted that the Parliament faced quite formidable constraints in exercising its legislative role given the nature of the political system in Tanzania. The President as part of Parliament has a final say as to what Parliament decides. Some of the legislative procedures are sometimes not well respected. A striking example was given in the case of the Constitutional Review Bill, The Mining Bill, Petroleum

Bill and Cybercrime Bill which was unnecessarily rushed and passed under the certificate of urgency. Despite some of the opposition parties members of the parliament had walked out. This limited the Parliament's time to thoroughly scrutinize the same.

It was also observed that citizen's participation in parliamentary processes was very low as they were in most cases unaware of their rights to participate in influencing the Parliament. Civil society organizations were not effective in contributing meaningful to the law making processes. In some instance Parliamentary leadership played a dysfunctional role of obstructing a fair Parliamentary discourse hence contributing to the problem of limited time for Parliamentary proceedings. On the same note, it was also observed that, most MPs during discussions misused the time allocated by using sarcastic language and discussing irrelevant issues.

Third, according to the findings the effectiveness of the 10th Parliament in exercising its oversight role over the budget process was considered to be somewhat effective. However, there were a number of challenges which to a great extent were considered to have undermined the performance of the Parliament in fulfilling its responsibility in the budget processes. Such challenges included allegations of corruption, conflict of interests, partisanship and party discipline, inadequacy of time in scrutinizing the budget and lack of citizens' involvement in the budget process.

Fourth, with regard to transparency and accountability, the overall assessment of the tenth Parliament in terms of citizens and the media access to Parliament in relation to its proceedings, reports, committees, MPs, Parliament website was considered quite good. However, it was observed that the level of accessibility significantly diminished depending on the type of information to be accessed such as access to Parliamentary investigation reports on corruption, conflict of interests or unethical behaviour, if at all such reports were perceived to give a negative image or question the integrity of the government and the ruling party.

On the basis of the study findings the following key recommendations were drawn:

- (i) In order to empower the Parliament as a supreme legislative organ major constitutional changes should be effected so as to reduce undue interference and influence of the executive through the President in the functioning of the Parliament;
- (ii) A new Constitution of the United Republic of Tanzania should be enacted to ensure adequate separation of powers between the executive, legislature and the judiciary;
- (iii) There is need to enhance citizen participation in law making processes through public hearings that must be communicated to the people;
- (iv) There is a need to revisit the law making processes and the manner in which a certificate of urgency can be used. Parliament should have powers to vote and decide whether or not a Bill is to be presented under the certificate of urgency;
- (v) The time for discussion and passing of the nation budget should be increased so to allow the Parliament to scrutinize the budget effectively;

- (vi) There should be strict legal mechanisms to prevent MPs from having conflict of interests in discharging their functions;
- (vii) The rules guiding the daily operation of the Parliament should be made democratic to avoid abuse of power by the Parliament leadership bodies for inclusiveness in parliamentary deliberations and recommendations;
- (viii) Members of Parliament should have more time to scrutinize and discuss the reports issued by the office of the CAG;
- (ix) The Parliament should improve its capacity in research and willingness to use research and investigative information in its deliberations;
- (x) Parliament should prepare a mechanism to support capacity building for members of Parliament. Training in key areas such as leadership, representation and oversight, public policy analysis, budgeting and budget scrutiny should be strengthened;
- (xi) Parliament should conduct civic education programmes so as to continue promoting citizens' awareness and understanding of Parliamentary activities;
- (xii) There should be a comprehensive review of parliament standing orders, laws and policies for the purpose of removing undue legal impediments to parliament information accessibility;
- (xiii) Civil Society Organizations (CSOs) need to institutionalize assessing of the performance of Parliament annually and after every five years.

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CHAPTER ONE

GENERAL INTRODUCTION AND BACKGROUND OF THE STUDY

1.1 Introduction to LHRC

The Legal and Human Rights Centre (LHRC) was established in 1995 as a private, autonomous, voluntary non-governmental, non-partisan and non-profit sharing organization envisioning a just and equitable society. It has a mission of empowering the people of Tanzania, so as to promote, reinforce and safeguard human rights and good governance in the country. The broad objective is to create legal and human rights awareness among the public and in particular the underprivileged section of the society through legal and civic education, advocacy linked with legal aid provision, research and human rights monitoring.

The LHRC's operations mainly focus on Tanzania mainland with specific interventions in Zanzibar. Moreover, the LHRC is a member to different national, regional, international NGOs Networks and human rights bodies. The LHRC has an observer status in the African Commission on Human and People's Rights. The organisation abides to a number of core values that guide the way the members, the board, staff and partners relate and operate. The values in the context of the LHRC mean: integrity, equality, transparency, accountability, voluntarism and volunteerism.

1.1.1 LHRC Engagement with Parliament

The Parliament as a law making body and over seer of the government has an important role in safe guarding and promoting rule of law, human rights and good governance in the country. Considering this the LHRC started strategically to assess the performance of the Parliament of the United Republic of Tanzania. This enabled the LHRC to establish parliamentary programs that work on improvement of law making processes and human rights adherence in the country through engagement with the Parliament. This engagement leads to the assessment of the performance of the 9th Parliament from 2005 to 2010. The study aimed at finding out the achievements and challenges confronted with the Parliament with a view to enhance its effectiveness in discharging its mandates. With the same spirit, this year (2016), the LHRC undertook the second assessment on the performance of the 10th Parliament of Tanzania (2010-2015) which was officially dissolved on 22nd August, 2015.

1.2 Objectives of the Study

The study was designed to assess the performance of the 10th Parliament of the United Republic of Tanzania (2010-2015). Specifically, the study had the following objectives:-

- i. To evaluate the legislative role of Parliament and citizen participation in the legislative process from policy formulation to proposed Bills;
- ii. To evaluate how the Parliament fulfilled its oversight role and held the government accountable;

- iii. To assess how the Parliament processes were inclusive to the public and other stakeholders to engage in Parliamentary processes.

1.3 Assessment Benchmarks for a Democratic Legislature

In the words of the participants at the Second World Conference of Speakers of Parliaments at the United Nations, it was declared “*Parliament embodies democracy. Parliament is the central institution through which the will of the people is expressed, laws are passed and government is held to account.*”¹ Nonetheless, the critical issue has remained: “How does a democratic legislature look like?” The fact that there is no a universal definition of what is democracy and what is not, defining a democratic legislature is also challenging. However, the quest to do assessments of legislatures along democratic principles, has forced scholars and practitioners to find some ways to undertake the evaluation with a view to improving the effectiveness performance of legislatures. The UNDP 2010 noted:-

Faced with challenges such as declining public confidence and executive dominance... many Parliaments worldwide today are seeking to improve their performance – among other things, to become more open, independent, accountable, and responsive. Although every Parliament is a product of its own country’s history and culture, and there is no magic formula or checklist for developing a democratic and effective Parliament, there is emerging international consensus that certain norms and standards regarding democratic Parliaments transcend the particularity of political and legislative systems.²

Although the work of developing the assessment criteria for a democratic legislature is a relatively new phenomenon for about ten (10) years,, today a range of international Parliamentary organizations, such as the Inter-Parliamentary Union (IPU), the Commonwealth Parliamentary Association (CPA), *l’Assemblée Parlementaire de la Francophone (APF)*, Southern African Development Community Parliamentary Forum (SADC PF) and their partners such as the World Bank Institute (WBI) and the United Nations Development Programme (UNDP) recognizes that the development of standards and assessment frameworks can contribute to Parliament’s own evaluative and reform efforts, as well as guide Parliamentary development practitioners and donors in designing more appropriate support programmes.³ It is important to note that just as there is a wide variety of organizations contributing to this work, there is a wide variety of terminologies being used, including; standards, benchmarks, norms, criteria, indicators, principles, and good practice.

Nevertheless, given their shared goals and increasingly coordinated approach, the work of these different organizations has been mutually reinforcing and there is a significant level of commonality between the different assessment frameworks in terms of content. The reasons for this are threefold, (a) the frameworks have all drawn on, or been influenced by, one another; (for example, the National Democratic Institute for International Affairs (NDI) provided technical support to the IPU as they developed their good practice guide, and the IPU guide was one of the resource documents, together with an NDI discussion paper, used by the CPA Parliamentary study group on Benchmarks for Democratic Legislatures); (b) all

¹ “Bridging the democracy gap in international relations: A stronger role for parliaments,” United Nations Headquarters, New York, 7 to 9 September 2005.

² UNDP “Benchmarks and Self-Assessment Frameworks for Democratic Legislatures” 2010.

³ Ibid.

of the frameworks cover the core functions of Parliament, namely approving legislation, representing citizens, overseeing the executive and approving the budget; and (c) there is a common understanding of what, in negative terms, does not constitute a democratic Parliament, often based around specific issues such as executive dominance and corruption of MPs and Parliamentary officials.⁴ Thus, it is safe to focus on minimum standards of a democratic legislature.

For some reasons, this study is guided by the benchmarks derived from the SADC Parliamentary Forum's Benchmarks for Democratic Legislatures in Southern Africa (2012). Firstly, Tanzania is a member of the SADC Parliamentary Forum. This would mean that the country has committed itself to implement those standards. Secondly, these standards may not only allow some kind of comparisons over years when assessing the performance of the Tanzania's Parliament but also among Parliaments within the SADC region. Thirdly, the SADC's benchmarks are by and large in harmony to other frameworks for assessing effectiveness of a democratic legislature.

It has to be mentioned that on 3rd December 2011, the SADC Parliamentary Forum's supreme policy making body, the Plenary Assembly meeting on the occasion of its 28th session unanimously approved Benchmarks for Democratic Legislatures in Southern Africa "the Benchmarks". The benchmarks are intended to "provide a mirror for self-assessment, measuring the performance of SADC Parliaments ... strengthening the capacity, role and functional independence of Parliaments as the elected institution in government and in governance."⁵ These benchmarks fall within the context of the strategic objective of the SADC Parliamentary Forum relating to Strengthening Institutions for Democratic Governance. Thus, this framework highlights on the following assessment criteria:-

1.3.1 Separation of Powers

Separation of powers simply means power is separated between three branches of government and each branch of the government is confined into doing its own work and no branch encroach upon the function of other branch (Takwani, 2004: Montesquieu cited in Cahn, 1997). The performance of Parliament depends inter alia on its relationship and balance of power between itself and other branches of government, in particular, the executive branch. Separation of powers is interpreted differently in the presidential system and Parliamentary system. The presidential system of government such as the United State of America is considered to exercise a strict separation of powers compared to Parliamentary system of government and hybrid systems such as Tanzania. It is however, argued that even under the moderate separation of powers in the Parliamentary/hybrid system interference of the government in Parliamentary processes and/or executive presence in Parliament need to be limited. Excessive presence and interference of the executive in Parliament constrain Parliament performance and risk turning the Parliament into a rubber stamp institution. This criterion therefore assesses the power balance and level of executive and legal interference into the functioning of the Parliament.

⁴ Ibid.

⁵ Benchmarking and Self-Assessment Toolkit for Parliaments in Southern Africa, SADC Parliamentary Forum (2012)

1.3.2 Accessibility

As representatives of the people, Parliament needs to be accessible. Accessibility of Parliament is indicated by levels of involvement of the public, including civil society, media and other people's movements, in the work of the Parliament subject only to public safety and work requirements (SADC Parliamentary Forum, 2012; Inter Parliamentary Unit, 2008). Parliamentary accessibility is improved if Parliament has its own media facility which is non-partisan, a dress code that does not unduly limit public access and use of inclusive language which include making available language interpretation services, Braille, sign language and hearing aids (SADC Parliamentary Forum, 2012).

1.3.3 Ethical Governance

As an organ that is mandated to oversee the government, Parliament should, itself, be ethically governed institution. This will strengthen its legitimacy. It is important that both members of Parliament and all other Parliamentary staff maintain high standards of accountability and transparency. Parliamentary ethical governance is indicated by the presence of legislation that enforces Parliamentary codes of conducts, which include among thing rules on conflict of interests and acceptance of gift for MPs and Parliamentary staff, legislation that requires MPs and Parliamentary staff to disclose their financial and business interests publicly and presence of internal mechanisms aim at preventing, detecting and bringing to justice MPs and other Parliamentary staff who engage in corrupt practices (SADC Parliamentary Forum, 2012).

1.3.4 Representativeness

This is one of the important criteria in assessing a democratic legislature. In simplest understanding, representativeness of Parliament is indicated by two things; one is reflection of popular will as expressed by electorates' choice of their representatives and political parties in whose name they stand (Inter Parliamentary Union, 2006). Two, that Parliament should reflect social diversity. This means the composition of Parliament, which is a result of electoral processes, should reflect the diversities of the societies they are representing in terms of "gender, language, religion, ethnicity, or other politically significant characteristics" (ibid). As such both electoral procedures/system and Parliamentary own procedures play significant roles in enhancing Parliamentary representativeness. While electoral procedures directly influence the Parliamentary composition; inclusive Parliamentary procedure provides an avenue for Parliamentarians to set legislation that influence its composition indirectly. Deficiencies in the electoral procedures and Parliamentary procedures therefore, may leave some candidates, political parties and/or social groups at disadvantage positions or excluded altogether in the political process.

1.3.5 Transparency and Accountability

Parliament also must stand transparency and accountability test. Accountability of Parliament means members of Parliament are accountable to the electorate for their performance in office and for their integrity of their conducts (Inter Parliamentary Union, 2008). This is indicated by several factors including; the presence of systematic arrangements through which members of Parliament report to their constituents about their performance in office; electoral system that ensures Parliamentarians remain individually and collectively

accountable to the electorates; system that ensures members observe to the agreed codes of conducts and procedures that prevent conflicts of financial and other interest in the conduct of Parliamentary business. This includes also making the system in which salaries of members are determined publicly accessible.

1.3.6 Tolerance and Respect of Opinion during Debating

The fact that Parliament is a representation of the country's social and political diversities; there are always differences in opinion. Differences can be between one individual MP and the other, between political parties represented in Parliament or between different arms of government i.e. ministers and MPs. Respect of opinion during debating is important.

1.4 Methodological Approaches

Data for this study was collected from both primary and secondary sources. Secondary data was collected through document reviews. In -depth interviews and expert opinion surveys (questionnaires) were used for collecting primary data.

1.4.1 Expert Opinion Survey

Questionnaires were administered to seek expert opinion. Questions were designed to address seven important themes: Parliamentary representation and accountability, oversight, transparency and accessibility of the Parliament, law making, budgeting, role of other actors (CSOs, CAG Office and the donor community) and institutional effectiveness. Respondents were required to respond to questions in each theme by the following scale of response: 5=very high/very good, 4= high/good, 3=Medium, 2=Low/Poor and 1= Very low/Very Poor. A total of 135 experts were targeted for the survey. These were selected from different categories including: Members of Parliament, academics, Civil Society Organizations (CSOs), political parties, students, business community, religious leaders, government agencies and trade unions Respondents from each category were obtained through purposive sampling technique.

1.4.2 In-depth Interviews

A total of 16 in-depth interviews were conducted involving key informants from the above categories of respondents. During the interview, the checklist questions were used to guide researchers in soliciting information. Interviews were useful because they allow researchers to secure in-depth information that is possible through free discussion between the interviewer and the interviewee.

1.4.3 Documentary Reviews

This involved the review of related documentaries, literatures such as Reports of Parliamentary debates (Hansards), Annual financial report of the Controller and Auditor General, Standing Orders of the House, Constitution of the United Republic of Tanzania, Parliamentary Standing Committee Reports, policies, laws books, journals and other related publications.

1.5 Data Analysis

Data collected through documents and interviews was subjected to content analysis. Relevant information were extracted and presented descriptively. This was done to determine the relative emphasis of frequency of different opinions, reasons and facts given by different respondents and sources. Data collected through questionnaires were coded and thereafter analyzed by Statistical Package for Social Sciences (SPSS).

1.6 Field Work

Thorough training of the interviewers is essential in order to produce high- quality data. A total of six (6) researchers were involved in the study. Before the commencement of the surveys and interviews, these researchers received intensive one day training. Specifically, researchers were trained on the field work procedure, handling of the questionnaire and selection of proper interviewees. Field work was conducted in Dodoma and Dar es Salaam regions between February and April 2016.

1.7 Ethical Considerations

In the course of this study, all necessary measures were taken to ensure that it abides by research ethics. Research permit was sought and granted for all researchers by the University of Dar es Salaam. Again, specific research permits were requested and granted from all institutions that were involved in the study. During the actual data collection exercise, major ethical considerations towards research participants were adhered to, namely voluntary participation, informed consent, confidentiality, anonymity and privacy. Prior to commencement of data collection exercise a voluntary and an informed consent of the respondents was sought. Participants were given information sheet prior to the sessions which detailed the purpose of the research and their role in the research. In order to ensure confidentiality and anonymity, in the chapters that deal with the findings and discussion of the study, respondents are referred to only by their categories.

CHAPTER TWO

HISTORICAL EVOLUTION OF THE TANZANIA'S PARLIAMENT

2.1 Introduction

The purpose of this chapter is to provide evolution of the Tanzania's Parliament, its powers and functions. To understand how the Parliament has been performing overtime, an historical account is presented. Thus, this chapter examines how the Parliament has developed over time, starting from the colonial era up to the multiparty Parliament since 1992. The chapter ends with a conclusion and recommendations.

2.1.1 Colonial era

The Tanzania National Assembly started as a Legislative Council (LEGCO) established by Tanganyika (Legislative Council) Order in Council of 1926. This law was passed by the British Parliament and gazetted in Tanganyika on 18th June 1926. The law provided for membership composition in the LEGCO. That LEGCO was to consist of 13 official members and a maximum of ten unofficial members. The 13 official members were to consist of six Ex- official members of the Executive Council and seven high government officials. Unofficial members were to be appointed by the governor (Tylor, 1963). Mwakyembe (1985) described the council as nothing more than a mere extension of the governor's office. Officially, the LEGCO was launched on 7th December 1926 in Dar es Salaam under the Chairmanship of Sir Donald Cameron, the British Governor of Tanganyika. It had 20 members mostly Europeans and Asians with no African representation. It was until November 1945 that Africans were first represented in the LEGCO following the appointment of two African Chiefs as LEGCO members. By 1948 the number had reached to four, three of whom were African Chiefs and one a school teacher (ibid). The authority of the governor in the LEGCO was supreme. This changed in 1953 when the first Speaker was appointed to assume the chairmanship of the LEGCO replacing the governor.

The first major change in the LEGCO happened in 1958. These changes emanated from the enactment of the Ordinance that broadened the franchise. For the first time LEGCO was to have some members elected by the people. Three political parties namely, Tanganyika African Union (TANU), United Tanganyika Party (UTP) and African National Congress (ANC) contested in the elections⁶. However, although after the elections, the composition of the LEGCO included elected members, these were still outnumbered by ex-official and appointed members (Tambila, 2004).

The second change happened in 1960 when second elections were held. Before the elections, a government committee chaired by Richard Ramage Committee made some recommendations that had extended African franchise and abolished members appointed by the governor. As a result, after the elections, the LEGCO was composed by the majority of elected members. Other changes made included change of name from the Legislative Council to Legislative Assembly (National Assembly). The changes were a necessary step in

⁶ However, only TANU won in some constituencies to become the first party to have members in the LEGCO.

the preparations for Tanganyika's independence whereby the Tanganyika's President would have the powers to enact all laws instead of the Queen of England.

From the aforesaid, it has to be emphasized that the Parliament during colonial era was intended to first and foremost serve the interests of the colonial state which was essentially exploitation of the colony. Moreover, it was racial in character whereby Africans were not allowed to participate as members of the legislature. It was in 1945 that a very limited number of Africans, mainly African Chiefs became members of the legislature. In that case, it was extremely difficult to assess the legislature of that time along democratic principles.

2.1.2 The Independence Parliament: The Westminster Model

Tanganyika attained her independence on 9th December 1961 with a Westminster Constitution. One of the important cardinal features of the Westminster Constitution was that Parliament was supreme over all other organs of the state. Being the supreme organ in the country, the Parliament exercised direct control over legislation and the executive. The Constitution cemented the doctrine of collective ministerial responsibility in which the Prime Minister and his entire cabinet were collectively accountable to the Parliament. Parliament had powers to remove the Prime Minister and entire cabinet out of office by vote of no confidence (Kassimu, 2010; Tambila, 2004; Mwakyembe, 1985). Despite having no representative from the opposition, the Parliament had a lot of freedom to criticize the government on many issues and programmes, for example criticizing the government for being too slow in implementing its Africanization Policy (Kassimu, 2010; Tambila, 2004).

2.1.3 The Republican Constitution Parliament

On 9th December 1962 Tanganyika became a Republic. The Republic came with a new Constitution of Tanganyika of 1962 or famously called the Republican Constitution. The Constitution changed the balance of powers between the Parliament and the executive, in particular, shifting the powers from the Parliament to the President. Under the Republican Constitution, the President had powers to appoint up to ten members to the National Assembly in addition to the 107 constituent MPs; he could address the Parliament anytime and had powers to dissolve it anytime he wished. The President was the Head of the State, Head of the Government, Commander-in Chief of the Armed Forces and part of Parliament but not a member of the National Assembly (Shivji, 2004). While the independence Constitution had required the government to be accountable to the Parliament and could be removed by vote of no confidence, the Republican Constitution did not provide for such powers (ibid). Under the Republican Constitution, it was only the President who could hold the government accountable, and since the President was not a member of the National Assembly, it literally implies that the government was not accountable to the Parliament (ibid).

2.1.4 The Single Party Parliament

The legislative supremacy of Parliament was further weakened by the introduction of single party politics in 1965 through an Interim Constitution. The Interim Constitution not only enshrined the one party in the Constitution, but also changed the electoral procedure and composition of Parliament. While the Republican Constitution had created powerful presidency with little Parliamentary and constitutional checks on the use of such powers, the Interim Constitution elevated the party to a new constitutional position. The National Executive Council (NEC) of the party became more important and powerful. Its members

who were not Members of Parliament (MPs) were going to be paid like MPs; NEC had powers to summon witnesses and calling for witnesses like the National Assembly; the Attorney General and head of civil service were made members of NEC and what is more, the Constitution of TANU became an annex to the state Constitution as a schedule (Tambila, 2004). Furthermore, the Interim Constitution gave power to the President to appoint large number of MPs to the National Assembly and from among them he could appoint his ministers. In the Republican Constitution the President could appoint up to ten MPs; the Interim Constitution brought the total number of Presidential appointees to eighty two which was equivalent to about 40 per cent of all members in the National Assembly (Ibid).

Indeed, through this Constitution, the status and role of Parliament drastically declined Major decisions were made and passed by the NEC instead of Parliament. For example, in January 1967, the NEC of the party adopted the Arusha Declaration. The declaration consisted of the nationalization policy, which required to be reviewed by Parliament, but it was not debated there (Mwakyembe, 1985). The Parliament could no longer freely debate or oversee the government decisions without attracting serious confrontation with NEC of the party or even the President himself. In 1968, for example, seven MPs were dismissed from the party for questioning subordination of the Parliament. Their dismissal from the party consequently caused them to lose their Parliamentary seats as well⁷. This was due to; for one to become an MP one had to be a member of the political party. By 1972, NEC of the party had become too powerful that Parliament could no longer stand on its way. The Decentralization Policy, for example, was presented, discussed and approved by NEC on its meeting on the 18th January, 1972 in Dar es Salaam. The Parliament was later asked to pass the necessary legislation to give the statutory status to the decision (Kassimu, 2010).

The passing of the 1977 Constitution was the final blow to the Parliament as a principal organ to oversee the government. The Parliament was constitutionally made a committee of the *Chama cha Mapinduzi*, a party that was formed on 5th February, 1977 following a merger between Tanzania African National Union (TANU) and Afro Shiraz Party (ASP). The composition of the Parliament was dominated by the President as he directly appointed some of the members. By this time, the Parliament had no more constitutional control over legislation; in effect it simply remained as a rubber stamp of the party and Presidential decisions. Generally, during single party era, Parliamentary business as a whole was dominated by the party and the powerful executive President. The doctrine of Parliamentary supremacy had been effectively replaced by a new doctrine of party supremacy.

2.1.5 Multiparty system: 1992 Constitutional Amendments

These constitutional changes followed the recommendation from Presidential Commission on one party or multiparty system chaired by Justice Francis Nyalali. The Commission, among other things, recommended that Tanzania should abandon the one party state and adopt multiparty system. The adoption of a multiparty system led to major changes in the Constitution, particularly on the powers and sovereignty of the Parliament. Some significant changes as summarized by Tambila (2004) and Msekwa (2006) include the following:-

⁷ Expelled from the party were the following; G. Kaneno (Karagwe), T.Bakampenja (Ihangiro), J.Kasella-Bantu (Nzega East), S. Kibuga (Mufindi, M.Chogga (Iringa South), F.Masha (Geita East) and W. Mwakitwange (National).

- i. The removal of the Article which declared Tanzania as a single party state under *Chama cha Mapinduzi* as a sole party and Tanzania was instead declared to be a democratic socialist state with a multiparty political system;
- ii. Repeal of the Article, which had given CCM monopoly over political activities;
- iii. Repeal of the provisions giving the NEC of CCM or any other organs responsibilities of the state;
- iv. Regional Commissioners ceased to be ex-official members of Parliament;
- v. Constitutional provision, which required the President to observe the policies and the objective of the party was repealed; and
- vi. Repeal of the Article, which made the Parliament a committee of the party.

In addition to that, Parliament was given powers to impeach the President in the event of him/her being accused of breaching the Constitution or behaving in a manner which is incompatible with the authority and dignity of the presidency. The Parliament regained its powers to move a motion of no confidence in the Prime Minister, which is passed by two third majority of MPs, which could lead to fall of the entire cabinet. Also changes were made to the structure of Parliamentary committees. Standing Orders were amended to remove provisions, which had made all MPs as standing committee of the National Conference of CCM. Furthermore, new provisions were made to allow each political party represented in Parliament to form a Parliamentary committee of its own MPs (Msekwa, 1995).

With regards to excessive presidential powers, the Constitution was amended and the following powers were removed from the President. The power to “dissolve the Parliament at any time” was removed and instead, it was replaced by provisions setting out circumstances in which Parliament can be dissolved. Through such change it is thought that Parliament has regained much of the powers it used to possess way back in 1961 (Tambila, 2004). However, although the Parliament may have regained most of its powers, it still has to prove itself operationally.

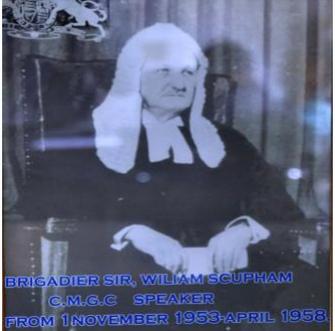
2.2 The Structure of the Tanzanian Parliament

The Parliament is established by Article 62 (1) of the Constitution of United Republic of Tanzania of 1977. It operates as a unicameral Parliament. In terms of its structure, Parliament consists of two parts; the President on one hand and the National Assembly, on the other. The National Assembly consists of the following categories of members as specified in Article 66 of the constitution of the URT of 1977. They include:-

- a. Members elected directly to represent constituencies;
- b. Women members being not less than thirty percent of the members of all other categories elected by political parties on the basis of proportion of votes;
- c. Five members elected by the House of Representatives from among its members;
- d. The Attorney General; and
- e. Not more than ten members appointed by the President.

The Parliament is headed by the Speaker who is assisted by the Deputy Speaker and the Clerk to the National Assembly as head of the Secretariat of the National Assembly and three presiding officers.

Table 1: Speakers of the Tanzanian Parliament from 1926 – To present

SPEAKER	TIME FRAME
 <p data-bbox="225 757 580 792">Hon. Sir Donald Cameron</p>	<p data-bbox="874 757 1310 792">7th December 1926-October 1953</p>
 <p data-bbox="225 1133 580 1167">Hon. Mr. W.E.H. Scupham</p>	<p data-bbox="874 1133 1326 1167">November 1953 - December 1956</p>
 <p data-bbox="225 1469 619 1503">Hon. A.Y.A. Karimjee, C.B.C</p>	<p data-bbox="874 1429 1362 1503">1st January 1956 – 26thDecember 1962</p>
 <p data-bbox="225 1749 655 1816">Hon. Chief Adam Sapi Mkwawa, M.B.E, O.B.E</p>	<p data-bbox="874 1675 1362 1749">27th November 1962-19th November 1973</p> <p data-bbox="874 1787 1342 1816">6th November 1975- 25th April 1994</p>

	<p>20th November 1973-5th November 1975</p>
	<p>28th April 1994 -28th November 2005</p>
	<p>28th December 2005- November 2010</p>
	<p>10th November, 2010 –16th November 2015</p>
	<p>17th November 2015 – To Date</p>

For the effective discharge of its functions, the National Assembly is organized in the following committees:

- House Keeping Committees:
 - a. Steering Committee;
 - b. Standing Orders Committee;
 - c. Parliamentary Privileges, Ethics and Powers Committee.

- Sector Committees:
 - a. Agriculture, Livestock and Water Committee;
 - b. Infrastructure Development Committee;
 - c. Energy and Minerals Committee;
 - d. Industries, Trade and Environment Committee;
 - e. Constitution and Legal affairs Committee;
 - f. Administration and Local Governments Committee;
 - g. Social Development and Services Committee;
 - h. Lands, Natural Resources and Tourism Committee;
 - i. Foreign affairs, Security and Defense Committee;
 - j. Subsidiary Legislations Committee.

- Crosscutting Committees:
 - a. Budget Committee;
 - b. HIV and AIDS affairs Committee.

- Watchdog Committees:
 - a. Public Accounts Committee;
 - b. Local Authorities Accounts Committee;
 - c. Public Investments Committee.

In addition to these committees, the Speaker, where need arises and for a specific purpose, has the power to constitute select or ad hoc committees. These committees usually are constituted to investigate, consider and report on specific matters. Once a select committee has carried out its investigation and presents its final report it ceases to exist.

2.3 Powers of the Parliament

The Parliament derives its powers from the Constitution of the United Republic of Tanzania of 1977. Specifically, the authority of Tanzania Parliament is established in Article 63 (1) and (2). Being one part of Parliament, the President of URT is empowered by Article 63 (1) to exercise all his/her powers provided in the Constitution. Again, as a second part of Parliament, the National assembly is declared in Article 63 (2) as the principal organ, which is mandated to oversee and advice the government and all its organs in the discharge of their responsibilities on behalf of the people. Under Article 100 (1) Parliament's freedom to execute its responsibilities cannot be breached or questioned by any organ in the United Republic, court or anywhere else outside the national Parliament.

