

## **Title: International Law and Normative Partisanship: The Case of Corruption in Tanzania.**

### **ABSTRACT**

Tanzania might appear to be one of the countries at the forefront in the “fight against corruption” because the country has ratified several anti-corruption international conventions to include the United Nations Convention against Corruption (UNCAC), African Union (AU) Convention on Preventing and Combating Corruption and Southern African Development Community (SADC) Protocol against Corruption. Within this milieu the international community might be tempted to believe in Tanzania’s ability to implement international law. The key question being addressed in this paper is that Can International Law Eliminate Corruption in Tanzania? In an attempt to respond to this question, I have used a mixture of ethnographic case studies and content analysis as opposed to a mixture of case study surveys and quantitative surveys for reasons which will be explained in the paper. I collect data, using ethnographic methods over an extended period of time and analyse it using content analysis which allowed me to incorporate other related and up to date scholarly work. The information collected through ethnographic case studies has served as a databank for this paper and I call it “ethnographic data bank”. Theoretically, the paper adds to scholarship in good governance, international laws, political science and African studies.

Generally it has been revealed in this paper that international law have been subjected to normative partisanship and that much more needs to be done, for the international conventions to be fully contextualized in Tanzania. I further argue that adherence to international law must come from within the country and the same must ensure its sustainability. Specifically important, fast growing mobile phone industry including mushrooming media, thriving civil society, and aggravating discussions at the Tanzanian parliament are an important step in addressing corruption and ensuring good governance. Accordingly, I argue that changes must come from the people themselves because international law alone cannot eliminate corruption but it can serve as an important technical tool -as it will be revealed in this paper- to be incorporated into the domestic law by the people of Tanzania. Stated differently, a country must have an empowered public to pressurize their government to incorporate international law because it is unlikely that a government will incorporate international law in absence of good governance and particularly without internal or domestic pressure.

Stated differently, I underscore that fighting corruption is a short term goal, money must be recovered and corrupt deals dealt with, but good governance involving all key stakeholders including emphasis on active participation of all citizens, is the way forward because any attempt to combat corruption in Africa without applying fundamental governance principles is futile. Interestingly, Tanzania’s good governance vision contained in the Government’s policy paper Vision 2025 underscores the importance of good governance. Likewise, Tanzanian government has created several institutions so as to ensure good governance. The institutions charged with the supervision of good governance are: a) the president- who is the overall supervisor. Through his office there are Minister of state responsible for good governance and Chief Secretary who is the head of the Public Service; b) Commission of Human Rights and Good Governance; c) Ethics secretariat d) National Audit Office; e) PCCB formerly known as Prevention of Corruption Bureau; f) Public Service management-Ethics Unit and; f) Tanzania Service Commission. It is without doubt that Tanzania has a good national framework or foundation for good governance and it must be thoroughly implemented for corruption to be eliminated. Yet

good governance as it is the case with corruption appears to be subjected to normative partisanship in the interest of corrupt leaders. Accordingly, this paper attempts to unravel the subjectivity so as to pave way for good governance in Tanzania and the rest of developing world.

**Key words: Corruption, International law, Globalization, Media, Civil Society, Governance, Ethnography, Content analysis**

## **BACKGROUND AND PROBLEM STATEMENT**

According to United Nations (2000), Economic experts worldwide now agree that corruption - ranging from bribery and extortion to nepotism- can have disastrous effects on struggling economies such as Tanzania. In one World Bank survey, as revealed by the UN, more than 150 high-ranking public officials and top citizens from over 60 developing nations ranked corruption as the biggest impediment to economic development and growth in their countries. It is also an obvious fact that corruption is seen, by many Tanzanians, as a great impediment to the progress of their nation which is rich in many resources. If truth be told, the efforts to curb corruption by the public and government are ongoing. Ironically enough, the public appears to lose hope in the role of the government and international tools on curbing corruption and the public has expressed its anger. Though, the 2010 elections, for example, are considered to be unfair by the main opposition party CHADEMA (*Chama cha Demokrasia na Maendeleo in English Democracy and Development Party*) and their many supporters, they vividly reveal the anger of the Tanzanian public on the failure of the government to curb corruption among other things. Stated differently, the CHADEMA and other opposition parties -who used government failure to curb corruption as a weakness- have boosted their presence, like never before, in the parliament. I argue that this is a great step, by the Tanzanian public, towards good governance and fight against corruption. Apart from the main focus on the role of international law, this is one of the key issues to be revealed in this paper.

Internationally, Tanzania has signed and ratified several main international conventions: the United Conventions against Corruption (UNCAC) of 2003, African Union (AU) Convention on Preventing and Combating Corruption of 2003 and SADC Protocol against Corruption of 2001. Snider and Kidane (2007:748) argue and I agree that,

“the AU Corruption Convention is a profound step by its own accord, but as a regional instrument, its scope, including its degree of international cooperation, is limited to combating corruption in Africa. In reality, however, international corrupt practices, particularly the movement of illicitly obtained assets that have a significant impact on Africa’s economy, involve States on other continents that the AU Corruption Convention cannot bind. The full benefits of the AU Corruption Convention can materialize only if there is a corresponding obligation on the part of the destination countries. The only legal instrument of a universal nature that could bind all states to the same standard is the UNCAC. In relation to corruption that involves other continents, therefore, to avoid clapping with one hand, State Parties to the AU Corruption Convention and all other nations who wish to fight corruption through international law must accede to the UNCAC. That is the best way of addressing issues involved in the cross-continent corruption that is seriously affecting Africa’s development today.”

The mentioned statement is very true under Tanzanian context. Stated differently, AU Convention on Preventing and Combating Corruption and SADC Protocol against Corruption of 2001 are important, their scope is regional and has failed, as it will also be revealed in this paper, to adequately curb corruption which is increasing becoming a global phenomenon. Subsequently, UNCAC is the one which cuts across the global and has incorporated key current issues (taken on board technological advancement which old Tanzanian law missed) as far as global corruption is concerned.

Particularly important, the UNCAC is preceded by earlier UN efforts which did not yield much fruitful results: for example, in 16 December 1996 United Nations Declaration against Corruption and Bribery in International Commercial Transactions was declared. While there are many key commitments, as proposed in the declaration, I will focus on the following (UN, 1996):

“member States, individually and through international and regional organizations, taking actions subject to each State's own constitution and fundamental legal principles and adopted pursuant to national laws and procedures, commit themselves to take effective and concrete action to combat all forms of corruption,

bribery and related illicit practices in international commercial transactions, in particular to pursue effective enforcement of existing laws prohibiting bribery in international commercial transactions, to encourage the adoption of laws for those purposes where they do not exist, and to call upon private and public corporations, including transnational corporations, and individuals within their jurisdiction engaged in international commercial transactions to promote the objectives of the present Declaration.”

While the declaration was important, its implementation and monitoring, in my opinion, was not easy. It lacked the international nature of global corruption. Consequently, this paved way for UNACAC so as to legally bind member states. I argue again that the step, in my opinion, has been helpful in Tanzania.

Accordingly, there are two important points worthy mentioning as far as UNACAC is concerned. Firstly, it is claimed by UNODC (2010) that UNCAC is the only legally binding universal anti-corruption instrument, though I question how effective is the convention in curbing corruption under Tanzanian context and other countries without domestic enforcement of the same. To highlight my concern, I will quote the reminder of the very strong statement by UNODC which is a UN agent overseeing the implementation of the convention:

“The Convention’s, far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem. The UNCAC covers five main areas: prevention, criminalization and law enforcement measures, international cooperation, asset recovery, and technical assistance and information exchange. The UNCAC covers many different forms of corruption, such as trading in influence, abuse of power, and various acts of corruption in the private sector. A further significant development was the inclusion of a specific chapter of the Convention dealing with the recovery of assets, a major concern for countries that pursue the assets of former leaders and other officials accused or found to have engaged in corruption. The rapidly growing number of States that have become parties to the Convention is further proof of its universal nature and reach.”

The convention highlight issues of great significance but for them to be effectively achieved they must be incorporated into the domestic judicial system of a country. This argument is the pillar of this paper.

Another important point about UNACAC, is that Transparency International (TI) (2010) - an international NGO accepted both internationally and locally- advocates stricter implementation of the UNACAC by arguing that the convention is the only global initiative that provides a framework for putting an end to corruption. I agree with TI statement on stricter implementation but that, as it will be revealed in this paper, must come from within member states. The citizen of countries concerned must be empowered on the way the tool works so that they can hold accountable their respective governments. I have not mentioned TI just for the sake of it. TI is strongly supported in Tanzania and probably, it would be fair, if I explain why. By internal support of TI in Tanzanian, I mean that both the donor and the Tanzanian community agree with the findings of the organization. I will quote an important statement, by an independent (a network of CSO also donor supported) tracker system (CTS. 2010): “The parliamentarians sitting on the [corruption] oversight committees and CSO agree with the TI ranking as general reflection of the situation on the ground, lauding it as having hit on ‘the top of the nail.’ Prof Mwesiga Baregu, who used to work for University of Dar es salaam,<sup>1</sup> has even attempted to acrimoniously baptize PCCB (a government organ responsible for curbing corruption in Tanzanian) as the perpetuator of corruption. The donors agree with the findings and generally feel government is not doing enough to curb the vice.” On support at international

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<sup>1</sup> However, the Professor has been fired following accusations by the government that he involved in politics against the Tanzanian law where government employees are not allowed to get involved in politics. I am part of the union of academicians of the University of Dar es salaam and this produced hot debates among us. Generally, we strongly disagrees with the government position to lay off such a reputable scholar.

level, the UN for over a decade has been acknowledging the role of TI in curbing corruption. Specifically, UN (2000) writes: “several other organizations are actively working with Governments at the country level to help reform weak public institutions and systems, including the Transparency International, OECD, the World Bank, the UNDP and the United Nations Centre for International Crime Prevention (CICP) the crime branch of the ODCCP.” While, there is mistrust, by many Tanzanians (Chachage and Mbilinyi 2003) of the other mentioned organizations such as the world bank which appear to support the neo-liberal development approach, TI is widely accepted.

Debatably there is internal corruption in Tanzania (which have been discussed by many elsewhere and the fact that I have a paper, on the same, ready to be submitted for publication) in this paper I will specifically focus on the role of international law on corruption and in particular on the role of UNACAC and other regional international tools on curbing corruption for reasons I have just explained. In other words, I question the validity of Tanzanian ratification of the conventions in reducing corruption. Likewise, the I focus on Tanzania because corruption, I argue, is such a wide topic whose general coverage may be superficial and often fails to capture a local context. More to the point, global general focus of corruption, as opposed to detailed analysis, via case study of specific countries, is often doomed to failure in addressing corruption at a local context and I will do my best to reveal that fact in this paper. In other words, international indices such as those of TI on global corruption ranks, though useful, can not provide the nitty-gritty of corruption at a local level. Those indices, and in particular, TI indices have recorded Tanzania’s performance for more than a decade. Yet there is little progress (see Table 1) as the score remains more or less the same for a decade (2000-2010).

Finally, my interest in curbing corruption and experience as Tanzanian who has been monitoring corruption for the past six years proved to be helpful. By the same token, a graduate course on international law, under the auspices of Professor Claude Welch of UB Department of Political Science, was of great assistance. More over, the writing style of books (Janis 2008; Noyes 2007; Rochester 2006), by law professors, used in the seminar provided some guidance on how to go about this paper. I am particularly referring to the use of specific contexts and individuals to highlight their arguments.

## **Research Question**

There is an only one key research question as it is portrayed in the title of the paper: Can International Law Eliminate Corruption in Tanzania?

## **METHODOLOGY**

### ***Research Design***

In this study, I have used a mixture of ethnographic case studies and content analysis<sup>2</sup> as opposed to say a mixture of case study surveys and quantitative surveys<sup>3</sup>. Stated differently, I have used this methodology elsewhere and it has been helpful<sup>4</sup>. I collect data, using ethnographic methods

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<sup>2</sup> This is an effort to make use of resources within my reach to meet the demand by my employer. I am required to constantly publish papers in well recognized journal every year. I have published three papers so far. Many others are under construction and try to capture the fast changing situation (uncontested fact by many) of Tanzania. By the same token, the fact that I have written this paper for publication, I will not closed my research because corruption is not over yet. This is my life’s commitment.

