

BUNGE LENYE MENO

A Parliament with Teeth, for Tanzania

By Samuel Sitta MP, Willibrod Slaa MP and John Cheyo MP

With an Introduction by Mark Ashurst

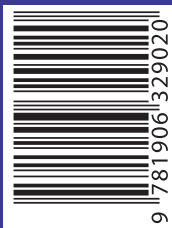
East Africa's most populous nation has been a beacon of political stability in a troubled region. Yet for most of Tanzania's post-independence history, ethnic and religious tolerance has been underpinned by the dominant governing party Chama Cha Mapinduzi. An unyielding political machine has resisted attempts to wrest influence from the ruling elite.

Until now. A cross-party group of activist parliamentarians has boldly asserted their constitutional role: the 'oversight' of government business, and the 'challenge function' of standing up to executive power. The unfolding contest to transform *Bunge*, Tanzania's National Assembly, is changing political life in ways which even the leading protagonists hardly believed possible.

In this candid and balanced report, three eminent parliamentarians describe their roles in these far-reaching reforms: from the first parliamentary committee of enquiry, to regular Prime Minister's Questions and fresh scrutiny of the foreign donors who contribute more than 40% of the government budget. In the struggle to create vigilant and accountable public institutions in Africa, Tanzania has set an important precedent.

"The ideal situation is to have the teeth, and also to have the meat to chew on."
- Samuel Sitta, Speaker of the National Assembly

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1. Introduction

by Mark Ashurst

Mark Ashurst is director of the Africa Research Institute. He spent six years as the BBC's Africa business editor and previously worked as a foreign correspondent in Africa for the *Financial Times*, *The Economist* and *Newsweek*. In 1995, he drafted Nelson Mandela's opening address to the Union of African Radio and Television Broadcasters' first conference in Johannesburg, where he worked in the strategic planning unit of the South African Broadcasting Corporation during its transition from apartheid propaganda machine to a public broadcaster. His radio documentaries for the BBC include *The Congo*, a descent of the famous river; *Helping Ourselves*, an enquiry into fair trade; and *Crossing Continents*, a survey of Zimbabwean migrants in southern Africa.

The price of stability

Among people looking for African success stories, Tanzania is often cited as an example to its peers. East Africa's most populous state has been a beacon of stability in a troubled region. A strong tradition of tolerance unites its almost 40 million people, for all their ethnic and religious diversity. Their long peace contrasts with stubborn conflicts around much of the Great Lakes region and in the Horn of Africa. Foreign donors are eager to join in: no African country receives more development aid, per capita, from the G8 group of industrialised nations.

Tanzania's favoured status demonstrates what has been termed 'the paradox of impotence', a curious aspect of Africa's standing in the multilateral order. No strategic international interests are at stake: Tanzania does not possess coveted oil reserves, nor harbour anti-western Islamist militants. Instead, its governments have proved adept at winning friends and patrons as far afield as Washington and Beijing.

In the past decade, Tanzania has combined steady economic growth with better management of its public finances. Development institutions approve of the general direction of government policy – and are intricately involved in its formation. Yet privately, many local politicians are deeply sceptical that Tanzania can prosper in the global economy. Its largely agricultural economy depends on smallholder farming. New mining concessions have lured a handful of multinational investors, but hopes of a broad-based recovery fuelled by previously untapped gold and mineral reserves have not materialised. About four in ten Tanzanians live in poverty.

In the midst of hardship, political stability has been underpinned since independence by the dominance of a single governing party, Chama Cha Mapinduzi (CCM). In Tanzania's highly centralised political

structure, the defining feature of CCM's hegemony has been resilience: first, in surviving the 'African Socialism' pursued by founding president Julius Nyerere; more recently, in negotiating the new orthodoxy of economic and political liberalisation. In the wake of President Jakaya Kikwete's election victory in 2005, however, his promise of more open and accountable government has called into question many old habits of Tanzania's machine politics.

A new kind of political animal is emerging in *Bunge*, the National Assembly. This new breed of MPs, from the ranks of both CCM and the opposition parties, attaches new importance to building a more effective and vigilant parliament. The public mood is behind them, encouraged by recent evidence of grand corruption on a scale not previously seen in Tanzania: the most notable examples are a state tender for emergency electricity generating capacity – the Richmond Contract, and fraud at the central bank – the Bank of Tanzania scandal. Close scrutiny from parliament and a lively interest from the independent press have upset a near-monopoly of information by a few government insiders.

From *Ujamaa* to Structural Adjustment

Nothing like this has happened before. Within *Bunge*, even to challenge the centralisation of power is a relatively new phenomenon. Tanzanians remain deeply grateful for the robust national identity nurtured by founding president Julius Nyerere – widely known as *Mwalimu*, or Teacher. It is a cherished legacy that no politician will challenge. Nyerere's insistence on Swahili as a common national language, his achievements in education and adult literacy, and an unswerving belief in a single-party political system were the foundations of the modern state. Encouraging more accountable government – as President Kikwete has urged, at least in public – implies a new notion of patriotism.