2.4 Functions of Parliament

Parliament performs four main functions namely, the legislative or law making function, representation function, budgeting and accountability/oversight function. The following sections provide a description of each function:-

2.4.1 Representation Function

The nature of Parliaments, at least, in liberal democracies is that they are representative institutions. They occupy a very strategic position in the country because it consists of people's representatives. Representation means "a process by and through which the political power and influence which the entire citizenry or a part of them might have upon the governmental action, with their express or implied approval, exercised on their behalf by a small number among them, with binding effect upon the whole community thus represented" (Friedrich, 1968:278). In a constituency system (first-pass-the-post system), constituencies are directly represented by their MPs, whereas in a proportional representation system voters are more linked with the political parties as their representative in Parliament than individual constituency MPs. In liberal democracies therefore, representation is a valued function. As representatives, Parliamentarians act as arbitrators for their constituents in dealing with the government (African Parliamentary Index, 2012). Theoretically, in representation of constituency's interests in policy making process, Parliamentarians may act at individual and/or collective capacity (ibid). This requires not only quality interactions between Parliamentarians and their constituencies but also Parliamentarians understand of their constituency. To enhance Parliament's representation function, it is suggested that the number of seats in Parliament should be in such a way that it takes into account issues like equity, community interests and geographic features and facilitate interactions and feedback to voters (SADC Parliamentary Forum, 2012).

2.4.2 Budgeting Function

Power to determine taxation and authorize public expenditure is not only one of the important Parliamentary functions but also one of the oldest. In fact it was a *raison d'être* for the emergence of Parliament in the world in the first place - as was clearly stipulated in the doctrine of Magna Carta in Britain. The power of purse of the Tanzanian Parliament is derived from the Constitution Article 63 (3) b which requires the assembly to debate on the performance of each ministry during the annual budget session and Article 99 (1) which describes the scope to which the Parliament can exercise that power. In each year, the government through the Minister for finance brings before the House estimates expenditure for the government and seeks for Parliament's approval. In addition to that, Standing Orders and other different laws and procedures expressively describe powers that the Parliament can exercise with regards to government revenues and expenditures.

2.4.3 Accountability Function

As a supreme representative body of the people, Parliament is vested with powers to call the government to account. Accountability function is not a witch-hunting or fault-finding exercise *per se* but entails also scrutinizing government policies, spending and nomination to public offices for the purposes of enhancing good governance (SADC Parliamentary Forum, 2012). It is proposed that in order to make Parliament more effective in overseeing the government, it is important to control the size of executive in Parliament. Excessive presence

of the executive leaves the Parliament with few MPs who can scrutinize the government. Accountability function of the Tanzania Parliament is provided by Article 63(2) and (3) of the URT Constitution of 1977 where it is established that on behalf of the people, the Parliament is empowered to undertake oversight function over the government performance of its duties and responsibilities.

2.4.4 Legislative Function

Again, as a supreme representative institution of the people, Parliament undertakes law making function as one of its key responsibilities. This involves making amendment to the proposed laws and enactment of legislation. However, in vibrant Parliaments, legislative function includes also Parliamentarians proposing legislation for debate. The legislative function often includes the power to amend the Constitution. Having a balance between the two pillars of government is important, i.e. between the Legislature and Executive. Undue interference of the executive is known to have turned some Parliaments as mere rubber stamps. The Tanzanian Parliament derives its legislative powers from two Articles of the Constitution. The first is Article 64 (1) in which it is established that Parliament has legislative powers in relations to all union matters and all other matters concerning mainland Tanzania. Second, is Article 97 (1) – (5) which describes the procedure through which Parliament can exercise its functions.

2.5 Conclusion

The review of the evolution and functions of the Tanzania's Parliament suggests that the performance of the Parliament has been greatly influenced by at least four factors, namely the Constitution, composition of members in Parliament, its relationship with the executive and the ruling party. Although Constitutional changes of 1992 brought back many powers of the Parliament that were eroded during the single party era, the Parliament continues to operate under strong presence of the executive, dominance of one party in Parliament membership and excessive presidential powers. In fact, the Constitution has been designed in such a way that the executive branch through the President is vested with enormous powers at the expense of other organs. These factors are likely to impact negatively on the performance of the Parliament in executing its functions on the basis of the international benchmarks.

2.6 Recommendations

In order to empower Parliament as a supreme legislative organ, this chapter recommends for major constitutional changes so as to reduce undue interference and influence of the executive through the President in the functioning of the Parliament and empowers the Parliament as the supreme organ. Specifically, it recommended to:

- a. Repeal of Article 99 of the Constitution, which prohibit Parliament and committees from making any changes in the government's proposals. The Article should be repealed so as to empower the Parliament to amend Bills and where needed to reject them;
- b. Repeal of Article 66(1) which allows the President to appoint Regional Commissioners from among Parliamentarians;
- c. Repeal of Article 55 (4) which requires the President to appoint Ministers who are members of Parliament;

- d. Parliament should have powers to vote and decide whether or not a Bill is to be presented under the certificate of urgency.

CHAPTER THREE

REPRESENTATION AND ACCOUNTABILITY

3.1 Introduction

Representation is one of the core functions of Parliament. In liberal democracies, “Parliamentary representation offers citizens the single most important platform to participate in the affairs of their country and in holding the government to account for its actions (API, 2012: 13).” Since all citizens cannot gather or assemble in one place to discuss and pass resolutions, for instance, there must be a small number among them with binding effect upon the whole society represented. These representatives are therefore required to discuss issues of national interest as raised by citizens. Failure of representatives to engage into discussion of national concern leads to their answerability during elections. This chapter intends to assess representation and accountability of the Tenth Tanzanian Parliament (2010 - 2015). In order to accomplish this task, about seven issues are discussed into sections. Section one is the introduction. Section two examines the composition and diversity of the Tenth Parliament. Section three looks at constituent relations. Here, the relationship between members of Parliament and their constituents, and the relationship between citizens (people) and Parliament are evaluated. Section four evaluates the performance of individual members of Parliament. Section five examines the Parliament as a platform for public debate. Section six evaluates freedom of opinion by members of Parliament in the house. Section seven observes direct expression of citizens’ views to their representatives. Section eight evaluates the impact of party discipline to the effectiveness of the Parliament. Section nine highlights some general issues discussed in various sections. Lastly, recommendations are given for better representation and accountability.

3.2 Composition and Diversity

The 10th Tanzanian Parliament came into being after the 2010 general elections. Based on Article 66(1) of URT Constitution, Parliament shall consist of four categories of members of Parliament. These include; - (a) members elected to represent constituencies; (b) women members being not less than thirty percent of the members mentioned in paragraphs a, c, and d elected by the political parties represented in the National Assembly in terms of Article 78 and on the basis of proportional representation amongst those parties; (c) five members elected by the House of Representatives from among its members; and (d) the Attorney General. In addition, the Constitution was amended in 2000 to allow the President to nominate up to ten members of Parliament. Therefore, five categories were used to obtain members of the 10th Parliament.

Table 2: Composition of members the 10th Tanzanian Parliament (2010 - 2015)

Category of Members	Number
Members Elected from Constituencies	239
Special Seats Women Members	102

Members Elected by Zanzibar House of Representatives	5
Members Appointed by the President	10
Total	357

Source: Parliament of Tanzania, 2011; KAS, 2011

Table 2 above it may be acknowledged that the composition of the 10thParliament was to some extent representative. However, representativeness of that Parliament must be evaluated by its diversity. Whether or not the Parliament was composed of diverse interests of citizens through representatives is very crucial. At this point, the assessment is based on representation by geographical constituencies, age, persons with disability, political parties and gender.

Representation by geographical constituencies varies from time to time depending on alterations made by chairman of the Electoral Commission as per the Constitution. Article 75 provides for demarcation of the United Republic of Tanzania into constituencies. In effect, there were 220 constituencies in 1995 general elections (Tambila, 2004); 232 constituencies in 2000 general elections (NEC, 2005); 232 constituencies in 2005 general elections (NEC, 2005); 239 constituencies in 2010 general elections (NEC, 2010); and 257 constituencies in 2015 general elections. The trend shows that the number of representatives elected from constituencies has been increasing. It is a good sign of representativeness since the number increases with the increase of population even though it is disproportionate. For example, the Commission is required to review constituencies' boundaries at least after every ten years⁸ and yet there was review of constituencies in 2010 from 232 constituencies to 239 constituencies; and again in 2015 from 239 constituencies to 257 constituencies. The 2015 review was done after only five years.

Gender parity in Parliament is also an important criterion to look at when discussing diversity of the 10thParliament. Women's engagement in politics is minimal world-wide. Only 22 per cent of national Parliamentarians were female as of August 2015, a slow increase from 11.3 per cent in 1995 (Inter-Parliamentary Union, 2015). Political system is one among other factors that hinder women participation in politics. Babeiya (2011:94) argues that Tanzania's electoral and political systems marginalize women in intra-party and inter-party competitions. Similarly, Tenthani *et al.* (2014:6) explain that no party has achieved gender parity at decision-making level. With quotas, the 10thParliament had 36 percent (i.e. 126 total women⁹) of 350 total number of MPs in 2010. Of 36 percent, 102 were reserved for women special seats as per requirements of Article 66(1) (b) and 78(1) of the Constitution.

Another criterion of representation is through political parties. Article 77(3) requires candidates for election to a constituency to be endorsed by a political party. Since the introduction of multiparty elections in Tanzania there have been six political parties with representation in Parliament out of eighteen (18) political parties participating in Parliamentary elections.

⁸ Article 75(4) of the Constitution states that, "subject to the provisions of this Constitution and any law concerning the demarcation of the country into constituencies, the Electoral Commission may from time to time and at least after every ten years review the demarcation of the United Republic into constituencies alterations and may alter the constituencies as a result of that review or as a result of a census conducted in the United Republic."

⁹ Inter-Parliamentary Union (2011). Women in Parliament in 2010: The Year in Perspective. Switzerland.

Table 3: Parliamentary Representation by Political Parties from 1995 to 2015

Political parties with representation	1995	2000	2005	2010	2015
CCM	214	258	275	259	252
CHADEMA	4	5	11	48	70
CUF	28	22	31	36	42
NCCR Mageuzi	19	1	NIL	4	1
TLP	NIL	5	1	1	NIL
UDP	4	4	1	1	NIL
ACT Wazalendo	N/A	N/A	N/A	N/A	1
Other political parties without representation	8 parties	7 parties	12 parties	15 parties	17 parties
Total number of representatives	269	295	323	350	369

Source: NEC, 2000; 2005; 2010; 2015; Parliament of Tanzania, 2015; Africa Elections Database: Elections in Tanzania, 1995; 2000; 2005; 2010.

Table 3 depicts two opposing trends. One, although the number of political parties represented in Parliament is minimal, there is a watershed in CCM descent winning starting in 2005 general elections. Two, as the number of political parties participating in elections increases; the number of political parties with representation in Parliament remains constant. Moreover, even if the opposition in Parliament is minimal it has had significant impact in Parliamentary discussions and resolutions undertaken. For example, opposition parties have brought many important political issues to t – list of shame; EPA Issues; Buzwagi; Richmond; Escrow; and many others (KAS, 2005: 31). In addition, an assessment of the performance of Parliament by TWaweza (2013), two years after 2010 general elections revealed that members of Parliament from parties with fewer seats make the most interventions on average.

Other criteria of representation include age and people with disability. The 10th Parliament was composed of the youth and the elderly. Many representatives from opposition parties were youth while those from CCM were mostly elderly people. Presence of youth in the 10th Parliament led to vibrant discussions. On the other side, the Parliament consisted people with disability such as people with albinism. The first person with albinism was elected in 2010 general elections. He was a CUF candidate called Salum Khalfani Bar’wan. Again, President Jakaya Mrisho Kikwete appointed Ms. Al-Shaymaa Kwegyir a member of the 10th Parliament. Generally, composition of the 10th Parliament was to some extent representative. However diversity of such composition representation needs improvement.

Moreover, one unique composition feature that characterized the 10th Parliament was famously known as “*wabunge wa mahakama*”. *Wabunge wa Mahakama* came as a result of floor-crossing. Floor-crossing simply refers to leaving one’s party entirely and joining another party. With reference to the 10th Parliament, about three members of Parliament were expelled from their political parties in different occasions¹⁰. Based on Article 67 (1) (b) and

¹⁰ David Thomas Kafulila, Kigoma South MP was expelled from NCCR Mageuzi on 17th December 2011 by the National Executive Committee (NEC) of the party over misconduct and masterminding a plot to oust NCCR-Mageuzi national chairman, James Mbatia. The High Court decision blocked Kafulila’s expulsion on

Article 71 (1) (e) of the Constitution a member of Parliament must belong to a political party; and he or she ceases to a member of Parliament where his/her membership to the party which he/she belonged when he/she was elected or appointed MP ceases. These two provisions prohibit members of Parliament to cross the floor in Parliament. In other words, the three MPs were supposed to vacate their seats. Before their political parties notified the Parliament in writing about expulsion of the three MPs, those MPs went to court to oppose any further actions by their political parties that would have led to losing their seats. The Court decision guaranteed membership of the three MPs rather than the usual practice in Commonwealth countries which allows party hooping. Floor-crossing has a number of effects to representative democracy and representation and accountability in particular.

According to Veen (2006:18), floor-crossing leaves the electorate 'out in the cold' mainly because MPs do not consult with the electorate before deciding to defect. It was evident in both cases (i.e. Hamad Rashid and Zitto Kabwe who defected from CUF and CHADEMA) where MPs did not consult their electorate regarding their decision to defect to their new political parties. Nonetheless, participatory democracy and accountability of politicians was undermined due to the fact that during the time their membership to their former parties was withheld, in principle electorates were left unrepresented. Similarly, Krause (2006) argues that floor-crossing distorts the meaning of political representation in a democracy such that; on one hand politicians are seen to be violating the vote that elected them, while on the other hand floor crossing distorts the distribution of party power as it modifies election results.

Another effect is related to Parliamentary system. It has some relevance to the 10th Parliament since the Tanzanian government is a hybrid of Parliamentary system and presidential system. According to Veen, floor-crossing is dysfunctional in a Parliamentary system if it restricts the parties in government and opposition from acting as they should. In other words allowing floor-crossing undermines effectiveness of political parties in Parliament. Both ruling and opposition parties have an important role to play in Parliamentary discussions. The role is often facilitated by party discipline. Floor-crossing therefore could lead to loss of party loyalty. It consequently undermines principles of efficiency, responsibility and transparency.

3.3 Constituency Relations

In democratic societies, members of Parliament are expected to represent citizens' interests. These interests are divergent and sometimes conflicting. It leads to the whole idea of political representation and responsibility. Citizens, whose interests are represented in Parliament, are found in geographical constituencies. For example, in a single constituency there may be farmers' and pastoralists' interests to be represented. If the legislator is actively engaged in constituency work, such interests may be accommodated adequately. Generally, constituent relations consist of two elements. They include; - (a) the relationship between members of

26 December 2011 (Tanzania Daima, 28th December 2011). In January 2012, Hamad Rashid Mohamed, Wawi MP was expelled from CUF by NEC of the party over accusations of undermining the party 'from within'. Again, the High Court decision blocked further action by the party to expel Wawi MP. However, Hamad Rashid defected to Alliance for Democratic Change (ADC) in July 2015 (The Citizen, 25th August 2012). Zitto Zuberi Kabwe Kigoma North MP, was also stripped of all his leadership positions in December 2013. Before the party took further actions regarding Zitto Kabwe's party membership, Zitto filed a case at the High Court to oppose any action by the party to that effect. However, on 10th March 2015 the Court ruled in favour of CHADEMA Central Committee thus leaving the door open for the party to proceed with the decision to expel Zitto (The Citizen, 11 March 2015). On 22 March 2015 Zitto Kabwe defected to Alliance for Change and Transparency (ACT Wazalendo).

Parliament and their constituencies; and (b) the relationship between people and the Parliament.

The two relationships help legislators to successfully discharge their representation function. NDI report (2008: 6) explains four benefits accrued as a result of constituent relations. They include; - (1) a link between citizens and their government is created. The link is facilitated by getting involved in local problems of which the government addresses real issues of people’s lives; and by listening to public concerns the legislators and political parties design or amend policies that respond to real human needs. (2) a more human face to the legislator, the legislature and the party is generated in the public. Legislators who establish two-way communications with constituents are able to provide citizens a better sense of why they make certain decisions, as well as difficulties they face, such as insufficient financial and other resources. (3) Help to mobilize citizen participation in public affairs. (4) Help citizens connect with their government and untangle the bureaucratic maze they often face.

The relationship between members of Parliament and their constituencies; and relationship between people and legislature can be maintained through constituency offices, Parliament unit administration, interviews and field visits. Effective communication between the Parliament and constituency offices is primary. An assessment of the 10th Parliament reveals a number of issues which make constituent relations undesirable. A constituency office which provides the key point of contact for citizens with their representatives and local staff was non-existent in most constituencies. Additionally, the members of Parliament have neither the office nor adequate facilities at the Parliament. In-depth interviews conducted in March 2016 with different stakeholders such as UDSM, OUT, BAKWATA, CWT, MWANANCHI Communication Ltd, Mwalimu Nyerere Memorial Academy, and HAKIELIMU, to mention a few; exhibited the fact that members of Parliament do not have offices and adequate facilities at the Parliament. CWT for instance went further to a conclusion that there were no consultations with citizens. It may be argued that issues represented in the 10th Parliament by legislators were to a greater extent not coming from constituents’ problems and realities. In effect, the representatives mostly addressed other issues. It diminished public trust in legislators and the legislature. The 2012 Round 5 Afrobarometer Survey in Tanzania shows that majority Tanzanians had no contact with their representatives and consequently lost confidence in Parliament.

Table 4: Electorates’ Contact with Members of Parliament

	Urban	Rural	Male	Female	Total
Never	79	77	76	79	78
Only once	10	11	11	10	10
A few times	7	9	9	8	8
Often	4	3	4	2	3
Don’t know	0	0	0	0	0

Qn. During the past year, how often have you contacted any of the following persons about some important problem or to give them your views: A Member of Parliament?

Source: 2012 Afrobarometer Survey in Tanzania: Summary of Results

The above table 4 shows that above 75 percent of 2,400 men and women both in urban and rural areas had never contacted their members of Parliament to express their views. Arguably, most members of Parliament do not live in their constituencies once they are elected. In fact, most of them live in Dar es Salaam for most of the time when they serve as legislators.

Table 5: Public Trust in Parliament

	Urban	Rural	Male	Female	Total
Not at all	9	6	7	7	7
Just little	17	15	16	16	16
Somewhat	37	33	35	34	34
A lot	37	45	43	42	42
Don't know/ haven't heard enough	1	1	0	1	1

Qn. How much do you trust each of the following, or haven't heard enough about them to say: Parliament?

Source: 2012 Afrobarometer Survey in Tanzania: Summary of Results

The two tables display that majority of Tanzanians had no contact with their representatives and thus the confidence they have in Parliament is low. The impact of this scenario is felt by both individual members of Parliament and his/her political party during elections. NDI (2008:6) expresses that, “citizens who have direct contact with elected representatives are also more likely to identify his/her party as an institution they support, which is especially important during election time.” One may argue that legislators who have contacts with constituents are more likely to be re-elected during elections than those who do not have contacts. As a result some members of Parliament involve themselves in corrupt practices to gain support during elections.

Financial constraint is admittedly as another challenge facing legislators. Field visits and conducting public meetings to collect constituent views require financial stability. Again, legislators are needed to solve some constituent problems and development projects. Having all these and many others in mind Constituency Development Fund (CDF) establishment became a discussable solution. Similarly, the former speaker of the National Assembly, Pius Msekwa (2006:275) asserted that, “inside his constituency, the MP is expected to carry out the normal duties of meeting and talking to constituents regularly ... but again there have developed certain unscheduled expectations of treating their MP as a provider of financial assistance. This can and has created problems for those MPs who are unable to respond adequately to such expectations. For as the old adage goes, ‘members of Parliament are men and women of high rank,’ [but] they have nothing in the bank.” In August 2008 president Kikwete mandated the establishment of CDF. Domestic revenue was the source of CDF. However, the Policy Forum (2009) is of the opinion that establishment of CDF based on domestic revenue was a misuse of public fund if it were to meet these individual assistance claims or small development projects that MPs are asked to personally finance. Similarly, Tsubura (2014) argued that, “the ruling party accepted CDF to re-establish party coherence and gain public support in preparation for the 2010 general elections.” Public support was highly needed since “clientelistic voters were increasingly dissatisfied with the performance of MPs and some MPs had begun providing financial assistance to voters systematically.”

3.4 Performance of Individual Members of Parliament

Performance of individual members of Parliament is assessed on the basis of the ability of legislators to perform legislative function. The performance of each Member of Parliament leads to general performance of legislature. Article 63(3) of URT Constitution stipulates functions of Parliament. These include;- (a) put any question to any Minister concerning public affairs in United Republic which are within his/her responsibility; (b) debate the performance of each Ministry during the annual budget session of the National Assembly; (c) deliberate upon and authorize any long or short term plan which is intended to be implemented in the United Republic and enact a law to regulate the implementation of that plan; (d) enact legislation where implementation requires legislation; and (e) deliberate upon and ratify all treaties and agreements to which the United Republic is party and the provisions of which require ratification. In order to discharge the above functions effectively, there must be conducive environment for legislators. Garasasi (2004) explains the factors for legislators to perform. They are political system; support of socio-political actors to members of Parliament; political culture; and financial, material and human resource factor and miscellaneous factors.

To start with political system, Gasarasi refers to a system which provides autonomy of the individual Member of Parliament. The multi-party system is expected to liberate a legislator from total mercy of his/her party of which electability depended on, to the quality of electability on the assessment by the electorate. Legislator is therefore, directly accountable to the voter. The voter's assessment is largely determined by representative function. Chaligha (2009) writes that Tanzanians want their voices to be heard, and expect their members of Parliament to listen to them and represent their views in Parliament in accordance with the principles of popular sovereignty. He went further to demonstrate the findings of the Afrobarometer survey which showed over two-thirds (69%) of respondents considered listening to constituents and representing their needs was the most important of the four main responsibilities of legislator. In support of the argument, data were collected in March 2016 to assess the effectiveness of individual members of Parliament.

Table 6: Effectiveness of Representation of Individual Members of Parliament

Scale of responses	Number of respondents	Percent
Very low/very poor	2	1.7
Low/Poor	36	29.8
Medium	61	50.4
High/good	17	14.0
Very high/very good	5	4.1
Total	121	100.0%

Table 6 shows that effectiveness of individual members of Parliament in representation was medium i.e. 50.4 percent. This means, some members tried their best to represent views of their voters through asking questions or contributions. For example, Twaweza (2013) conducted an assessment of performance of the 10th Parliament based on three different types of interventions (i.e. basic questions; supplementary questions; and contributions). These were the results;-

- (a) TLP and NCCR – Mageuzi showed the highest figures per Member of Parliament;
- (b) Party – wise, CHADEMA was the most active followed by CUF and CCM;
- (c) Generally, the most active members of Parliament were George Boniface Simbachawene, John Mnyika, Tundu Antiphas Lissu, Diana Mkumbo Chilolo, and Kabwe Zuberi Zitto; whereas the least active members of Parliament were Mohamed Seif Khatibu, Edward Ngoyai Lowassa, Mahadhi Juma Maalim, and Mwanahamis Kassim Said.

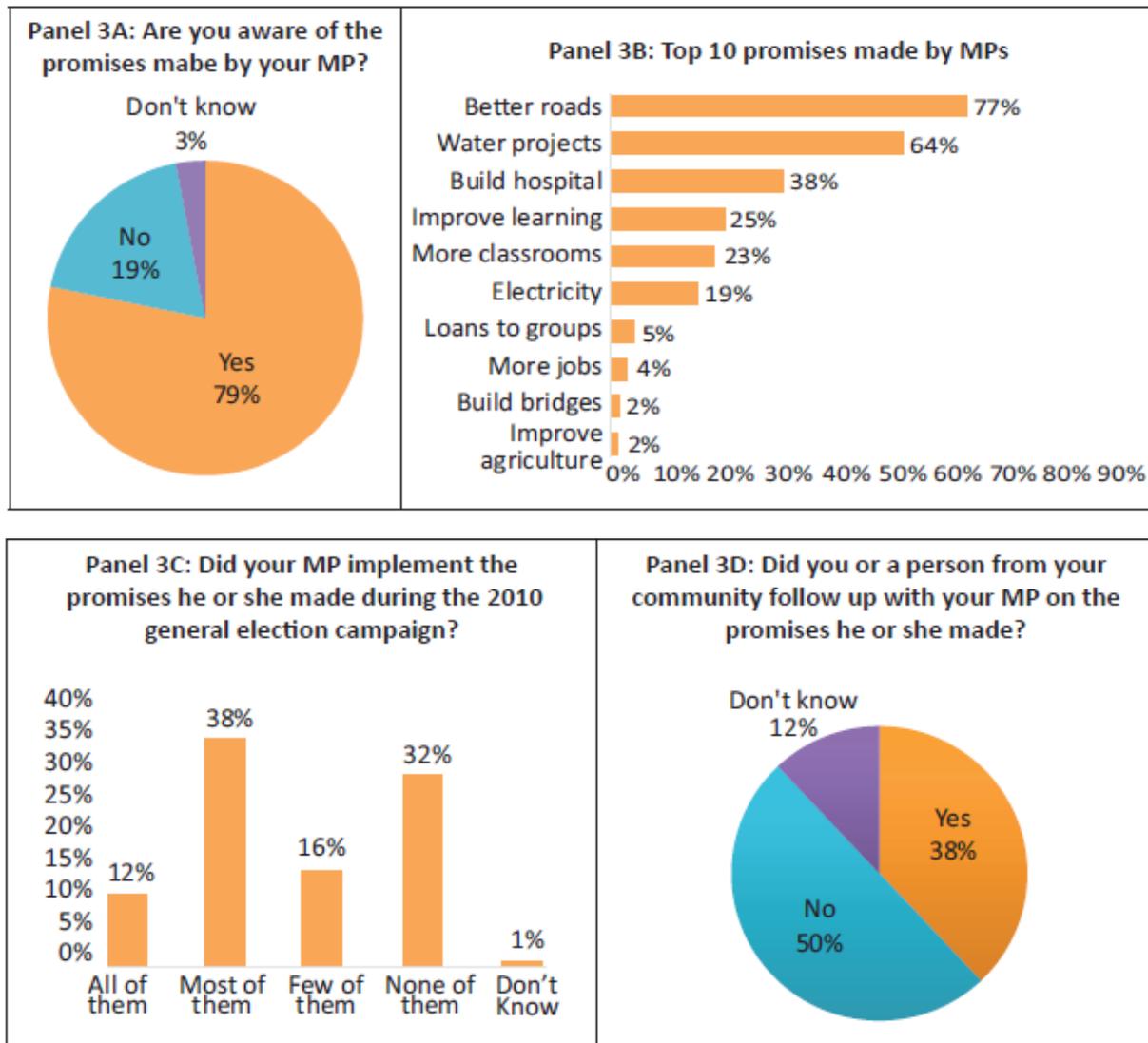
The second factor is support of socio-political actors to members of Parliament. According to Gasarasi, this factor is one of the most important aspects contributing to the performance of legislators. These actors include; local government, central government, the party at constituency level and national levels, voters, and non-governmental organizations. Mallya (2004: 122 - 131) gives a detailed account of the relationship the legislator and each of the actors. The relationship between legislators and their political parties under multi-party system is somehow complicated. All members of Parliament are required by the Constitution to be members of a registered political party. That means all members are indirectly accountable to their relevant political parties. Therefore, legislators have double accountability. They are accountable to their voters and their political parties. Such accountability hinders the performance of individual legislators in discharging legislative function be it at the constituency or national level. This fact is valid when assessment of the 10thParliament is concerned. Members of the ruling party, even with their majority in number could not make significant contributions during discussions in Parliament. The assessment of performance of the 10thParliament by Twaweza in 2013 suffices the evidence here.

Another relationship is between legislators and the government. The government collects revenues and redistributes to different competing demands in ministries, regions, and districts/constituencies. The legislator on the other hand presents the needs of his/her constituency to the central government for allocation of resources to solve problems. Absence of harmonious relationship between the two hinders effective performance of legislators. The next relationship is between legislators and voters. Mallya says the cooperation a legislator is likely to get from the voters can be alluded to the legislator's personal appeal and efforts in solving the constituency's problems with some influence from the party he/she represents. The relationship between legislators and NGOs. Where NGOs exist, they have helped in various development activities in the constituencies they are located.

The third factor is political culture. Favourable political culture factors are very important in facilitating performance of individual members of Parliament. These factors include the legislator's conceptualization of the importance of his/her work; the motivation behind seeking the office of the legislator; the real and perceived power and authority associated with being the legislator; the level of understanding of the logic of democratic representation among the population. The factors may be put into two strands such as factors which are associated with individualistic interests and those which are associated with political environment. Conclusively, factors which are associated with individualistic interests such as remuneration package, opportunities that comes with being a legislator, prestige, and prospects for upward mobility affect negatively the performance of individual members of Parliament. Factors which are associated with political environment such as to serve a constituency and/or nation, and understanding responsibilities that come with representation affect positively the performance of individual members of Parliament. Therefore, legislators who were driven by first strand factors will definitely not perform to constituency's expectations and those driven by second strand factors will perform to constituency's

expectations. For example, it has become a common trend for members of Parliament to make promises during elections and they complete their tenure without fulfilling those promises. *Sauti za Wananchi*, mobile phone survey – Round 24 (September, 2014) reveals this fact.

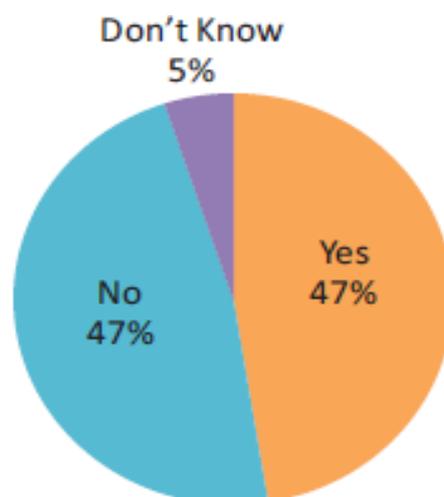
Figure 1: Promises made by Members of Parliament in 2010 General Elections



Source of data: *Sauti za Wananchi*, Mobile Phone Survey- Round 24 (September 2014)

Figure 1 shows four panels i.e. panel 3A, 3B, 3C, and 3D to demonstrate how members of Parliament make promises during elections and leave their offices without implementing their promises or implementing only a few. However, against the trend those members of Parliament make promises without implementing and get re-elected, towards 2015 general elections voters were determined not to elect those members of Parliament who did not fulfil their promises. Again, *Sauti za Wananchi*, mobile phone survey – Round 24 (September 2014) provides the evidence.

Figure 2: Citizens' Opinions on Re-election of MPs in 2015 Elections



Qn. Do you intend to vote to re-elect your local MP?