<sup>3</sup> I have published two papers on a mixture of case study and quantitative study.

<sup>4</sup> I have published one paper in an international journal and presented two papers (employing same methodology) in two international conferences.

over an extended period of time and analyse it using content analysis which allows me to incorporate other related scholarly work. The information collected has served as a databank for this paper and I refer to it as an “ethnographic data bank”. Crucially important, I update -thanks to the fast growing Tanzanian media which has gone online- the data bank almost daily after listening to online local radio stations and reading online local newspapers. Nevertheless, content analysis of data and literature from other sources played a key role in meeting the objective of this study. As a point of emphasis, a mere content analysis of existing literature, without data previously collected through ethnographic survey, would be insufficient to address the objective of this study. Briefly, I argue that it would miss the true Tanzanian flavour. Simply stated, the ethnographic data bank was of great importance to this study in that it (Yin, 2002a&b; Hamel *et al* 1993; LeCompte and Schensul 1999:83) assisted in the understanding of corruption as a complex cultural issue and indeed has extended experience or add strength to what is already known through previous research both internationally and locally.

Overall, case studies, of say specific countries such as Tanzania as opposed to the whole world, emphasize (Yin, 2002a&b; Hamel, *et al.* 1993; LeCompte and Schensul 1999:85) detailed contextual analysis of a limited number of events or conditions and their relationships. For example, in this study a focus corruption and international law allows a detailed analysis than say a focus on corruption whose focus may be limited. Further, case studies, ethnographic in particular, call for selective investigation (LeCompte and Schensul 1999:85) of targeted topics, collection of data on cultural domains and finally generalisable data on individuals and networks. The ethnographic data bank played key role in getting generalisable data for this paper. In particular, the ethnographic data bank also made use of two national wide surveys: Ethics Baseline Opinion Survey of Stakeholders Final Report and Views of the People Survey. Additionally, international indices, mainly by Transparency International, have been, used. Ironically enough, the PCCB, as revealed by CTS (2010), “disputes the TI score findings and dismisses them as mere ‘perceptions’ based on parameters and feelings held by researchers at the time of the study and not reflective of the general trends over a long time. Instead, The PCCB acknowledges the UNCAC report as a better index—the UNCAC report ranks Tanzania favourably.” That claim is not true as stated earlier and as it will be revealed in this paper. Taking the discussion further, a completion of exploratory ethnographic research often calls for survey based on random sampling of the study population in order to determine the distribution of specific behaviours or beliefs in that population. The ethnographic data bank has covered this aspect. Data capture through purposive sampling was used so as to reach as many Tanzanians with tertiary education as possible. This was done through an online survey, as face to face interviews would be probably expensive, featured by open ended questions; besides, online surveys are increasingly being used by scholars. I will discuss this in details at the data collection section of this paper.

Again, the purpose of ethnographic case studies is to facilitate learning (Woods 1987 and Whitaker 1996). Accordingly, the question of getting a representative sample was not the purpose of this study but rather to facilitate understanding of corruption whose surveys with a focus on representative sample have failed to have an impact. Besides, latest scholarship (Wolcott 2008) in ethnography supports the view that complex cultural phenomena can be studied using ethnographic methods.

Similarly, this study has borrowed from the perspective of a feminist communitarian ethics (Denzin and Lincoln 2000:145-149), shared by many other scholars from different disciplines, so as to ensure representation of multiple voices, enhancement of moral discernment

and promotion of social transformation. In view of that, participation of people with different perspectives was encouraged throughout the study: for instance both fans of the ruling party and opposition parties were consulted in both implicit and explicit stages of the study.

For case study research method to be successful, it has to be carefully planned and crafted to reflect real-life situations, issues, and problems. A key strength of the case study design involves using multiple sources and techniques in the data gathering process. Data gathered are normally largely qualitative, but it may also be quantitative. Tools to collect data as argued by Yin (2002a&b) and supported by views of Hamel, *et al* (1993) and LeCompte and Schensul (1999:85) can include surveys, interviews (formal and informal), documentation review, participant observation, questionnaire, focused group discussions and even the collection of physical artefacts. However, the principal forms of data collection (LeCompte and Schensul 1999:85) are participant observation and various forms of face-to-face in-depth interviews (although LeCompte and Schensul agree that online surveys are becoming important following advancement in science and technology); other forms serve as supplemental data collection tools. Simply put, ethnographers as argued by LeCompte and Schensul (1999:86) and other case studies researchers observe and talk to members of a group to find out what the member are doing and why. Accordingly, narratives were also used so as to give voice to people who feel that they have been oppressed by corruption at all levels. Moreover, narratives have proved to be useful in fields of education, ethnic and gender studies to call attention to detailed of practices as well as to the experience of marginalized individuals. Similarly, research, mainly quantitative survey, which requires a representative sample of all Tanzanians for generalization has been done elsewhere, as mentioned earlier and conducting a full swing quantitative survey would duplicate the already existing information. This is where content analysis of specific case studies comes on board so as to further analysis of existing quantitative data for better understanding.

Finally, Critical Theorist paradigm, as discussed by LeCompte and Schensul (1999), has been helpful. In particular, critical theorists, as revealed by LeCompte and Schensul, are engrossed in how the history and political economy of a nation, state, or other organization wield direct or indirect control over the political, economic, social and cultural expressions of citizens or residents including minority groups. Moreover, critical theory channels examination into the sources and dimension of inequality in such organization. Distinctively, critical theory (LeCompte and Schensul 1999:46) calls for a focus on the ways in which gender, class, culture, race, ethnicity and power intersect to shape inequities. Realistically, intersection of class, culture, ethnicity gender and power seems to be relevant under the Tanzanian context. Stated differently, race is not much of significance. In other words, as a researcher and critical theorist follower, I function as an advocate for the empowerment of vulnerable people. For this study the focus has been international law, state and citizen relations as they affect Tanzanian women and men in their day to day life.

### ***Data Collection***

Since, content analysis has adequately been discussed, in this section I will discuss how the ethnographic data bank has been developed and updated. The data bank is a result of implicit and explicit data collection (Hammersley and Atkinson 2007) whose most explicit moment happened when a short online open ended questionnaire was developed, in November 2009, based on qualitative findings from the implicit part. The online survey questionnaire was closed on February 5 2010 and the implicit part was resumed thereafter mainly so as to make a follow up of comments by the online participants. And in the process update the data bank developed. The

targets of the online survey were Tanzanians and non Tanzanians who are educated, interested and informed on corruption issues. Accordingly, professional (UDASA of UDSM<sup>5</sup>) and non-professional (mainly Tanzanian university graduate online networks such as gmail groups, yahoo groups and Facebook<sup>6</sup>) networks were encouraged to participate—now I have membership in other online forums to include *Wanazuoni*, *Jamii* forum, and Educators. Many Tanzanian academicians are also members of the mentioned online forums and in particular, I have noted similarity between *Wanazuoni* and UDASA. Apart from reasons explained in the design section, financial and time constraints prevented me from doing face to face interviews of the tertiary respondents on November 2009. Besides, it would have been difficult to interview the 9 PhD respondents some of whom were away on academic assignments. Conspicuously, online surveys are becoming famous nowadays: for example, I have participated in two online surveys by both University of Dar es salaam and University at Buffalo. More importantly, a solid relationship with my fellow academicians, majority of whom I know, made them respond to the online survey. Additionally, most of key Tanzanian local radio stations, as stated earlier, have gone online and they often interview important public figures (government officials, academicians and activists) on corruption. These programs have been very helpful.

Equally, the implicit survey (January 2004-November 2009 and March 2010-onwards) served as the foundation for this study. Data for the implicit part was gathered through informal in-depth interviews<sup>7</sup>, participant observations, review of secondary data from government and NGOs, study of local and international newspapers and field visits or observations by actually living among subjects bearing in mind that Tanzania is very diverse in terms of cultural practices. Some of the informal interviews were not recorded but were written and kept in personal diaries (Wolcott 2008:257) for a period ranging from years 2004 to 2009 and July-August 2010. All participants were treated ethically and with respect—most importantly, for security reasons, their identities are hidden and will not be revealed (LeCompte and Schensul 1999; Delorme *et al* 2001). A first compilation of the findings, rather a draft of the current data bank, was prepared in the year 2007. Afterwards, I compiled a paper which was then submitted to various academicians both within and outside the country for their input<sup>8</sup>. The key finding of that compilation and submission was that the paper had covered too many issues which could not be adequately discussed in a single paper. Accordingly, I started to focus on a few things followed by developing clear research questions and objectives.

Ironically enough, I have to acknowledge and with the thanks for the permission to use its data bank, the great contribution of the Tanzania Corruption Tracker System (CTS). The tracker serves as an important source of data on a day to day basis for ongoing status of corruption at

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<sup>5</sup> I have been a member of UDASA (University of Dar es salaam Academic Staff Assembly) since 2007. This is a forum for academicians of the University of Dar es salaam which is the oldest and most reputable academic institution in Tanzania. The forum is often nourished with key and ongoing discussions about day to day life in Tanzania.

<sup>6</sup> Facebook has become an important online network among Tanzanians. Of the 29 respondents only 3 responded from facebook. It has to be noted that the other 25 members are affiliated with tertiary institutions mainly University of Dar es salaam (located in Dar es salaam) and Saint Augustine University located in Mwanza. Accordingly, I do not recommend facebook but instead people should use listserv or individual emails and perhaps that may appear formal enough to attract adequate responses.

<sup>7</sup> The interviews were both face to face and by phone. Though most of face to face interviews were from January 2004-November 2009, I also conducted face to face interviews when I traveled back to Tanzania on July to August 2010.

<sup>8</sup> In fact, two of the commentators were reviewers of a journal and their 2 pages comments were very helpful to make this study more focused.

least at the national level. That is a long way to say that the tracker is an independent and credible source of information and it is supported by a donor community and civil society. Further details on the tracker will be discussed in the “Role of Civil Society and the Media” section of this paper. At long last, though I monitored corruption via radio, TV and local Newspapers, I will include online links which covered the issues. Even though, some of the links would probably be removed by the tiny media companies with small databases highlighting the importance of the Tracker system.

### ***Data Analysis and Interpretation***

Content analysis, as one of the qualitative and indeed ethnographic data analysis method, has been employed for its potentiality (Berelson, 1952; Holsti, 1969) as a means of systematically identifying, classifying and analyzing information relevant to this study. However, it has to be emphasized that content analysis, though a data collection method as well, has been used for classifying and analyzing information collected through both ethnographic method and existing literature inline with the study objective. Krippendorff (2004) and Neumann (1994) share similar views on the use content analysis and argue that the method is well developed and it has been used in the social and psychological sciences for decades, especially by linguists, anthropologists, and sociologists. In other words, the methodology has a great potentiality for studying beliefs, organizations, attitudes and human relations which are characteristically ethnographic studies (Woods 1987; Patton 1990; Whitaker 1996; Hammersley and Atkinson 2007; Wolcott 2008). Yet as argued by Woodrum, (1984) limited application of content analysis is due more to inadequate knowledge on use of the method and to its historic isolation from mainstream social science than to its inherent limitations.

More importantly, I am of the opinion that content analysis embraces both qualitative and quantitative data (Berg, 1998; Inch *et al.*, 1997) as opposed to quantitative data only (Silverman, 1993; Neuman, 1994). Clearly content analysis offers, in turn, an opportunity for the investigator to learn about how subjects or the authors of textual materials view their social worlds (Berg, 1998; Inch *et al.*, 1997). Paradoxically, I interacted with respondents and various text books to analyses different perspectives of people the way they see their world. Arguably, this is a good combination for understanding complex issues such as corruption.