The economic inheritance from Nyerere is more controversial. *Ujamaa*, a policy of villagisation and collective farming inspired by Nyerere's 13 visits to Chairman Mao's China, was devised to bring a green revolution for Africa. Instead, the new model villages forced population movements on a scale greater than the evictions of apartheid South Africa. The goals of agricultural self-sufficiency in the rural areas, and industrialisation in the cities were never achieved. African Socialism transformed the colonial trading hub of Dar es Salaam into a much-reduced economy of bankrupt nationalised industries.

In pursuit of self-reliance, Tanzania became heavily aid-dependent. Nyerere's doctrines were staunchly encouraged by the World Bank under its president Robert McNamara, former US defence secretary. The unstinting support of multilateral lenders begs an awkward question, which remains pertinent in today's era of pan-global campaigns to boost aid to Africa. Did the former US defence secretary – consciously or not – seek to exorcise the demons of the misguided American war in Vietnam by bankrolling a utopian project in Tanzania? The role of foreign creditors became firmly entrenched.

Later presidents saw little option other than to accept the radically changed advice of McNamara's successors at the World Bank and the International Monetary Fund (IMF). In return for sound macroeconomic management and commitment to help the private sector, Tanzania received cheap international loans under an Economic Structural Adjustment Programme. The fiscal discipline stabilised its fragile economy, but per capita incomes continued to fall throughout the 1980s. From retirement, Nyerere was scathing about the prescriptions of multilateral lenders: "I told them have some humility," he said in 1999.¹

The one-size-fits-all formula of Structural Adjustment brought similar results across much of sub-Saharan Africa. In the aftermath of its liberalising economic agenda, a well-connected business elite has prospered. The middle class is either expanding or, in many places, emerging for the first time. Over the same period, most rural populations have become steadily poorer. Small farmers remain dependent on a few cash crops, their predicament exacerbated by state failure adequately to subsidise key inputs such as fertiliser, then further compounded by the abolition of state controls on marketing and exports. The deepening hardships of rural life fostered a new underclass of migrants drawn to the cash economy of the cities.

For governments, the capacity of aid-dependent administrations to raise and manage their own resources was sharply curtailed by currency devaluations and reduced tariffs on trade. A substantial part of Africa's political class, confronted by new extremes of wealth and poverty, believe this diminished fiefdom is evidence of a neo-liberal agenda to roll back the boundaries of the state. Such allegations are often resented by the architects of development policy in London, Paris and Washington. In every conspiracy theory, they detect symptoms of a more enduring problem: African economies remain burdened by parasitic elites for whom any suggestion of more open or accountable systems quickly becomes a threat to personal interests.

Inside the machine

Tanzania has been no exception to these wider trends, for better and for worse. After some painful shocks, the economy is more robust. Gross domestic product has been rising at more than 5% for almost a decade. Inflation is under control. Foreign direct investment has targeted a booming telecoms industry and a fledgling mining sector, although the pace of industrialisation remains slow. Trade and integration, with the

region and the world, is gathering momentum. In the harbour capital of Dar es Salaam, the skyline is littered with cranes and the heavy loading equipment at the new container port operates around the clock. A new settler class of shopkeepers, engineers and investors is arriving from Beijing, Johannesburg and Nairobi.

Relations with international aid agencies are close and cordial, despite regular bickering over the depth of ministers' commitment to reform. As the tally of international assistance has risen, those arguments have been intensified by revelations that the Bank of Tanzania authorised fraudulent payments worth TSh133bn (US\$120 million) as recently as 2005. Monies siphoned from the central bank had been disguised as overdue foreign currency obligations under its External Arrears Account, a mechanism for regulating foreign exchange transactions under the strict currency controls of the 1980s. The shortfall was underwritten by a government bond, issued by the outgoing administration of former president Benjamin Mkapa.

The Bank of Tanzania scandal has come to symbolise a wider malaise, in which government officials and their political allies are complicit. The first evidence of irregularities was uncovered during a routine audit by Deloitte & Touche, and subsequently referred both to the ministry of finance and the IMF. Opposition politicians brought the allegations to parliament, from where the story made headlines in the independent newspapers, and was widely carried by state media. Monies from the External Arrears Account were alleged to have funded CCM's 2005 election campaign.

The response to the scandal is among the most telling indicators of change in Tanzania's body politic. A second external audit of the Bank of Tanzania, by Ernst & Young, was appointed in September 2007. A

report from the new Controller and Auditor General, Ludovick Utouh, tabled 17 recommendations to improve governance at the bank – including advice for the Attorney General. In January 2008, central bank governor Daudi Ballali resigned after auditors found local businessmen had colluded with bank officials to procure loans for at least 22 local companies. A presidential commission, comprising the Attorney General and Inspector General of Police, set a deadline for stolen funds to be repaid by October 31st.

In November 2008, the first legal charges arising from the Bank of Tanzania scandal were announced by state prosecutors. About TSh50bn in cash had been recovered before the October 31st deadline. Some of the rest is understood to have been invested by beneficiaries in luxury properties in Dubai. Although those who returned funds may hope to avoid prosecution, prominent parliamentarians have insisted that any amnesty must come from parliament. Others have reminded President Kikwete that a presidential pardon may be granted only after a court has passed sentence. Donors, represented by a Development Partners Group, urged the government to pursue prosecutions as a litmus test of its commitment to reform.