Source: *Sauti za Wananchi*, Mobile Phone Survey - Round 24 (September 2014)

Figure 2 shows citizens' opinions in re-election of MPs in 2015 general Elections. It is interesting to note that percentage of citizens who intended to re-elect their MP was exactly equal to the percentage of those citizens who did not intend to re-elect their MP. Both opinions were justified by the 2015 general Elections results; whereby, some MPs got re-elected while others could not. Moreover, some MPs could not win during party primaries and others could not win during elections. For example, a number of incumbent ministers who suffered shock defeat were; Stephen Wasira, Christopher Chiza, Stephen Kabwe and Anna Kilango Malecela, to mention a few (BBC News, 27 October 2015). MPs who got defeated during party primaries were many. A few examples were; James Lembeli (CCM) who defected to CHADEMA, Henry Shekifu, Ismail Aden Rage, and Nyambari Nyangwine (The Citizen, 14 August 2015).

The fifth factor is financial, material and human resource factor. Legislators need adequate resources in discharging their responsibilities. This is the great challenge facing legislators. They have resource shortages. Lack of equipped offices, qualified personnel staff, modern technologies of getting timely but reliable information and knowledge itself characterize legislators across the continent. Assessment of the 10th Parliament shows that legislators do not have adequate resources. Respondents were asked: How adequate are the research, information and other facilities available to all members of Parliament?

Table 7: Resources Available to all Members of Parliament

	very low/very poor	low/poor	medium	high/good	very high/very good	Total
Public	8	16	25	12	12	63
	61.5%	48.5%	48.1%	63.2%	66.7%	52.5%
Private	5	11	17	5	1	39
	38.5%	33.3%	32.7%	26.3%	33.3%	32.5%

self-employed	0 0.0%	6 18.2%	10 19.2%	2 10.5%	0 0.0%	18 15.0%
Total	13 100.0%	33 100.0%	52 100.0%	19 100.0%	3 100.0%	120 100.0%

Table 7 shows out of 120 respondents 63 respondents (52.5 percent) were public employees; 39 respondents (32.5 percent) were private employees; and 18 respondents (15.0 percent) were self-employed. Majority of public employees i.e. 25 out of 63 respondents revealed that moderate resources were available to all members of Parliament. Similar response was provided by majority private employees and majority self-employed. 17 out of 39 private employees and 10 out of 18 self-employed express that moderate research, information and other facilities were available to all members of Parliament. However, the table also shows about one-third of 120 respondents' expressed that very low or low research, information and other facilities are available to all members of Parliament. Generally, respondents from UDSM, TGNP and HAKIELIMU commented further that Parliamentary library is not in good condition and about 20 percent of MPs use research information and other facilities.

The last is miscellaneous factors. These include; - absenteeism, MPs composure when asking questions or contributing, and opposition MPs boycotting the House. Absenteeism is a common phenomenon in most African Parliaments. MPs absent themselves in three major ways. They include non-attendance of the plenary sessions, attendance and leave before the plenary session is over, and MPs come to Parliament only to remain in their offices. All three ways of absenteeism have negative impact to both performance of individual MP and the Parliament. The Parliament cannot discuss Bills due to lack of quorum resulting into delays in finishing Parliamentary business, and Bills appear on order for days and on every occasion. Lack of representation in Parliament affects individual performance of MP. Absenteeism in the 10th Parliament was noticeable. With live broadcast of Parliamentary sessions, hundreds of empty seats were noted when the House was in session (The Citizen, 22nd July 2011). However, disciplinary measure is stipulated in the Constitution. Article 71(1)(c) of the Constitution states that, "A Member of Parliament shall cease to be a Member of Parliament and shall vacate his/her seat in the National Assembly where a Member of Parliament fails to attend three consecutive meetings of the National Assembly without the permission of the speaker". Although there was a roll call taken to identify absentees, MPs were very keen enough to alternate the ways to absent themselves without breaching the law. Example, in order to justify their absence MP sought leave from speaker for reasons like personal work, family obligation or parliamentary duties in the constituency.

MPs composure in Parliament has an impact on effectiveness of Parliament. Generally, most MPs do not compose themselves while asking questions or contributing. They take too much time for congratulating people before they can contribute or make their arguments. Others (especially CCM MPs) are not confident enough to make arguments contrary to the government no matter how much such arguments betray public trust. Moreover, disgracefully, the Parliament has increasingly heard some "vulgar" and "indecent" words used by MPs during its session — as a result, debates and discussions in the Parliament often degenerated into a fracas.

The image of Parliament has been tarnished because instead of debating issues, they concentrate on name calling and debasing each other, profane language was dominantly used by members of the 10th Parliament. There is considerable number of examples. For purposes of this section only a few examples are wealth to note. On 20th June 2012 Peter Msigwa Iringa Urban MP, spoke “...*akili ndogo inaongoza akili kubwa... hatutofautishi professor na darasa la pili...*” (TBC Tanzania, 20th June 2012); again, on 29th June 2012 John Mnyika, Ubungo MP used these words, “... *niwaache machizi waendeleo na uchizi wao...*” and “...*tumefika hapatulipo kwa udhaifu wa Rais Kikwete...*” (CHADEMATV, 29th June 2012). On 16th April 2013 Anne Makinda speaker of the Parliament warned MPs who use abusive language that she was going to take disciplinary actions against them (ITV Tanzania, 16th April 2013). Her warning was not taken seriously and MPs continued using invective language. On 30th May 2013 violence sparked in Parliament because of vituperation. Ezekiel Wenje, Nyamagana MP accused CUF that, “*CUF ni chama cha kishoga*” whereby the Deputy Speaker asked Wenje to apologize something which Wenje refused. CUF MP responded to Wenje through counter-accusations that “*Chadema ni wehu, wahuni, wazushi, na mashoga*” (ITV Tanzania, 30th May 2013). Deputy speaker adjourned the Parliament until later in the evening. Juma Nkamia (CCM) — *Mimi siongei na mbwa*= I dont talk to dogs.

Lastly, opposition MPs boycotting the House affects the effectiveness of Parliament in two ways. These include limited legitimacy of Parliament and government; and one-party politics in the house. According to Ahmed (2016) opposition MPs boycotting the House not only lowers public image of the Parliament and Parliamentarians but also decisions taken in half-empty House are unlikely to be taken very seriously by those responsible for implementation. It therefore affects effectiveness of Parliament. On the other hand, opposition MPs walkouts and boycotts lead to one-party politics in Parliament. It hinders multiparty politics and alternative policies in Parliament. The essence of representative democracy is to provide alternative policies among other things. Opposition MPs boycotting the House has become a common practice in developing countries. Ahmed (*ibid.*) uses Parliament of Bangladesh to argue that, “*those who lose elections tend to boycott proceedings of the House.*” This is relevant in developing countries including Tanzania. Why it is not prevalent to developed countries such as USA, UK, Germany, etc is a topic worthy discussing in an independent piece of work. Opposition MPs boycotted the House in several occasions during Parliamentary sittings of the 10th Parliament. For examples, CHADEMA, NCCR – Mageuzi, and CUF MPs have boycotted the House or walked out of Parliament in the following dates;- 19/11/2010 (inaugural meeting of the 10thParliament) and repeated itself on 20/11/2016 (inaugural meeting of the 11th Parliament); opposition MPs continued to walkout of Parliament on 14/11/2011; 18/7/2012; 1/2/2013; 30/5/2014; 16/4/2014; and 4/9/2013 as lively broadcasted by TBC1.

3.5 Parliament as a Platform for Public Debate

Parliament becomes a platform for public debate when discussing matters of national interests. Members of Parliament discuss those matters and make resolutions about actions to be taken often by voting. In its life time, the 10th Parliament discussed a considerable number of issues of national interests. They include;- The Drafting of the New Constitution in Tanzania (2015); The Tegeta Escrow Account Debate; The Charter on Values and Principles of Public Service and Administration (2015); Agreement on the Nile River Basin Co-operative Framework – CFA (2015); The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf – SUA PROTOCOL 1988 (2014); The East African Community Protocol on Co-operation in Defence Affairs

(2014); and Protocol on the Establishment of the East African Community Monetary Union (2014). Amongst all the drafting of the New Constitution and Tegeta Escrow Debate drew public attention. This section is going to discuss the two heated debates by assessing the implementation of resolutions undertaken by the Parliament.

The process to review the Constitution started in 2011 after the announcement made by the former president Jakaya Mrisho Kikwete by the end of 2010. The Parliament enacted the Constitutional Review Act in 2011 to guide the process. Several amendments were made to the Act. The review process went into four stages. These were (a) collecting citizens' views and opinion for the new Constitution; (b) Citizens Constitutional Forums; (c) the Constituent Assembly; and (d) Referendum and the process leading to the Referendum Vote. The first two stages produced the so called "Draft Constitution" and sometimes referred to as the "Warioba Constitution". The third stage – the Constituent assembly produced the proposed Constitution. It was in this third stage where things got heated and divided the nation into two groups. On one hand, those who demanded for the Warioba Constitution (opposition parties and followers) and on the other hand those who were for the proposed Constitution (ruling party and followers). The situation at which contributed to a halt of the process going into the last stage. Until the time of the writing of this report it is not known when and how the last stage is going to be completed.

The second is Tegeta Escrow Debate. The debate involved graft allegations in the energy sector. Senior officials in the government, private sector, religious leaders and public servants were implicated in the scandal. Over TZS 300 billion were paid from the ESCROW account fraudulently. The debate attracted the attention of the public. After a very stiff discussion whether the paid amount accounted to public funds or not; the Parliament made resolutions for the government to implement. To date most of the said resolutions were not implemented by the government. These were; - (1) resignation of the prime minister and revocation of the appointments of the Attorney General, Judge Fredrick Werema; the Minister for Energy, Prof. Sospeter Muhongo; his deputy Stephen Masele and Permanent Secretary in the Ministry; (2) all power purchase agreements were unfair to the state and that they be reviewed; and (3) they suggested that leaders who were involved either deliberately or by negligence to resign. The question, of how effective the Parliament was in the following up the implementation of its resolutions? was asked to the public for responses. Table 8 provides all responses.

Table 8: Effectiveness of Parliament in Following up Implementation of its Resolutions

Scale of responses	Number of respondents	Percent
Very low/very poor	7	5.8
Low/Poor	47	38.8
Medium	43	35.5
High/good	20	16.5
Very high/very good	4	3.3
Total	121	100.0%

Table 8 shows that 47 respondents (38.8 percent) out of 121 respondents were of the view that effectiveness of the Tenth Parliament in following up implementation of its resolutions was low. Other 43 respondents (35.5 percent) and 20 respondents (16.5 percent) expressed that effectiveness of Parliament in following up implementation of its resolutions were medium and high respectively.

3.6 Freedom of Opinion by Members of Parliament in the House

Freedom of opinion or speech is the right of being able to speak freely without censorship. It is in different manifestations of democratic rights and freedoms (Jesse, 2014). This right does not exclude members of Parliament. Article 100(1) of the Constitution states that, “there shall be freedom of opinion, debate and procedure in the National Assembly, and that freedom shall not be breached or questioned by any other organ in the United Republic or in any Court or elsewhere outside the National Assembly.” However, members of Parliament are restricted by legal constraints (standing rules of Parliament), party politics and executive interference to freely express their opinion. In effect, it has had noticeable impact on the effectiveness of Parliament.

Standing rules of Parliament are sometimes used to restrict members of Parliament to express their opinion in the House. These rules may be used in favour of one political party and/or against another political party. Since the speaker of the Parliament is a member of political party then Parliamentary discussions are led in a partisan way. In another scenario Parliamentary Immunities, Powers and Privileges Act of 1988 is applied to limit freedom of opinion by members of Parliament. The Act has powers to punish those who commit an offence against the authority of the House under the so called “Contempt of Parliament.” According to Section 24 of Parliamentary Immunities, Powers and Privileges Act, a person is charged with contempt of Parliament when, “by some act or words, any person disobeys or is openly disrespectfully to the authority of the House or wilfully disobeys the lawful commands of the House.” The speaker of the House has been using this provision so regularly to send out or suspend for days members of the opposition parties (especially CHADEMA) in the 10th Parliament.

Party politics restrict freedom of opinion by members of Parliament in two ways. One, it is through party loyalty and solidarity; and two, one party dominance. Party loyalty and solidarity affects freedom of opinion by legislators through party discipline or party whip. Article 67(1) (b) of the Constitution compels legislators to be members of a political party. However, the African Court found Tanzania in violation of the right of freedom of expression by requiring candidates for political office to join a political party¹¹. Members of Parliament are subject to party loyalty and solidarity. They are accountable to party and their voters. The accountability to the party compels a legislator to discuss and vote for Bills under party guidelines. Supportively, the former speaker of the assembly, Pius Msekwa writes “members of each party in Parliament must always act together as one team. The ruling party MPs in particular, must act together in support of all proposals which are submitted to Parliament by the government of their own party; in order to avoid the possibility of those measures being defeated on the floor of the House.” In many times CCM members have been discussing matters of national interest (such as the heated debate on Constitutional Review Process and Budget) along party lines. Again, one party dominance has negatively affected freedom of opinion by members of the Parliament (especially members of opposition parties) in various ways such as for example voting in Parliament. At all times when it comes to voting over any

¹¹ Court case: Tanganyika Law Society v. The United Republic of Tanzania, 2011

matter the dominant party CCM wins against the opposition parties. It automatically affects performance of individual members of Parliament.

Executive interference is also limiting freedom of opinion by members of Parliament. This can be discussed in two ways such as assembly – cabinet fusion and veto legislation vested onto the president. In the first instance, some members of Parliament belong also to the cabinet. These are the ministers (appointed by the president from the Parliament). They have duo-accountability i.e. accountability to voters and accountability to the president. This fusion affects freedom of opinion by individual members of Parliament (also cabinet members). On the second part, the president (head of executive) has constitutional powers to dissolve the Parliament only if he refuses to assent a Bill passed by Parliament twice after elapsed time of six months. Article 97(4) of the Constitution states that, “if a Bill is returned to the National Assembly by the president, and it is then supported in the national Assembly by not less than two-thirds of all members of Parliament as provided in sub - Article (3) and it is presented a second time to the president for assent within six months of its being so returned, then the president shall be obliged to assent to the Bill within twenty-one days of it being presented to him, otherwise he shall have to dissolve Parliament.” Neither the President nor the members of Parliament are confident to reach into that stage. Wang (2005) argues, “The MPs would in most cases do anything to avoid dissolution since the risk of not being re-elected for many would equal losing one’s livelihood.” Additionally, Biddle et al. (2002) and Mmuya (1998:131) say remuneration of MPs is still generous with attractive fringe benefits like car loans and fuel allowance which is an incentive for CCM MPs to toe the party line. The assessment of the 10th Parliament finds that freedom of opinion by members of Parliament is moderately limited due to executive interference and legal constraints. Table 9 demonstrates. Respondents were asked; *-how secure is the right of all members of Parliament to express their opinions freely and how well are members protected from executive interference or legal constraints?*

Table 9: Right of all members of Parliament to express their opinions freely

Scale of responses	Number of respondents	Percent
Very low/very poor	7	5.8
Low/Poor	23	19.0
Medium	64	52.9
High/good	21	17.4
Very high/very good	4	3.3
No response	2	1.7
Total	121	100.0%

Table 9 above reveals that, the large number of the respondents’ i.e. 64 equivalent to 52.9% of all respondents postulates that, the right of all members to express their opinions and protections from executive interference is moderate (medium), followed by 23 (19%), 21(17.4%), 7(5.8%) and 4(3.3%) whose responses were low/poor, high/good, very low/very poor and very high/very good respectively. Two respondents equivalent to 1.7% did not answer this question.

3.7 Direct Expression of Citizens' Views to their Representatives

In democracy, citizens express their views or opinions directly through voting in elections. This is the only mechanism citizens have to make their representatives accountable. It is actually a very difficult task on the side of citizens when it comes to hold representatives accountable. That means voting for a representative requires civic engagement. Advancing civic engagement is never an easy job. It obliges constituents who are unwavering in their endeavour. However, there are some steps to follow to make representatives heed to public concerns. This is a political thirsty of every citizen. In support, Chaligha (2009) says, "Tanzanians want their voices be heard, and expect their MPs to listen to them." These steps include;- (a) follow representative's voting patterns; (b) know how to contact legislators; (c) show up to the community events; (d) showing support or opposition to current political initiatives; and (e) solicit contributions.

Firstly, constituents need to firmly follow representative's voting patterns. Representatives who seek re-election must be properly assessed as whether they have kept their original promises. It includes following up performance of a legislator in Parliament through the term of his office. Assessment of the 10th Parliament shows that Tanzanians are very aware of the promises made by legislators in 2010 general elections (see Figure 1 above). Secondly, constituents need to find some ways of contacting representatives. It may be through office telephone numbers, social media, or physical contact. The purpose is to make sure legislators know their concerns. Thirdly, constituents need to show up to public forums, committee meetings, speaking events, and other gatherings such as those at community level. For example, these gatherings may be burial ceremonies, or community festivals. Fourthly, constituents need to show support or opposition to current political initiatives such as petitions for the benefit of community civic engagement. Lastly, constituents solicit contribution through engaging into civic forum discussions on whatsapp, twitter, facebook, instagram and community discussions. Generally, the findings by Afrobarometer authored by Chaligha (2009) reveal that majority of Tanzanians (84%) had never contacted their representatives. This being the case to hold representative accountable becomes very challenging.

3.8 Party Discipline and Effectiveness of the Parliament

Party discipline is more effective in Westminster model with supremacy of Parliament. Tanzanian political system is not strictly 'Westminster'; we have copied the system of one-line, two-line, and three-line whips as a way of ensuring loyal voting on Bills (Sitta, 2008: 30). The enforceability of party whips is under the Chief Whip of the party. In that sense, it is within the capability of the Chief Whip to control members of Parliament to discuss and/or vote along party lines. More importantly, party whip is often applied in all controversial issues tabled in the House. For example, discussion on government budget attracts application of party whip. The former speaker of the Parliament, Samwel Sitta (2008: 30) admitted plainly that three – whip is applied on government budget discussion. He said, "of course no government wants to be defeated. Under the Constitution if the government budget is defeated then it must call a general election. Nobody wants to do that. "

The three party whips are applied differently based on sensitivity of the matter under discussion. Single – line whip is a guide to what the party's policy would indicate, and notification of when the vote is expected to take place. At this point, members of Parliament are allowed to discuss and vote as they wish. Single – line whip is applied in less controversial debates. Double – line whip gives instruction to attend and vote. Members of

Parliament are allowed to discuss as they wish but vote along party line. It is applied in all important issues. Three – party whip gives strict instruction to attend and vote along party lines. Members of Parliament are not allowed to discuss and vote as they wish. Failure to abide with the party lines leads to serious consequences. It is always applied in very important matters and all controversial issues such as (vote of no confidence to prime minister and government budget).

The application of party whip has serious consequences on effectiveness of Parliament. Freedom of opinion by members of Parliament is limited as discussed in previous sections. In addition, the former speaker of the National Assembly (2008:30) confessed that party whip system can undermine freedom of expression within the Parliament. It affects the performance of Parliament as a representative body of people. For example, passing a budget which does not reflect the needs and demands of citizens has adverse impact on national development. Again, party whip affects performance of Parliament in discharging the legislative and oversight functions. These two functions are going to be discussed into detail in the following chapters. Table 10 below shows the extent to which party discipline constrains the effectiveness of Parliament.

Table 10: The Extent to which Party Discipline Constrain Effectiveness of Parliament

Scale of responses	Number of respondents	Percent
Very low/very poor	7	5.8
Low/Poor	19	15.7
Medium	41	33.9
High/good	25	20.7
Very high/very good	29	24
Total	121	100.0%

Generally, the performance of Parliament is affected by a number of issues as discussed in previous sections. Tanzanians consider the performance of Parliament as moderate something which needs improvement.

3.9 Conclusion

Representation is one of the core functions of Parliament. Citizens have the opportunity to hold their representatives accountable. Composition of Parliament should reflect population diversities and political parties. Composition in the 10th Parliament is impressive and its diversity needs some improvements. Constituent relations are very important in democratic Parliaments, a link between citizens and government is created and helps citizens to participate in public affairs. Constituent relations are strengthened by constituent contacts with members of Parliament and thus foster public trust in Parliament. There are a number of challenges facing members of Parliament and hinders regular contacts between legislators and constituents. These challenges are such as financial constraints, support of socio- political factors for legislators, political culture and human resource factor. However, with those

constraints the Parliament was able to discuss hot issues concerning drafting of the new Constitution and Tegeta Escrow Account Scandal. Resolutions were reached and the government was tasked to implement. The implementation of resolutions was not effective as some of the resolutions were not implemented. Members of Parliament are constitutionally guaranteed freedom of opinion in the House and yet they face practical constraints ranging from legal provisions to party politics and executive interference. However, citizens are of the opinion that such limitations are modest. Improvements are very essential.

3.10 Recommendations

The followings are some of the recommendations suggested by respondents on measures to improve performance of the Parliament in Tanzania:-

- a. There is need of strict standing orders and rules to maintain Parliament discipline and for them to be equally applied to MP's of all parties;
- b. Ministers should not be appointed among MPs;
- c. Freedom of speech and representation to all members especially in research, budget processed, policies and law making;
- d. Public issues should be given priority rather than partisanship;
- e. There is need to improve gender representation in Parliament;
- f. Equal treatment and presentation to all political parties in Parliament;
- g. There is need for clear separation of powers between the party and government;
- h. Party politics should be controlled with Parliament and in discussions;
- i. There is need to enhance relationship between Parliament and other pillars of government.

CHAPTER FOUR

PARLIAMENTARY OVERSIGHT OVER THE EXECUTIVE

4.1 Introduction

Parliament The Parliament of the United Republic of Tanzania (URT) is vested with Constitution, Constitutional powers to exercise oversight role over the executive branch of the government. Article 63 (2) of the URT Constitution of Tanzania categorically states that, “the Parliament shall be the principal organ of the United Republic which shall have the authority on behalf of the people to oversee and advise the Government of the United Republic and all its organs in the discharge of their respective responsibilities in accordance with the Constitution”. Specifically Constitution, Article 63 (3) (a) and (b) confers powers upon the National Assembly to ask any question to any Minister on public affairs that falls within the mandate of the respective Ministry and debate the performance of each Ministry especially during the annual budgetary sessions. Additionally, the Parliament has powers to approve the appointment by the president and of some public officials including the Prime Minister of the United Republic of Tanzania. It also conducts inquiry on critical matters, investigative reports, requests and recommends action by the government on different matters and when deemed necessary, it passes resolutions and is supposed to oversee their implementation.

The legislature monitors and supervises the executive to ensure that laws are followed, the government is held accountable for its actions and inactions as well as ascertaining that public financial resources are used in a manner that conforms to the needs of the people. The oversight role exercised by the Parliament over the government is indeed a major building block of democracy in a country. To be precise, therefore, among other oversight functions, the Parliament scrutinizes contracts, appointment of government executives, monitors government expenditure and is supposed to hold to account elected and non-elected public officials and bodies. There are several aspects that can be used to establish whether the Parliament is capable to exercise its oversight role. In the next sections, these aspects are examined in relation to the tenth Parliament of Tanzania.

4.2 Autonomy of the Legislature

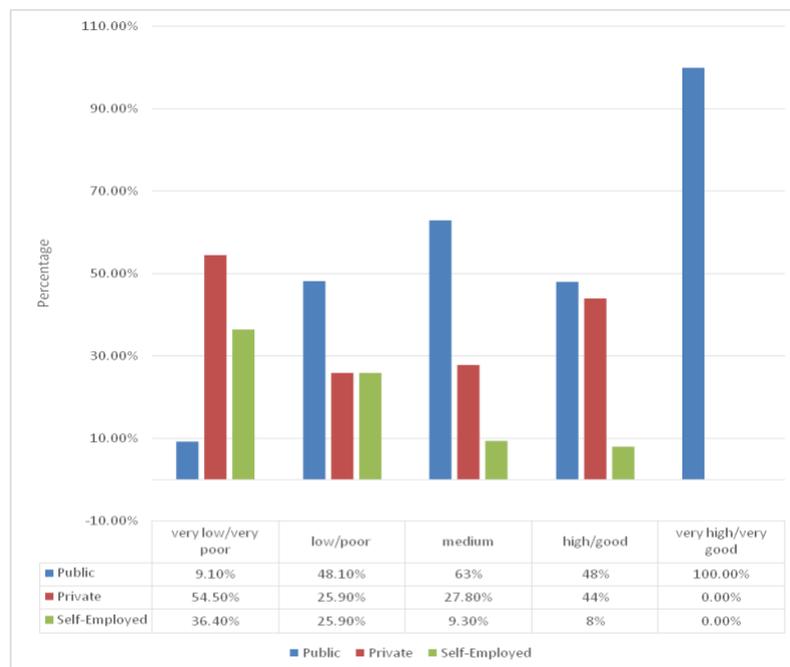
To be able to discharge its functions, the Parliament is supposed to be autonomous in several respects. Autonomy is crucial with respect to finance, institutional arrangement and administration. To this effect, the Constitution of the United Republic of Tanzania provides for separation of powers between the executive, judiciary and legislature. To be explicit, Article 89 (1) of the Constitution of the URT mandates the Parliament to have control over its affairs and proceedings by allowing it to make Standing Orders to govern the conduct of all Parliamentary business. This is a necessary component of an independent Parliament. Additionally, the Parliament can enforce discipline on its members to make sure that they conduct themselves in a manner that do not impinge on its functions and mandates. More importantly, the Parliament of Tanzania enjoys considerable autonomy in relation to hiring of its staff, determination of agenda and timetable.¹² Further, the passing of the Financial Act in 2008 enhanced the autonomy of the Parliament in relation to finance. These aspects were,

¹² Interview held at HAKIELIMU on 30/March/2016.

indeed, cornerstones in guaranteeing the independence to the 10th Parliament of the United Republic of Tanzania.

However, in practice the available arrangements provide for some autonomy to the legislature, arguably, the 10th Parliament enjoyed autonomy in non-substantial matters. The autonomy of the Parliament was limited by the Constitution and other arrangements and, as a result, this infringed its capacity to discharge its mandates. Below is a figure showing the perception by different categories of respondents on the autonomy of the Parliament of the United Republic of Tanzania.

Figure 3: Perception of the Autonomy of the Parliament by Different Categories of Respondents



Among the issues noted to limit the autonomy of the legislature to discharge its functions are as indicated below.

Institutionally, despite the provision for separation of powers between the branches of government, the executive is more powerful and capable of directing and controlling the functioning of the Parliament. The National Assembly for instance, is made up officials who are also part of the executive branch of government. Article 62 (1) of the URT Constitution provides that the Parliament shall be made up of the President and the National Assembly. This has implication to the extent to which the Parliament can conduct itself in several respects. For instance, for all bills to become laws they must be asserted by the President. The Parliamentary committees cannot change any Bill by the Government – they can only give recommendations which can either be accepted or rejected. The President has, in accordance with Article 66 (1) (e) of the Constitution of Tanzania, powers to appoint up to ten Members of Parliament. This provides greater opportunity for the executive to exert influence on matters that are tabled in the house. Furthermore, Article 55 (4) of the URT Constitution provides that: “All Ministers and Deputy Ministers shall be appointed from among the Members of Parliament”. This particular provision stands as a stumbling block for the Parliament to hold the government accountable on various issues and in discharging its oversight role. In other words, there is no separation of personnel between the executive and

the legislature, which is one of the basic requirements for separation of powers particularly in a presidential system of government.

Respondents for this study indicated that Parliamentary committees lacked autonomy and independence as they were formed alongside party lines and party discipline culminated in their functioning.¹³ (Moreover, the fact that the Speaker of the National Assembly was drawn from a political party further constrained the autonomy of the Parliament.¹⁴ The respondents for this study also informed the research team that the autonomy of individual MPs to contribute freely and constructively during Parliamentary discussions was rather limited.¹⁵

Among the factors that were attributed to this situation were cited as being party discipline, individual expectations for rewards and dominance of *Chama Cha Mapinduzi* (CCM) in the Parliament. Party discipline was, particularly, mentioned as thorny and constraining to MPs to the extent that some of them were silent almost in all sessions; and in cases where a small faction decided to speak against the wishes of the ruling party or government, it was disciplined or warned in party caucuses.¹⁶ Notwithstanding these limitations in autonomy, the findings from the study partly signalled to relative improvement and increased autonomy and capability of the Parliament in discharging its mandate. The Parliament was commended to have been able to reveal embezzlement scandals and discuss them openly and deliberate on several issues. The MPs from the opposition were specifically commended for spearheading free discussions on issues of national importance.¹⁷

4.3 Adequacy of Research and Information to MPs

Research based information is of vital importance in any undertaking. To Parliamentarians, research information helps them to be in a position to carry out informed discussions, offer constructive and practical recommendations and solutions to the government. While modern Parliaments especially those of advanced democracies invest heavily in research, the situation was found to be different in the case of the Parliament of the United Republic of Tanzania. Although some respondents indicated that there had been, relatively, improvement in the ability of the MPs in using research information in the 10th Parliament as opposed to previous Parliaments, the improvement was insignificant. Respondents had a feeling that, by estimation only about 20 percent of all MPs appeared to have researched and used research based information in undertaking their activities¹⁸. It was, specifically, cited by a few respondents that some MPs, many from the opposition and just a few from the ruling party, were firm on issues and made contributions based on research findings in the 10th Parliament. Discussions on issues involving the Tegeta-ESCROW scandal, Cyber Crimes and Statistics Bills were mentioned to have featured some individual MPs who had researched on the matters and offered research based contributions.¹⁹

Overall, this study found that MPs neither had adequate researched information nor effectively used the available research findings. The factors for this phenomenon were attributed to both individual MPs and structural arrangements. The Constitution of the United Republic of Tanzania only stipulates education requirement for one to be an MP as ability to

¹³ Interviews held at Mwalimu Nyerere Memorial Academy and OUT.

¹⁴ Interviews held at UDSM, OUT and CWT.

¹⁵ Interviews held at CWT.

¹⁶ Interviews held at HAKIELIMU, OUT, Mwananchi Communications Limited and Policy Forum.

¹⁷ Interviews held at HAKIELIMU.

¹⁸ Interviews held at HAKIELIMU, UDSM and Policy Forum.

¹⁹ Interviews held at HAKIELIMU and Policy Forum.

read and write in Swahili or English (URT Article 67 (1)). Some individuals have exploited this Constitution, Constitutional right and won Parliamentary seats. However, given the expertise and technical skills that are often part of government proposals and business some of those individual MPs proved to be unfit and unqualified for the job. In some cases even when MPs had the necessary educational qualifications and expertise as well as understanding of the issues they did not stand firm to execute their roles for public interests partly because of the party discipline, expectation for appointment and other rewards. Interesting to note, other respondents blamed the inadequacy of research information to MPs on the unwillingness of MPs to consult their constituencies on matters of public interests. It was mentioned that only few MPs reside in their specific constituencies and consult the electorates before attending Parliamentary sessions. The majority of MPs reside and like to spend a considerable amount of their time in Dar es Salaam or outside the country.