## **RESEARCH FINDINGS AND DISCUSSION: A CASE STUDY OF TANZANIA**

### **INTRODUCTION**

Effects of corruption cut across many sectors and undeniably, many people of all nationalities, classes, gender, ethnicity and race are affected. Kaufmann (2005) argues that governance—which remains a sensitive and misunderstood topic—is now being given a higher priority in development circles. Needless, to say corruption (UNESCAP 2008) is one of the pillars of good governance. According to UNESCAP (2008), “good governance has 8 major characteristics. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.” In other words, a country with high levels of corruption can not claim to have good governance. Some donors and international financial institutions (IFIs), Kaufmann argues, are working with

some emerging economies to help reduce corruption, and encourage citizen voice, gender equality, and accountability. This, I argue, pinpoints the need for grassroots efforts by citizens, as opposed to external forces, to curb corruption. Anecdotally, Kaufmann argues that anti-corruption initiatives have not yielded acceptable results and that more needs to be done. Undoubtedly, this is fact which can not be disputed. Similarly, Yunus (2007), the Nobel Peace Prize winner, argues that good governance and reduction of corruption at all levels of government is a necessity for poverty reduction and development. More specifically, Kapstein and Converse (2008:99-100) argue that corruption discourages both domestic and foreign investment levels in Africa and as a result poverty levels are exacerbated and development is hindered. However, for the first time in a long while, as argued by Kapstein and Converse, corruption has become a topic for public debate and judicial investigation. Stated differently, Kapstein and Converse argue that the issue of corruption in Africa is now front and centre in discussion of good governance. This fact holds true in Tanzania and this paper will highlight that.

According to the grapevine, women advocates across the globe and Africa in particular (Tripp et al 2009) have also started to focus on corruption following its grave effects on women's welfare. Quite simply, women are already at a disadvantaged position and poor performance by government seriously hinders their efforts towards gender empowerment. Globally, women, especially, those living in developing world are at a disadvantaged position making them more vulnerable to corruption than men (Enarson and Morrow, 1998 and Kabeer, 2003). In Tanzania where women play key role in agriculture -the sector employs majority of Tanzanians- the situation is the same. For instance, and I paraphrase from the following reports (URT 2005;URT 2007a; URT 2007b; Kabeer, 2003), "about 60 percent of women in Tanzania live in absolute poverty and rural women are worse as poverty remains devastatingly in rural areas where about 87 percent of the poor Tanzanians live. Debatably, women are the major victims as their livelihood strategies revolve around agricultural production—agriculture is the main source of income and food for over 80percent of Tanzanians." Gendered corruption, large in scope by itself, is out of the scope of this paper but it should be an area for further research. For example, one may examine the link between gender and corruption. Unfortunately, there is no much data focusing on the issue in Tanzanian context. Yet, there is much scholarship covering gender and development which also needs much research given the ongoing changes in the country where majority of women have started to penetrate the public sector.

### **Progress of Anti-Corruption Measures in Tanzania**

Undisputedly, there is some progress by Tanzania's government to curb corruption (see Table 1 and Table 2) for example in over a decade the highest TI score was in the year 2007 and 2008 and the second highest amount of money recovered from corruption deal was in the year 2008. It is without doubt that the achievement follows adoption of a new law on corruption, shortly to be discussed, which incorporates international law (UNCAC and other international conventions). Nonetheless, the Transparency International scores, on one hand, reveal little progress and the PCCB, on the other, reveals continued loss of huge sums of money through corruption. Arguably much more needs to be done. Tanzania can not be contented with East Africa's decade long highest scores in corruption ranking and recovering corrupt money. Notably, for the past 15 years (see table 2) in a row the government through, PCCB, has been recovering billions of Tanzanian shillings totalling Tshs. 97 Billions. Ironically enough, nine billion Tanzanian

shillings were recovered in the first quarter of year 2010 and this figure is still very high. As long as the PCCB continues to recover significant amounts of money lost through corruption, corruption is still rampant. This reveals that a free corruption era is far from imminent. Total elimination of corruption, for reasons, explained earlier is a must.

**Table 1: 1998-2010: East African Countries TI Corruption Perception Index**

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
No. of countries	85	99	90	91	102	133	145	158	163	179	180	180	178
Score													
Tanzania	1.9	1.9	2.5	2.2	2.7	2.5	2.8	2.9	2.9	3.2	3.0	2.6	2.7
Kenya	2.6	2.0	2.1	2.0	1.9	1.9	2.1	2.1	2.2	2.1	2.1	2.2	2.1
Uganda	2.5	2.2	2.3	1.9	2.1	2.2	2.6	2.5	2.7	2.8	2.6	2.5	2.5
Rank													
Tanzania	81	93	76	82	71	92	90	88	93	94	102	126	116
Kenya	73	90	82	84	96	122	129	144	142	150	147	146	154
Uganda	74	87	80	88	93	113	102	117	105	111	126	130	127

Source: Transparency International; compiled by PCCB Tanzania

**Table 2: Money recovered by PCCB for the period 1995 to 2010**

YEARS	Allegations received	Cases Investigated	Completed Investigation files	Administrative actions taken	Files transferred to other agencies	New cases into courts	Total cases Prosecuted	Conviction cases	Acquittal cases	Saved Money/ Asset recovered
1995	261	261	145	-	-	8	16	1	7	2,706,800,000/=
1996	513	513	245	-	-	21	34	2	9	1,900,651,000/=
1997	510	510	289	-	-	9	18	1	4	6,932,950,000/=
1998	545	545	200	-	95	15	31	2	6	9,300,478,000/=
1999	1,116	1,116	304	-	209	62	47	9	25	14,795,169,650/=
2000	1,244	1,244	276	-	234	49	42	6	3	11,100,000,000/=
2001	1,354	1,354	285	1	154	57	53	-	-	2,500,000,000/=
2002	1,383	1,383	732	42	222	52	191	12	12	2,714,199,000/=
2003	2,285	1,796	540	21	36	51	178	9	28	3,800,266,000/=
2004	2,223	1,149	458	126	25	60	202	6	8	4,000,216,000/=
2005	3,121	677	540	111	2	50	218	6	10	2,500,600,000/=
2006	6,320	1,528	1,688	209	496	71	251	18	28	1,301,492,528/=
2007	8,235	1,266	2,015	280	460	196	352	35	45	1,580,099,081/=
2008	6,137	928	936	74	184	147	416	37	71	13,203,459,357/=
2009	5,930	884	1,175	40	152	222	463	46	73	436,132,336/=
2010 (April)	1,830	266	304	8	42	69	471	13	32	9,805,884,072
<b>TOTAL</b>	<b>43,007</b>	<b>15,420</b>	<b>10,132</b>	<b>912</b>	<b>2,311</b>	<b>1,139</b>	<b>-</b>	<b>203</b>	<b>361</b>	<b>96,733,932,602/=</b>

Source: PCCB/HQ, May 2010.

The bottom line is that corruption continues to thrive and as a result Tanzania continues to perform poorly in global corruption rankings. Tanzania, for instance, dropped (The Equatorian News Online 2009; Transparency International 2008; Transparency International 2009) from position 102 in 2008, to 126 in the 2009 Global Corruption Perception Index (CPI). In year 2010,

(Transparency International 2010) Tanzania has slightly improved to rank 116. However, the progress is not promising because the 2008 rank has not been achieved and as stated earlier huge amounts of money are still being lost. Contextually, both TI and the ranking is accepted in Tanzania (CTS 2010). Inside source, as revealed by the CTS (2010), mainly the Prevention and Combating of Corruption Bureau (PCCB) and the Tanzania Corruption Tracker System have produce data indicating that the number of corruption cases convicted remained low for the period between 2000 and 2005, but has increased to 37 cases in 2008., bearing in mind that Tanzania was one of the first countries to ratify the United Nations Convention against Corruption on 25 May 2005. Tanzania signed the convention on 9 December 2003 [UNODC 2010]<sup>9</sup>. That is a long way to say, efforts to combat corruption, in Tanzania, have been ongoing many decades before Tanzania signed, in 9 Dec 2003, and ratified, in 25 May 2005, the United Nations Convention against Corruption (UNCAC) but much more needs to be done.

### **The Role of Nyerere in the Fight against Corruption**

The fall of the former Soviet Union and Arusha declaration, popularly known as *Mwongozo* (a guide in English) which was replaced by the Zanzibar declaration and the stepping down of Julius Nyerere (the founder, the father of the nation and the first president of Tanzanian) as the chairperson of the ruling party, signified an important era in Tanzania. Among other things, it can be argued that the ruling party, led by second Phase president Ali Hassan Mwinyi, anecdotally, wanted to reduce the influence of the most charismatic politician in Tanzanian history but to no avail. Nyerere fought back and maintained his influence in Tanzanian politics until his death in 1999. At that time, Nyerere fought back through the ever mushrooming media, shortly to be discussed, to openly and strongly criticize the ruling party he founded in 1977—this was a significant boost to the media. Consequently, he managed to push his way and influence in the 1995 presidential elections by campaigning for a candidate (third phase president, Benjamin Mkapa) who would be obedient to him (at least Mkapa did obey Nyerere, until Nyerere's death) and destroyed political careers of those he did not like. For example, he successfully stopped the former Prime Minister John Malecela from becoming a ruling party presidential candidate in the 1995 presidential elections. Malecela's attempts to run as a presidential candidate in 2005 also ended in vain, Nyerere's legacy continues to haunt him even after his death. Indeed, as many Tanzanians would argue, Nyerere remained president until his death and those who were elected just served as figure heads. It was also apparent that Nyerere continued to attract masses of people in his public speeches. By the same token, the Tanzanian public expected him to intervene on day to day issues of the country.

However, there is substantial evidence that Nyerere's death signified the death of his ideals as document in the Arusha declaration (which informally appeared to be in place until his death) he protected and this served as a loophole for greedy leaders to become more corrupt. Arguably, the Arusha declaration sealed many loopholes for corruption: unlike today's politicians, politicians in Nyerere's era of socialism ideals retired poor. Notably, Arusha

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<sup>9</sup> UNODC is a global leader in the fight against illicit drugs and international crime. Established in 1997 through a merger between the United Nations Drug Control Programme and the Centre for International Crime Prevention, UNODC operates in all regions of the world through an extensive network of field offices. UNODC relies on voluntary contributions, mainly from Governments, for 90 percent of its budget. UNODC is mandated to assist Member States in their struggle against illicit drugs, crime and terrorism. In the Millennium Declaration, Member States also resolved to intensify efforts to fight transnational crime in all its dimensions, to redouble the efforts to implement the commitment to counter the world drug problem and to take concerted action against international terrorism.

declaration, as revealed by Hyden (1980), was an outline of the principles of *Ujamaa* (African socialism and self-reliance) and it portrayed Julius Nyerere's vision of socialism to develop the nation's economy. The declaration called for a revamp of the western economic system, specifically through a "villagization program" whereby Tanzanians were forced to live together in *Ujamaa* villages. It was believed that Tanzanians living together in those villages could be easily reached by the government and as a result be provided with the necessary physical and social infrastructure to lead decent lives.

More crucially and as related to this paper, the declaration banned government officials and employees<sup>10</sup> from having any other source of income apart from their salaries. Not surprisingly, majority of major means of production were nationalised and became "*Mali ya Umma*" which is a Swahili saying meaning "public property." A famous phrase from that era and which continues today is "*Mali ya Umma Haiumi*" a Swahili saying, and indeed a bad habit, meaning it does not hurt when government property is badly or improperly managed. The habit has been, mainly through corruption, crippling public property ever since. Quite curiously, the Zanzibar declaration, unlike the Arusha declaration, allows government officials to become parts, as owners of means of production, to privatisation and free market economies. Yet, the tendency is blamed for fuelling the level of corruption in the country. In view of that, some of the ideals of Arusha Declaration as far as involvement of government leaders in the private sector are now being reconsidered. Simply stated, following recent major corruption scandals in which key government leaders --some of whom have become tycoons-- are involved, it has been debated that government officials involvement in private sectors should not be entertained. As a matter of fact, the death of Arusha declaration in 1990s served as loophole for major business men to bribe their way to high government posts and as a result create an environment whereby they benefit from their posts (Lamtey 2008; Nyerere 2010). In fact, Nyerere (2010), who is one of the sons of President Nyerere, argues, and I agree, that, "the Arusha Declaration was both ideology and rules. Accordingly, the government should be commended for the series of steps it is taking to plug the loopholes for those who should be in industry and business, but are clinging on to public office. These steps include legislation that is expected soon to outlaw such practices. Nyerere also says that the "Election Expenses Bill" to which President Jakaya Kikwete (current president) assented recently, should also prove too much hassle for those who have a ton of money to spend [lavishly] rather than invest it in their businesses, and would have attempted to use it to pay their way into public office." Though the Election Expenses Bill has now become a law and it was used to catch some of politicians during year 2010 elections, complaints on people who bribed their way into office still exist. In other words, much more needs to be done and perhaps full adoption of the Arusha declaration, as far as public servants' involvement is concerned, is a must.

## **DOMESTIC ENFORCEMENT OF INTERNATIONAL LAW ON CORRUPTION**

According to Janis (2008:87), "international law often has part to play on the national stage. In fact, most times when international legal rules are applied by judges, the setting is a domestic, not an international, court. Similarly, when lawyers deal with international legal problems, they

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<sup>10</sup> It has to be understood that even the highly paid government employees can not lead a decent life from government salaries only and are currently legally allowed to be involved in private sectors so as to supplement their inadequate salaries. Nevertheless, Government employees were formerly allowed to have an income other than their salary following the end of Arusha declaration.

usually find themselves engaged in some sort of a municipal legal proceeding or negotiation.” This statement, as it will be shortly discussed, holds true in Tanzanian context, though not necessarily the same as it is the case of developed countries such as the United States. While countries like the United States of America (Janis 2008; Noyes 2007; Rochester 2006) has been frequently engaging international law into its domestic environment, Tanzanian domestic enforcement of the international law, especially on corruption, is a recent phenomenon. By the same token, Tanzania has done little to contribute to international law say in comparison to United States of America whose judge-made doctrine of self-executing<sup>11</sup> or directly applicable treaties is a significant contribution to international law. In what follows, I will cast an eye on the Tanzanian legal system following its importance to this paper.

By and large, the Tanzania’s legal system (Nyanduga and Manning 2006) is based on the English Common Law system. For obvious reasons, the Tanzanian legal system, as revealed by Nyanduga and Manning, emanates from the British legal system based to a large degree on the Westminster parliamentary model. Additionally, the sources of law include the Constitution, Statutes (acts of parliament), Case Law, Received Laws; Customary and Islamic Law and International Law (Treaties and Conventions). Details on the sources of the Tanzanian law are readily available online and elsewhere. However, given the importance of the link between International Laws and statutes to this paper, I will briefly describe Tanzanian Legislature and its role in domesticating the international law on corruption. I will now turn to the atmosphere which paved a way for the domestic enforcement of international law on corruption. A general trend is that domestic enforcement started from the Tanzanian public before it got into the hands of the government (parliament and judicial system). Accordingly, I will first describe the role of the Tanzanian public before getting to the legislature.

### **The Role of Civil Society and the Media**

The civil society and media<sup>12</sup> have served as non-state tools for Tanzanians to publicize their view on performance of the government. The civil society include all non-state actors such as, but not limited to, the media, gender activists, associations of peasant farmers, cooperatives, NGOs, research institutes, religious leaders, finance institutions, political parties, international donors and multi-national corporations. All may play may play a role in decision-making or in influencing the decision-making process. The media is part of the civil society (however, I bring the role of the Tanzanian media out due to its great significance in this paper) and may include things such as internet, radio, TV, and mobile phones. Arguably, the two institutions have played a significant role in the welfare of the country and in particular in the fight against corruption.

The media, as stated earlier, got a boost from Nyerere<sup>13</sup> in the 1990s when the ruling party, under Mwinyi’s administration wanted to cease Nyerere’s control. Perhaps most astonishing of all, the media has made Nyerere alive to this da,; a decade after his death.

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<sup>11</sup> Unlike the United States which accepts self-executing treaties (Janis (2008:103), Tanzania rejects -like most other common law countries- the doctrine.

<sup>12</sup> Unlike the local media in USA which appears to focus more on entertainment, the Tanzanian media focuses on showcasing evils of the government. The large population of Tanzanians is poor and they still look unto their government to rescue them. The government is well aware of this, for instance, the president, following the 2010 presidential elections, has promised to build a middleclass population so as to reduce the large number of poor people. Perhaps kinship as opposed to individualism has played key role in bringing Tanzanians together. Similar views as revealed by Prof. Peter Ekeh of University at Buffalo, are shared elsewhere in Africa.

<sup>13</sup> October 14, the date when Nyerere died, is now a public holiday. The day is featured by Nyerere’s historical speeches.

Nyerere's recorded speeches, for example, have never lost their flavour because the Tanzanian media continues to broadcast them. Nyerere's speeches are given more time whenever there is an important public event such as presidential elections and public holidays including the one dedicated to him on October 14. By the same token, the current president, Jakaya Kikwete, following a "landslide victory" (as they call it) of 80 percent in the 2005 presidential elections, gave another significant boost to the media and freedom of speech. Clearly, he wanted to please the Tanzanian public for their trust in him but to no avail: the percentage in the 2010 presidential elections fell from 80 percent to 60 percent following corruption, among other things as stated earlier.

Equally apparently, the subject, as revealed by Hoseah (2007) of corruption and governance, in Tanzania, has attracted attention of citizens, development partners, and government who are, as he argues, occupied with at different levels of discussions and opinion. The civil society, argued by Hosea, in particular has been at fore front to raise important concerns on the negative effects of corruption in the country and the public sector (referring to government) has also responded (I have argued not adequately) to address some of the issues raised at different fora. By the same token, the media, as debated by Hoseah and I agree, has indeed played its role to sensitise and inform the public on the negative effects of corruption almost on daily basis—this only buttress my view that the Tanzanian media has been of great importance in furnishing information for this paper.

Needless to say, the role of the Tanzanian media is significance in that it works with the Tanzanian civil society, common people and other stakeholders (international parties included) to bring to light the evils of corruption within the country and abroad. Notably, a fast growing online community such as *Jamii* Forum and *Wanazuoni* (translates to educated people) with membership of Tanzanians within the country and in the Diaspora has led to exposure of many issues of significance to Tanzania. Equally, important is the use of emails<sup>14</sup> among Tanzanians which circulates tons of messages on government affairs. Andrew Chenge multimillion, dollar scandal, shortly to be discussed is a good example of such messages featuring in the media, civil society and forwarded regular emails. Tanzanians living in UK, for example, quickly communicated with Tanzanians back home upon release of the information by the guardian UK newspaper on Mr. Chenge's offshore account. Stated differently, the media solely represents progress in the adoption of media science and technology in the country but civil society represents progress in the mindset of Tanzanians who, as stated earlier, have a growing interest in monitoring government's performance. Quite simply, the Tanzanian media is not useful without participation of the Tanzanian public. Besides, the privatised media needs the Tanzanian public as customers and from time to time, the media is often criticised if it covers things contrary to the opinion of the Tanzania public. In my opinion, the Tanzanian media and public is on an upward spiral towards full realisation of true democracy and good governance in the country.

One of the notable media and civil society breakthroughs as far as corruption is concerned was on May 2009. An independent "Corruption Tracker System", never in place before and run by civil societies was established. This Anti Corruption Tracker System, launched on May 2009, is a unique civil society initiative in the fight against corruption. The tracker is hosted and managed by Agenda Participation 2000, a Tanzanian Non Governmental Organisation working to promote a culture of Good Governance and Democracy in Tanzania.

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<sup>14</sup> In fact, all major grand corruption started to circulate in forwarded emails before even reaching the media and civil societies.

The purpose of the Anti Corruption Tracker System (CTS 2010) is to keep track record of publicly available information on presumed or confirmed cases of corruption in order to increase accountability and responsiveness in the fight against corruption. The Tracker is cosponsored by the embassy of Finland and SWISS Cooperation Tanzania. In line with that the Tanzanian, local media, which has gone electronic as well, is also of critical importance as far as the general public views on corruption are concerned. Since the local Tanzanian media can not retain large amounts of the online information, the tracker, I argue, serves as a storage bank for the same. It is further argued that the system symbolizes a new epoch in the effort to battle corruption in Tanzania. Yet, judging its success as a new epoch, only within a year of implementation, is far away from yielding an actual picture.

### **The Role the Richmond Saga and others Multinational Corporations Scandals**

Grand corruption, especially the one with multinational faces, has been a hotly debated topic in the first term Presidency of the recently re-elected Jakaya Kikwete. Kikwete, in comparison to 2005 presidential election when he won by 80 percent, has lost by a margin of 20 percent in the 2010 elections securing only 60 percent victory. Arguably, the loss is significant and has enabled the opposition parties to increase the number of seats in the parliament like never before in the Tanzanian history. For example, CHADEMA, the current main opposition party (*Chama cha Demokrasia na Maendeleo*<sup>15</sup>) has boosted its number from just five seats to over fifty seats following the October 31 2010 elections.

CHADEMA gained its popularity following its role in pushing the grand corruption agenda (on Richmond and others), mainly in the parliament, to new horizons. In fact, CHADEMA played a key role in two most controversial grand corruption scandals to be briefly discussed. While there are other factors such as religion and ethnicity, the slippage of the ruling party follows the failure, despite presence of empty promises, to curb corruption and mainly grand corruption. For instance, in 2008 Prime Minister Mizengo Pinda promised to focus on the corrupt multinational huge contracts because it was obvious that the contracts resulted in mismanagement or misappropriation of massive amounts of public funds. A tendency, the premier argued, which had to be stopped at all cost (Tanzanian Affairs 2008). Sadly, the Premier could not do much because great weakness of previous anticorruption laws was revealed. Under the old anticorruption law, the Prevention of Corruption Act (PCA) of 1971, for example, public officials involved in the multibillion corrupt case of the US based Richmond Development Company, shortly to be discussed, were considered not to have committed any corrupt offence. The main reason being, the law did not tie corruption to procurement. In other words, the law prohibited corruption in procurement but it did not make it a corrupt offence. Prohibiting is one thing and making it illegal is another as argued by Hosea (2009). Debatably, hot discussion, among the Tanzanian public and mainly the parliament, on grand corruption involving multinational company revealed great weakness of the old law paving a way to a new era with a new corruption act.

Let's now focus on Richmond saga and others. Comically, an online chat with an employee of Texas government (at <http://www.texas.gov/en/Pages/default.aspx>) who advised me to make use of Better Business Bureau (BBB), was very helpful in learning more about Richmond Development Company. A search (targeting companies in Texas) of Richmond Development Company in BBB of the United States of America which issues Reliability Reports on all businesses, whether or not they are BBB accredited (at <http://www.bbb.org/>) revealed only

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<sup>15</sup> In the Party of Democracy and Development

two contractors companies bearing the name of Richmond Development: Richmond Development, 48 Franklin Road, Ashland, MA 01721 and Richmond Development, Inc, 2707 W Azeele St Ste 101, Tampa, FL 33609-5601. The two companies are not accredited by the bureau. On one hand, BBB has requested basic information from Richmond Development with ID number 69855 to no avail. The Bureau has claimed not to have received a response. Based on BBB files, this business has a BBB Rating of A- on a scale from A+ to F. Reason for this A-rating includes: BBB does not have sufficient background information on this business. On the other hand, Richmond Development, Inc. with id number 90005501 is ranked A+ but it is located in Tampa, FL 33609-5601. However, the Texas based Richmond Development Company, with a very nice website (<http://www.rdevco.com/index.html>) and US address is nowhere to be seen in the BBB and it is not clear if the company has any linkage with the mentioned companies. It can be concluded that the two mentioned companies do not have any relationship with the Richmond Development Company accused in Tanzania. On the other hand, a Tanzania agent (John 2010) of the company, Naem Adam Gire, has recently confessed to have a brother called Mohamed Gire who chairs the Texas based company. Mohamed Gire poses as the main contact in the company's website. Mr Naem Gire, as revealed by John (2010), is the first person to be brought to the court to formally face charges concerning the Richmond scandal. Perhaps that is why the company is regarded as a shadowy American company as argued by Said (2008).