It was found that public hearings were not used effectively.²⁰ Respondents pointed out that there were no special mechanisms on how to organize and conduct public hearings and, even when organized, a big section of the population was not aware of them. In general, public hearings did take place in few regions and hence making it difficult for citizens-especially the 'common man' to attend. Respondents also indicated that MPs did not have adequate research information as they either lacked facilities or misused them when available. MPs did not have offices at the Parliamentary premises in Dodoma, the Parliamentary library is too small and under-resourced with many old literature and a few computers.²¹ Individual MPs did not even attempt to hire researchers! In some cases, it was highlighted, even when research information was available in adequate amount, members of Parliament did not use the information in discharging their functions. Consequently, research findings are in many instances left to rot in library shelves.²²

Moreover, Parliamentarians do not have proactive linkages and relationships with research institutions and this made them lack some information as they only waited to be approached by other stakeholders like CSOs. Interviewees from Civil Society Organizations mentioned that in many cases they had to approach MPs while rarely did MPs consult them or even see as important the findings they came up with on many issues.²³ Some respondents expressed their concern that generally in several instances the government perceived CSOs as potential enemies and as such tend to disregard their advice and research findings and only when, the CSO in question was pro-status quo it was likely to get the attention of the government and its research findings be accepted and appreciated.²⁴

4.4 Scrutinizing Appointments to Executive Posts

The Parliament of Tanzania is only empowered to confirm by a resolution the appointment, by the President, of the Prime Minister of the United Republic of Tanzania (Article 52 (2) of the Constitution of the URT 1977). Certainly, this is very limited in scope. In the history of Tanzania the Parliament has never rejected the appointment of the Prime Minister. The Parliament is not empowered to scrutinize other appointments to executive posts. It does not for instance scrutinize the appointment of cabinet Ministers, the Attorney General, heads of public bureaus and parastatals. These are appointed and sworn in by the President without

²⁰ Interviews held at UDSM, HAKIELIMU and BAKWATA.

²¹ Interviews held at UDSM.

²² Interviews held at UDSM, HAKIELIMU, Policy Forum and TGNP.

²³ Interview held at Tanzania Gender Network Centre (TGNC).

²⁴ Interview with Policy Forum and HAKIELIMU.

any scrutiny by Parliamentarians. As such it is argued that the ability of the Parliament to scrutinize appointments to executive posts is insignificant as enormous powers have been vested by the Constitution to the President.

4.5 Holding Non-Elected Public Bodies or Individuals Accountable

As stated in the Constitution provision cited above, the Parliament has a role to hold non-elected public bodies and individuals accountable for their actions and inactions. The 10th Parliament managed to some extent to hold non-elected public officials to account for their actions. The following can be noted as specific cases.

In 2012, having received the report of the Controller and Auditor General (CAG), discussed and revealed various embezzlement by public officials, the Parliament called for the resignation of six Ministers and two deputy Ministers. Subsequently, the President sacked the following Ministers: William Ngeleja (Energy and Minerals); Mustafa Mkulo (Finance); Ezekiel Maige (Natural Resource and Tourism); Cyril Chami (Trade and Industries); Haji Mponda (Health and Community Development) and Omary Nundu (Transportation). The Deputy Ministers were: Lucy Nkya and Athumani Mfutakamba who were responsible for health and infrastructure respectively.

The Parliament was also instrumental in resolving for the sacking of four ministries who had failed to administer the execution of an operation aimed at combating poaching (Operation *Tokomezwa Ujangili*) in 2014. The Ministers who were sacked included: Khamis Kagasheki (Natural Resources and Tourism), Shamsi Vuai Nahodha (National Service), Emmanuel Nchimbi (Home Affairs) and David Mathayo (Livestock and Fishery Development).

In 2012, opposition MPs staged a move to call for resignation of five Ministers alleged of corruption and embezzlement. Later, they attempted and managed to collect 39 signatures from CHADEMA, 27 from CUF and 2 from other small parties in a move to table a motion for a vote of no confidence with the then incumbent Prime Minister Hon. Mizengo Kayanza Peter Pinda. The move failed at last. This was because the Speaker of the National Assembly Hon. Anne Semamba Makinda ruled out that for such a motion to be moved, it was supposed to be submitted to the speaker 14 days before the day (Tanzanian Affairs, 2012). Equally, the Parliament was not able to hold to account the former Prime Minister for his statement made in Parliament about people who allegedly did breach the law. A case in reference is the statement that was made by the PM Hon. Mizengo Kayanza Pinda while addressing the National Assembly in Dodoma on 20 June 2013 that:

“...ukifanya fujo umeambiwa usifanye hiki ukaamua kukaidi utapigwa tu... nami nasema muwapige tu kwa sababu hamna namna nyingine kwa maana tumechoka...”

Literally translated by LHRC²⁵ as, “If you have been warned and told not to do something, and decide to do it... you will be beaten up...I say to you beat them because there is no other means and we are tired...”

²⁵ See LHRC and TLS Vs Hon. Mizengo Pinda and The Attorney General Misc. Civil Cause No. 24 of 2013.

In this case, the Parliament did not take any substantive steps. Credit to other organization, specifically, the Legal and Human Rights Centre and Tanzania Law Society who filed a case (LHRC and TLS Vs Hon. Mizengo Pinda and The Attorney General Misc. Civil Cause No. 24 of 2013) against the Prime Minister and the Attorney General. The petitioners were aggrieved as they were concerned that such statement by a higher ranking official contravened the Constitution of the United Republic of Tanzania, and encourages abuse of power by the Police Force against civilians.[According to article of the Constitution]

In 2014 during its 16 and 17 meetings, the Parliament discussed the CAG report and noted that a total of 306 billion Tanzanian shillings had been withdrawn from Tegeta-ESCROW account by people among them are Ministers and other government officials. The Parliament put pressure on the President to sack the implicated officials and to resolve the issue. A couple of Ministers were sacked and others resigned. Prof Sospeter Muhongo (who was Minister for Energy and Minerals) and Eliackim Maswi (who was Permanent Secretary in the Ministry of Energy and Minerals) resigned. Other public officials that either resigned or were sacked from their posts include: Prof Anna Tibaijuka (MMinister for Land and Settlement Development), Frederick Werema (the Attorney General), Andrew Chenge (who was chairperson of the Parliamentary Budgetary Committee), William Ngejeja (Constitution Constitutional Affairs and Administration) and Victor Mwambalaswa (Energy and Minerals Committee).

4.6 Ability to Scrutinize Contracts

Despite some efforts by the Parliament of Tanzania to fight corruption and hold to account various public officials, this study noted that the ability of the 10thParliament to scrutinize contracts was limited. The Parliament had no ability to scrutinize contracts prior to signing and implementation by the government. In other words, as a representative organ of the people, the Parliament was at best reactive – and appeared to have voice and concerns after contracts had been signed, implemented and the government had already incurred losses For instance IPTL and other co There were costly contracts that were entered between Tanzania and various local and foreign stakeholders before or during the life time of the 10thParliament especially in energy, minerals and land sectors as well as in procurement of public services. In principle theParliament was not empowered to approve all contracts entered between the government of Tanzania and its organs. This in effect implies that the Parliament does not have the mandate to scrutinize contracts of all types and hence there are loopholes for corruption and fraudulent practices.

Among such notable fraudulent contracts include Dowans in which the government was charged to pay 94 billion, IPTL which required the government to pay 248.6 billion Tanzanian shillings.²⁶ There were also other scandals involving the Tanzania Airways (ATCL) and Natural Gas Contract with Statoil.

4.7 Ability of the Parliament to Oversee Implementation of its Resolutions

The 10th Parliament issued resolutions on different matters. Prominent among others were resolutions related to the CAG Report of 2012, Anti-Poaching Operation (Operation *Tokomeza Ujangili*) and Tegeta-ESCROW Account scandal. In relation to the Tegeta-ESCROW account, for instance the Parliament had resolved that: PCCB and other law

²⁶ Mwanahalisi, 16 March 2011 also can be retrieved at http://www.mwanahalisi.co.tz/mikataba_ya_mwinyi_kikwete_kufilisi_nchi

enforcement bodies take action against public officials who were implicated in the scandal. The President was advised to sack and take legal actions against the Attorney General, The Minister for Energy and Minerals, Permanent Secretary of the Ministry of Energy and Minerals and Members of Board of Directors of Tanzania Electricity Supply Company (TANESCO) and as the scandal had implicated various chairpersons and leaders of Parliamentary committees, the Parliament resolved that respective committees should take actions against their leaders before the 18th meeting (Parliamentary Proceedings, 20th Meeting, 2015).

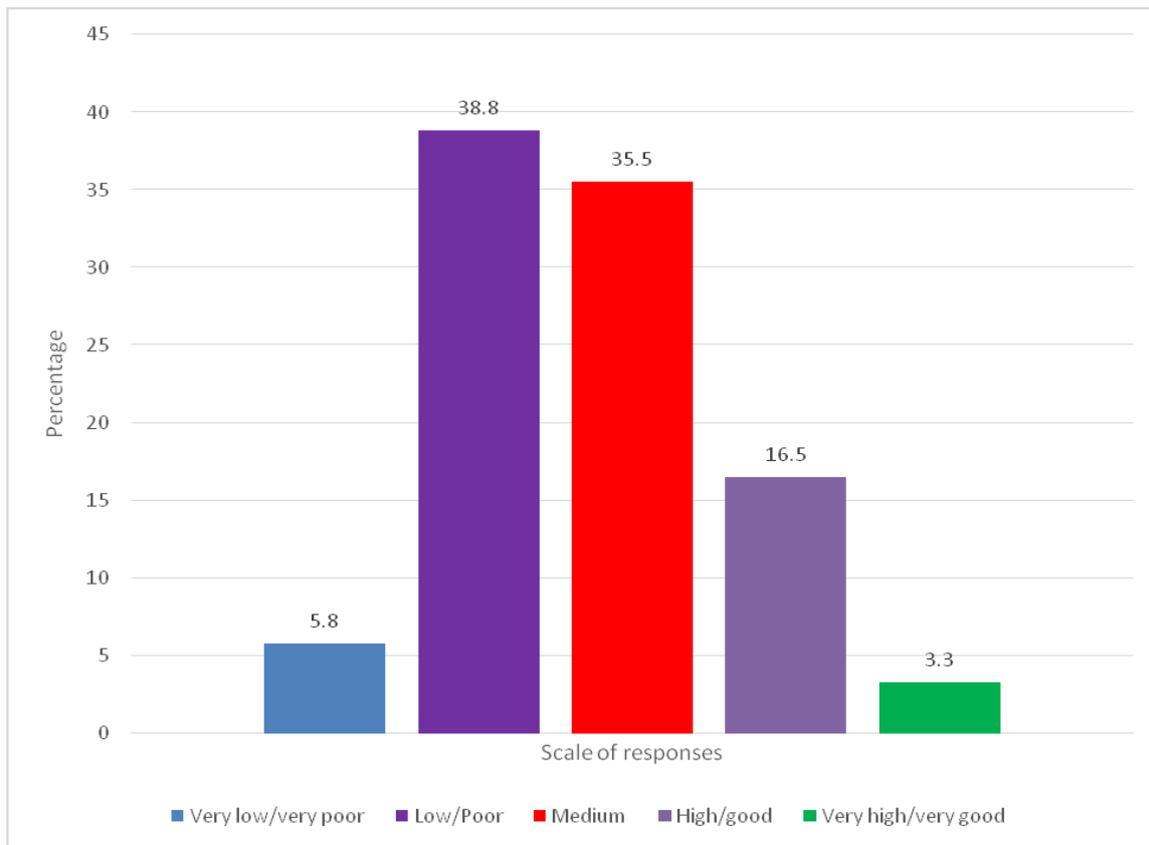
In all these cases, each containing many resolutions, not all resolutions were implemented by the government. In all the three scandals cited, the resolution which was implemented – in part- was holding accountable senior officials, notably Ministers and reshuffling the cabinet and a few non-elected figures. Other resolutions were merely implemented partially or not implemented at all. The Parliament had no specific mechanisms to follow-up on the implementation of its resolutions. What was witnessed was a few instances, where individual MPs, or through the opposition, reminded the government to implement all resolutions in full. As such, when asked to assess the effectiveness of the Parliament in making follow-up on the implementation of its resolutions, our respondents informed that, overall, the majority of respondents were of the view that the effectiveness of the Parliament in following up the implementation of its resolutions was very low.

A total of 47 respondents; equivalent to 38.8 percent of all 121 respondents indicated that the effectiveness of the Parliament was low and poor while 43 respondents of 121 equivalent to 35.5 percent ranked the effectiveness of the Parliament in relation to following up on implementation of its resolutions as ‘moderate/medium’. This indicates an overall trend that the Parliament is ineffective. The Parliament was mentioned as having limited powers given by the executive to discharge this role and that the government is usually selective in implementing Parliamentary resolutions and this is one reason, similar recommendations and resolutions keep on recurring every year²⁷. In some cases, the effectiveness of the Parliament in following up the implementation of its resolutions was constrained by party discipline, small number of opposition MPs and budgetary constraints.²⁸ Below is a figure portraying the effectiveness of the Parliament in following up the implementation of its resolutions in percents.

²⁷ Interviews held at UDSM and OUT.

²⁸ Interviews held at Policy Forum, OUT, UDSM and CWT.

Figure 4: The Effectiveness of the Parliament in following up the Implementation of its Resolutions



4.8 Effectiveness of Parliamentary Committees

To be able to exercise the oversight role, the Parliament is mandated to establish several sector-related committees. In the United Republic of Tanzania the establishment of Parliamentary Standing Committees is provided for by Article 96 (1) of the Constitution which states that, “The National Assembly may establish various Standing Committees as it may deem appropriate for the better discharge of its functions”(URT, 1977). In this respect, the 10th Parliament of the United Republic of Tanzania had several committees namely: The Public Parastatals Organization Accounts Committee (POAC); Parliamentary Standing Committee on Infrastructures; Standing Committee on Energy and Minerals; Standing Committee on Community Development and Socio-welfare; Standing Committee on Industries and Development; Standing Committee on Land, Natural Resources and the Environment; Standing Committee on Regional Administration and Local Government; Standing Committee on Administration; Standing Committee on Parliamentary Orders; Standing Committee on Agriculture, Livestock and Water; Standing Committee on Parliamentary Privileges, Ethics and Powers; Standing Committee on Legal and Constitutional Affairs and Standing Committee on Defence, Security and International Affairs.

Parliamentary committees are better placed to enhance the effectiveness of the Parliament as opposed to the whole house due to a number of reasons. First, they are made up of a few members making it feasible for serious engagement with motions and issues brought before it. Second, there is conducive atmosphere for members to discuss issues freely and

constructively as if the media is not present. Third, in case some members of the committees happen to be Ministers, then, they are allowed to be accompanied by experts from their ministries who are given chance to offer expert views on the issues being discussed.²⁹

As far as the committees of the 10th Parliament are concerned, there were some commendations as well as concerns over limited effectiveness. Some respondents were of the view that Parliamentary committees were effective as they made follow-up on financial issues.³⁰ Specific commendations in this regard were, specifically, made on Public Accounts Committee as having been effective in discharging its roles.³¹ In 2012, for instance, the PAC under the leadership of its chairperson Hon. Zitto Z. Kabwe influenced the Parliament to form a Parliamentary probe team to investigate Tanzanians who had illegally deposited money in foreign countries' bank accounts.³² On the other hand, however, Parliamentary committees were mentioned as being ineffective and incapable of executing their functions. It was, for instance mentioned, that the standing committees were ineffective as members of the committees were limited by party discipline, patronage due to the fact that some had conflict of interest, corruption, low amount of money being disbursed to government organs and units for expenditure and budget implementation, lack of expertise in the respective sectors and low lobbying capacity inherent among many such committees.³³

4.9 The CAG Office and Strengthening of the Oversight Role

The majority of respondents for this study had a feeling that the office of the Controller and Auditor General (CAG) did a fairly good job in discharging its responsibilities. The reports issued by the CAG were mentioned to have been the basis for uncovering misconduct and corrupt practices by public officials and institutions.³⁴ The reports, among others, revealed the ESCROW and IPTL scandals which were used by MPs to hold the government accountable. The office of the CAG was also commended for being able to share its reports in a very simplified language and timely by maintaining an up-to-date website for the public to access all information issued.

Despite the commendation on the CAG, respondents voiced the need for more powers to be vested in this important office. Some respondents gave extreme of views suggesting that for the reports to be useful, it is desirable for the CAG to be able to prosecute, in the court of law, public officials and authorities found to be corrupt or misusing public resources.³⁵ The current practice of simply issuing 'poor or unsatisfactory certificates' does not suffice. Equally, respondents were concerned that despite the fact that progress had been registered in uncovering unethical behaviour and that, currently the CAG report is presented in the Parliament and discussed more needs to be done. There is a need for MPs to have enough time to discuss and deliberate on the reports. During the 10th Parliament the reports were not thoroughly discussed and no serious measures were taken against those authorities that had been given unsatisfactory certificates. Even in cases where deliberations were made and resolutions passed their implementation was never effective and sufficient.

²⁹ Pius Msekwa 'NafasiyaKamatiza Bunge katikaUendeshajiwaShughuliza Bunge' can be retrieved at <http://www.Parliament.go.tz/uploads/documents/publications/en/1445517397-nafasyakamat.pdf>

³⁰ Interview with BAKWATA officials.

³¹ Interviews held at UDSM, CWT and Open University of Tanzania.

³² LHRC Tanzania Human Rights Report 2014 p. 261.

³³ Interviews held at UDSM, CWT, Policy Forum and HAKIELIMU (30 March 2016).

³⁴ Interviews held at UDSM, HAKIELIMU, MwalimuNyerere Memorial Academy, Mwananchi Communications limited, TAYOA.

³⁵ Interviews held at TGNP, HAKIELIMU and CWT.

4.10 The Donor Community and Strengthening of the Oversight Role

Tanzania like other Third World countries had continued to be a donordependent in various aspects. The country is supported in its annual budget that covers almost all walks of life – health, education and the economy. With the ushering in of liberal democracy in Africa from the early 1990s donors have been stressing multiparty politics and good governance. In line with the new approach the donor community also started supporting the Parliament of Tanzania through various programmes that were aimed at enhancing their capacity. Prior to the year 2010, the donor community through the Deepening Democracy in Tanzania Project (DDTP) in an attempt to support the consolidation of good governance and democracy through a combination of funds donated by different nations from the UK through DFID offered 22 per cent, Norway 16 percent, Denmark 15 percent, Ireland 13 percent, Sweden 9 percent and the European Union 8 percent (CMI Report, 2010, p. 9).

In the same spirit of trying to ensure the capacity of the Parliament to discharge its mandates was enhanced the 10th Parliament got support from different countries and organizations. Among others, the United Nations Development Programme (UNDP) funded the Parliamentary Strengthening Programme and MPs visits to other Parliaments in the world³⁶. Other efforts were demonstrated by USAID, Finland and UN-Women³⁷. The donor community also pressured the government to implement all Parliamentary resolutions in relation to the Tegeta ESCROW account. This particularly, threatened to withhold a total of 1 trillion Tanzanian Shillings that were to be extended as part of budgetary support to Tanzania.³⁸ It was until when the government sacked the alleged Ministers and officials that the mentioned amount was offered.

4.11 Relations between Political Parties and the Effectiveness of the Parliament

For the Parliament to be as an institution that represents the will of the public and an organ that oversees the executive the way political parties relate is crucial. The manner opposition parties relate and interact with the ruling party as well as the relations between opposition parties relate among themselves can either undermine or strengthen the effectiveness of the Parliament. If the relations are constructive, it is possible that the effectiveness of the Parliament shall be enhanced. On the contrary, when relations are founded on animosity and mistrust, the effectiveness of the Parliament is likely to be compromised. It is for this reason that the Political Parties Act 1992 and the Code of Conduct for Political Parties obliges all political parties to conduct themselves in a manner that if adhered to can consolidate peace, unity, development and overall effectiveness of the Parliament.

The Political Parties Act. Cap 258 specifies the Code of Ethics for Political Parties in Tanzania. Such codes are further stated and specified under section three of the Code of Ethics for Political Parties of 2007. Article 5 (1) (f) of the Code states that all political parties have the responsibility to condemn discriminatory acts, the use of insults and abusive language, the use of force to gain fame. Sub (i) of the same article also requires political parties to refrain from using authority, state resources and state's instruments of force to discriminate against other political parties. Furthermore, Section 64 of the Parliamentary

³⁶ Interview held at HAKIELIMU 30 March 2016.

³⁷ Interview held at Tanzania Youth Alliance.

³⁸ Mwananchi, Sunday, January 11, 2015 : Sakata la IPTL: Mabalozii Waitaka Serikali Kuchukua Hatua Kali Zaidi, retrieved from <http://www.mwananchi.co.tz/habari/Kitaifa/SAKATA-LA-IPTL--Mabalozii-waitaka-Serikali-kuchukua-hatua-kali/-/1597296/2585302/-/1h6irk/-/index.html>

Standing Orders forbids the use of abusive language by Parliamentarians. In fact, for better performance, the Code of Ethics through Section 5 (2) provides room for political parties to cooperate in pursuit of national interests. In practice, there have been several incidents that indicate that political parties as well as individual Members of Parliament do not strictly adhere to the set standards.

Among the commonly noted misconduct noted in the 10th Parliament of the United Republic of Tanzania was the use of abusive language. MPs from the ruling party (CCM) and the opposition used derogatory and abusive language in several occasions. To exemplify, in 2013, Juma Nkambia, MP for South Kondoia (CCM) and Livingstone Lusinde, MP for Mtera Constituency (CCM) verbally attacked top CHADEMA leaders using verbal gender based violence saying they had ‘unplanned pregnancies’³⁹. In 2012, Hon. John John Mnyika (CHADEMA) who was Member of Parliament for Ubungo Constituency was expelled from the house as he refused to withdraw his allegedly abusive statements against the fourth President, Jakaya M. Kikwete and CCM. In his statement, Mnyika had commented that the bad budget proposed for the year was a result of the President’s weakness, laxity of the Parliament and CCM’s stupidity⁴⁰. These were some of the abusive languages uttered among others.

	Statement	Made By
1	<i>“Mbowe kaja hapa kajamba bungeni halafu kakimbilia kwenda kujamba Kibaha.”</i>	Khatibu Said Haji, MP for Konde Constituency (CUF).
2	<i>“Kuna tatizo la akili ndogo kutawala akili kubwa na hilo ni tatizo la Serikali.”</i>	Peter Msigwa, MP for Iringa Town (CHADEMA)
3	<i>“Kuna wabunge humu ambao wana mamba zisizotarajiwa bungeni.”</i>	Livingstone Lusinde-CCM.
4	<i>“Sugu siongei na mbwa bali naongea na mwenye mbwa.”</i>	Juma Nkambia-CCM.
5	<i>“Tutaliheshimu Bunge kama taasisi huru, lakini si lilivyo sasa kama taasisi ya CCM,”</i>	Freeman Mbowe, MP (CHADEMA) and Leader of Opposition in the Parliament

The use of such statements by Members of Parliament shows and indicates sign of mistrust among members of the Parliament from different political parties, disrespect, lack of commitment to the duties and roles vested upon Parliamentarians which had negative implication to the effectiveness of the 10th Parliament. The MPs failed to discuss the issues of national importance but instead exchanged heated words which used much of their time debating, insulting and lost the focus of the business of the house and it was derailed. Concerns over the persistent use of abusive language by MPs in the house, various stakeholders spoke against it. Among others there were academics, the media, citizens and Civil Society Organizations.

³⁹ Mwananchi News Paper, Tuesday, April 2013 “MatusiBungeni: WadauWalaumuWabunge” retrieved from <http://www.mwananchi.co.tz/habari/-/1597578/1750480/-/w3khoj/-/index.html>

⁴⁰ Tanzanian Affairs, 1st September 2012 retrieved from <https://www.tzaffairs.org/2012/09/other-political-developments-3/>



Dr. Helen Kijo-Bisimba, the Executive Director, Legal and Human Rights Centre (LHRC) condemning the use of abusive language by MPs in the Parliament. In her statement she condemned MPs behaviour as being 'Irresponsible'. Picture from Mwananchi, Tuesday April 16, 2013.

On a different account, the tenth Parliament was marred by actions that not only limited the autonomy of the Parliament but also compromised its effectiveness. The behaviour of some Members were not behaving according to the laws of the land as well as the Parliamentary Standing Orders and defiance to orders given by the Speaker, Deputy Speaker or Chairpersons were common between 2010 and 2015. At some points, the police were used to deal with MPs who misbehaved during the Parliamentary session; and in such situations, the house had to suspend its proceedings.





The above first picture shows Security Personnel manhandling the Hon. Joseph Mbilinyi, also known as Sugu, after he protested the Speaker's Order in September 2013. In the second picture, a section of opposition MPs are seen standing in the Parliament in protest to the Speaker's order in May 2013. The Speaker had ordered them to sit down so as to allow the house to continue with its proceedings⁴¹.

The LHRC is of the view that such actions and behaviour by MPs undermined the effectiveness of the Parliament as an institution that is supposed to serve Tanzanians and maximize its role by working for the national interest.

4.12 Conclusion

This study noted that some progress had been made ~~registered~~ by the Parliament with respect to discharging its oversight role over the executive branch of government. The 10th Parliament was quite vibrant and to some extent it could be considered ~~extent~~ capable of supervising the executive and holding public officials to account on unethical conduct and, in the process, embezzlement, fraud and other types of misconduct were revealed. This prompted the Parliament to take steps that led to the ~~sacking or~~ resignation of Ministers and deputy Ministers or reshuffling of the cabinet by the President at different times. It was also the 10th Parliament that, for the first time, the CAG report was presented to it, discussed and deliberated upon. Some Parliamentary Standing Committees did commendable job that is appreciated by the public, media, Civil Society Organizations, Political Parties and academics. The Parliament, increasingly, worked constructively with Civil Society Organizations and the donor community to further enhance its capacity to serve the people. All these developments are commendable and should further be nurtured, sustained and serve as a starting point for a more effective Parliament that is capable of discharging oversight functions over other organs of the government as prescribed by the laws of the land.

However, achievements do not suggest that oversight role was performed without challenges and with the highest degree of perfection. In fact, the 10th Parliament of the United Republic of Tanzania failed significantly to oversee and supervise the executive branch of government. As elaborated in the various sections of this study, the Parliament was somewhat ineffective

⁴¹ Pictures retrieved from <http://michuzi-matukio.blogspot.com/2013/09/vurugu-bungeni-leo-dodoma.html> on 23 May 2016, at 1600 hours.

in overseeing the executive due to a variety of factors that are a result of Constitutional provisions, lack of expertise inherent in the composition of Parliamentary committees, inadequate research information and **capacity available to MPs** (limited scope for the Parliament to scrutinize appointment to executive posts and party discipline. Additionally, the MPs did not have enough time to discuss and scrutinize the CAG report nor did they have enough time to discuss and scrutinize or change bills presented by the Parliament before approving.

4.13 Recommendations

This study recommends the following with regards to the performance of the 10th Parliament in executing its oversight role over the executive in the United Republic of Tanzania:

- a. The Constitution of the United Republic of Tanzania should be amended or re-written to provide among other things that Ministers and Deputy Ministers should not be among Members of Parliament and allow independent candidates for MPs and Speaker of the National Assembly;
- b. Members of Parliament should discuss and scrutinize the reports issued by the office of the CAG on corruption, fraud and any other unethical conduct by public individuals and institutions in detail;
- c. The opposition should strengthen their capacity during elections to allow them win more seats in the Parliament so as to balance with the ruling party and hence hold the executive into account;
- d. Parliamentary committees should make use of independent experts in the respective sectors or issues if committees are not effective in exercising their mandates;
- e. MPs should conduct thorough research on the issues tabled for discussion before offering their contributions;
- f. There is an urgent need for the Parliament to improve its research capacity, facilities and willingness to use research and investigative information. It is desirable that MPs be given offices in Parliamentary premises in Dodoma as they are charged with crucial national responsibilities. Besides, it is high time now that MPs should have more substantive qualifications rather than what is currently demanded by the Constitution of reading and writing in English or Swahili for MPs which is inadequate for proper functioning of Parliament in the modern world;
- g. The Parliament must be given wide scope to scrutinize and approve appointed public officials. The current arrangement gives the Parliament a very limited scope as they only approve the appointment of the Prime Minister. There is need to widen the scope to include among other officials such as Ministers, judges, directors of public bureaus, parastatals and other bodies;
- h. Citizens must have Constitutional powers to recall MPs who underperform or do not deliver at all;

- i. There is a need to revisit the Certificate of Urgency and the circumstances in which it can be used in Parliament.

CHAPTER FIVE

LEGISLATIVE FUNCTION

5.1 Introduction

This chapter assesses the performance of the 2010-2015 Tanzanian Parliament in relation to its legislative function. As the core function of any Parliament, legislation is very vital as it determines the country's path regarding socio-economic, political and ideological framework. In any democratic country, the Parliament is very core to representing the people in making decisions that affect their lives. For this matter, therefore, Parliaments need be autonomous and capable of performing legislative function. It is also imperative for the working environment to be enabling so that policies and laws reflect the interests of the people.

5.2 Infrastructure for law making

The Constitution of the United Republic of Tanzania (URT) vests powers to make laws to the Parliament. Article 62 (1) provides "There shall be a Parliament of the United Republic which shall consist of two parts that is; the President and the National Assembly." Article 63 (2) states that Parliament shall have the authority on behalf of the people to oversee and advise the Government of the United Republic and all its organs in the discharge of their respective responsibilities in accordance with this Constitution." Specific to legislative power, the Constitution provides in Article 64 (1) that "Legislative power in relation to all Union Matters and also in relation to all other matters concerning Mainland Tanzania is hereby vested in Parliament. Subsection (2) further stipulates, "Legislative power in Tanzania Zanzibar over all matters which are not Union Matters is hereby vested in the House of Representatives."

The Constitution under Article 97 (1) states that, "Subject to the provisions contained in this Constitution, the Parliament shall exercise its legislative power through the process of debating and passing Bills which eventually shall have to be asserted by the President. A Bill shall not become law unless it is so passed by the National Assembly and assented to by the President..." In practice, the legislative process passes through a number of stages.