Particularly important, the Tanzanian parliament, after roughly one year hot debate, pressurised the former Prime Minister, Edward Lowassa, to resign from his post following the controversial \$172.9 million Richmond scandal. Two more ministers were also pressurised to resign after being linked to the scandal (Said 2008). The names of the ministers are Edward Lowassa (former Prime Minister), Nazir Karamagi (former Minister for Minerals and Energy) and Ibrahim Msabaha (former Minister for East African Cooperation). They all resigned in February 2008 after they got linked up to the multi-billion Tanzanian shillings tender to generate emergency electricity in 2006. Despite their involvement, none of the former minister has been sent to court due to weakness of the old law on corruption. As a result, the case played a key role to the birth of the new corruption act which incorporated international conventions.

Another scandal, equally important, and involving a top government official, has to do with the former Tanzanian Infrastructure Development minister Andrew Chenge who operates an offshore account. In 2008, UK's Serious Fraud Office (SFO), as revealed by Leigh and Evans 2008, which investigates the controversial deal to sell Tanzania a £28m radar system, had established that Tanzanian former Infrastructure Development minister Andrew Chenge operated an offshore account in Jersey having over \$1 million (Sh1.2 billion). Though there were some discussions in the parliament, the magnitude did not reach that of the Richmond saga but Chenge resigned from the ministerial position. More to the point, Chenge was Tanzania's Attorney General in President Benjamin Mkapa's government, when the radar deal was sealed. At that time, he had been holding the post for 10 years till 2005 when he resigned to join politics. Sadly, the deal was negotiated at the time when Tanzania had no adequate funds. Subsequently, the government had to look for other sources to finance the project (Said 2008). The role of Mr. Chenge comes on board when he was consulted by the Tanzania government so as to provide a legal opinion. Surprisingly, as revealed by Said (2008), the former Attorney General advised the government 'to continue with the project and above all advised the government to borrow money from a British bank, Barclays'. According to a source within the ministry of legal and constitutional affairs, as revealed by Said (2008), that legal opinion was by itself illegal because such a commercial debt was uncalled for as the World Bank and the International Civil Aviation

Organization had said the purchase was ‘unnecessary and overpriced.’ Here again comes the World Bank which is seen by many in the Global South, as an agent of neo-imperialists, not interested in the welfare of poor countries; well it might not always be the case.

Quite curiously, Tanzania's anti-corruption bureau (PCCB), which has been working with authorities in the UK, Switzerland and Jersey, so as to establish if the money was linked to multi-million pound secret commission payments made by arms manufacturer BAe (Leigh and Evans 2008), cleared Mr. Chenge of any involvement the deal recently. However, the bureau was put to shame by the UK embassy which briefly wrote, in a press release (the release was also made available to *Wanazuoni* and UDASA) on 10 November 2010, “the British Government is aware of a statement made by the Prevention and Combating of Corruption Bureau (PCCB) on 8 November 2010. At this stage the case relating to BAe and its dealings in Tanzania is yet to go to court in the UK. It is therefore not possible to draw conclusion either way relating to those who were in connection with the case.” The UK press release, further highlighted, that BAe admitted early this year [2010] that it failed to keep reasonably accurate accounting records in relation to its activities in Tanzania, adding that it would plead guilty to the offence and subsequently pay USD 30 million by way of a penalty and also for reparation to Tanzania (The Guardian Team 2010).

The money in Chenge’s account is huge under Tanzanian context. At that time, it had been released that the more than \$1m (approx. 1.2billion Tanzanian shillings) in the Chenge’s accounts would be enough to build more than 240 classrooms in Tanzania (This Day 2008) and that it is impossible for a Tanzanian public servant of his level to accumulate such huge amounts of money. *This Day* revealed that Chenge did not dispute the money in his Jersey accounts and he remains so to this date. On 20 April 2008, Chenge resigned, as a government minister, following exposure by the Guardian newspaper of the UK on his huge amounts of money and pressure from the Tanzanian public. The president accepted his resignation the way he did for the ministers involved in the Richmond scandal. Equally apparent was a \$ 500,000 transaction shown to have been made (from Chenge’s offshore account) to one of the senior officers of the Tanzania Electric Supply Company (TANESCO). While there is no information on the other ministers, it was established that Chenge, as revealed in *This Day* Newspaper (2008), could not earn an income worthy \$1m (£507,500). At that time, Chenge earned only a monthly salary of around 3 million Tanzanian shillings as a cabinet minister and another 1.2 million Tanzanian Shillings as a member of parliament, plus allowances. If truth be told Chenge can not be clean and it is questionable for him to deposit such large amount of money in a foreign country. In addition any Tanzanian, as revealed by the newspaper, must get a government permit to deposit his or her money in a foreign bank. The former minister has no government permit. Not surprisingly, Tanzanians were astonished by the fact that, Chenge described the large sum of money as ‘small pocket change’ on his return from accompanying the president on a visit to China (Leigh and Evans 2008).

Perhaps most astonishing of all, Chenge denies, to this day, his involvement with the BAe corruption scandal. Paradoxically, he and the former Prime Minister involved in the Richmond scandal maintained their position as member of parliaments following 2010 elections. He even managed to challenge the Parliament speaker who allowed BAe and Richmond sagas to be discussed in the parliament. Though Chenge did not become victorious in the speaker 2010 parliamentary elections, many commentators argue that his challenge paved a way for the removal of the former speaker from his seat. This demonstrates that Chenge is still a very powerful and influential politician in the country. The poverty stricken Tanzania has been luck to

get the information because the target of SFO investigation is not Chenge but BAe and the UK investigators say Chenge could be a valuable witness. Besides, it would have been impossible for a poverty stricken country to conduct such an investigation on its own. It may also be true that a lot of money has been unnoticeably lost in a similar manner.

Up to this moment, when I writing this paper, the UK and Tanzanian authorities have not established a solid basis to try Mr. Chenge. And perhaps, it would be ideal to highlight the history of the controversial radar deal. The radar deal has a long history and I will paraphrase views revealed in articles by Leigh and Evans (2007), *This Day Newspaper* (2008), and Said (2008): “the radar deal started in 1992 during President Ali Hassan Mwinyi, second phase president of Tanzania, when negotiators had put the price tag at 110 million pound sterling. The deal was blocked, as revealed by Leigh and Evans, on reasons that it was unaffordable and the first Tanzanian President, Julius Nyerere played a great role in discouraging it. However, when Nyerere died in 1999, the scheme was resurrected, with a smaller phase to be followed by the rest but as explained earlier both the World Bank and the International Civil Aviation Organization were against the deal. In the UK, the then Development Secretary, Ms. Clare Short, temporarily blocked aid payments in protest and said openly that she suspected corruption. Short also made an attempt to prevent the sale by arguing that a British arms export license be withheld but was overruled in cabinet by the then Prime Minister Tony Blair. Britain’s Foreign Secretary then, Mr. Robin Cook and Tony Blair’s successor Prime Minister Gordon Brown were also against the deal. The reasons put forward by both Short and Cook were that because Tanzania is one of the poorest countries in the world, there were no substantive reasons to enter into such an expensive deal.”

What is important, grand corruption is done on a large scale by corrupt top government officials at the national level in collaboration with western partners and big businessmen. They form a transnational network. In the radar deal an Indian businessman, government ministers and former western partner chairman of BAe, Sir Dick Evans are involved (Leigh and Evans 2007). Under this situation multi-million dollars or shillings are deposited into foreign bank accounts making it very unlikely to be accessed by the poor people of Tanzania. The money is likely to benefit a fraction of selfish citizens in Western countries where the money is deposited, multinational corporations and big businessmen living in Tanzania or abroad. An example whereby only a few individuals benefit from corrupt deals also involves BAe of UK giving Prince Bandar of Saudi Arabia an airliner as part of Britain's al-Yamamah arms deal. At that time, when Leigh and Evans wrote their article, the arms firm was still paying the expenses of flying the airliner. According to Leigh and Evans (2007) the top of the range, four-engine Airbus 340, worth £75m, was painted in the silver and blue colours of Bandar's favourite American football team, the Dallas Cowboys, and is said to have been presented to him on his birthday in 1998. The money meant for people of Saudi Arabia benefited only a few, in this case the prince and BAe.

More to the point, Mr Vithlani (Leigh and Evans 2007) who is a business man acted as agent on both the radar deal and in another controversial deal on the 2002 (bearing in mind this is the time when Nyerere had died three years ago) purchase of a US top-of-the-range Gulfstream official jet for the then Tanzanian president, Benjamin Mkapa, at a cost of more than \$40m. In the secretive world of international arms deals, reveals Leigh and Evans (2007) a commission of 1% to local agents would generally be regarded as legitimate in UK. Leigh and Evans (2007) further reveal that the UK government's export credit agency, the Export Credits Guarantee Department, has guidelines under which a ‘commission’ of more than 5-10% is automatically

regarded as questionable. BAe System's payment of as much as 30% to Mr Vithlani's Swiss account, coupled with the use of a Swiss bank account and apparent double sets of agency agreements, would normally arouse suspicions of possible bribery argued Leigh and Evans (2007). Police sources in Tanzania said the agreement to use Mr Vithlani as an agent had been signed off by the then chairman of BAe, Sir Dick Evans. At that time, Sir Dick, who has been at the centre of many of the arms deals under investigation, had already been interviewed by the SFO. BAe Systems has refused to answer why they had made a 30% payment to Mr Vithlani's Swiss account making the radar deal more questionable. More crucially, the radar deal involves Vithlani and Sir Dick who are at the centre of corruption. Again Vithlani was involved in the purchase deal of US of a top-of-the-range Gulfstream official jet for the president at an overpriced cost of more than \$40m. Vithlani, who is of Indian origin but holds a British passport, is listed as wanted by Interpol. He has been charged by the Tanzanian anti-corruption bureau with lying to investigators, but has left the country. His whereabouts are unknown reveals Leigh and Evans (2008) on 2008.

Simply stated, there is substantial evidence that the purchase of the radar and president's official jet was unnecessary and was influenced by corruption. I have to emphasize that these are not my views alone but the views circulate among the Tanzanian public—a quick Google search will reveal that. Tanzania has been driven into debt following the purchase of President Private Jet and radar. The purchase of the radar and the jet was too expensive and inappropriate for the needs of a poor country like Tanzania as suggested by World Bank (MacAskil 2002). There are a lot of other sectors worthy the investment. The country has a poor infrastructure as well as poor health and education system, the poor of the poorest are the ones most affected. Tanzanians majority of whom are poor peasants (80% of the population) have incurred a lot of expenses following the purchase, yet they can not benefit from the two.

Ironically enough, the presidential jet (closed for good and no body has been tried) is rarely used leading to rumours that it is broken. Others have suggested that the jet should be sold for the same reason. At that time, the state house dismissed the claims that the jet was rarely used by the president and that there were no plans to sell it. Surprisingly, it was argued that the jet was bought for security reasons and the president deserved that kind of a jet (Mtambalike 2008). However, the new jet can land on only six airports in Tanzania, including Dar-es-salaam, Zanzibar, Mtwara, Kilimanjaro, Mwanza and Pemba making the older Fokker 28 presidential jet to be used more frequently than the new one within the country. The new jet is only used for international flights (Mwendapole 2008) which I argue are rare given the economic strength of the country. Another similar argument is that what have the poor peasants got do with either army radar or expensive presidential jet? Tanzania is a peaceful country and there are no potential threats from say our neighbours to include Democratic Republic of Congo (DRC), Rwanda, Burundi, Kenya and Uganda. The mentioned countries have internal conflicts and problems of their own. In fact, Tanzania has been hosting refugees from those countries mainly Democratic Republic of Congo (DRC), Rwanda, and Burundi.