First, either a government Minister, Attorney General or a private member of Parliament initiates a Bill that is a proposed Act of Parliament. In essence, there are two types of Bills Government Bills and Private Members Bills. Second, the proposed Bill is scrutinised and discussed at length at the Ministerial level and finally by the cabinet. Third, after the cabinet's approval, the Bill is published in the government Gazette two times. The first publication must be twenty-one days before it is introduced in the National Assembly (NA). Fourth, the Bill is read for the first time by the Clerk of the National Assembly. There is no any discussion at this stage. The Speaker refers the Bill to the appropriate Standing Committee for consideration. The Committee has no authority to alter anything. Although it can request the Minister responsible for the Bill to introduce a schedule of amendment to the Bill in the National Assembly. Fifth, the Speaker orders the Bill to be entered on the Order Paper ready for the second reading. At this stage, the Minister responsible for the Bill gives a speech to the National Assembly giving detailed explanations about the Bill followed by the presentation of the Chairperson of the Standing Committee giving the Committee's considerations. The spokesperson of the official opposition party also presents the views of

the opposition concerning the proposed Bill. This is then followed by lengthy debate by the whole House. After debating, the National Assembly resolves itself to a Committee of the whole House. The Clerk of the National Assembly calls the number of each clause in succession together with any amendments, which may have been made by the Minister in charge on the Bill. At this stage, the chairperson of the Committee puts the question as to whether or not the Clause as amended be approved.

Sixth, is the third reading and passing of the Bill. The National Assembly resumes and the Minister in charge reports to the National Assembly that the Committee has considered the Bill clause by clause and approved the same. The Minister then requests the National Assembly to concur with the findings of the Committee. Then, the National Assembly votes. The Bill passes if the majority of the MPs consent. If they vote No, then the Bill is rejected and sent back to the respective Ministry for review. However, if the approved Bill passed, it will be taken to the President for assent. If he assents to the Bill then it becomes a law (an Act of Parliament). If he does not and Parliament rejects the Bill for the second time, the President dissolves the Parliament.

The described arrangement above clearly shows that the executive particularly the President dominates the Parliament as nothing can be passed by the Parliament if it does not please him or her. Moreover, given the dominance of the ruling party in Parliament, it is likely that laws that are not in government's favour cannot be passed. Mukangara argues⁴² that "with any piece of legislation requiring Presidential assent and the President retaining the right to dissolve Parliament and trigger a new election, the President enjoys an effective legislative veto."⁴³ This legislative veto was exercised in 2015 when the Bill on Cybercrimes was assented to by the President despite widespread concerns that it contravenes some Constitutional provisions. On April 2, 2015, a number of CSOs issued a joint statement demanding the President not to assent the Bill without amendment.⁴⁴ Their influence and statement did not stop the President from assenting the Bill. After all, the Constitution gives President Power to decide on anything without following anybody's advice or influence. This shows how strong the President is Vis a Vis the Parliament.

5.3 Adequacy of Time to Scrutinize and Pass Bills

The 2010-2015 Parliament passed about **60 Bills**. Fifteen of these Bills were passed under a Certificate of Urgency. Towards the end of its official dissolution, the tenth Parliament passed three controversial Bills under Certificate of Urgency. These were The Tanzania Extractive Industries (Transparency and Accountability) Bill 2015, The Oil and Gas Revenue Management Bill 2015 and The Petroleum Bill 2015.

The public, Civil Society Organisations (CSOs) and members of the academic community had concerns that the government had no any emergency to table the Bills hurriedly as such moves jeopardized inclusion and informed participation of relevant stakeholders and MPs..

⁴² Mukangara, 2005, pp.26-27.

⁴³ *Ibid.*

⁴⁴ These organisations are under, Human Rights Defenders Coalition. Its constituent organisations are the Legal and Human Rights Centre, Tanzania Gender Networking Programme (TGNP), SIKIKA, Jamii Forums and Tanzania Network of Legal Aid (TANLAP).

MPs from the opposition demanded the House to withdraw the Bills to give enough time for stakeholders to scrutinise the Bills. This led to the suspension of opposition MPs because of debate between them and the ruling party [CCM]. The Parliament passed the Bills in the absence of opposition parties. This led to less scrutiny. The public, Civil Society Organisations (CSOs) and members of the academic community had concerns that the government had no any emergency to table the Bills. The move was cited as an attempt to jeopardize the inclusion and informed participation of relevant stakeholders.

Findings of this study indicate that the 2010-2015 Parliament had moderate time to scrutinise and pass Bills. As indicated in Table 11 below 33 percent of respondents, felt that time allocated to scrutinise and pass Bills was inadequate. While 37 percent think that Parliamentarians had moderate time to do that, and 12 percent thought the Parliament had very inadequate time to scrutinise and pass Bills.

Table 11: Respondents views on the adequacy of time to scrutinise and pass Bills

Scale of responses	Number of respondents	Percent
Very low/very poor	15	12.4
Low/Poor	40	33.1
Medium	45	37.2
High/good	19	15.7
Very high/very good	2	1.7
Total	121	100.0%

The results of the survey are in line with experts interviews. Most respondents had a view that Parliament did not have enough time to scrutinise and Pass Bills. More so, Parliamentarians spent most time to joke around, insulting their opponents and airing out greetings, none of which is of national interest. It is common for instance immediately after elections, politicians MPs to send congratulatory notes to their parties for wining. This contributed to limited time geared towards serious discussion of issues. A respondent from the University of Dar es Salaam holds that “Time (for discussion) was not adequate and this was by design. The office of the Speaker was misused and abused.” The Speaker who has always come from the ruling party occasionally interrupted opposition MPs without necessarily compensating their time. In the same token, Baregu (2004) holds that “supporters of bills that the government is unenthusiastic about will find themselves marginalised by the Speaker’s interpretation of Parliamentary procedure. In some cases, even when given enough time, MPs do not read and scrutinize issues.” On different occasions, the Speaker or her deputy interrupted MPs when contributing. Good cases in point were discussions of the Constitutional Review Act where MPs, mostly from the opposition, were mistreated by the Speaker or Deputy Speaker.

Baregu’s quotation raises some pertinent questions on the ability and readiness of MPs to read and scrutinise Bills thereby giving and providing informed opinions. The question of expertise among MPs is also very important. Most MPs who avail time to read and contribute to debates are usually of the same faces. This observation is true to both the ruling and

opposition MPs. Another problem is protection of party interests during debates. One respondent opined, “Even when time was enough, party interests overweighed national interests.” This observation was obvious during discussions of the Constitutional Review in 2014. Most MPs ensured that their party’s position sells through. This was especially evident during debates on the structure of the Union. While MPs from the ruling party defended the current, two-structure government, most opposition parties were pushing for a three-structure union government.

Even the passing of the Constitutional Review Act of 2011 was criticized by Parliamentarians and the public. One major concern was that the process was not inclusive enough and MPs did not have enough time to scrutinise it. This is probably why there were three amendments to the Act since its passing in 2011. There were concerns, for instance, about the immensurable powers the Bill vested onto the President. The Bill gave the President power to establish the Constitutional Review Commission, prepare terms of reference for it, appoint the secretariat to the Commission and appoint members of the Constituent Assembly, just to mention a few.

Another concern was about the appointment of the Constituent Assembly members from other groups in society to be done by the groups themselves. The use of English language was also a barrier to the people to contribute to the Bill because of the technicalities arising from English language particularly on legal matters. This might have contributed to the difficulties in guaranteeing effective inclusion. Most importantly, the Bill did not give prominence to the people who are supposed to be the actual beneficiaries of the Constitutional review process. In essence, therefore, the passing of the Bill was not inclusive.

In Parliament, the passing of the Bill had so much drama. The Constitution requires two thirds of MPs from both the Union Parliament and the House of representatives to consent for a Bill to become a law. This was not the case with the Constitutional Review Bill. Between 4 and 5 September, MPs from the opposition camp boycotted the proceedings because the Bill excludes views from one part of the union that is Zanzibar.

5.4 Citizens’ participation in law making

Although Parliament is representative of people’s opinions and interests, the question of citizens’ participation in law-making remains important. The common way to do this is through public hearings. However, the results of the study indicate that citizens’ participation was low. Table 12 indicates the extent of citizen’s participation. Most respondents (40 percent) opined that citizens’ participation in law-making through public hearings was low. A considerable number of respondents thought that citizens’ participation was very low (24 percent). In order for citizens to participate effectively in law-making or any other public issue, they ought to be well-informed. Most expert interviews suggest that majority of people do not understand the importance of public hearings let alone being informed of their existence. One respondent opined that “Public hearing provide citizens with space to participate on matters of national importance, however, public hearings are not used effectively. Majority of citizens are not aware, they are fade up and do not care about politics.”

As reflective of the above quoted statement, there is an obvious confusion among citizens on the law making process especially Public Hearings and Politics.

Table 12: Respondents’ opinions on the level of Citizens Participation in public hearings

Scale of responses	Number of respondents	Percent
Very low/very poor	29	24
Low/Poor	49	40.5
Medium	28	23.1
High/good	12	9.9
Very high/very good	3	2.5
Total	121	100.0%

The problem of civic awareness is not a recent one. The Afrobarometer⁴⁵ survey observed in 2002 that Tanzanians are uncritical citizens. Similarly, Baregu (2001: 144) holds that “most Tanzanians simply comply with orders, instructions and edicts from the government. They are used to request, advice or otherwise beg the government to do this or that and the choice to grant the request or reject remains the prerogative of the largely paternalistic government.” The government shares the concern that Tanzanians are civically incompetent. The then President of the United republic of Tanzania Mr. Benjamin William Mkapa held and is quoted in extenso:

At present, the state of civic education in Tanzania is far from being satisfactory. This implies to both ordinary folks in our society and a great number of politicians, in all political parties. The task of providing and disseminating civic education is one in which the government could work in partnership with other stakeholders, such as political parties, non-government organisations, religious organisations and others, provided that a standardized form of content and methods for such education can be agreed upon, and observed by all. For, civic education must not degenerate into politicking in disguise... Regrettably, I would attribute the demonstrations and public rallies taking place in our country now as stoking of the fires of political sentimentalism and sensationalism. Political parties are not creating informed political opinion; they are creating political sentimentalism... I therefore challenge the non-governmental stakeholders to think about appropriate ways to develop citizens’ influence and oversight on governance through responsible civic education. There are important values that you can impact, such as: political equality, inter-group tolerance, inclusiveness in associational membership, and the importance of political participation. But above all, the pursuit of politics must never be allowed to threaten national unity and concord, or peace, stability and public security.⁴⁶

⁴⁵ Chaligha, Amon et al .2002.“Uncritical Citizens or Patient Trustees?Tanzanians’ views of Political and Economic Reform” Afrobarometer Paper No. 18.

⁴⁶ See HotubayaMwenyekitiwa Chama Cha Mapinduzi (CCM), Mheshimiwa Benjamin William Mkapa, kwenyeMkutanowaHalmashauriKuuya CCM, Dodoma, 25 Agosti, 2004.

The quotation from the former president proves the fact that there is a need to provide civic education across the country. However, to date there has been no comprehensive program to conduct civic education in Tanzania. The work is left to civic groups whose activities are highly regulated by the government. Perhaps, the minimum citizens' involvement is based on their belief that Parliament is their representative body and has the role to make laws on their behalf. The Afrobarometer findings of 2009 show that "while they (citizens) do not rate law making as a primary responsibility of their MPs, Tanzanians are nonetheless clear in their understanding that legislative powers belong in the hands of these MPs, and not the president. Thus, eight in ten (80 percent) agree that "Members of Parliament represent the people; therefore they should make laws for this country, even if the President does not agree", while just 13 percent dissented, believing that the President should make the country's laws."⁴⁷

5.5 Supremacy of the Parliament in Making Law

The question of Parliamentary supremacy is both historical and Constitutional. Tanzania has long been under one-party system during which the party was a supreme organ. If organisations other than the party existed, then they were party's departments. The Parliament was a rubber stamp institution used to pass party's directives. After the re-introduction of multiparty system in 1992, the Constitution was amended to allow other political parties to operate. However, the dominance of the ruling party continued through Parliamentary seats and immense presidential powers. As such, most Bills that are passed are in conformity with the position of the governing party and its government. The one-party dominance thus lives Parliament's independence in jeopardy. This is despite the fact that the Constitution of the United Republic of Tanzania recognises Parliament as an independent law-making body. Article 100 (1) states, There shall be freedom of opinion, debate and procedure of business in the National Assembly, and that freedom shall not be breached or questioned by any organ in the United Republic or in any court or elsewhere outside the National Assembly.

MPs have, in most cases, been barred or stopped from airing their views by the Speaker, Deputy Speaker or Chairperson of the Committee as the case may be.

The study data shows that 24 percent of respondents are of the view that Parliamentary supremacy is low. About 40 percent think it to be of moderate level while about 6 percent perceive it to be very low. The results are summarised on Table 13 below.

Table 13: Respondents' opinions on the supremacy of Parliament in discharging its functions

Scale of responses	Number of respondents	Percent
Very low/very poor	7	5.8
Low/Poor	30	24.8
Medium	48	39.7
High/good	34	28.1
Very high/very good	2	1.7
Total	121	100.0%

⁴⁷ Afrobarometer Briefing Paper No. 59 Of 2009.

The Constitution also gives freedom to individual MPs during proceedings. Article 100 (2) states that "...a Member of Parliament shall not be prosecuted and no civil proceedings may be instituted against him in a court in relation to anything which he has said or done in the National Assembly or has submitted to the National Assembly by way of a petition, bill, motion or otherwise." Nonetheless, practice proves to the opposite direction. MPs have in most cases been stopped from airing their views by the Speaker, Deputy Speaker or Chairperson of the Committee as the case may be. The most affected MPs are those from the opposition party but it was different with the MPs from the ruling party. In most cases, they opt to be silent and turn themselves into observers of the proceedings in fear of negative reprisal by their party. This fear was long noted by the then Speaker of the National Assembly, Pius Msekwa when he remarked, "the ineffectiveness of the government back-bencher under multiparty's becomes alarming. In Parliament, he cannot criticise the government without attracting disciplinary action. On the other hand, rising to speak merely to support the government may be tedious and perhaps even boring. So, he may feel it is probably the best option to say nothing at all. He will thus be sitting there in the House, more or less as an observer of the events, which are taking place, while his front-bench colleagues fight it out with the opposition."⁴⁸

Survey data shows that security of individual MPs to express their opinions freely is moderate (about 53 percent). Those who think it is low or very low stand at about 25 percent and only about 5 percent the freedom of MPs is highly observed and protected.

Table 14: Respondents Opinions on Freedom of Expression of MPs and Executive Interference and Legal Constraints

Scale of responses	Number of respondents	Percent
Very low/very poor	7	5.8
Low/Poor	23	19.0
Medium	64	52.9
High/good	21	17.4
Very high/very good	4	3.3
No response	2	1.7
Total	121	100.0%

5.6 CSOs Engagement with the Parliament

The relationship between CSOs and Parliament is perceived to be moderate as per the surveyed data. Most respondents are of the opinion that CSOs contributed to the law making process by 11.6 percent. While about 45 percent think that CSOs engaged at a moderate level and 31 percent think engagement to have been poor. Table 15 below summarises respondents' opinions.

⁴⁸ Quoted in Baregu, M. (2004) "Parliamentary Oversight of Defence and Security in Tanzania's Multiparty Parliament", in Le Roux, L., Rupyra, M. and Ngoma, N. (eds.) *Guarding the Guardians*, Pretoria: Institute for Security Studies, p. 35.

Table 15: Civil Society Engagement with Parliament in Influencing Law-making Process

Scale of responses	Number of respondents	Percent
Very low/very poor	10	8.3
Low/Poor	38	31.4
Medium	54	44.6
High/good	14	11.6
Very high/very good	5	4.1
Total	121	100.0%

The relative low involvement of civil society in influencing law making is not surprising. This owes to the fact that these organisations are not autonomous and are in most cases dependent on donors who also determine their policy orientation. The surveyed data is somehow different from experts' opinions that show the relationship between the Parliament and CSOs as good and improving over time. A respondent from TAYOA opined that the relationship was good and that at some point Parliamentary Development committee visited TAYOA three times.

A note is however crucial here that despite relatively good impression of the relationship between the Parliament and CSOs, there is fear among respondents that CSOs are not strong enough to influence the Parliament. Apart from that most of their recommendations are not taken into consideration. Notwithstanding, on its part the LHRC has done quite a lot of work in engaging with the Parliament. For example through its Bill analysis sessions and law review, the LHRC submitted its recommendations to the Parliament. In achieving that in the year 2013, LHRC reviewed various laws such as the Newspapers Act, Penal Code, Regional Administration Act (with the aim of reducing the powers of RCs and DCs) Basic Rights And Duties Enforcement Act, and Law of Marriage Act, 1971. In all these Laws, all the issues that contradict human rights were identified and reforms proposed for review, amendment and/or repeal. LHRC proposed repealing provisions which are oppressive to women (gender) in Law of Marriage Act. Moreover in 2013 LHRC had analysed and made inputs in thirteen (13) Bills and Instrument with the aim of ensuring that, those Bills and Instruments conform to the International and Regional Human Rights Standards. LHRC recommendations to various Bills and Instruments can be observed in the table 16 below.

Table 16: LHRC Recommendations to Bills/Instruments

LHRC Recommendations to various Bills/Instruments	Number of LHRC recommendations
1. GEPF Retirement Benefit Act,	24
2. The Bill to Amend the Constitution Review Act, 2011	8
3. Referendum Bill, 2013	45

4. The Cooperative Societies Bill, 2013	9
5. The Statistics Bill, 2013	19
6. The East Africa Protocol on Defense. Members	5
7. The Irrigation Bill, 2013	24
8. Political Parties Code of Ethics	8
9. The Written Laws (Miscellaneous Amendments) Act, No. 3 of 2013	7
10. Constitution Review Bill, 2011	34
11. The Newspapers Act, [Need for verification and source of information for the all bills analysed above]	6
Total	189

Save for the Bill to amend the Constitution Review Act, 2013 LHRC recommendations were rejected in the first instance but later were accepted though not all (addition of members of Constituent Assembly from 166 to 201 who were neither Members of Parliament nor Members of House of Representatives), LHRC recommendations were taken and positively considered. Also 75% of the LHRC recommendations were taken by the Ethics Secretariat when prepared the Political Parties Code of Ethics. Apart from Bills and Law review LHRC analysed the following instruments namely the National Youth Policy and Gas and Petroleum Policy. [Recommendation taken for Constitutional review process]

Moreover, CSOs engaged with Parliamentarian through capacity building for example [In August, 2013 LHRC had the seminar with members of the Parliamentary Committee on Constitution, Legal Affairs and Public Administration, aimed at building capacity to members of Parliament on women rights and their participation in decision making. This was an opportunity to strengthen capacity of Parliamentarians to effectively perform their functions.



Hon. Pindi Chana opens the session to the members of the Constitution, Legal Affairs and Public Administration Committee in Dar es Salaam, Aug. 2013

The other group which was empowered in 2013 was that of the Secretaries to the Parliamentary Committees who were empowered and highlighted on the Constituent Assembly, the possible challenges and how they could overcome them as they were the ones who could help to manage and serve the then Constituent Assembly. The training took place in September 2013.

5.7 Adherence to International and Treaty Commitments

Tanzania has ratified a number of regional and international instruments such as The Universal Declaration of Human Rights, 1948 (UDHR), International Covenant on Civil and Political Rights, 1966 and International Covenant on Economic, Social and Cultural Rights, 1966 and the African Charter on Democracy, Elections and Good Governance, 2007 to cite a few. The duty of ratification of regional and international instruments in Tanzania is vested in the Parliament.

The extent to which the Parliament has fulfilled this role is elaborated hereunder.

The operation of the tenth Parliament leaves a lot to be desired regarding issues of human rights, democracy and good governance. The Parliament ratified a treaty on African Youth Charter of 2006. The Charter underlines the rights, duties and freedoms of youth. It ensures the constructive involvement of Youth in the development agenda of Africa and their effective participation in the debates and decision-making processes in the development of the continent. The Charter sets a framework to enable policy makers to mainstream Youth issues in all development policies and programmes. It thus provides a legal basis for ensuring Youth presence and participation in government structures and forums at national, regional and continental levels (African Youth Charter 2006). In our discussion of involvement of CSOs above, we noted a substantial agreement that Parliament cooperated with these organisations. One such organisation is Tanzania Youth Alliance that acknowledged in an interview that the Parliament consulted the organisation three times. Although it is hard to have substantial evidence of participation of stakeholders in the Parliament's ratification processes, this study shows some evidence that the country adheres to some international standards.

Similarly, on 25 March 2015, the NA ratified the African Charter on Values and Principles of Public Service and Administration. The objectives of the Charter are among others to foster adherence to a body of fundamental principles and values agreed upon in a bid to provide efficient, effective and innovative public services that are satisfactory to the community and users, encourage citizens and users to participate in the process of providing public service, particularly through communication, consultation and active contribution to the formulation of administrative procedures. Specifically, the Charter urges the States Parties to harmonise their policies and procedures with respect to the public service and the administration with a view to fostering regional and continental integration.

5.8 Conclusion

This chapter assessed the performance of the 2010-2015 Parliament in relation to legislative function. The assessment based mainly on survey data and experts' interviews from members of the academic community, CSOs and political parties. Five aspects were assessed in relation to legislative powers of Parliament. These are the infrastructure of law making, time to scrutinise and pass Bills, citizens' participation, engagement with civil society, Parliamentary supremacy, and Parliament adherence to international standards.

In relation to these, findings indicated that the performance of the 2010-2015 Parliament was moderate. The survey data indicates for instance that about 69 percent of the 121-respondents find the 2010-2015 Parliament to have been moderately effective. Moreover, Parliament had moderate time to scrutinise and pass Bills (about 50 percent). However, citizen's participation seemed to have been low. The score stands at about 35 percent. Perhaps, the low citizen participation is a result of poor participation of Civil Society Organisations in influencing law and policymaking. These organisations represent the people in a democracy. The survey data indicates that about 40 percent of respondents find CSOs role to have been low. This is a bit different from experts' opinions who think that CSOs engagement in influencing law making is relatively improving.

Despite the good impression about Parliament's performance, there were a number of challenges that the Parliament faced while discharging its legislative role. One is the constraining environment within which the Tanzanian Parliament operates. As noted in the discussion of Parliamentary supremacy, Parliament is not autonomous in discharging its functions. The President as a part of Parliament has a final say as to what Parliament decides. Some legislative procedures are not respected. For instance, the Cybercrimes Act was unnecessarily passed under the certificate of agency limiting Parliament to thoroughly scrutinise the same. Citizen's participation is also problematic as they are in most cases unaware of their right to participate in influencing the Parliament. Civil society organisations are not timely consulted in the law making process. Parliament leadership undue interference during proceedings contributed to the problem of limited time. Apart from that, most MPs mismanaged time allocated discussing irrelevant issues.

5.9 Recommendations

- a. The Constitutional and legal framework should be amended to ensure separation of powers between the executive, legislature and the judiciary;
- b. The Parliament should enhance citizen participation in law making process through public awareness creation and formalization of public hearings known to the people;
- c. The government should provide civic education to the people so that they know their rights and duties as citizens;
- d. Parliament should from time to time involve and engage with CSOs and citizens in order to improve their understanding of the duties and responsibilities of Parliament;
- e. The Parliament should respect and protect the rights of MPs to express their opinions freely.

CHAPTER SIX

BUDGETING

6.1 Introduction

Budgeting is the process of forecasting and planning for revenues and expenditures in a given time. It is from the national budget where development plans, programs and projects are adopted and executed. Democratic regimes the Parliament plays a central role in budgeting. The Parliament is entitled with powers to approve or disapprove the budget. This has been a historical practice which can be traced back from the Magna Carta to the American war of independence – guided by the idea that “no taxation without representation.” Thus, the role of Parliament in budgeting is essential as well as a democratic requirement. The role of the Tanzanian Parliament in budgeting is established legally through the Constitution of the United Republic of Tanzania of 1977, The Public Finance Act of 2004, Planning Commission Act of 1989, Presidential Instrument of 2005 and Standing Orders of Parliament. The Constitution of the United Republic of Tanzania in Article 63 (3) provides that the Parliament has the role to: debate the performance of each government ministry during the annual budget session of the National Assembly and deliberate upon and authorize any long or short term plan which is intended to be implemented in the United Republic and enact a law to regulate the implementation of that plan.

In Tanzania, the budgetary process involves four closely related stages namely; budget formulation, budget authorization/approval, budget execution and budget oversight. Out of these four stages the Parliament exercises its control over two stages: the approval of the budget (a priori control) and budget oversight/audit. Generally, through these stages the Tanzanian Parliament has a number of functions in the budgeting process which include: scrutinizing the budget through various standing committees; adopting or rejecting the budget in Parliament; monitoring the implementation of the budget and the performance of the MDAs; and overseeing the use of public funds. Against this backdrop this chapter intends to analyse the role of the Parliament in budgeting. The chapter dwells into assessing the role and involvement of the 10th Parliament in the budgeting process. The chapter takes a stock of issues related to the Parliament in budgeting from 2010 to 2015.

6.2 Scrutiny of Annual Budget

The passing of the annual budget is done by the Parliament. By the virtue of this power the Parliament is mandated with the role to approve the budget proposal (budget Bill) before it is passed into a law. The Parliament scrutinizes the budget through its standing committees as well as the whole house. Through its Parliamentary standing committees it scrutinizes the budget, in their areas of expertise, before it is tabled in Parliament. In this process they offer their specific comments and views on the budget estimates. The whole house scrutinizes the budget through debate when it is tabled in the Parliament as a budget proposal (Bill). Through the scrutiny of the budget, the Parliament ensures that the demands of the citizens, that it represents, are incorporated in the government plans and programmes. This is due to the fact that budget is very critical as it provides – financial resources to implement development projects. For developing countries like Tanzania this task is even more challenging due to scarcity of resources and competing demands of citizens. Hence MPs have to ensure reasonable and fair distribution of the “national cake.” From this logic the

Parliament as well as individual Parliamentarians have to seriously scrutinize the budget. However, it is important to note that in Tanzania much of the scrutiny of the estimated expenditures and revenues is carried by Parliament standing committees. These committees enjoy the time and concentration to carry out this task unlike the whole house. This is due to the fact that they focus on one sector (as they sometimes referred to as Parliamentary Sector Committees). Moreover, while the Parliament debates the budget proposal after it has been tabled in the Parliament, the committees have the chance to scrutinize the budget before it has been tabled. This gives the committees a greater role to play in budgeting. It should be noted that the amount of the budget fund has increased significantly during the life of 10th Parliament. The table 17 below presents the national budget which was legislated by the 10th Parliament in five years of its life.

Table 17: Total amounts of National budget during the 10th Parliament per year

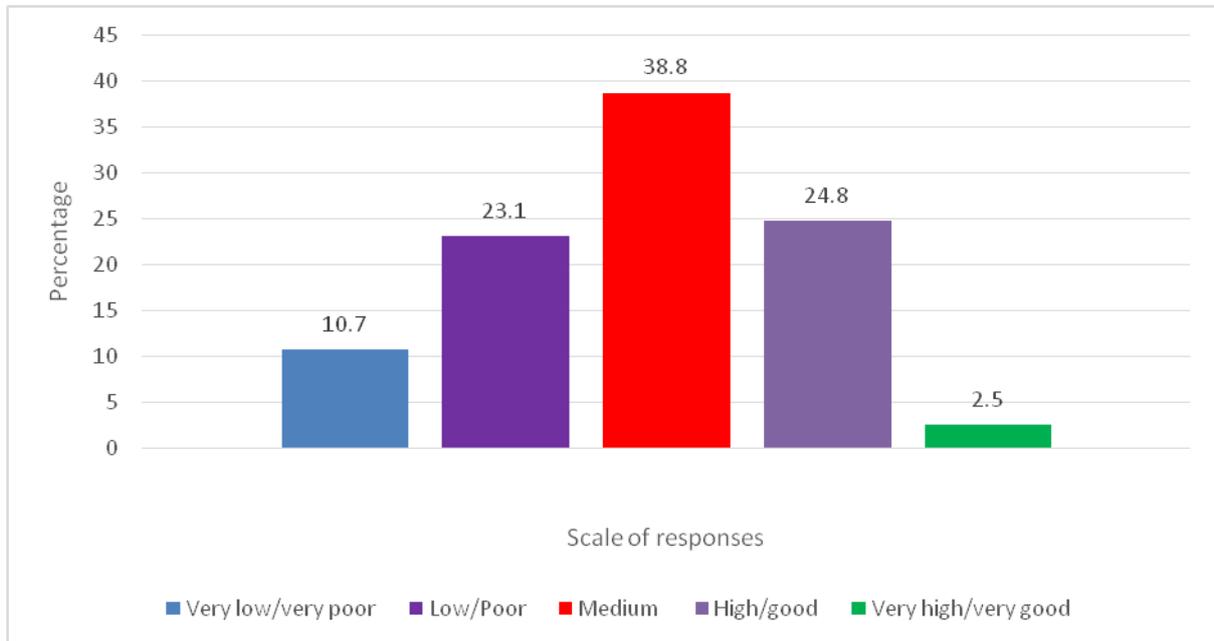
Budget Year	Amount in Tshs
1 2011/12	13.5 Trillion
2 2012/13	15.1 Trillion
3 2013/14	17.7 Trillion
4 2014/15	19.6 Trillion
5 2015/16	22.5 Trillion

Compiled from Budget reports (2010-2015): Ministry of Finance

Parliament. The Parliament at a large extent through its sub-committees and individual Parliamentarians played a key role in the increase of the budget. MPs, for instance, are concerned with development projects in their respective constituencies pushed the government to increase the development budget vis-a-vis the recurrent budget. A good example can be learned from the official opposition camp which presented its alternative budget, in the Parliament, in every financial year during the budget sessions. Some of its recommendations were taken into consideration by the government in the proceeding financial years. These included the recommendations to abolish unnecessary taxes which were levied in a number of local government councils such as bicycle tolls.

The 10th Parliament in Tanzania can be said to have relatively performed a considerable role in scrutinizing the budget. This is through its standing committees, individual MPs as well as the whole house. The data from the surveys on the ability of the 10th Parliament to influence and scrutinize the national budget through its all stages indicate the following: 38.8 percent of respondents indicated that such ability was medium; 24.8 percent indicated that it was high/good; while 23.1 percent and 10.7 percent pointed that it was low/poor and very low/poor respectively.

Figure 5: The ability of the 10th Parliament to influence and scrutinize the national budget, in all its stages



Source: Field Survey, 2016

Referring to these responses, one can plausibly say that the 10th Parliament had achieved quite good performance in scrutinizing the national budget. However, there are a number of setbacks which in one way or another obstructed the role of Parliament in budget scrutiny. These include the issues of partisanship and party discipline as well as corrupt tendencies of some MPs and public institutions which hindered the power of Parliament to effectively scrutinize the budget. These issues are discussed in detail below.

6.2.1 Partisanship

It has been a common practice from different parts of the world, even in developed democracies, for partisanship to take prominence in the Parliament. MPs at times sacrifice the interests of the country for the sake of protecting and advancing the interests of their political parties. Budget scrutiny is not immune from this challenge. MPs from the ruling parties tend to defend their government and the budget even when it does not reflect the interests of those they represent. This state of affairs is much common in Parliamentary systems than in presidential systems of government. In a Parliamentary system allegiance to the government, which is formed by the party with majority in Parliament, is key for the stability of the government. The party caucuses are therefore established for the purpose of maintaining party discipline. Tanzanian political system is a hybrid of presidential and Parliamentary systems of government. The Tanzania Parliament is organized along party caucuses and it operates under very strictly party discipline lines. The constitution is also responsible to such state of affairs as it facilitates such an orientation to the Parliament. Article 51 (2) of the Constitution states that the party with the majority in Parliament forms government by appointing a Prime Minister, who is the head of day-to-day government activities. By implication, coherence and discipline of the MPs from the ruling party becomes a necessity for the government. The Parliament on several occasions has failed to take bold measures over the budget because of partisanship. On several occasions MPs from the ruling party have been softened to defend the budget from the government as doing so equals defending their

government and their party in particular. It was common for MPs from the ruling party when discussing the budget criticized and revealed weaknesses. However, at the end of their contributions, they would usually endorse the budget.

In most cases when the ruling party forecasts the danger that the Parliament may not pass the budget, MPs were often summoned to the party caucus where they were warned against the danger of failing their government. After these closed door meetings the critical MPs would usually change their stance and pass the budget. This has been possible as the ruling party has been enjoying dominance in the Parliament. On one occasion, during the discussion of the 2013/2014 national budget in the Parliament, CCM organized a party caucus meeting to discipline MPs who were showing opposition to the budget. Nipashe (23 June 2013)⁴⁹ reported that:

“Katika hali inayoonyesha kuwa ni kujipanga kupitisha bajeti hiyo, jana wabunge wa CCM walikutana katika ukumbi wa Pius Msekwa kwa kile kilichoelezwa kuwa lengo lilikuwa ni kuwekana sawa ili wabunge wote wa chama hicho wakubali kuipitisha bajeti hiyo.”

“As an indication that the ruling party MPs were prepared to pass the budget, the MPs from CCM met yesterday in the Pius Msekwa Hall for what was said is to seek agreement and compliance so that all the ruling party MPs would assent to pass the budget” (Authors’ Translation).

Such incidents occurred during budget sessions in the life of 10th Parliament.

The other thing is during the process of passing the budget the modality used to pass the budget is by MPs voicing either to assent or to disagree with it by saying either YES or NO when budget estimates for each ministries were passed. This has given those that do not agree with the budget a disadvantage. Sometimes even when the issue which was raised by that opposition was of national interest, the MPs from the ruling party would object. Similarly, the MPs from the opposition in some instances were responsible for exhibiting partisanship on issues of importance as a way of expressing their stance against the ruling party and the government in power. This was widely observed that:

Party politics and ideologies between CCM, CHADEMA, CUF and NCCR-Mageuzi became the major contribution in the Parliamentary sessions. The sessions, debates, conduct and deliberations revealed that the house is heavily tainted and is labouring under party politics even for issues that required utmost patriotism above party interests (LHRC, 2014:9).⁵⁰

On the whole, however, the situation was disadvantageous to the MPs from the opposition. The ruling party used its overwhelming majority in the Parliament and hence its tight grip on the leadership positions within the house to silence views from the opposition in debating the budget. In 2012, John Mnyika, the CHADEMA MP for Ubungu Constituency was removed from the house right in middle of his contribution to the debate of 2012/2013 budget. Such a decision was taken by the Speaker on the ground that in his contribution he stated that: “the President was weak.”⁵¹ The Speaker claimed that Mnyika had insulted the

⁴⁹ Nipashe (23/6/2013) Wabunge kuamua bajeti 2013/14 leo.

⁵⁰ LHRC (2014) “Annual Bunge Assessment Report: 2013”, Legal and Human Rights Centre, Dar es Salaam.

⁵¹ Raia Mwema (27.6.2012) <http://www.raiamwema.co.tz/kutamka-udhaifu-wa-rais-si-kumtukana%C2%A0rais>

President and hence violated the rules of the Parliament which, as way to maintain separation of powers, do not allow implicating the President during the discussions in the house. However, looking at this issue critically, the Speaker used her powers arbitrarily so as to stop Hon. Mnyika from criticizing the government's implementation of the budget. LHRC (2014:11) in its report of the assessment of the 2013 Parliament depicts well this state of affairs. The report asserts that:

[unfairness of Parliamentary leadership] has been a problem to nearly all the leaders of the Parliamentary sessions (Speaker, Deputy Speaker and Chairpersons) are violating the Standing Orders and are alleged to oppress the opposition in favour of government or their political party, CCM.⁵²

The above explanation portrays the situation of poor and unfair leadership in the Parliament – caused by excessive partisanship. On several occasions the opposition chose to walk out of the Parliament as a way of protesting against unfair treatment by the Parliamentary leadership. With such practices dominating the Parliament it is fair to argue that partisanship largely affected the 10th Parliament in discussions and endorsement of the nation's budget.

6.2.2 Allegations of Corruption

In Tanzania corruption has been rampant in public and private sectors. The same was evident to also touch the 10th Parliament. There were several allegations of corruption which could be said to have compromised its ability in debating the nation's budget. The Bribing of Parliamentary committees as well as individual MPs was reported. It was reported the permanent secretaries and directors of agencies under certain ministries often mobilized funds and use them to soften Parliament discussions of their respective ministries' budget. The most vivid case was in 2011 which involved an attempt by the Permanent Secretary of the Ministry of Energy and Minerals, David Jairo, to bribe some MPs to accept and pass his ministry's budget. In the middle of the budget debating the respective ministry, the late Beatrice Shelukindo, the CCM MP for Kilindi Constituency, stood up and read from a supposedly leaked "memo". From the document, she revealed details of how Mr. Daivid Jairo had directed public funds to facilitate the passage of the budget.⁵³ It was later uncovered that he had written the "memo" to the heads of parastatals, organizations and companies under his ministry to solicit funds to be used for the activity. It was further revealed that "Jairo wanted to prevent legislators from raising too many questions about his ministry which had been the target of many accusations of corruption and incompetence (Heilman and John, 2013:5).

This scandal led to the suspension of Mr. Jairo to allow investigation under a special Parliamentary Committee. Moreover, the CAG office was called into action – to conduct investigation on the mobilization and utilization of the funds by the accused Permanent Secretary. However, the assignments of the special Parliamentary committee were not honoured. The Chief Secretary, Philemon Luhanjo, reinstated the Permanent Secretary to office before the Parliamentary Committee could accomplish its work. The decision was based on the CAG report on the special investigation. The CAG found that the Tshs.578m collected was not for 'bribing' MPs as alleged but it 'was used for payment of per diems, sitting allowances and [the] hiring of conference halls for officers who were in Dodoma during tabling of the ministry's budget estimates. The Parliament expressed its discontent towards the decision of the Chief Secretary, and it accused him of meddling in the affairs of

⁵² Ibid.

⁵³ The Wayward Press (2011) <http://the-waywardpress.tumblr.com/post/9410974798>

the house and protecting David Jairo. In order to rescue the situation, the President suspended the Permanent Secretary in order to pave way for the Parliament to do its job (LHRC, 2011:208). This was one of the events which demonstrated how the Parliament had been hampered in scrutinizing the budget.

Again in 2012 there were allegations of corruption which seriously raised eyebrows on the capacity of the Parliament to scrutinize the nation's budget. The allegations were reported to the office of the Speaker by the Permanent Secretary of the Ministry of Energy and Minerals, Eliachim Maswi that some MPs were soliciting bribes from the ministry in order to approve the ministry's budget. Other allegations of misconduct included, members of the Energy and Minerals Parliamentary committee having a conflict of interest with TANESCO and other members of the committee being involved in corrupt practices with oil companies (Bunge Tanzania, November 2012:2). The speaker of the Parliament reacted to the allegations by disbanding this committee. However, later on, the probe conducted by the sub-committee on rights, immunities and powers of Parliament could not prove the corrupt allegations against MPs. The LHRC (2013:256) through its Tanzania Human Rights Report for 2012 casted a doubt on how the probe by the Parliament was carried out by maintaining that:

LHRC is of the view that, law enforcers ought to take this matter for further scrutiny despite the sub-committee failing to prove corruption allegations to MPs as reports indicates. The, sub-committee was composed by MPs and was mandated to conduct inquiry of corrupt practices of fellow MPs. There is a need for the PCCB to intervene due to the nature and seriousness of the allegations which were levelled against the Minister and the Permanent Secretary of the ministry of energy and minerals. As for this case, MPs have been judges of their own case which is, a serious violation of the principle of natural justice. *"You cannot be a judge of your own case."*

The above quotation shows how the issue of corruption was very pervasive in the 10th Parliament. It is also instructive to note that these incidents were not transparently addressed as the Parliament chose to handle them through internal mechanisms which seemed to defy the principle of natural justice. Hence corruption can be said to have posed a serious challenge to the 10th Parliament.

The other issues closely connected to corruption relates to conflict of interests between the members of Parliament and leaders of the Parliamentary sub-committees and the officials of institutions of government which they monitor. In the 10thParliament there were clear allegations of such practices. The case of business ties between the chairperson of the Public Accounts Committee (PAC), Mr. Zitto Zuberi Kabwe, and the National Social Security Fund (NSSF) as well as the Tanzania National Parks Authority (TANAPA) was a clear example. The shadow Minister for Information, Youth, Sports and Culture, Mr. Joseph Mbilinyi, during the presentation of the opposition shadow budget for the respective ministry⁵⁴ he asserted that **Deka Dutigite** company in which Zitto had a direct business links with (one of the shareholders) was financed by NSSF and TANAPA, the public parastatals which PAC was mandated to scrutinize. The business link was from the fact that **Deka Dutigite**, an entertainment company – was partly owned by Gombe Advisors, a company which is owned by Hon. Zitto Kabwe. It was uncovered that in 2012 TANAPA contracted **Deka Dutigite** to advertise the Saadani National Park. Moreover, the report went on to assert that DekaDutigite

⁵⁴ Bunge Tanzania (29.5.2014) "Hotuba ya Kambi ya Upinzani Vijana, Habari, Michezo na Utamaduni?" <http://parliament.go.tz/polis/uploads/documents/1458121631-HS-15-21-2014.pdf>

was again contracted by NSSF for advertisement activities in 2012. Hon. Mbilinyi questioned how the chairperson of PAC who had business links with the same organizations that he was supposed to oversee could effectively discharge his duties without having conflict of interests. The report concluded by calling the government institutions, PCCB and CAG office, to conduct thorough investigation into these revelations so that appropriate measures could be taken. However, it is surprising that no investigation was initiated by those institutions. In his defence, Mr. Zitto did not deny his involvement with the company. He simply said that his company, Gombe Advisors, had 25 percent of shares in **Deka Dutigite**. However, Gombe Advisors was a non-profit company and hence there were no conflict of interest in the dealings between **Deka Dutigite** and the named public parastatals.⁵⁵ This scenario gives an indication of the ability of the 10th Parliament in scrutinizing and monitoring public institutions.

6.3 Participation of citizens

The Parliament is a representative body which represents citizens' interest. The social contract theorists such as John Locke⁵⁶ emphasize that citizens reside with the power over their Parliament. It is on this logic that citizens have to be involved in budgeting. The question is that: do people participate in budgeting in Tanzania? To answer this question one has to look as to whether the legal instruments for Parliament provides this right to the citizens. Neither the Constitution nor the Acts guiding budgeting clearly provide for the participation of citizens in budgeting through the Parliament. The participation of citizens is limited to Parliamentary plenary sessions which are open to the public as they are often televised live. On the other hand, all the important committee sessions are still closed to the public. In this kind of closed sessions, however, CSOs and other stakeholders may have an impact through targeted advocacy (HakiElimu and Policy Forum, 2008:18).⁵⁷ In short, there is no direct citizens' participation during the involvement of the Parliament in budgeting. Their participation was largely through making follow-ups to televised Parliament sessions during budget presentations, discussions and legislation.

However, some institutions, such as companies and CSO's, as well as well-placed individuals, such as business magnets, have the chance to access MPs – though informally – to share their concerns through advocacy. This practice had mixed impact. On one hand, it allowed CSOs to champion and air people's concerns in a number of sectors when they discussed with the committees as well as individual members of Parliament. Notwithstanding this, business people and companies have been using this opportunity to discuss their interests which sometimes contradicts the interests of the people. The outcome emanates from the allegations of corruption towards this Parliament as discussed in details in the above section. Generally, participation of citizens in Parliament budgeting process is very limited and unclear. As a result, a few CSO's and people of high profile and influence have been the ones who have enjoyed privilege to participate whereas citizens participate indirectly through their MPs.

⁵⁵ Tanzania Today (2014) "Zitto Ajibu Tuhuma za Sugu kuhusu Ufisadi wa Kampuni ya **Leka Dutigite Ltd** Kupitia Kazi za NSSF Na TANAPA", <http://www.tanzaniatoday.co.tz/news/zitto-ajibu-tuhuma-za-sugu-kuhusu-ufisadi-wa-kampuni-ya-leka-dutigite-ltd-kupitia-kazi-za-nssf-na-tanapa>

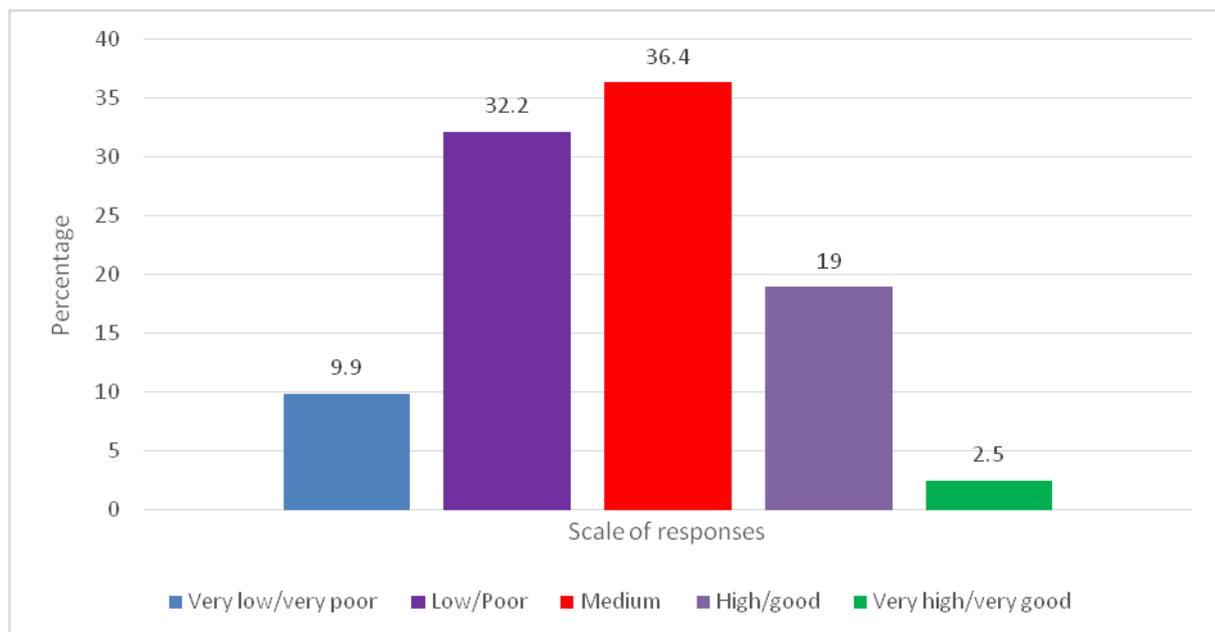
⁵⁶ Tully, James (2007), *An Approach to Political Philosophy: Locke in Contexts*, New York: Cambridge University Press.

⁵⁷ HakiElimu and Policy Forum (2008), *Understanding Budget Process in Tanzania*, HakiElimu and Policy Forum, Dar es Salaam.

6.4 Adequacy of time in scrutinising the budget

The legislature requires adequate time to scrutinize the national budget. This requirement is essential to the effective involvement of the Parliament in budgeting. However, the 10th Parliament can be said to have faced the inadequacy of time in scrutinizing the budget. The filed survey conducted by this study, the respondents were asked to give their opinion on how adequate was the time devoted to the discussion of the budget in the Parliament. Their responses were as follows: 36.4 percent opined that the time was medium, while 32.2 percent said that it was low/poor; and only 19 percent indicated that the time was adequate. Other responses are as demonstrated in figure 6 below.

Figure 6: Adequacy of the time devoted to discuss the budget in Parliament



Source: Field data, 2016

According to the survey data, the respondents seem to indicate that the Parliament had inadequate time to discuss the budget. Reviewing at the conduct of the Parliament during the budget sessions this observation was evident. Time for Parliamentary deliberations was a serious challenge and at times caused friction between members and the Speaker. Despite the time limitation itself, there were several incidents that interfered with the house's schedule. For example, in 2013, a Parliamentary session was suspended following gas related violence in Mtwara. The Speaker of the National Assembly, Hon. Anne Makinda had to postpone the evening session covering the budget of the Ministry of Energy and Minerals because of the riots in Mtwara. She said:

We have heard a lot from the media regarding the fragile security situation in Mtwara since the presentation of the budget for the Ministry of Energy and Minerals came to the knowledge of many...unfortunately, as we are speaking, things are not well in Mtwara...I now postpone the Parliament so

we can get enough information on the situation in Mtwara from the government tomorrow (Bakari and Kamndaya, 22.5. 2013).⁵⁸

The 2015 general elections also had an impact on the way Parliamentarians worked to ensure that the government honoured its promises. The majority of MPs were busy organizing and strategizing for the coming elections in their constituencies. Oftentimes, the house recorded a critical number of absentees making it difficult to oversee the government effectively. That is to say, in election years, budget scrutiny is seriously undermined due to electoral politics.

6.5 Acceptability of recommendations by Standing Committees

The use of Parliamentary standing committees is a critical arrangement for establishing accountability of the government in a Parliamentary democracy. The standing committees play an important role in ensuring accountability of the executive branch, while the system also acts as a medium for involving the common people in Parliamentary deliberations. The Constitution of the United Republic of Tanzania provides that the National Assembly may establish various Standing Committees as it may deem appropriate for the better discharge of its functions (96(1)). The 10th Parliament had a total of 18 committees serving three main areas namely, economic and finance sector, legal and constitutional affairs sector and social sector. This section examines Committee budgetary activities (recommendations) during the whole tenure of the 10th Parliament (2010 -2015).

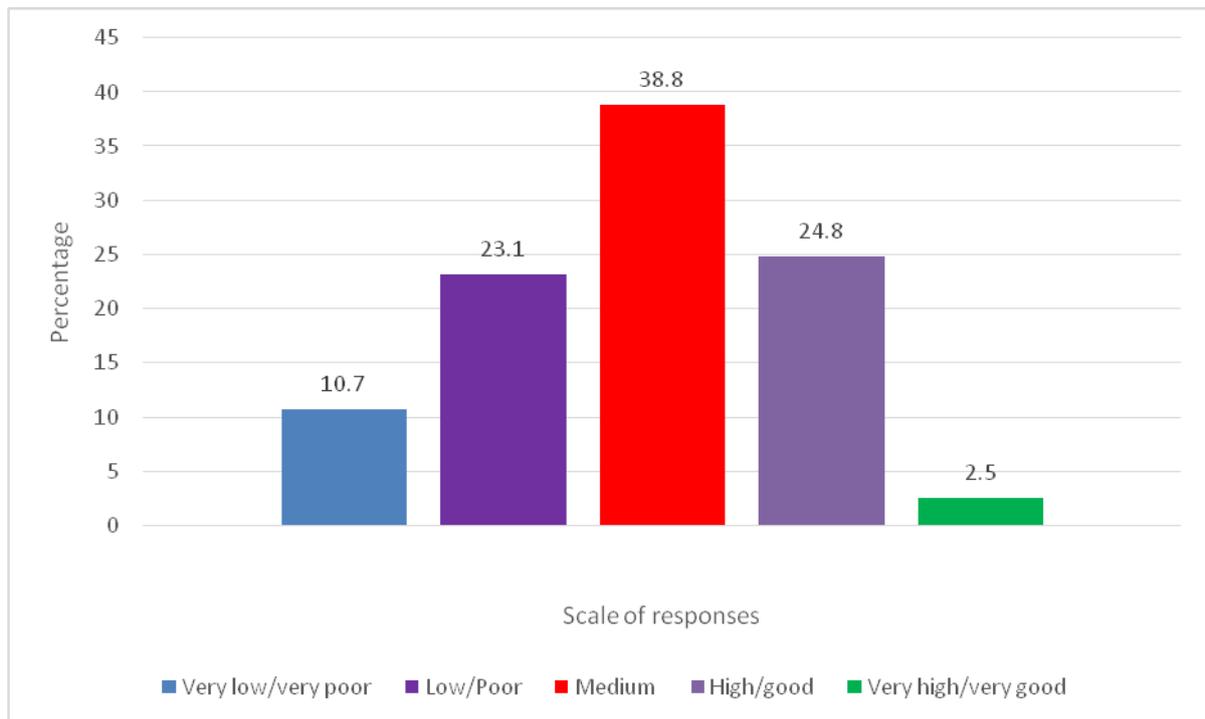
The main responsibilities of Parliamentary standing committees are to examine the draft Bills and other legislative proposals, to review the activities of ministries and to investigate irregularities and serious allegations. A committee can examine any matter within its jurisdiction and make recommendations, if the committee deems fit, and discharge any other responsibility given by the Parliament. The more effective the committee system of a country is the more powerful and effective the legislature becomes.

With regard to budgeting, the Public Account Committee (PAC) works closely with the Office of Controller and Audit General (CAG) to investigate allegations on misappropriations or misuse of public funds. The committee then would make recommendations to the Parliament basing on observations and findings from its investigation. The committee visits different government departments and agencies; summons and interrogates responsible individuals and hence draw conclusions to be discussed in Parliament. If accepted and passed by the Parliament, the committee's recommendations become the Parliamentary resolutions that demand answers and accountability from the government. The committee tabled annual reports each year since 2009/2010 following the report of the Controller and Audit General (CAG). These reports had recommendations on measures to be taken by the government against: (i) officials or institutions which have misappropriated public funds, (ii) overspending by government ministries, departments and agencies, (iii) allegations of ghost workers, double payments and other serious irregularities. However, to a large extent, the government was slow and sometimes did not address these recommendations at all.⁵⁹ Figure 7 below depicts respondents' assessment of the extent to which the recommendations by the Standing Committees were accepted and incorporated into the budget.

⁵⁸ Bakari, Abdallah and Kamndaya, Samuel "Chaos hits Mtwara after Gas project Confirmation", The Citizen, 22/05/2013.

⁵⁹ Interestingly, the current government, under John Pombe Magufuli, seems to have initiated serious measures on ghost workers, lavish spending of government ministries and embezzlement of public funds.

Figure 7: Acceptability of the Recommendations of the Public Accounts Committee by the Government



Source: *Field data, 2016*

About 38.8 percent of the respondents opined that acceptability of the recommendations was medium; 24.8 percent indicated that it was good/high; and 23.1 percent responded that the acceptability was low/poor. However, some of the key recommendations were not considered at all, what was usually incorporated in the budget were issues of priority to the ruling party.⁶⁰ In practice, it is the discretion of a minister to accept or reject committee’s recommendations. On top of that, Standing Orders of Parliament under Section 69(2) prohibit the committees to make any changes to the Bill. Furthermore, Article 90 (2) empowers the President to dissolve the Parliament if it refuses to approve the budget. Thus, the Parliament as an oversight organ is without doubt toothless to effectively oversee the executive over the budget (Kassimu, 2010:94). On this logic the PAC in one of its report stated that the: “Parliament is just a “rubber stamping body” (PAC, April 17, 2012: 9).⁶¹

6.6 Monitoring Government Expenditure

The Parliament monitors the budget to see if it is implemented in accordance to the legislated plan. Here the Parliament looks on as to whether the resources allocated to specific activities are utilized and the revenues are collected as per the budget plan. To realise this objective the Parliament uses a number of mechanisms. These include: Parliamentary standing committees which are directly dealing with sectors, ad-hoc or select committees as well as through individual Parliamentarians. The 10thParliament unlike its predecessors was vibrant in ensuring close monitoring of government expenditures. In previous Parliaments it was the common practice for MPs from the ruling party to block motions from the opposition to question the expenditures of government funds. However, the 10thParliament was relatively

⁶⁰ Interview with a political party leader (16/3/2016).

⁶¹ Taarifa ya Kamati ya Bunge, April 17, 2012

different as some of the MPs from the ruling party were steadfast in monitoring government expenditures. Examples can be extracted from the ESCROW saga whereby some MPs from CCM and the opposition joined forces to hold the government to account. Moreover, the effectiveness of Parliament's monitoring of the budget was enhanced by the decision of the government of Jakaya Mrisho Kikwete since 2012 to have the CAG report discussed openly in the Parliament. The reports, as discussed elsewhere in this study, gave information and tools to the sub-committees and individual MPs to monitor central and local governments' expenditures and engage effectively in the discussions.

Despite these positive remarks it was quite evident that monitoring of the government expenditures was a critical challenge to the 10th Parliament. One of the issues is on the mismatch between the outlined government budget and actual amount of funds disbursed. In a number of ministries the amount of funds which were tabled, discussed and passed in the Parliament were not released. Taking this into account, Parliamentary committees failed to monitor expenditures in these ministries. The majority of the respondents in the interview conducted by this study highlighted this state of affairs as a major setback in monitoring government expenditures. It was found that most of the time expenditure did not conform to the terms agreed. At some points expenditure exceeded the approved budget three times leaving other approved projects unimplemented.⁶² The same observation is made by another respondent who asserted that “*expenditure for some ministries exceeded the approved budget and in some ministries very little funds were allocated compared to the approved budget.*”⁶³ To confirm these observations, the Public Accounts Committee reviewed expenditures of the Ministry of Health and Social Welfare for the year 2009/2010 only to find out that the ministry overspent its budget; it committed 1.101 billion for *Nane-Nane* exhibitions only. This amount was not authorized by the Parliament for the named purpose. Overspending do not just contravene Parliamentary authority, it accumulates the debt burden to a responsible ministry. For example, the debt for the Medical Store Department (MSD), Ministry of Health and Social Welfare, had reached 42,502,444,399 Tsh in March, 2012 (PAC, 2012:10).Overspending has been a critical problem in several government departments. This is one of the reasons behind a steady increase of the national debt. Tanzania recorded a Government Debt to GDP of 39.90 percent of the country's Gross Domestic Product in 2013 (Kwomba and Kosimbei, 2015)

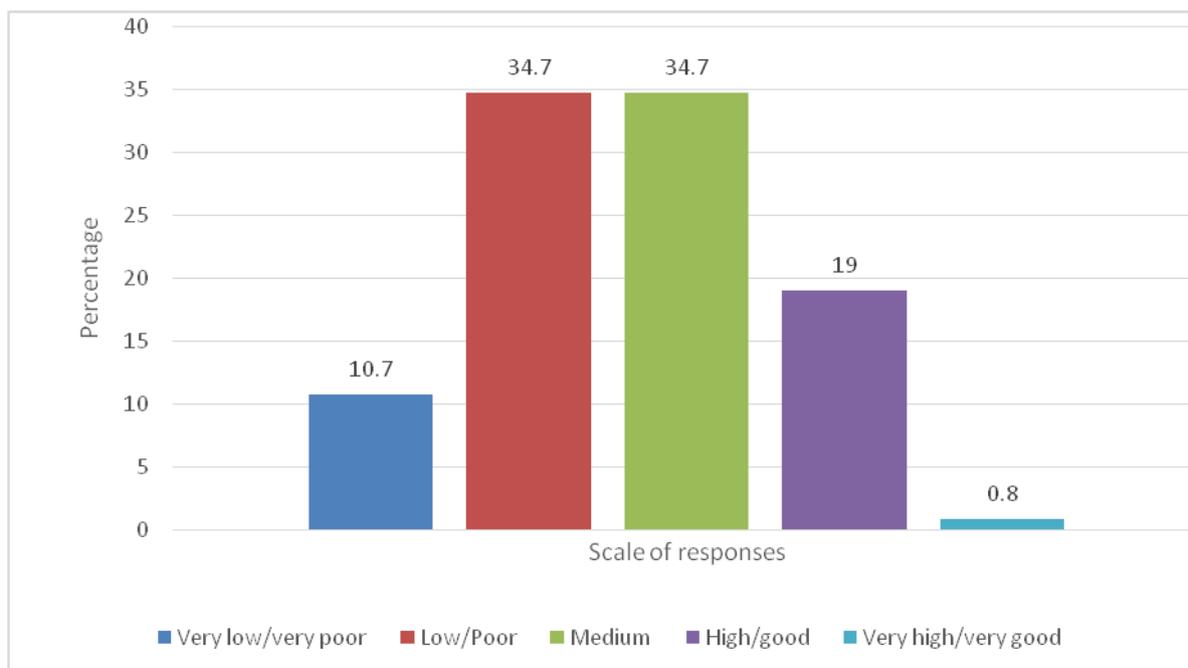
Another issue which constrained the effectiveness of the Parliament in monitoring government expenditures was corruption. Again, just like in the passing of budgets, there have been allegations that sub-committees and individual MPs tend to solicit money and other incentives from the officials of public institutions so that they do not disclose misuse or embezzlement of public funds. In 2011 the opposition MP for Kigoma South, Hon. David Kafulila informed the Parliament that, some members of the Local Government Accounts Committee (LGAC) were involved in corrupt practices. Some MPs were angered by this message and they accused Kafulila of trying to boost his political popularity. Moreover, the Parliament and law enforcers especially the PCCB did not labour much in conducting investigation over the allegations. It should be noted that the LGAC is tasked with monitoring the expenditures of local governments. The CAG report has constantly highlighted the misuse and embezzlement of public funds in local governments across the country. In 2012 the allegations became more pronounced following the Bahi Constituency Member of Parliament, Hon. Omary Badwel's arrest for allegedly soliciting a bribe from the Kisarawe

⁶² Interview with a political party leader (16/3/2016).

⁶³ Interview with a respondent from Civil Society Organization (18/3/2016).

District Executive Director (DED).⁶⁴ However, Badwel was acquitted in 2015 by the court on the ground that there was no enough evidence to implicate him with the crime. Although this case was dismissed but the allegations of corruption which were rampant in the 10th Parliament cannot be ignored. To a certain degree they not only damaged the image of some MPs, but also had some implications on the credibility and moral authority of the Parliament in monitoring government expenditure.