Interestingly, grand corruption scandals, discussed above have one legacy: they have stimulated discussion among Tanzanians and they in turn influenced the government to make initial steps to curb horrors of corruption. Similarly, the host countries (countries hosting head quarters of the corporations) of the multinational corporations involved in the scandal have promised to play their part. I have no doubt that once the puzzle behind the scandals is unravelled more should be done by host countries. UK for example tries BAe and Tanzania expects 30 million of US dollars as reparations. The United States on the other hand has banned

all people alleged in corrupt deals from visiting USA. More recently, in an interview with the media, the USA ambassador (CTS 2010) to Tanzania Mr Alfonso Lenhardt was quoted saying that, “to galvanise public goodwill and enhance government’s commitment to fighting corruption, the perpetrators must be subjected to due process, convicted, jailed and their ill gotten wealth confiscated.” By the same token, a recent report, as revealed by CTS (2010), issued by the US state department, on the state of Human Rights, lashes at the Tanzanian government’s failure to quickly prosecute and conclude cases of corruption involving high level government officials. The first perpetrator of the Texas based Richmond Development Company has been arraigned and I am sure if the company is convicted the statement of the ambassador demonstrates the measures to be undertaken by the US government. In other words, the US government will intervene and Tanzania may recover some of the assets lost. What I have just written, demonstrates a firm commitment by the US and UK governments. A similar commitment is of great importance if international law on corruption is to succeed.

### **The Role of the Tanzanian Legislature**

The Tanzanian parliament is the key organ responsible for legalizing and enforcing various international laws in the country. In view of that, it deserves a whole section on its role towards the domestic enforcement of the same. We will briefly discuss how it functions on day to day basis and then we will move towards its specific role on domestic enforcement of various international laws bearing in mind that the focus of this paper is on corruption. More crucially, the Tanzania civil society and multinational corruption scandals, previously discussed, have played a significant role in pressurising the parliament to take tougher measures than before on corruption. Arguably, that signifies a new epoch in the country towards good governance and elimination of corruption.

According to Nyanduga and Manning (2006)<sup>16</sup> the Tanzanian Legislature, or the Parliament of the United Republic of Tanzania, consists of two parts: the President and the National Assembly. The President exercises authority vested in him by the Constitution to assent to bills by Parliament in order to complete the enactment process before they become law. The National Assembly, which is the principal legislative organ of the United Republic, has authority on behalf of the people of Tanzania to oversee the government and all its organs of their particular duties. The Parliament is headed by the Speaker, who is assisted by the Deputy Speaker, and the Clerk as the head of the Secretariat of the National Assembly. Again, the National Assembly has various standing Committees to provide support in its various functions. The National Assembly of Tanzania is constituted by one chamber, with members elected from various constituencies across mainland Tanzania and Zanzibar. Under the Constitution, women’s representation is provided for as a special category, in order to increase the participation of women in national politics. Elections are supervised by the National Electoral Commission (NEC) which is established under the Constitution. However, there have been complaints, following 2010 presidential election, on autonomy of the same. Since NEC officials are elected by the president, it is very unlikely that they may serve all parties with no partiality. In what follows, I will focus on development of the corruption law.

The law against corruption in Tanzania, as argued by Hoseah (2007), was introduced through the penal code during the colonial British dominion in Tanganyika in 1932 and later codified as Cap. 400 of the laws of Tanganyika. After independence, Tanzania parliament

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<sup>16</sup> The two authors have done a great job in describing the Tanzanian legal framework. Their work is freely available online.

enacted Act no. 16 of 1971 which was revised in 2002. Following previously discussed internal pressure and advancement in science and technology, today we have the Prevention and Combating of Corruption Act No. 11 of 2007 which has incorporated international law the focus of this paper. It is important to note that International Treaties and Conventions (Nyanduga and Manning 2006) are not self-executing. Nevertheless, the Act of Parliament (statutes) can apply treaties and conventions to which Tanzania is a party in the Courts in Tanzania only after ratification by legalizing their incorporation into the domestic judicial system of the country; this is what I am referring to as domestic enforcement of international law. In other words, ratified international law needs approval of the Tanzanian parliament for it to be applied in Tanzanian courts. For example, Tanzania was one of the first countries to sign the UNCAC on 9 December 2003. Tanzania accessed (the parliament ratified the convention on 2006) the convention on 25 May 2005 [UNODC 2010]. Tanzania did not want to lose that opportunity and wanted to be part of every development—we are not sure whether President Mkapa's government, with less than six months towards the end of last second term of presidency, wanted to put more burden to the coming government. Put it more clearly, on 31 October 2003 UNCAC (UNODC, 2010) was adopted by the General Assembly of the United Nations at United Nations Headquarters in New York. It became open to all States for signature from 9 to 11 December 2003 in Merida, Mexico, and thereafter at United Nations Headquarters in New York until 9 December 2005, in accordance with article 67 (1) of the Convention.

Though Tanzania accessed the convention since 2005 and ratified the same since 2006, the Tanzanian parliament started to discuss serious domestic enforcement of the same, roughly one year after parliament ratification, on 1 January 2007. The crucial aspect of that debate was the birth of the Prevention and Combating of Corruption Act, 2007. More to the point, on March 2007, the director of Prevention of Corruption Bureau, Hoseah (2007), argued that the time for Tanzania to affirm its international anti-corruption legal commitment had come as if years featured by signing of regional conventions was not taken serious. Specifically he stated that the Tanzanian government had signed various international treaties to manifest the political will of Tanzanian government to curb corruption and the time had to come for domestic enforcement of the same to the legal system of the country: he was referring to signing of the SADC Protocol against Corruption of 2001, the African Union Convention on Preventing and Combating Corruption of 2003, the United Nations Convention against Corruption of 2003 which were ratified by the parliament in 2005 and 2006 respectively. Once the government, Hoseah argued, has implemented the international obligation in light of *pacta sunt servanda* the next logical step is to domesticate the international and regional legal obligations through the legislative process. By *Pacta sunt servanda*, Hosea clarified,

“every treaty in force, with reference to international agreements, is binding upon the parties to it and must be performed by them in good faith (He quotes the Vienna Convention on the Law of Treaties, signed at Vienna on 23 May 1969, entered into force 27 January 1980, art. 26, and the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, signed at Vienna on 21 March 1986, not yet entered into force at that time, art. 26). The rule of *pacta sunt servanda* is based on good faith; this entitles states to require that obligations be respected and to rely upon the obligations being respected. This good faith basis of treaties implies that a party to the treaty cannot invoke provisions of its domestic law as justification for a failure to perform. The only limit to *pacta sunt servanda* is *jus cogens*, i.e., peremptory norms of general international law. These include: unlawful use of force, piracy, slave trading, and genocide.”

Anecdotally, Hosea was in support of the then (now law) Prevention and Combating of Corruption Bill, 2007 and he made the statement to clarify the importance of the bill to the

Tanzanian parliament and public. The bill was passed on 16 April 2007 and became into effect on 20 June 2007 as Prevention and Combating of Corruption Act No. 11 of 2007.

The new act repealed and replaced the prevention of Corruption Act, 1971 Cap 329 R.E. 2002. It was argued (Hosea 2007), and I strongly agree, that the old act of 1971 was outdated given the many technological advancements, best practices and evolving international and regional instruments against corruption at the global and local levels which overtook the efficacy of the old law, and the incorporation of mentioned factors was seen as necessary formula for a new act to stand the test of 21<sup>st</sup> Century expectations. Accordingly, the law now encompasses (Munuo 2007) a wider range of corruption offences including bribing foreign officials, abuse of office, trading in influence, embezzlement and misappropriation of public funds and, or properties, possession of unexplained property, aiding and abetting the commission of corrupt transactions, transfer of proceeds of corruption and conspiracy to commit a corruption offence. This assortment of corruption offences carry sentences ranging between a minimum fine of half a million shillings Tanzanian shillings (1 US dollar was equivalent to around 1,200 Tanzania shillings at that time) or 2 years imprisonment in default or both such fine and sentence of imprisonment, to a maximum fine of Tanzanian shillings fifteen million or seven years imprisonment in default, or both such fine and imprisonment sentence. Under the provisions of the former Prevention of Corruption Act, 1971 Cap 329 R.E 2002, the minimum sentence for corruption offences was ten years imprisonment but not exceeding fourteen years. Paraphrasing the words in the new act the following key issues are mentioned, “a) corruption is an obstacle to principles of democracy, good governance and human rights and poses a threat to peace, tranquillity and security in the society; b) that the Government has undertake protracted measure that would ensure that Tanzania remain a corruption free State adhering to the principles of freedom, equality, justice, brotherhood, peace and wherein all people are equal and every person has a right to ownership and protection of property acquired by lawful means; c) that technological changes ushered in by globalization and development of science in communication and information technology has made it necessary to reinstitute the Bureau of Corruption, to device modern tactics and strategies of preventing and combating, and to review the current legal framework for purposes of enabling the Bureau to effectively control corruption and corrupt practices; d) it is necessary to make comprehensive provisions for the prevention, investigation and combating of corruption and related offences and to ensure that the Bureau conducts its operations independently and performs its function effectively.” Quite simply, Prevention and Combating of Corruption Act No. 11 of 2007 is combination of many international treaties to include anti-corruption act the United Nations Convention Against Corruption, the African Union Convention on Prevention and Combating Corruption, and the Southern African Development Community Protocol Against Corruption. The act also includes Tanzania's public procurement act which is also a product of discussion on the previously multinational corporations' corruption scandals. Combining international treaties so as to effectively enforce them in the domestic legal framework can be an important lesson for other countries in Africa currently striving on how to enforce international law. In particular, UNCAC cutting across the global is a must as say opposed to regional African tools—similar views are shared by Snider and Kidane (2007:748). Finally, it can be argued that the act has gone a step further by creating regulations targeting international agencies, companies, and non-governmental organizations operating in the country whose legacy (mainly of multination corporations) been discussed in the previous subsection.

## **ANALYSIS OF EFFORTS TO CURB CORRUPTION: THREE YEARS AFTER DOMESTIC ENFORCEMENT OF INTERNATIONAL LAWS**

“I do not think government efforts would bear any fruits so long as the people in power and the ruling party remain the same. This has been their way of conducting business and therefore, I don’t expect any achievement at all. The government is trying to make the people understand that they are doing something to fight corruption but actually they are not doing anything productive.” (PhD respondent)

“I do not think, if these efforts would bring [any] positive fruits. Society surrounding the [current] Prime Minister will not support him because all leaders are all full of corruption.” (MA or MSc respondent)

“These laws and acts enacted are toothless because those who enacted them are the ones who are suspected of being corrupt; surprisingly, the same corrupt leaders have been appointed to head departments and agencies responsible for addressing corruption issues like PCCB so as to protect the interests of corrupt leaders.” (BA or BSc respondent)

“Grand corruption scandals involve all leaders in the system and that is why no serious measures have been taken against them.” (Diploma respondent)

Much has been said on the ability of Prevention and Combating of Corruption Act No. 11 of 2007 to curb corruption in modern Tanzania where globalisation and technological advancements are apparent. Accordingly, in this section, I will assess government’s efforts to curb corruption -with the help of respondents on a survey I did roughly two years (in 2009)- after formal domestic enforcement of international law in the year 2007. It has to be noted that the question - solely focusing on government’s efforts to curb grand corruption- asked was open ended. On one hand, the open ended question gave the respondents an opportunity to reply to the question in whatever way they wanted. On the other hand, this approach allowed me to gather as many views on corruption as possible. Crucially important, content analysis was used to bring together the many views of the respondents. I shared my analysis to them and they encouraged me to do the same for the Tanzanian government and the Tanzanian public (which I did). Some even encouraged me to write a book. That is a long way to say that the respondents agreed with my analysis of their responses.