Figure 8: The effectiveness of the Parliament in monitoring government expenditure ex-post



Source: *Field data, 2016*

As shown by figure 8 above, Parliament’s performance in monitoring government’s expenditure was average. This could have been the case due to a number of reasons; some sections of the public are of the view that the government overpowered the MPs to the extent that what they agreed upon ended up in blueprint.⁶⁵ Sometimes the Parliament was divided along party lines. For example, when the PAC tabled its (Escrow) report, the Parliament suspended its session for hours to allow the government to prepare answers to the issues raised. It became apparent that MPs went to their respective party caucuses only to appear later on presenting their parties’ positions regarding the committee’s report.

6.7 Conclusion

The 10th Parliament exhibited a relatively effective involvement in budget processes in comparison to the past Parliaments. Sub-committees and individual MPs were somehow effective in exercising oversight of the budget. However, there were a number of challenges which to a great extent can be said to have hampered its powers in fulfilling these functions, namely allegations of corruption, conflict of interests, partisanship and party discipline, inadequacy of time in scrutinizing the budget and lack of citizens’ involvement in the budget process.

⁶⁴ LHRC (2013) Tanzania Human Rights Report 2014, Legal and Human Rights Centre, Dar es Salaam.

⁶⁵ Interview with respondent from Civil Society Organization (20/3/2016).

6.8 Recommendations

Based on the findings, the following recommendations can be drawn as follows:

- a. The time for the discussion and passing of the budget should be increased to allow the Parliament to scrutinize the budget effectively;
- b. There should be clear mechanisms to address allegations of corruption against MPs;
- c. There should be strict legal mechanisms to prevent MPs from having conflict of interests in discharging their functions. When MPs, for instance, have business ties to the officials or institutions that they have to scrutinize the impartiality and objectivity of issues is bleared;
- d. The rules guiding the daily operation of the Parliament should be made more democratic to avoid abuse of power by the Parliament leadership. This is due to the fact that in the 10th Parliament the Parliament leadership was accused to be unfair to the opposition MPs as a way of safeguarding the interests of the government and the ruling party;
- e. There should be constitutional amendment to provide for the rights of the citizens to participate in the national budget processes.

CHAPTER SEVEN

TRANSPARENCY AND ACCESSIBILITY

7.1 Introduction

Transparency and accessibility are fundamental issues that can be used to measure the effectiveness of the Parliament and whether the Parliament performs its key functions which include overseeing and advising the Government of United Republic of Tanzania and all its organs in discharging of their respective responsibilities in accordance with the Constitution, legislating and representing the people. Transparency in this sense specifically involves the openness of Parliamentary activities and ensuring that they are accessible to the general public. Any negative perception on the side of the public on the low level of transparency can weaken the image of Parliament.

As a matter of principle, it is not possible to be able to measure the overall performance of Parliament in the absence of adequate information to the public about the conduct of Parliament in a given period of time. The 10th Parliament saw the government promise to be transparent in delivery of government services a priority as part of the Open Government Partnership Initiative. In his keynote address at the OGP forum on 20th April, 2012 in Brasilia Brazil, President Dr. Jakaya Mrisho Kikwete stated Tanzania's commitment to the OGP:

I promise that we will do our best to live up to the expectations of this partnership to promote transparency and accountability of our government to the people of Tanzania. I wish to reaffirm that our political will to achieve the OGP goals will not falter because open government is at the heart of the contract between state and citizens.⁶⁶

This statement indicates the level of commitment to the principles and delivery of OGP at the highest level of government. This commitment needed to be translated into workings of various institutions of the government. This chapter assesses the performance of the tenth Parliament in the aspect transparency and accessibility of the institution paying attention to achievements recorded and setbacks encountered.

⁶⁶ Policy forum (2015) Tanzania Governance Review 2013: Who will benefit from Gas Economy if it happens. Retrieved from: www.policyforum-tz.org/sites/default/files/TGR2013FINALwebsite.pdf

The Tenth Parliament Transparency and Accessibility Assessment: Key Issues

- *Accessibility and transparency to Parliamentary proceedings and reports was relatively good. However incidences of denial of full access and untimely access were witnessed.*
- *Mixed outcomes in terms of accessibility to Parliamentary investigation results.*
- *Live coverage of its proceedings was a cornerstone of Parliament's improved publicity*
- *Reasonable press freedom was diluted by occasional favouritism to public media outlets.*
- *Parliamentary standing orders alone do not guarantee ethical governance in the Parliament.*
- *Despite its Parliamentary website leaves a lot to be desired as part of Parliamentary communication strategy.*

7.2 Accessibility of Proceedings and Reports

Parliament performs both legislative and oversight functions. In doing so a number of activities are conducted and reports are produced. It is the duty of the Parliament to ensure citizens, media and civil society organizations access proceedings and reports so as to ascertain the extent to which their Parliament is accountable and responsive to the people.

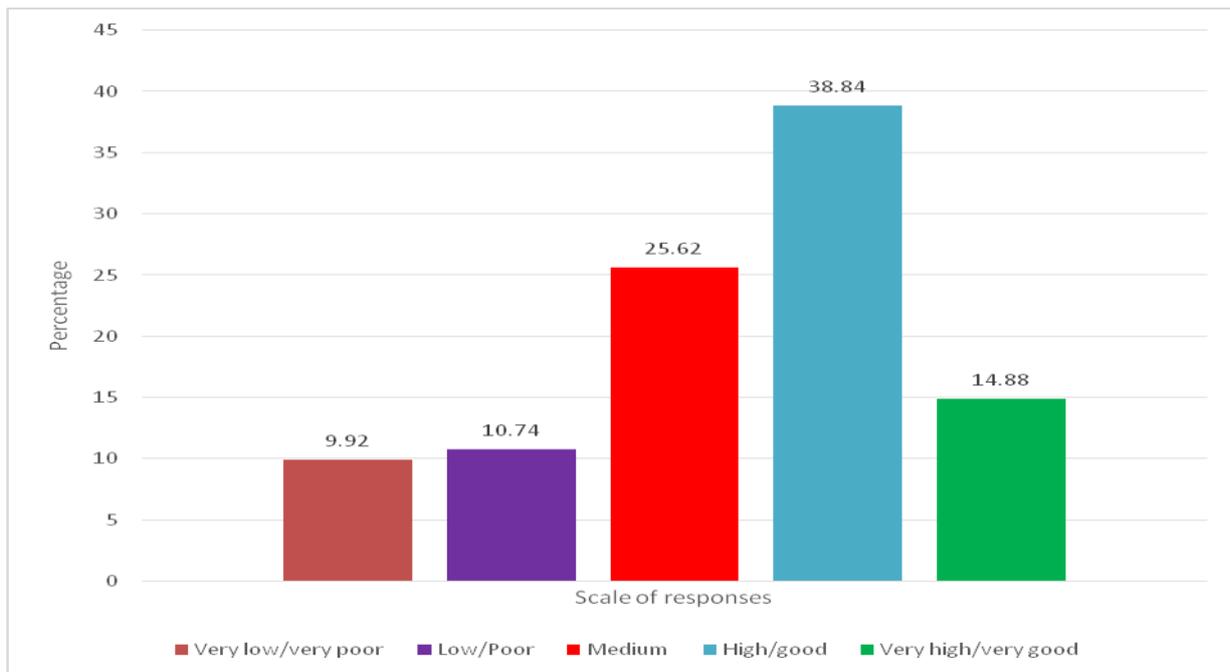
In the tenth Parliament accessibility to proceedings and reports were guided by the Parliament's communication strategy. The strategy facilitated coordination of Parliamentary press association activities and live broadcasts by various television networks and radios. In addition, the strategy also ensured access to regulations of Parliament and invitation made to students, visitors or ordinary citizens to be present during Parliamentary sessions. The Parliament's website was also used to serve a multitude of purposes in regard to ease access of information about activities of the institution.

The table and the chart below present the perceptions on how respondents during the survey viewed accessibility of the tenth Parliament's proceedings and reports to the media and citizens. Respondents were asked as "to what extent were Parliamentary proceedings and reports open and accessible to the media and the public?" The findings showed that the majority of respondents (38.8 percent) were of the view that the Parliament was open to citizens and media. The respondents rated the tenth Parliament to have performed moderate in this area t about 25.6 percent and 14.9 percent rated the performance on Parliamentary accessibility to be high suggesting that the overall performance was relatively good in this aspect. A respondent from CWT during an interview, for example, affirmed this position when he stated that: "Accessibility of information from the Parliament was good. Live coverage of Parliamentary sessions was also helpful. Citizens could directly get information on all issues being discussed. Those without televisions could also follow up the news even using their mobile phones' radios."⁶⁷

⁶⁷ In-depth interview, CWT, 18th March 2016.

Nevertheless, public Parliament accessibility of Parliamentary proceedings and reports was far from perfect. The tenth Parliament had some weaknesses in ensuring citizens and media have timely and full access to Parliamentary proceedings. According to the African Parliamentary Index (2011) information to public and the media about the budget, for example, by the tenth Parliament was not made available in a timely fashion as it is being received from the Ministry of Finance and Economic Affairs (MoFEA).⁶⁸ It was also observed that there is no legal requirement that binds Parliament to provide information.

Figure 9: Accessibility of Parliamentary Proceedings to the Media and the Public



7.3 Accessibility of Parliamentary Inquiry Reports and Recommendations

In discharging its duties Parliament may when it deemed necessary carry out inquiry into various events that demand detailed information to guide their deliberations. This is normally done through watchdog committees or Parliamentary special committees or select committees. In investigating such events committees may invite interested parties, members of the public and other stakeholders to give out their views and explanations on the matter at hand. The investigative reports produced by these committees normally would influence resolutions adopted by the entire house with regard to a particular issue after being informed and in-depth deliberations.

During its existence the tenth Parliament had its share of investigation through its standing committees and special committees. Among the landmark Parliamentary committees which led to accountability measured being taken to some government Ministers and government officials include the Public Accounts Committee (PAC) on Special Investigation into the Tegeta ESCROW Account transactions on the Ownership of Independent Power Tanzania Limited (IPTL) in 2014; Land, Natural Resources and Environment Committee on

⁶⁸ Parliamentary Centre, African Programmes (2011) African Parliamentary Index (API): A Report for Seven African Parliaments. Pg 132.

“Operation *Tokomeza*” in 2013, the Parliament Commission of Inquiry on “Jairo’s Saga” in 2011 and others.

The question addressed in this section is of two levels. First is on the openness and accessibility to the media and public of the proceedings and reports of the tenth Parliament standing committees. Second is on openness and accessibility to the media and public Parliamentary investigation results on unethical behaviour, conflict of interests or corruption. Figures 2 and 3 below provide a pictorial presentation of survey responses on these two aspects. It is quite interesting to note the divergence of opinions from respondents in different but closely related aspects. Some 45.5 percent and 29.1 percent of the respondents rated the tenth Parliament on the general openness and accessibility of the proceedings and reports of its standing committees as medium and high respectively. This perception was also confirmed during an interview with a respondent from the Tanzania Human Rights Defenders Coalition (THRDC).⁶⁹ However, the percentages were lower when respondents commented on the accessibility of Parliamentary inquiry results on unethical behaviour, corruption or conflict of interest issues. Despite the fact that a total of 57.8 percent rated accessibility of Parliamentary special committee findings to be medium, high and very high, yet a significant number of respondents equals to 42.1 percent were of the view that accessibility to the results was problematic and rated the performance of the tenth Parliament in this area to be generally low. This mixed outcome of accessibility of investigation results depended on the kind of information reported. Information that did not seem to threaten the interests of the government could easily be accessed. But, for information that was seen as compromising some interests or costly to the regime in power was highly restricted.⁷⁰ The striking difference in this aspect is that only 20.7 percent of respondents felt that the general openness and accessibility of standing committees’ reports was low compared to 42.1 percent for the inquiry reports.

It is instructive to note that the tenth Parliament portrayed a sense of mistrust even among Parliamentarians when it comes to Parliamentary special committee reports. During the Tegeta Escrow deliberations, for example, the Vice Chairperson of PAC, the late Deo Filikunjombe was quoted as saying during the session that himself and his fellow committee members were forced to stay awake so as to guard the report due to fear of sabotage.⁷¹ If this was the situation within the Parliamentary select committee, then the media and general public should expect the least when it comes to accessibility.

In the final analysis the survey data depicts those Parliamentary standing committees and special committees do produce reports on various subject matters and to a certain level they were accessible to both the media and the public as per the laid down rules. However, the situation is different when it comes to Parliamentary investigation reports on issues relating to unethical behaviour, conflict of interests or corruption. Since these reports might affect directly some members of Parliament, Ministers, and senior government officials, they are treated with utmost confidentiality hence limited access to the public. It is bizarre to see even for the investigations that have been completed and resolutions have been passed in the Parliament, their reports can hardly be accessed by the public. Surprisingly, even on the Parliament website these reports can hardly be accessed.

⁶⁹ In-depth Interview, Tanzania Human Rights Defenders Coalition (THRDC), 18th March 2016.

⁷⁰ In-depth Interview, University of Dar es Salaam. Similar position was stated by respondents from Open University of Tanzania, Policy Forum, Civic United Front (CUF) party and Advocate Clarence Kipobota during interviews on different occasions.

⁷¹ Mwananchi News Paper, 28th June, 2014.

Figure 10: Rate of Openness and Accessibility to the proceedings and reports

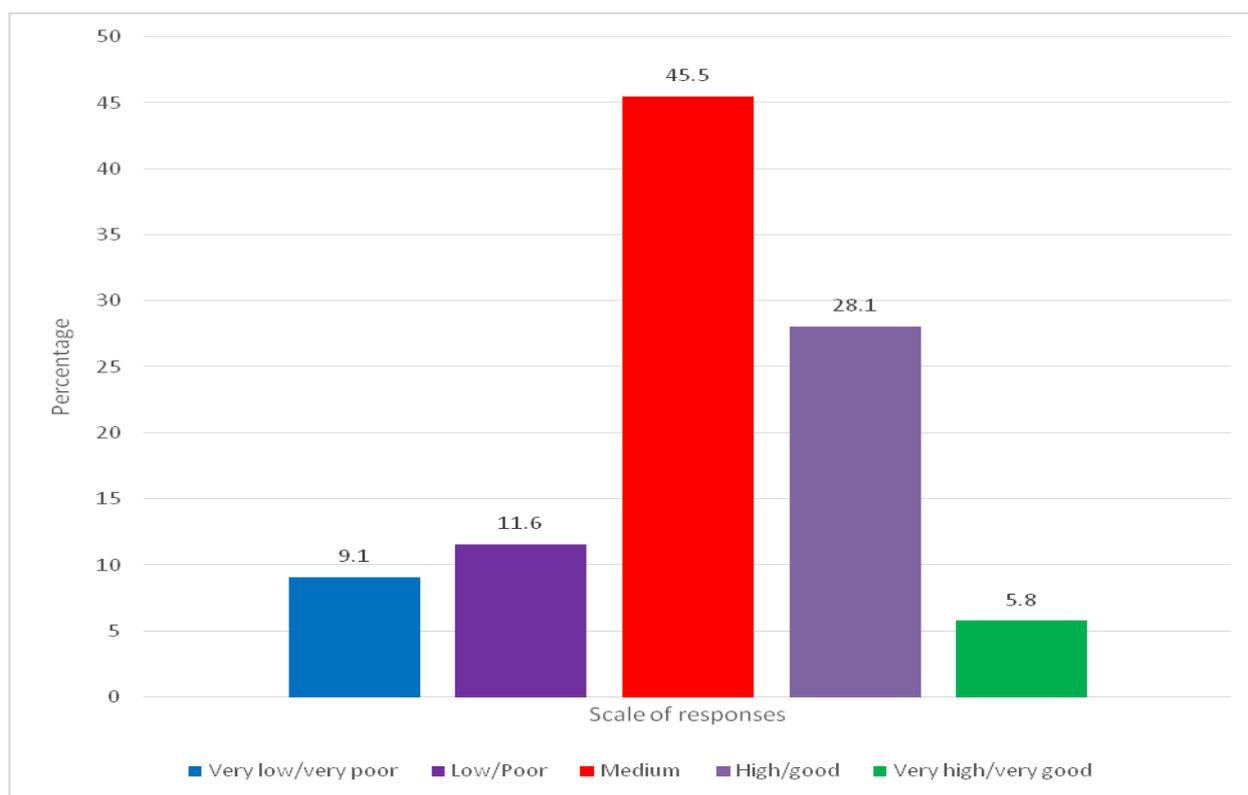


Table 18: Rate of Openness and Accessibility to Parliamentary investigation results

Scale of responses	Number of respondents	Percent
Very low/very poor	13	10.7
Low/Poor	38	31.4
Medium	41	33.9
High/good	24	19.8
Very high/very good	5	4.1
Total	121	100.0%

7.4 Restrictions on Journalists to Report Activities of the Parliament

The Tanzanian Parliament provides access to journalists to attend Parliamentary proceedings and report on activities of the institution. The Parliamentary Media Centre is the one responsible for giving access to all media houses or their representatives. The permission to do so is provided by the Clerk of the National Assembly as per Standing Order 140, which among other things spells out terms and conditions for such permission to be granted. Nevertheless, Sub Section 3 of the Order gives power to the National Assembly Clerk to withdraw permission to media outlets or their representatives if it is established that their conduct violate rules, regulations, rights and privileges of the Parliament. Despite the fact that media access to Parliament is guided by a specified code of conduct and Parliamentary

non partisan policy, there has been a tendency of tilted treatment of journalists from private media as opposed to those from public media outlets. The fact that the right to live television broadcast of the Parliamentary proceedings is exclusively given to a public media company, Tanzania Broadcasting Corporation (TBC) and the private television Stations should link up with TBC to air the proceedings provides evidence of unfair treatment. It was witnessed in the tenth Parliament on several occasions when TBC deliberately switched off its broadcasting in the midst of proceedings.⁷² This diluted the principle of transparency of the Parliament which the fourth term government vowed to uphold when it became part of the Open Government Partnership Initiative in 2011.⁷³

During the survey respondents were asked on the extent to which journalists were free in reporting on the tenth Parliament and activities of its members. The table 19 below summarizes the scale of responses in relation to restrictions of journalists to report activities of the Parliament. Quite a large number of respondents (about 46.3 percent) were of the opinion that there was a moderate level freedom for journalists to report Parliamentary activities. The data below shows a certain level of positivity in this area when 29.8 percent of respondents rated high/good in terms of journalists being free to report on the conduct of Parliament and its proceedings. The fact that only 20.6 percent of respondents rated journalist freedom to be poor/very poor suggests that to a certain level the tenth Parliament was in the right direction in ensuring media outlets are free in accessing and reporting on activities of the Parliament. At any rate, whether the restrictions were on the basis of the legal restrictions or simply the practice by the Parliamentary officers what was evident was that the treatment of journalists was tilted in favor of journalists working in public media houses or those from media outlets owned by the ruling party.

Table 19: Level of journalists' freedom to report on the tenth Parliament

Scale of responses	Number of respondents	Percent
Very low/very poor	8	6.6
Low/Poor	17	14
Medium	56	46.3
High/good	36	29.8
Very high/very good	4	3.3
Total	121	100.0%

7.5 Procedures to Access Parliamentary Committees

A committee system is crucial to any legislature. In recognition of this, Article 96(1) of the URT Constitution establishes standing committees where it provides that the National

⁷² During the tenth parliament Tanzania Broadcast Corporation on a number of occasions did terminate its live transmission of parliamentary proceedings. Most of the time this happened when parliamentary deliberations were perceived to be in the direction of damaging the reputation of the regime or as a result of escalating chaos in the house.

⁷³ Tanzania joined the Open Government Partnership (OGP) Initiative in 2011 with the intention of making Government business more open to its citizens in the interest of improving public service delivery, government responsiveness, and combating corruption and build greater trust by promoting public integrity and transparency. See Tanzania Open Government Partnership (OGP) Action Plan 2012-2013. Pg 2.

Assembly may establish various standing committees for the better discharge of its functions. However, it is within the prerogatives of the Parliament to decide on the composition and function of those committees pursuant to its Standing Orders.⁷⁴ Basically, the Constitution apart from establishing the committees, it bestows power to Parliament to perform its duties through its varied committees. In line with the Constitutional provision these standing committees are meant to cover all areas of responsibilities of the government. The use of a committee system in the legislature in Commonwealth Parliaments, for example, was in response to the need to relieve pressure of business on the floor of the house and to new obligations or to demands for the house to perform new functions involving detailed investigation which are too difficult for a large assembly (Bahart, 1999). In Tanzania Parliamentary business is conducted in plenary and in standing and ad hoc committees. However, it is the committees that execute most of the activities of Parliament and which serve to monitor and oversee government activities in detail and on a continuous basis.⁷⁵

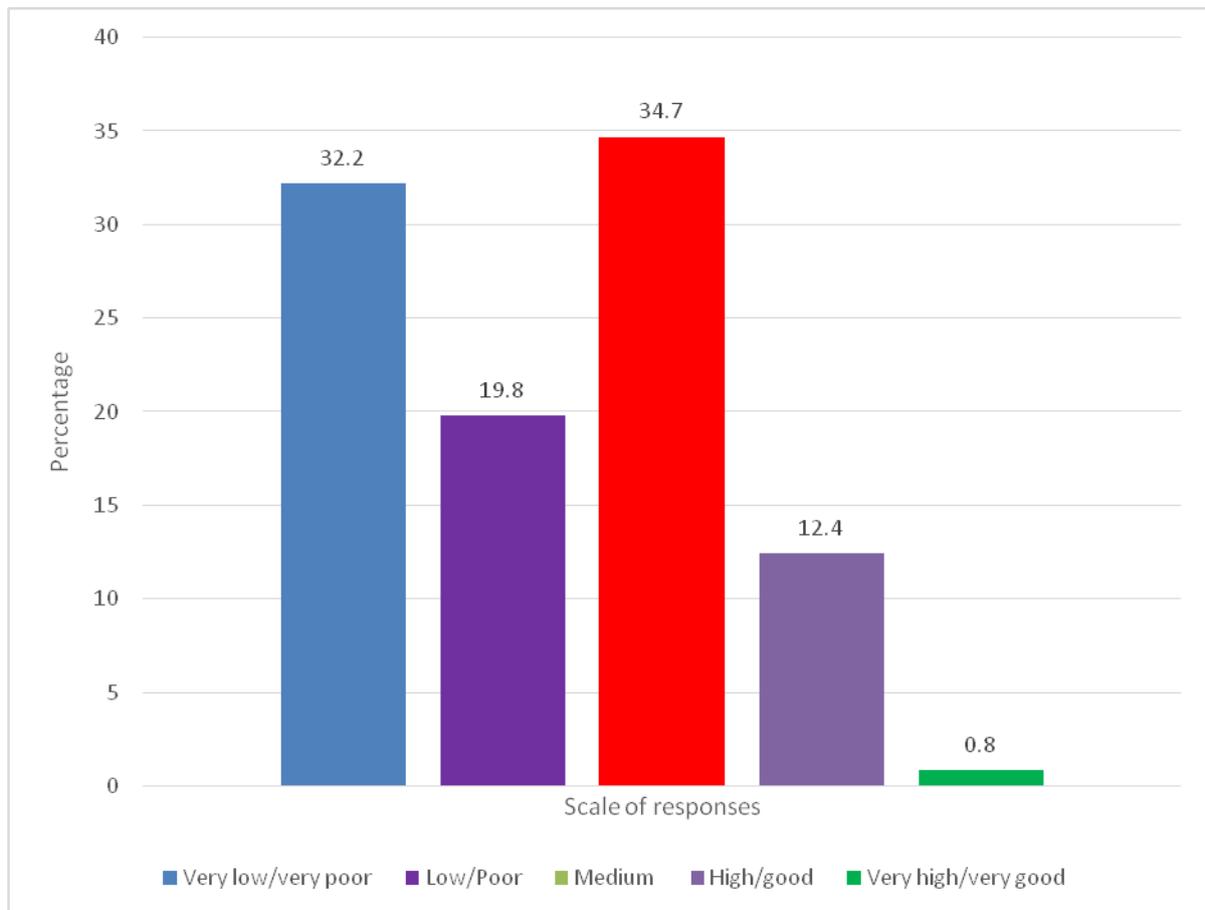
The Standing Order 177 (8) provides for procedures to access Parliamentary committees. It insists on the fact that every standing committee can allow other members of Parliament who are non-members to the committee and other persons who are not members of Parliament to attend and participate in the activities of the committee without being allowed to vote during the proceedings. The order insists on transparency as it demands the committee to invite stakeholders for the purpose of collecting opinion or technical advice to reform or strengthen Bills to be tabled in Parliament or on any other matter to be deliberated by the committee. However, the access by stakeholders is restricted as Standing Order 117(10) provides that all activities of the committees concerning preparations and giving out of proposals to be tabled in the Parliament for discussion are done privately. This means that stakeholders are only allowed to attend committee deliberations and airing out their views. This implies that, the extent to which stakeholders inputs were given due regard was only be determined by the stakeholders when such inputs will be in committees' proposals discussed in the Parliament. The time when it's too late for the stakeholders (citizens) to engage further if their views were disregarded or under emphasized.

It is clear from Parliamentary Standing Orders that committees are given room to lay down procedures for attending the proceedings and make submissions to committees. The survey data in this regard have shown that only 34.4 percent of respondents are of the opinion that the easiness of accessing Parliamentary committees as guided by rules and regulations was moderate. It is instructive to note that about 32.2 percent of the respondents see these procedures as difficulties which affect the level of citizens to genuinely and openly participate in the proceedings of the Parliamentary committees and make their submissions.

⁷⁴ Parliamentary standing orders are constitutionally provided in Article 89 (1), (2) of URT Constitution.

⁷⁵ For details on committees type visit <http://www.parliament.go.tz/committee-types-list>

Figure 11: Perception on procedures for individuals and groups to make submissions to a Parliamentary committee.



7.6 Role of Parliament in Informing the Public about its Work

The Tanzanian Parliament like any other democratic Parliament has a duty to promote public understanding of its operations. The Parliament’s Department of Civic Education, Information and International Corporation has a duty to ensure that the general public is sensitized, informed and educated on various Parliamentary activities. In order to achieve this objective, the Parliament embarked on a Civic Education Programme in 2000 aimed at educating the public through media and other programmes.⁷⁶ The idea of undertaking this programme was a result of awareness that a majority of the citizens were ill-informed about the roles and functions of Parliament.

The Civic Education programme is managed by the Clerk of the National Assembly and implemented by the co-coordinator of Civic Education. The civic education programme aims at enlightening the citizens in various ways and means on the roles and functions of Parliament through various mass media. Basically, this initiative is aimed at empowering the people with knowledge on their civic rights and obligations regarding multiparty Parliamentary democracy. The mechanisms to implement this include: engaging the public through different forums and exchanging information. Others involves publication of a

⁷⁶ For more details on Parliament Civic Education Programme see Parliament Fact Sheet no.3 available at www.parliament.go.tz

quarterly Parliamentary news magazine, called Bunge News Letter, Seminars and Public Lectures (Outreach programmes), youth Parliamentary activity in the form of guided tours and visits to Parliament buildings. TV Broadcast and Radio programmes covering different themes were also used by the tenth Parliament as channels to inform the public about its work. Examples of the themes covered in these programmes are the role of Parliament in enhancing democracy, Parliament and human rights, the role of opposition parties in Parliament, Parliament and anti-corruption strategies, Parliament and the media, women in Parliamentary politics, Constitution and the people.

Live coverage of Parliamentary sessions has been a highlight of accessibility of Parliamentary information in the tenth Parliament. Being an important pillar in governance, live coverage of Parliament sessions not only warranted right to information to Tanzanians but also positioned the Parliament as a servant of electorate especially on openly keeping track of activities of other arms of the government. It made the Parliament to be regarded as a democratic tool by enabling citizens to keep track of Parliamentary business and proceedings as well as assessing their law makers' performance. Significant outcomes of the tenth Parliament such as forceful cabinet reshuffles and corruption probing in Richmond and Tegeta Escrow scandals has been associated with its level of transparency which was made possible by live broadcasting of its sessions.

During the course of completion of this report, The current fifth phase government decided to ban live Parliamentary sessions coverage Parliament claiming that live coverage was too costly. On 27th January, 2016 the government through the Minister for Information, Culture, Arts and Sports, Mr. Nape Nnauye, made a bullying and sacrosanct decision when it announced that the state-owned Tanzania Broadcasting Corporation (TBC) would stop live coverage of the house debates. Nape reiterated that TBC spends 4.2 Billion Tanzania shillings for live broadcast alone. Therefore sustaining such a high cost operation was no longer feasible. This decision sparked chaos in the Parliament⁷⁷ and caused media outrage as well as debates on the side of the public. Getting rid of live broadcast was seen as a mechanism to weaken the effectiveness of the Parliament, suppress press freedom and cut the flow of information to the public. Commenting on this issue The Media Council of Tanzania (MCT) Executive Secretary Kajubi Mukajanga strongly criticized the decision as unacceptable and retrogressive. He said Tanzanians have been closely following their representatives in Parliament through live broadcasts and to stop them now is taking several steps backwards.⁷⁸ The legacy that the tenth Parliament might have achieved in terms of accessibility and transparency as a result of live coverage of its sessions can be watered down by government move to ban live broadcast.

Summing up the assessment in this section, Table 20 below reflects the efforts that were put by the tenth Parliament in ensuring that the public is aware of its works. About 45 percent of the respondents had a feeling that the tenth Parliament performance in informing the public about its work was average. It is encouraging to see that 21.5 percent of respondents rated the performance of the Parliament in this regard as high. From this, the tenth Parliament can be applauded in this aspect as about 72 percent of the respondents rated it as average and above in terms of sensitizing, education and informing the public about its work.

⁷⁷ Thursday, January 28, 2016, *Citizen News Paper*: Chaos ensues in Bunge as government cuts live coverage.

⁷⁸ MCT (2016) MCT Strongly Criticizes Move to Ban Live Coverage. Available at: www.mct.or.tz

Table 20: Perception on the Tenth Parliament Effectiveness in Informing the Public

Scale of responses	Number of respondents	Percent
Very low/very poor	6	5
Low/Poor	28	23.1
Medium	55	45.5
High/good	26	21.5
Very high/very good	6	5
Total	121	100.0%

7.7 Ethical Governance

Representation is one of the important functions of the Parliament. Therefore members of Parliament representing the interest of the public are supposed to be transparent, honest, of high integrity and conduct themselves in a manner that uphold high ethical standards. Recognizing the importance of ethical governance of the institution, Parliament has a standing committee responsible for the issues related to ethics, namely the Parliamentary Privileges, Ethics and Power Committee. According to the Standing Order No.116 (4), members of this committee can also become members of other standing committees. This was done among other things to ensure powers of other Parliamentary committees are not abused and ethical standards are observed.

The question of ethical governance in the tenth Parliament can be assessed by looking at the existence and compliance with a code of conduct by MPs. There is a code of conduct that guides the behaviour and actions of MPs inside and outside the Parliament. Parliamentary standing orders explicitly state this code of conduct and its strict enforcement measures.⁷⁹ Despite the existence of the code still there incidences of non-compliance from MPs. In the tenth Parliament the use of inappropriate language, instigation of chaos, physical confrontation among MPs was rather on the higher side. This behaviour on several occasions prompted the Speaker of the house to post-pone proceedings.⁸⁰ The Standing Orders however have been highly criticised for giving the Speaker magnanimous discretionary powers in making decisions (Parliamentary Centre, 2012).

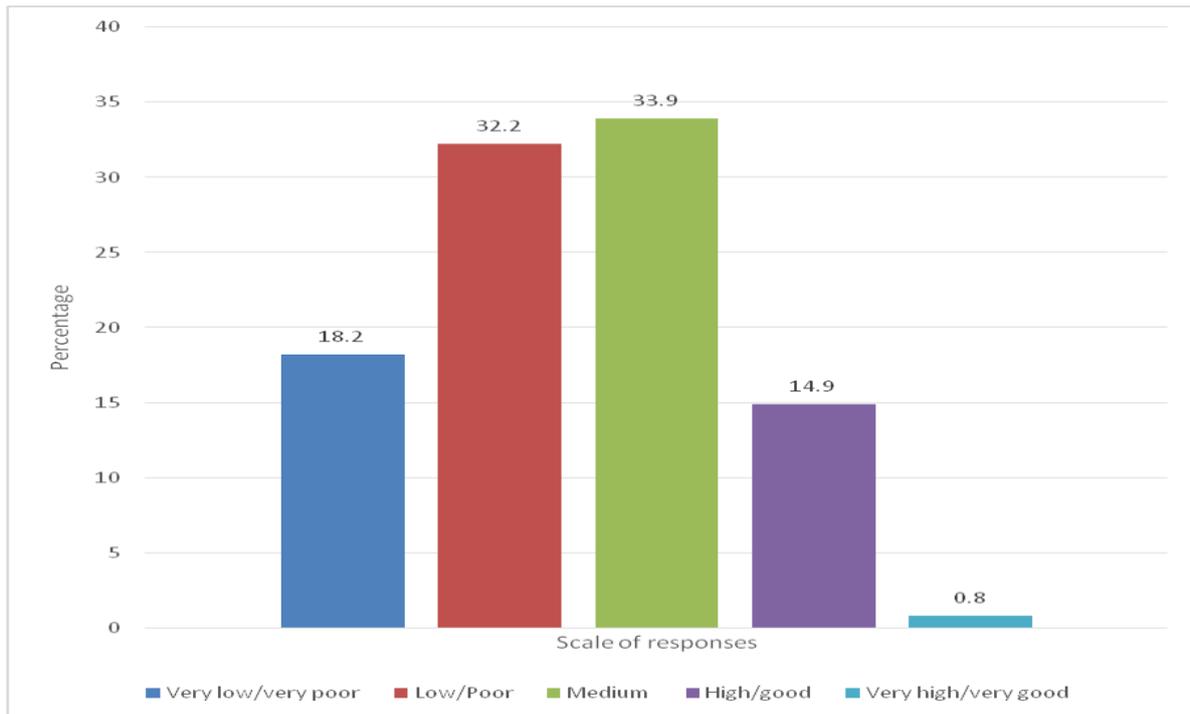
The question of high standards of accountability, transparency and responsibility is a corner stone of ethical governance in Parliament. Notwithstanding Parliamentary oversight role over the government, MPs are also accountable and responsible to the electorate. MPs are expected to speak on the behalf of the citizens and represent their interests. The lines of responsibility and accountability in this case extend beyond what MPs are supposed to do in the Parliament to include opportunities that they are supposed to accord to the electorate in addressing the needs of their constituencies. During the assessment of the tenth Parliament, respondents were asked to comment on adequacy of opportunities for citizens to express their concerns directly to their representatives, regardless of party affiliation. Some 33.9 percent of the respondents rated MPs' performance in this regard to be on a medium level. If one looks

⁷⁹ Refer to Section 5- 6 of the Parliament Standing Order, January 2016 Edition. Pg 39-54.

⁸⁰ On 1 April, 2015, Speaker of the House, Hon. Anna Makinda had to post pone the morning session of the parliamentary proceedings due to chaos after opposition MPs rejected the motion to pass Media Bill and Cyber Crime Bill under certificate of urgency.

at the scale of responses in figure 12 below, one sees low and very low levels equals to 50.4 percent of respondents. This suggests that most MPs in the tenth Parliament did not adequately provide opportunities to the electorate to express their concerns and needs. The tenth Parliament not only had dormant MPs in terms of frequencies of interventions aired during proceedings but also MPs who rarely visited their constituency until very close to the election time.

Figure 12: Adequacy of Opportunities for Citizens to Express their Views Directly to their Representatives



Ethical governance also requires MPs and Parliamentary staff not to engage in corrupt practices. Apart from the existence of anti-corruption networks in the tenth Parliament, there were also mechanisms put in place through the code of conduct and other policies to prevent, detect and discipline MPs and staff engaged in corruption. Regardless of these mechanisms, there have been allegations of MPs engaging in corrupt practices and bribery scams. In the tenth Parliament most allegations were directed to MPs who are members of various standing committees.

7.8 Accessibility and Adequacy of Information in the Parliament’s Website

The Parliament’s website was established as part of Parliament communication strategy to strengthen visibility of activities of the Parliament and ensure the public are informed of its work. More importantly to ensure easy access to stakeholders from media, civil society and the public in general on Parliamentary endeavours in a timely manner. The website presents variety of information about the Parliament such as Parliamentary business with links covering Acts, Bills, Hansards, Order Papers, Resolutions, Proceedings, Minister’s statement, and Member’s private motion. It also consists of information about Parliamentary committees as in their types, composition and reports. In addition publications such as budget, fact sheets, Paper tabled, Parliamentary reports, research papers, standing orders, books and information

about MPs and staff can also be found in the website. It also provides information to users with regard to mandate, function, composition, structure and history of the Parliament.

The website is a search optimized and can be easily found on various search engines, however a few issues arise when a general look up is done. On opening the site, you are hit with General News (habari), given priority on the site, while for a Parliament website strict Parliamentary business issues should be the topmost agenda on it. The news and Parliamentary issues should be sectioned separately so as to not mix the two.

Language used on the site is a mixture of English and Kiswahili. Although the site has an option to use either Kiswahili or English, the options are not strictly in a single language. This can affect accessibility to some users who are conversant in either of the language when searching for certain information.

It has been stated earlier that the Parliament website has an option to use either Kiswahili or English. Surprisingly some of the contents when using Kiswahili option are in English. Also to note important information such as Bills are provided in English while someone is browsing a Kiswahili version of the website. While some of the Bills titles are in Kiswahili but when downloaded the content is in English. This is true of the of Appropriation Bill, 2015 entitled: '*Muswada wa Sheria ya Kuidhinisha Matumizi ya Serikali 2015*' while having English content. The same case was with Finance Bill, 2015, titled '*Muswada wa Sheria ya Fedha*' and The Tanzania Extractive Industries (Transparency and Accountability) Act, 2015 written '*Muswada wa Sheria ya Uwazi na Uwajibikaji katika Tasnia ya Uchimbaji Tanzania, 2015*'. These are just few examples of how cumbersome the Parliamentary website can get in this regard. The point of emphasis here is, restricting important Parliamentary information such as Bills to be in English muzzles accessibility and right to information for majority of Tanzanians whom Kiswahili is their sole means of communication.

Likewise access to Parliament website is not available to all users particularly those with disabilities, including visual, auditory, physical, speech, cognitive, and neurological disabilities. The use of text-based web browser and graphical web browsers can be done to boost accessibility. Although the former render web pages faster than the latter due to lowered bandwidth demands.

Adequacy of the Parliament website is also questionable as there number of links and quick links that have insufficient details in respect to a subject at hand or in some cases there are links with no information at all. For example no data available in research paper link in publications section of the Parliament website despite the fact that there are number of research papers on Parliament that have been written by academicians, government practitioners and civil society organizations. Committee reports link also has few entries and sometimes only one entry that is out of date. Considering number of committees and their activities one expect a number of entries in such a link reflecting the multiplicity of Parliamentary committee system. Adding to that uploading of Parliamentary proceedings such as Hansards transcripts and standing committees reports is not done in a timely manner and sometimes not done at all. A respondent from the Tanganyika Law Society (TLS) questioned during the interview why Parliamentary investigation reports are not open for people to access them any time on the website.⁸¹ As a matter of principle, the Parliament website needs to act as an online archive for the Parliament and facilitate ease access to Parliamentary information by the public.

⁸¹ In-depth Interview, Tanganyika Law Society (TLS), 28th March 2016.

By and large the website has a lot of useful information but its organization should be improved. The Links for Hansards, Bills and Acts, for example - very important parts of Parliamentary business – is not readily and visibly available, located at the bottom of the page or it is within other links. To improve accessibility of Parliament as an important institution of interest to the entire public a mobile version of the site could also be a way to go in 21st century technologically developed world.

7.9 Conclusion

This assessment has shown a mixed picture on transparency and accessibility of the tenth Parliament. It is a picture that portrays both positive aspects and milestones achieved as well as weaknesses in the process of discharging duties and functions of the Parliament. The performance of the tenth Parliament as far as accessibility to citizens and the media in relation to its proceedings, reports, committees, MPs, Parliament website can be rated as relatively good. The overall communication strategy that liaises the Parliament and the general public and other interested parties did well in providing general accessibility.

However, on the other hand, the level of accessibility diminishes when it comes to Parliamentary investigation reports on corruption, conflict of interest or unethical behaviour especially if such reports in the opinion of the incumbent regime are perceived affecting them. Under these circumstances selectivity of what to share with the public becomes an obvious strategy. On another note, the Parliament website is inadequately filled with necessary and detailed Parliamentary information and not regularly updated. All this limits the required level of Parliamentary information accessible to the public.

7.10 Recommendations

On the basis of the above assessment and conclusion, the following are the recommendations for improving transparency and accessibility of Parliament information:

- a. Civic education programmes need to be reinforced so as to continue promoting citizens' awareness and understanding of Parliamentary activities. The programmes need to widen their horizons and not to remain mostly active during Parliamentary sessions through TV broadcast and radios;
- b. Increasing transparency of Parliamentary information by allowing easy access of basic Parliamentary information from the Parliamentary plenary sessions, from the standing committees as well as from the select committees;
- c. Parliament should develop effective and non-partisan media outreach. In order to increase its visibility to the public and promote the needed level of awareness of its activities, Parliament needs to embrace all fronts of media and not to be seen at any point biased to a particular media outlet;
- d. All-inclusive reviews of Parliament website need to be done so as to ensure adequacy of information by making all essential Parliamentary information readily and visibly available and timely.
- e. Timely and current Hansard transcripts should be made available on the Parliament website;

- f. The Parliament's Library should be linked with the Parliament website in order to ensure all information available in the library can also be accessed on the website. If the information is in hard copy, Parliament should make an effort to digitise it and upload it on the website;
- g. There should be a comprehensive review of standing orders, laws and policies for the purpose of removing undue legal impediments to information accessibility.
- h. The Parliament should consider reversing its decision and allow live broadcast of Parliamentary sessions as a mechanism to promote accessibility and transparency of its work and proceedings.
- i. The government should devise a strategy with proper guidelines and checks mechanism that will allow private media entities to conduct live broadcasts of Parliamentary proceedings in the absence of public entity/ failure of public entity to do so.

CHAPTER EIGHT

CONCLUSION AND RECOMMENDATIONS

8.1 Conclusion

Tanzania does not have an established tradition of systematically of assessing or reviewing the performance its Parliament annually or even after every five years. This study was one the pioneering attempts to establish a well-established tradition of assessing the performance of the Tanzanian Parliament after every five years. The study used the six criteria endorsed by the SADC Parliamentary Forum's Benchmarks for Democratic Legislatures in Southern Africa (2012). The six criteria are as follows: (i) Separation of powers between the three branches of government, namely the legislature, the executive and the judiciary; (ii) Accessibility of Parliament as manifested by levels of involvement of the public including civil society, media and other channels of people's participation; (iii) Ethical Governance as illustrated by the presence and enforcement of legislation relating to Parliamentary codes of conduct, which include, among others, rules governing conflict of interests among MPs; (iv) Representativeness of Parliament as manifested by a reflection of popular will as expressed by the electorate choice as well composition of Parliament as a reflection of social diversity in society taking into consideration such as issues as gender, language, religion, ethnicity and other politically significant variables; (v) Transparency and Accountability which means MPs are accountable and responsive to the electorate for their performance in office and; (vi) Tolerance and Respect of Opinion during Debating which entails an attitude of tolerance among MPs and the attitude of Parliamentary leadership to facilitate Parliamentary discourse by allowing and tolerating divergent views among MPs.

The study employed three main techniques in data collection, namely documentary reviews, questionnaires administered to ordinary people as well and in-depth interviews to specific categories of respondents, namely members of Parliament, Parliamentary secretariat, Parliamentary committees, government agencies, academics, CSOs, political parties, students,, business community, religious leaders and people with disabilities (PWDs).

The study was organized in six substantive chapters excluding the conclusion, and thus for purposes of clarity before drawing a general conclusion on the overall performance of the Tanzanian Parliament for the past five years we shall present brief conclusions as presented in each chapter.

Chapter two presented a brief account of the evolution of the Tanzanian Parliament from independence in 1961 to-date. The chapter has delineated four major phases in the evolution of Tanzania's Parliament which display different features in terms of the role, powers, and the representative nature of Parliament due to changing socioeconomic and political contexts. The first phase is what has been referred to as the Independence Parliament or the Westminster Model as was popularly known. The Independence Parliament, which lasted for one year, despite having no representative from the opposition had a lot of freedom and to a considerable extent exercised the doctrine of Parliamentary supremacy. The second phase Parliament is what has been referred to as the Republican Constitution Parliament. Following the enactment of the Republican Constitution in 1962, the Tanzanian Parliament miserably lost its powers in the face of a very powerful executive president. The third phase Parliament which has been referred to as the Single Party Parliament had been further weakened its

powers following the introduction of single party politics under the 1965 Interim Constitution, a trend which had reached its climax in 1977 following the entrenchment of the doctrine of party supremacy which reduced the Parliament to a mere committee of the ruling party. The final phase is represented by a multiparty Parliament following the introduction of multiparty politics in 1992. This has been a phase whereby the Parliament has been struggling to reassert its powers as a truly representative body of the people mandated to exercise oversight over the government. This task has been daunting in the face of enduring legacy of a one party system and excessive dominance of one party in Parliament as well as excessive powers of the president. As a result, such factors have had a negative impact on the performance of the Parliament in executing its functions on the basis of the international benchmarks.

Chapter three was specifically aimed at assessing the Parliamentary oversight role over the executive. It has been noted that some progress had been registered by the Parliament with respect to discharging its oversight role over the executive branch of government. The 10th Parliament was quite vibrant and to a considerable extent capable of supervising the executive and holding public officials to account on unethical conduct and, in the process, embezzlement, fraud and other types of misconduct were revealed. This prompted the Parliament to take steps that led to the sacking or resignation of ministers and deputy ministers or reshuffling of the cabinet by the President at different times. It was also the 10th Parliament that, for the first time, the CAG report was presented to it, discussed and deliberated upon. Some Parliamentary Standing Committees did commendable job that is appreciated by the public, media, Civil Society Organizations, Political Parties and academics. The Parliament, increasingly, worked constructively with Civil Society Organizations and the donor community to further enhance its capacity to serve the people. In spite of that quite impressive record, however, the Parliament was not as effective as the electorate would expect it to be due to a wide range of factors including constraining constitutional and legal provisions, inadequate expertise in Parliamentary committees, inadequate research based information and capacity available to MPs, limited scope for the Parliament to scrutinize appointment to executive posts and excessive partisanship. Besides, the time allocated for discussion and scrutiny of important issues such as budget and bills was usually inadequate for the Parliament to exercise effective oversight over the government.

Chapter four assessed the performance of the 2010-2015 Parliament in relation to its legislative function. The assessment based mainly on survey data and experts' interviews from members of the academic community, CSOs and political parties. Five aspects were assessed in relation to legislative powers of Parliament. These are the infrastructure of law making, time to scrutinize and pass Bills, citizens' participation, engagement with civil society, Parliamentary supremacy, and Parliament adherence to international standards. In relation to these, findings indicated that the performance of the 2010-2015 Parliament was moderately impressive.

The study observed quite good impression about Parliament's performance in this area. However, it was noted that the Parliament faced quite formidable constraints in exercising its legislative role given the nature of the political system in Tanzania. The President as a part of Parliament has a final say as to what the Parliament decides. Some of the legislative procedures are sometimes not well respected. A striking example was given in the case of the Cybercrimes Act which was unnecessarily rushed and passed under a certificate of agency limiting Parliament to thoroughly securitize the same, only the government to realize later that some of the provisions were actually outrageous. Citizen's participation was also noted be very low as they are in most cases unaware of their right to participate in influencing the

Parliament. Some of Civil society organizations are similarly weak to contribute to the law making process. It was also observed that Parliamentary leadership in some instances played a dysfunctional role of obstructing a fair Parliamentary discourse and hence contributing to the problem of limited time for Parliamentary proceedings. On the same note, it was also observed that, most MPs mismanaged time allocated by using sarcastic language and discussing irrelevant issues.

Chapter five dwelt on assessing the effectiveness of the 10th Parliament in exercising its oversight role over the budget process. The general opinion was that the Parliamentary committees and individual MPs were somewhat effective in exercising that role. However, there were a number of challenges which to a great extent were considered to have undermined the performance of the Parliament in fulfilling its responsibility in the budget process. Such challenges include allegations of corruption, conflict of interests, partisanship and party discipline, inadequacy of time in scrutinizing the budget and lack of citizens' involvement in the budget process.

Chapter six presented the assessment of transparency and accountability of the tenth Parliament. The overall assessment in this area was that Parliament's accessibility to citizens and the media in relation to its proceedings, reports, committees, MPs, Parliament website could be rated as quite good. However, it was observed that the level of accessibility significantly diminishes when it comes to Parliamentary investigation reports on corruption, conflict of interest or unethical behaviour especially if such reports are considered by the incumbent regime to have a negative consequence on the image and integrity of the government and the ruling party. It was also noted that the Parliament website is inadequately filled with necessary and detailed Parliamentary information and not regularly updated.

8.2 Recommendations

In principle, most of the recommendations are generally relevant to all the key stakeholders but there are some recommendations which could be addressed by specific stakeholders, namely the government, Parliament, political parties, civil society, media, academics, general public and development partners. In other words, for the recommendations to be effectively addressed all the stakeholders have to play their role in different ways based on their mandate.

- (i) In order to empower Parliament as a supreme legislative organ, a new Constitution should be in place so as to reduce undue interference and influence of the executive through the President in the functioning of the Parliament;
- (ii) There is need to enhance citizen participation in law making process through public hearings that must be communicated to the people;
- (iii) Provision of civic education to the people is crucial so that they know their rights and duties as citizens;
- (iv) Parliament should from time to time involve and engage with CSOs and citizens in order to improve its law making function;
- (v) Rights of MPs to express their opinions freely should be protected and respected. Speakers, deputy speakers and chairpersons of Committees of the NA should be Non-partisan in discharging their duties;

- (vi) Article 99 of the URT constitution, which prohibits Parliament and committees from making any changes in the government's proposals should be repealed. The Article should be repealed so as to empower the Parliament to amend the bill and where needed to reject it;
- (vii) Article 66(1) which allows the President to appoint Regional Commissioners from among Parliamentarians should be repealed;
- (viii) Article 55 (4) of the URT Constitution which requires the President to appoint Ministers who are members of Parliament should be repealed;
- (ix) There is a need to revisit the Certificate of Urgency and the circumstances in which it can be used. Parliament should have powers to vote and decide whether or not a bill is to be presented under the certificate of urgency. This will help to control the government from taking advantage of the opportunity;
- (x) The time for the discussion and passing of the budget should be increased so to allow the Parliament to scrutinize the budget effectively;
- (xi) There should be clear mechanisms to address the issues of allegations of corruption which, frequently, have been against MPs;
- (xii) There should be strict legal mechanisms to prevent MPs from having the conflict of interests in discharging their functions. When MPs, for instance, have business ties to the officials or institutions that they have to scrutinize they can fail to act impartially in a number of issues;
- (xiii) The rules guiding the daily operation of the Parliament should be made democratic to avoid abuse of power by the Parliament leadership bodies. This is due to the fact that in the 10th Parliament the Parliament leadership was accused to be unfair to the opposition MPs as a way of safeguarding the interests of the government and the ruling party;
- (xiv) There should be constitutional amendment to provide for the rights of the citizens to participate in the process of budget;
- (xv) The Constitution of the United Republic of Tanzania should be changed or rewritten to provide for, among other things; that; Ministers and Deputy Ministers should not be drawn from among Members of Parliament and allow Independent Candidature for MPs and Speaker of the National Assembly;
- (xvi) Members of Parliament should have more time to discuss, scrutinize and discuss the reports issued by the office of the CAG on corruption, fraud and any other unethical conduct by public individuals and institutions;
- (xvii) The opposition must further strengthen their capacity and competitiveness in elections to allow them win a big share of seats in the Parliament so as to be capable of balancing the ruling party and hence being in a position to hold the executive to account;

- (xviii) Parliamentary committees should, apart from MPs, should optimally making use of independent experts in the respective sectors or issues if committees are to be effective in exercising their mandates;
- (xix) MPs should conduct thorough research on the issues tabled for discussion before offering their contributions;
- (xx) There is an urgent need for the Parliament to improve its research capacity and facilities and willingness to use research and investigative information. It is desirable that MPs be given offices in Parliamentary premises in Dodoma as they are charged with crucial national responsibilities, it is high time now that MPs should have more substantive qualifications rather than what is currently demanded by the constitution. Only knowing to read and write in English or Swahili for MPs is inadequate qualification for a proper functioning of Parliament in the modern world;
- (xxi) Development partners should continue with their assistance in supporting capacity building for members of Parliament. Training in key areas such as leadership, representation and oversight, public policy analysis, budgeting and budget scrutiny should be strengthened;
- (xxii) The Parliament must be given a wider scope to scrutinize and approve appointed public officials. There is need to widen the scope to include, among other officials, ministers, judges, Directors of public bureaus, parastatals and other bodies;
- (xxiii) Citizens must have constitutional powers to recall MPs who underperform or do not deliver at all;
- (xxiv) Civic education programmes need to be reinforced so as to continue promoting citizens' awareness and understanding of Parliamentary activities. The programmes need to widen their horizons and not to remain mostly active during Parliamentary sessions through TV broadcast and radios;
- (xxv) Increasing transparency of Parliamentary information by allowing easy access of basic type of Parliamentary information from the Parliamentary plenary sessions, from the standing committees as well as from the select committees;
- (xxvi) Parliament should develop effective and non-partisan outreach to media. In order to increase its visibility to the public and promote the needed level of awareness of its activities, Parliament needs to embrace all fronts of media and not to be seen at any point biased to a particular media outlet;
- (xxvii) Hansard transcripts should be made available on the Parliament website and on time;
- (xxviii) The Parliament's Library should be linked with the Parliament website in order to ensure all information available in the library can also be accessed on the website.

If the information is in the hard copy, Parliament should make an effort to digitise it and put it on the website;

- (xxix) There should be a comprehensive review of standing orders, laws and policies for the purpose of removing undue legal impediments to information accessibility.

There is an urgent need to for CSOs to institutionalize a tradition of assessing the performance of Parliament annually and after every five years. This will provide lessons to be learnt by various stakeholders as well as facilitate comparisons between different Parliaments within the country and across countries. A more elaborate methodology, criteria, indicators and measurable indexes could be developed and used in the exercise.

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APPENDIX

AN ASSESSMENT OF THE 10TH PARLIAMENT OF THE UNITED REPUBLIC OF TANZANIA 2010-2015

Questionnaire No.	
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INFORMEDVOLUNTARY CONSENT FORM FOR EXPERTS

The research for which this questionnaire is designed is on the theme: *AnAssessment of the 10thParliament of the United Republic of Tanzania 2010-2015*, which is meant to understand the Parliament in discharging its functions. The research is coordinated by the Department of Political Science and Public Administration of the University of Dar es Salaam.

You have been chosen for this expert survey after taking cognizance of your experience and expertise in this area. We expect the results of this investigation will advance our understanding of Parliamentary issues in Tanzania and help strengthen the Parliament in discharging its functions.

It would be greatly appreciated if you would provide your candid opinion on all the questions contained in this questionnaire. The information collected from you will not be shown to anyone outside of this project and the analysis of reporting will not disclose your identity. If you have any question about this study, you can contact the Principal Investigator:

Name: Dr. Alexander Makulilo

Tel: 0659-632365

PART I: PARLIAMENTARY REPRESENTATION AND ACCOUNTABILITY

1. How secure is the right of all members to express their opinions freely and how well are members protected from executive interference or legal constraints?
2. How effective is Parliament as a forum for debate on questions of public concern?
3. How effective were individual MPs in representing the interests of their constituencies?
4. How systematic are arrangements for members to report to their constituents about their performance in office?
5. How effective is the electoral system in ensuring the accountability of Parliament, individually and collectively, to the electorate?
6. To what extent did party discipline constrain the effectiveness of the Parliament?
7. How effective was the Parliament in following up the implementation of its resolutions?

Scale of responses

5 = very high/very good

4 = high/good

3 = medium

2 = low/poor

1 = very low/very poor

	1	2	3	4	5
Q1					
Q2					
Q3					
Q4					
Q5					
Q6					
Q7					

PART II: OVERSIGHT

1. How open and free were the procedures whereby members can question the executive and secure adequate information from it?
2. How effective were Parliamentary Select committees in carrying out their oversight function?
3. How effectively did the 10thParliament scrutinize appointments to executive posts, and hold their occupants to account?
4. Was the 10thParliament able to hold non-elected public bodies or individuals to account?
5. How far was the 10thParliament autonomous in practice from the executive, e.g. through control over its own budget, agenda, timetable, personnel, etc.?
6. How adequate are the research, information and other facilities available to all members of Parliament?

Scale of responses

5 = very high/very good

4 = high/good

3 = medium

2 = low/poor

1 = very low/very poor

	1	2	3	4	5
Q1					
Q2					
Q3					
Q4					
Q5					
Q6					

PART III: TRANSPARENCY AND ACCESSIBILITY OF THE PARLIAMENT

1. How open and accessible to the media and the public were the proceedings and reports of the 10thParliament?
2. How open and accessible to the media and the public were the proceedings and reports of the 10thParliament standing committees?
3. How open and accessible to the media and the public were the Parliamentary investigation results on unethical behaviour, conflict of interests or corruption?
4. How free from restrictions were journalists in reporting on the 10thParliament and the activities of its members?
5. How effective was the 10thParliament in informing the public about its work, through different channels?
6. How adequate are the opportunities for citizens to express their views and concerns directly to their representatives, regardless of party affiliation?
7. How easy is the procedure for individuals and groups to make submissions to a Parliamentary committee?

Scale of responses

5 = very high/very good

4 = high/good

3 = medium

2 = low/poor

1 = very low/very poor

	1	2	3	4	5
Q1					
Q2					
Q3					
Q4					
Q5					
Q6					
Q7					

PART IV: LAW MAKING

1. To what extent are procedures for law making in Tanzania followed?
2. To what extent did the Parliament have adequate time to scrutinise and pass the bills?
3. To what extent did the citizens participate in the public hearings?
4. Overall, how effective was the Parliament in exercising its mandate as supreme law making body?

Scale of responses

5 = very high/very good

4 = high/good

3 = medium

2 = low/poor

1 = very low/very poor

	1	2	3	4	5
Q1					
Q2					
Q3					
Q4					

PART V: BUDGETING

1. How would you rate the ability of the 2010-2015 Parliament to influence and scrutinize the national budget, through all its stages?
2. How adequate was the time devoted to discussion of the budget in Parliament?
3. To what extent were the recommendations by the Standing Committees accepted and incorporated into the budget?
4. To what extent did the government accept the recommendations of the Public Accounts Committee?
5. How effective was the Parliament in Monitoring government expenditure ex-post to ensure that it conformed to the terms that the Parliament had approved?

Scale of responses

5 = very high/very good

4 = high/good

3 = medium

2 = low/poor

1 = very low/very poor

	1	2	3	4	5
Q1					
Q2					
Q3					
Q4					
Q5					

PART VI: ROLE OF OTHER ACTORS: CSOs, CAG OFFICE, AND THE DONOR COMMUNITY

1. To what extent did CSOs engage with the Parliament in influencing law making processes as well as budget allocations?
2. How would you assess the relationship between CSOs and the 10thParliament in Tanzania?
3. To what extent did the donor community help to strengthen the oversight role of the 10thParliament?
4. How would you assess the relationship between the donor community and the 10thParliament in Tanzania?
5. To what extent did the CAG office help to strengthen the oversight role of the 10thParliament in Tanzania?

Scale of responses

5 = very high/very good

4 = high/good

3 = medium

2 = low/poor

1 = very low/very poor

	1	2	3	4	5
Q1					
Q2					
Q3					
Q4					
Q5					

PART VII: INSTITUTIONAL EFFECTIVENESS

1. To what extent does the Constitution provide for effective separation of powers as well as checks and balances between the different branches of government?
2. To what extent does Tanzania practice the rule of law?
3. To what extent does Tanzania observe human rights?
4. To what extent is Tanzania a democratic country?
5. How would you rate the overall performance of the 10thParliament 2010-2015?

Scale of responses

5 = very high/very good

4 = high/good

3 = medium

2 = low/poor

1 = very low/very poor

	1	2	3	4	5
Q1					
Q2					
Q3					

Q4					
Q5					

PART VIII: RECOMMENDATIONS

Please suggest three measures that can improve the performance of Parliament in Tanzania

(a).....
.....

(b).....
.....

(c).....
.....

PART IX: SOCIO-DEMOGRAPHIC INFORMATION (Please circle appropriate options)

Gender of respondents

Male.....1

Female..... 2

1. Age Categories:

18-25 years1

25-34 years.....2

35-44 years.....3

45-54 years.....4

55 &Obove.....5

2. The highest level of education attained:

Secondary education.....1

Certificate.....2

Diploma..... 3

First Degree (BSc/BA) 4

Second Degree (MSc/MA)	5
PhD	6
Other (specify)	99

3. Sector of Employment:

Public	1
Private	2
Self-employed	3