For that reason, most of the responses, in this study, cut across different themes and I had to group them according to various major themes shortly to be discussed. More and more, majority of the respondents provided answers from holistic approaches cutting across as many angles of Tanzanian corruption as possible—this was the purpose of the study. The holistic approach used by respondents in this study has further fostered my understanding of corruption under Tanzanian context. To ensure correctness of the findings, as stated earlier, initial findings, before my analysis, were grouped according to major themes and presented to all participants for their feedback. Likewise, the initial findings were submitted to University of Dar es salaam Academic Staff Assembly (UDASA) to get their views. Submission of initial findings, without much of analysis from my part, served two objectives: creating awareness on corruption among academicians who have a large audience and stimulating further research on the issue. In what follows, I will discuss my analysis.

The respondents were asked –bearing in mind this happened in 2009 which was roughly two years after establishment of the 2007 corruption act- to share their views on the following statement: “In recent times, there have been ongoing debates, in Tanzania, on misuse and high level theft, by top Tanzanian government officials, of public funds, mainly through huge contracts such as the Richmond case. Women advocates, like the rest of Tanzanians, have also played a key role in those debates. In 2008 Prime Minister Mizengo Pinda, for instance,

promised to focus on the huge contracts because it was obvious that the contracts resulted in mismanagement or misappropriation of massive amounts of public funds; a tendency which had to be stopped at all cost (Tanzanian Affairs 2008). Yet, the Premier could not do much as great weakness of previous laws against corruption, mainly the Prevention of Corruption Act (PCA) of 1971, was revealed. Today, there is a new Act, by the government and indeed, an independent tracking system, run by civil societies and supported by donors, is in place.” Specifically, respondents were asked to share their views on effectiveness of the efforts and if at all those efforts would bear any fruits. The respondents were free to tackle the question in whatever way they wanted.

By and large, the responses, as stated earlier, fell into four themes: a) respondents suggested that new mechanisms with a focus on rectifying the current government structure so as to curb corruption should be established. The situation, though hopeless, can be rectified by specifically improving existing social, political, economic, cultural, structural and organizational mechanisms to curb corruption. In other words, the government in power can stay but it must take critical measures in addressing those issues. Despite all efforts, it appears that the government is not doing enough to address the prevailing corruption problem; b) respondents suggested mechanisms with a focus aimed at removing or replacing the whole government system, including the ruling part, from power so as to control corruption. They argued that, given the current trends, nothing can be done because serious social, political, economic, cultural, structural and organizational mechanisms to curb corruption are missing. The whole system is corrupt and must be changed, if corruption is to be eliminated. The current government, led by a ruling party which has been in place since independence, can not do anything and it must be removed from power. Some of the respondents, had views that government efforts can not bear any fruits, because there is no serious commitment, by the government, on the war against corruption. The government unnecessarily spends a lot of money to deal with grand corruption but investigators always end up telling citizens that, “one needs concrete evidence to charge alleged corrupt leaders”; c) some respondents (in fact, majority of them) argued that corruption was a cultural issues, deeply rooted in the minds of Tanzanians. In view of that, there is a critical need for creating specific measures which target corruption from a cultural perspective. Specifically, they were of opinion that corruption is a cultural issue and the mindset of all Tanzanians needs to be changed—replacing the current government leaders with new ones, who have been brought up in Tanzania, will never yield any productive results. In other words, the government, alone, can not be blamed for ongoing and escalating corruption but the mindset or culture of all Tanzanians is to be blamed. Accordingly, the government may have good strategies and policies, in place, to wipe off corruption but the fact that the implementers of those strategies and policies are Tanzanians, the government can do little to control corruption. Debatably, earlier discussions, in this paper, have revealed that the mindset of Tanzanians is changing for better. Besides, cultural arguments are disputed by Peter (1990) and Wilson (2010) whose research reveal that the state’s failures are a major factor in disempowering people and that more needs to be done by the same. The government can not be excused; d) some respondents argued that there is not way we can fight corruption by fighting corruption. Stated differently, the overall situation of Tanzanians should be improved so as to curb corruption i.e. a significant population of Tanzanians should be middleclass as opposed to the current situation whereby majority of Tanzanians belong to a poor class. In fact, one of them quoted (Kaufmann 2005) who argued that “Fights corruption by fighting corruption” is a misleading notion promoted by some in the field of anticorruption, and at times also by the international community. In other words, UNCAC is

all about fighting corruption and it appears that Kaufmann does not support this approach. Anecdotal, the view, in a way, is supported by findings of this study; a sole focus on corruption, I argue, without improving the lives of many poor Tanzanians might be one of the key reasons for little progress in existing anticorruption measures even after the domestic enforcement of international law. Actually, a more radical view is provided by Kaufmann who argues that things such as anticorruption campaigns that have to do with the creation of more “commissions” and ethnic agencies (such as PCCB) and the incessant drafting of new laws (such as anticorruption law of 2007), decrees and codes of conduct, have proved to be of little impact in Tanzania and elsewhere. In point of fact, most of the respondents seem to support the views of Kaufmann that anticorruption campaigns such as the creation of ethnic agencies such as the PCCB are often politically expedient ways of reacting to pressures to do something about corruption, substituting for the need for fundamental and systemic governance reforms whose many respondents proposed. For instance, as argued by Kaufmann (2005) transparency reforms, echoed also by respondents in this study, such as public disclosure of all parliamentary votes, draft legislation, and parliamentary debates or effective implementation of freedom of information laws, with easy access for all to government information can be particularly effective in curbing corruption and thus improve governance. Thus creation of good governance, as opposed to fighting corruption is the way Tanzania and the rest of the world should go about curbing corruption.

## **CONCLUSION AND THE WAY FORWARD**

“Dani Kaufmann said that it is a myth that ‘you fight corruption by fighting corruption.’ Corruption is part and parcel of the system. The specialised initiatives such as the PCCB, the new Act, and Corruption Tracker system, are almost irrelevant in the fight against the problems that lead to symptoms of petty and grand corruption. We need to look at ways to generate a popular democratic movement for making government listen and for holding leaders accountable.” (PhD respondent, November 2009)

On one hand, grand corruption, as opposed to petty corruption, severely cripples government resources making it impossible to deliver quality and adequate public services and goods to the poor while only a few people create heavens for themselves here on earth. It is also difficult and expensive to catch the people involved in international grand corruption deals, because it involves top government officials who blackmail any attempts to catch them and their foreign partners. The difficulty is further increased by the cost associated with an investigation in a foreign country. In other words, it is expensive for a poor country like Tanzania, for example, to conduct a thorough investigation in a foreign developed country. It can only depend on the assistance by the government of a developed country. Since UNCAC and international law on corruption in general, are relatively new phenomena, inadequacy of funding, especially of countries in the Global South, poses a major challenge to implementation of international law on corruption and this, I argue, deserves attention by scholars in the field.

On the other hand, it can be argued that anticorruption strategies in Tanzania are not adequately implemented because efforts to combat corruption in Tanzania are not a new phenomenon. The Government of Tanzania has committed itself to fighting corruption in all spheres of the economy since independence. Debatably, this commitment has come from both past and current presidents. Interestingly, Tanzania’s good governance vision contained in the Government’s policy paper vision 2025 states that “Tanzania cherishes good governance and rule of law in the process of creating wealth and sharing benefits in society and seeks to ensure

that its people are empowered with the capacity to make leaders and public servants accountable. By year 2025, good governance should have permeated the national socio-economic structures thereby ensuring a culture of accountability, rewarding good governance and effectively curbing corruption and vices in society.” Paradoxically, a mere presence of international and government policies, acts, and laws has done little to curb corruption and more needs to be done to implement them.

Moreover, international law alone can not eliminate corruption but it can serve as an important technical tool to be incorporated into the domestic law by the people of country concerned. Stated differently, a country must have an empowered public to pressurize their government to incorporate international law. It is very unlikely that a government, as it has been revealed in this paper, will incorporate international law without internal pressure. Tanzania, for example, has a record of ignoring international law when it comes to refugees. On February of 2005, as revealed by the Refugees (2005), the UN High Commissioner for Refugees (UNHCR) announced that the long host to hundreds of thousands of refugees, Tanzania was forcibly repatriating asylum seekers to still-volatile Burundi despite their genuine reasons to fear persecution. It was further revealed that the government returned two families totalling nine persons, despite assurances made to UNHCR that the nine would be granted refugee status. On the contrary international law on corruption has been taken on board.

Arguably, adherence to international law must come from within the country and the same must ensure its sustainability. Specifically important, advancements in science and technology, the media, the civil society, and open discussion on grand corruption cases with multination face fuelled the Tanzanian parliament to enforce more severe regulation so as to curb corruption. That background is the one which led into the incorporation of international law on corruption in the Tanzanian legal system. Accordingly, I argue that changes must come from the people themselves, as say opposed to international law and that Tanzanians are in the right direction.

Similarly, tertiary respondents of this study have all unanimously suggested for corruption to be curbed, and I strongly agree, we must go beyond a mere fight of corruption. Arguably, they have, contextually, called for employment of good governance. According to UNESCAP (2008) good governance assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society. Indeed, grand corruption does exist and it greatly affects the development of Tanzania. Clearly, government leaders alone can not be blamed for escalating levels of corruption because corruption, as revealed in this study, is a social, cultural and legal problem deeply rooted in Tanzanian society and it can not be solved by just signing international conventions, strengthening of existing laws and creation of ethical bodies. If I have to speak the corruption language, the attitude of the society must change as well, so that all join in the fight against corruption. The society must see corruption as an evil thing so that children who are future leaders see it that way. Public participation is not enough; actually, mechanisms for immediate action against the culprits should be in place for corruption to be eliminated. By the same token, all Tanzanians should be educated of their rights. More importantly, supporting state machinery, in addition, should be in place to allow all Tanzanians to participate in decision making. Culture, as argued earlier should not be used as an excuse for doing nothing and that the government or state must play a key role in those efforts.

In view of that, I underscore that fighting corruption is a short term goal, money must be recovered and corrupt deals dealt with, but good governance, involving all stakeholders is the way we should go. Here AU Corruption Convention, with emphasis on good governance, becomes of critical importance. In other words, state Parties (Snider and Kidane 2007:744-745) to the AU Corruption Convention, unlike UNACAC, recognize that any attempt to combat corruption in Africa without applying fundamental governance principles would be futile and this paper has revealed that. According to AU Corruption Convention of 2003, corruption, as revealed by Snider and Kidane, cannot be combated without accountability and that good governance approach to corruption has been taken on board. So Tanzania, a signatory of AU Corruption Convention, must continue to take critical measures to implement the convention using the good governance approach. Interestingly, Tanzania's good governance vision (PCB 2006) contained in the Government's policy paper Vision 2025, as stated earlier, underscores the importance of good governance. Likewise, Tanzanian government (PCB 2006) has created several institutions so as to ensure good governance. The institutions charged with the supervision of good governance are: a) the president- who is the overall supervisor. Through his office there are Minister of state responsible for good governance and Chief Secretary who is the head of the Public Service; b) Commission of Human Rights and Good Governance c) Ethics secretariat d) National Audit Office e) PCCB formerly known as Prevention of Corruption Bureau f) Public Service management-Ethics Unit and f) Tanzania Service Commission. Quite simply, Tanzania has a good national framework or foundation for good governance and it must be thoroughly implemented for corruption to be eliminated. However, I again emphasize that the role of fighting corruption should not solely rest in the shoulder of the government for obvious reasons discussed in this paper because government is only one of the actors in governance. The civil society (all actors other than government and the military) must take part for good governance to thrive.

## REFERENCES

- Berelson, B. 1952. *Content analysis in communications research*. New York, NY: Free Press
- Berg, B. L. 1998. *Qualitative Research Methods for the Social Sciences, 3rd edition*. Boston MA: Allyn & Bacon
- Chachage S.L. Chachage and Mbilinyi Marjolie (eds) 2003. *Against Neo-liberalism: Gender Democracy and Development*. Dar es salaam: E&D Limited.
- Corruption Tracker System (CTS) 2009. How corruption 'eats' Tanzanian taxpayers' hard earned revenue. Available at [http://www.corruptiontracker.or.tz/index.php?option=com\\_content&task=view&id=25&Itemid=29](http://www.corruptiontracker.or.tz/index.php?option=com_content&task=view&id=25&Itemid=29) [Accessed December 26, 2009]
- CTS. 2010. Corruption Tracker System (CTS) Official Website at <http://www.corruptiontracker.or.tz> [Accessed November 2010]
- Delorme D. E., Zinkhan G.M., French W. 2001. "Ethics and Internet: Issues Associated with Qualitative Research". *Journal of Business Ethics*, Vol. 33. No 4: pp 271-286
- Denzin N.K. and Lincoln Y. S., 2000. *Handbook of Qualitative Research (Second Edition)*. California. Sage Publications
- Enarson, E. and Morrow, B. H. (eds) 1998. *The Gendered Terrain of Disaster: Through Women's Eyes*. USA: Praeger Publishers

- FAO 2005."Gender and Women in Agriculture and Rural Development"; Sub regional Resource Persons' Network Meeting. Available at <http://www.fao.org/world/regional/rap/speeches/2005/20051023.html> [Accessed April 2007]
- Hamel, J., Dufour, S., and Fortin, D. 1993. *Case study methods*. Newbury Park, CA: Sage.
- Hammersley Martyn and Atkinson Paul 2007. *Ethnography: Principles in Practice Third Edition* Routledge: New York USA
- Holsti, O. R. 1969. *Content analysis for the social sciences and humanities*. Reading, MA: Addison-Wesley.
- Hosea Edward. 2009. *Speech by the Director General of the Prevention and Combating of Corruption Bureau, PCCB, -Addressing the 4th Annual East African Association of Public Accounts Committees (EAAPAC), 9th May 2009, Blue Pearl Hotel, Ubungu Plaza-Dar es Salaam*. Dar es salaam: Prevention of Corruption Bureau (PCB)
- Hosea Edward. 2007. *An Overview of the Bill on Prevention and Combating of Corruption Act, (PCCA) 2007* Dar es salaam: Prevention of Corruption Bureau (PCB)
- Hyden Goran 1980. *Beyond Ujamaa in Tanzania: underdevelopment and uncaptured peasantry*. California: University of California Press
- Insch, G. S., Moore J. E. and Murphy L. D.1997. "Content Analysis in Leadership Research: Examples, Procedures, and Suggestions for Future Use", *Leadership Quarterly* Vol.8: 1-25.
- Janis Mark Weston. 2008. *International Law*. New York: Aspen Publishers
- John Rosina .2010. Richmond agent lied on firm's capability, court told. Citizen Official Website at <http://www.thecitizen.co.tz/news/4-national-news/5560-richmond-agent-lied-on-firms-capabilitycourt-told.html> [Accessed 15 November 2010]
- Kabeer N. 2003. *Gender Mainstreaming in Poverty Eradication and the Millennium Development Goals: A handbook for policy-makers and other stakeholders*. Common Wealth Also available at <http://www.thecommonwealth.org/Gender>
- Kapstein Ethan B and Converse Nathan 2008. *The Fate of Young Democracies*. New York: Cambridge University Press
- Kaufmann Daniel 2005. Back to Basics—10 Myths About Governance and Corruption. Availbale at <http://www.goodplanet.info/goodplanet/index.php/eng/Contenu/Points-de-vues/Back-to-Basics-10-Myths-About-Governance-and-Corruption/%28theme%29/1405> [Accessed on April 2010]
- Krippendorff, K.. Content analysis. 2004. *An introduction to its methodology (Second ed.)*. Thousand Oaks, CA: Sage Publications.
- Lamtey Gadosa 2008. Zanzibar Declaration up for detailed review. The Guardian. Available at <http://216.69.164.44/ipp/guardian/2008/05/27/115225.html> [Accessed on 05/23/2010]
- LeCompte D. Margaret. and Schensul J. Jean., 1999. *Designing and Conducting Ethnography Research, (Ethnographer's Toolkit)*, Vol.1, United Kingdom: AltaMira Publications
- Ma. Dolores C. Tongco 2007. Purposive Sampling as a Tool for Informant Selection . Available at [http://www.botany.hawaii.edu/gradstudentpages/Grad\\_Student\\_Pubs/Tongco%202007.pdf](http://www.botany.hawaii.edu/gradstudentpages/Grad_Student_Pubs/Tongco%202007.pdf) [Accessed 23 January 2010]
- Mmuya, M. and Lemoyan, J. 2008. *Strategic Responses Towards Good Governance with Specific Attention to the Local Authority Level, Strategic Governance And Corruption Analysis (SGACA)*. Dar es Salaam: Government Print
- Munuo Eusebia N.2007. *The War against Corruption in Tanzania*. Dar es salaam: Court of Appeal of Tanzania
- Neuman, W. L. 1994. *Social Research Methods, 2<sup>nd</sup> edition*. Boston, MA: Allyn & Bacon

- Neumayer, E. and Pluemper, T. 2007. "The Gendered Nature of Natural Disasters: The Impact of Catastrophic Events on the Gender Gap in Life Expectancy, 1981-2002". *Annals of the American Association of Geographers*. Vol. 97. No.3: 551-566.
- Nyanduga Bahame Tom and Manning Christabel .2006. Guide to Tanzanian Legal System and Legal Research. Available at <http://www.nyulawglobal.org/globalex/tanzania.htm> [Accessed on 11/24/2010]
- Nyerere Madaraka 2010. The Arusha Declaration: A new issue for this year's elections? *The Daily News*. Available at <http://www.dailynews.co.tz/columnist/?n=8349&cat=columnist> [Accessed on 05/23/2010]
- The Guardian Team. 2010. "UK: Radar purchase scam case not over" *The Guardian*, 11th November 2010
- Noyes John E, Dickson Laura A., Janis Mark W, eds. 2007. *International Law Stories*. New York: Foundation Press.
- Patton, M. Q. 1990. *Qualitative evaluation and research methods (2nd ed.)*. Newbury Park, CA: Sage Publications.
- Peter P. Ekeh. 1990. "Social Anthropology and Two Contrasting Uses of Tribalism in Africa" *Comparative Studies in Society and History*, Vol. 32 No. 4:660-700
- Posadas A Lejandro 2000. "Combating Corruption under International Law." *Duke Journal of Comparative & International Law*. Vol. 10: 345-414
- Prevention of Corruption Bureau (PCB) 2006. Good Governance in Service Industry Social Security Perspective: Paper Presented during 16<sup>th</sup> PPF Members' Conference-Arusha 15<sup>th</sup>-17<sup>th</sup> November, 2006. Dar es salaam: PCCB
- Refugees. 2005. Contrary to International Law, Tanzania Continues Forcible Returns of Burundian Refugees. Available at <http://www.refugees.org/newsroomsub.aspx?id=1242> [Accessed November 25 2010]
- Rochester J. Martin. 2006. *Between Peril and Promise: The Politics of International Law*. Washington DC: CQ Press
- Silverman, D. 1993. *Interpreting Qualitative Data: Methods for Analysing Talk, Text and Interaction*. Thousand Oaks CA: Sage Publications.
- Snider Thomas R. and Kidane Won 2007. "Combating Corruption Through International Law in Africa: A Comparative Analysis." *Cornell International Law Journal* Vol. 40: 691-748
- Tanzanian Affairs 2008. Corruption - Crusade Continues, Tanzanian Affairs [Internet], 1 September 2008 Available at <http://www.tzaffairs.org/?p=334>[24 October 2008]
- The Equatorian News Online 2009. Tanzania Slips in Global Corruption Ranking Sunday 27 December 2009. Available at [http://www.theequatorian.com/index.php?option=com\\_content&task=view&id=600&Itemid=292](http://www.theequatorian.com/index.php?option=com_content&task=view&id=600&Itemid=292) [17 May 2010]
- This day 2008. Change on spot over pocket change, *THIS day* [Internet], 18 April Available at <http://www.thisday.co.tz/News/3832.html> [17 May 2008]
- Transparency International 2008. Corruption Perceptions Index 2008. Available at [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2008/cpi\\_2008\\_table](http://www.transparency.org/policy_research/surveys_indices/cpi/2008/cpi_2008_table) [ Accessed 20 January 2010]
- Transparency International 2009. Corruption Perceptions Index 2009. Available at [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009/cpi\\_2009\\_table](http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table) [Accessed 20 January 2010]

- Transparency International 2010. Corruption Perceptions Index 2010. Available at [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2010/results](http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results) [Accessed 22 November 2010]
- United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) 2008. What Is Good Governance? Available at <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>. [Accessed 23 January 2008]
- Tripp Ail Mari. 2000. "Political Reform in Tanzania: The Struggle for Associational Autonomy." *Comparative Politics*, Vol. 32, No. 2: pp. 191-214
- Tripp Aili Mari, Casimiro Isabel, Kwesiga Joy, Mungwa Alice 2009. *African Women's Movements: Changing Political Landscapes*. New York: Cambridge University Press
- UN 1996. United Nations Declaration against Corruption and Bribery in International Commercial Transactions. A/RES/51/191, 86th plenary meeting, 16 December 1996
- UN. 2000. The Cost of Corruption. Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders Press Kit Backgrounder No3. Published by the United Nations Department of Public Information. Available at <http://www.un.org/events/10thcongress/2088b.htm> [accessed on 11/24/2010]
- UNDP 2007. Governance and Anti-Corruption', United Nations Development Programme [online]. Available at [http://www.tz.undp.org/dg\\_proj\\_dg\\_intro.html](http://www.tz.undp.org/dg_proj_dg_intro.html) [Accessed 11 January 2008]
- United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP). 2008. What Is Good Governance? Available at <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp> [Accessed on 23 January 2008]
- United Nations Office on Drugs and Crime (UNODC). 2010. Official Website at <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html> [Accessed November 2010]
- United Republic of Tanzania (URT) 2008. Corruption in Tanzania and Government Measures Against it: Handout prepared by Charles Nakembetwa Iringa Regional Bureau Chief' PCB. Iringa
- URT 2005. *Poverty and Human Development Report 2005*. Dar es salaam: Mkuki na Nyota Publishers
- URT 2005. *Poverty and Human Development Report 2005*. Dar es salaam: Mkuki na Nyota Publishers
- URT 2006. *Ethics Baseline Opinion Survey of Stakeholders Final Report*. Dar es salaam: Government Printers
- URT 2007a. *Poverty and Human Development Report 2007*. Dar es salaam: Government Printers
- URT 2007b. *Views of the People' Survey*. Dar es salaam: Government Printer
- Whitaker Mark P 1996. Ethnography as Learning: A Wittgensteinian Approach to Writing Ethnography Accounts. *Anthropology Quarterly*, Vol. 69. No. 1: pp 1-13
- Wilson William J. 2010. *More than Just Race: Being Black and Poor in the Inner City* (Issues of Our Time). New York: W.W. Norton Company
- Wolcott H. R. 2008. *Ethnography: A Way of Seeing, Second edition*. United Kingdom, AltaMira Publications
- Woodrum, J. 1984. "'Mainstreaming" Content Analysis in Social Science: Methodology, Advantages, Obstacles and Solutions', *Social ScienceResearch*. Vol.13: 1-19.

- Woods Peter 1987. "Ethnography at the Crossroads: A Reply to Hammersley." *British Educational Research Journal*, Vol 13, No. 3: 297-307
- Yin, R.K. 2002a. 2nd Edition. *Applications of Case Study Research (Applied Social Research Methods)*. California: SAGE Publications.
- Yin, R.K. 2002b. 3rd Edition. *Case Study Research : Design and Methods (Applied Social Research Methods)*. California: SAGE Publications.
- Yunus Muhammad 2007. *Creating a World Without poverty: Social Business and the Future of Capitalism*. Philadelphia: Perseus Books Group.