Bunge Lenye Meno

While the drama at the Bank of Tanzania unfolded, parliamentarians have embarked on a process of far-reaching reforms in the day-to-day operations of *Bunge*. The Standing Orders which regulate its work have been revised to enable more parliamentary debate. The new rules emphasise the traditional ‘oversight’ role of parliamentary committees. The right of MPs to speak freely within the National Assembly and to introduce legislation – the ‘challenge’ function – is keenly debated on all sides of parliament. For the first time, the prime minister must appear regularly in *Bunge* for Prime Minister’s Questions.

The outcome of these reforms has surpassed even the most optimistic predictions of key actors, such as the veteran CCM politician and Speaker, Samuel Sitta. At our first meeting in July 2007, for example, Mr Sitta told me categorically that the majority party would veto any proposal for a parliamentary enquiry into an issue of serious public controversy. This was cause for regret in his view, but a reality. By November that year, Mr Sitta was instrumental in appointing Tanzania's first select committee to carry out the Richmond Enquiry into a controversial electricity supply contract.

Contributors to this paper are among the most striking examples of the new activist MPs. In the Westminster tradition, the key accounting committees are headed by members of the opposition. John Cheyo, the sole MP for the United Democratic Party, runs the Public Accounts Committee (PAC). Willibrod Slaa, secretary general of the opposition Chama Cha Demokrasia na Maendeleo (CHADEMA) is head of a new Local Authorities Accounts Committee. Their political priorities vary, but the extent of their common interest is confirmed by their readiness to cooperate – albeit independently – in the publication of this paper.

In February 2008, the conclusions of the Richmond Enquiry led to the resignation of both the former prime minister, Edward Lowassa, and two ministers. Dr Harrison Mwakyembe, a CCM MP who chaired the enquiry, recalls in an interview for this paper that his committee resolved early on to be circumspect in dealing with powerful officials. He argues that too much disclosure of their findings, too early in the process would have jeopardised their work. The real contest, then, is less about party loyalties than about how much parliamentarians should know about how Tanzania is run. A delicate balance of caution, diligence and guile is at work among reformists on all sides.

Personalities can be decisive. One insider estimates that about 40% of MPs want change, 40% are loyal to the machine, and 20% undecided. The balance is constantly shifting. Mr Sitta, for example, is a former cabinet minister and veteran CCM insider. Few parliamentarians have been more intimately involved in the old order. With most of his career now behind him, the reform of *Bunge* will be his political legacy. Among younger generations, Dr Mwakyembe is a professional lawyer elected to parliament in 2005. He intends to stand for a second term, but claims he has no long-term ambition to remain in politics. The relative lack of careerism of such figures has been an incentive for change.

The opposition presence remains tiny. In the three elections since a multi-party system was adopted in 1992, opposition parties have won successively fewer seats. Their combined tally in parliament stands at 55 MPs, against 274 for CCM. Of these, Civic United Front (CUF), the largest opposition party with 32 MPs, campaigns primarily for greater autonomy for Zanzibar. CHADEMA, focused on the mainland agenda, has a mere 11 seats. Their high profile in recent parliamentary sessions has led many commentators to speculate that the elections of 2010 will return more opposition candidates to parliament, reversing the trend to date. “We are small in terms of numbers, but we have fantastic influence,” says Mr Cheyo.

As in Westminster, television cameras have changed the rules of engagement. A high profile in *Bunge* makes an MP’s reputation far beyond Dodoma, the political capital. Encouraged by a vociferous independent press, an element of showmanship has entered proceedings. In November 2007, Dr Slaa was accused of contempt by Mr Sitta after reading aloud in parliament a “List of Shame”, naming public figures allegedly implicated by corruption. The theatrical scenes are testament

to more material changes. Under the revised Standing Orders, MPs can aspire to introduce legislation through Private Members' Bills. Younger members from the CCM ranks face an awkward choice between striving to impress constituents with their vigour in parliament, or ambitious compliance with the ruling hierarchy.

The problem of parallel accountability

A more assertive *Bunge* has been encouraged by donors keen to see more effective oversight of government spending. The United Nations Development Programme coordinates a 'Deepening Democracy Programme', including funds to improve the technical capacity of parliament and the National Audit Office. The World Bank has allocated US\$19m to the National Assembly, with an annual budget of US\$1 million earmarked for each parliamentary committee over three years. Donors have paid for new computers, technical training and international study tours for MPs. Among many bilateral donors, there is a candid, if belated, recognition that the role of parliaments has been largely neglected under previous aid programmes.

Donors have good reasons to cooperate with *Bunge*. For many, the frustrations articulated by the contributors to this paper resemble those encountered in the routine work of aid officials. Despite inevitable differences of opinion between international technocrats and local parliamentarians, diplomats tend to believe that, on balance, more unites them than divides them. Their optimism is not always reciprocated. The most assertive parliamentarians tend to be jealous of donors' influence, knowing that much of it is exercised behind closed doors. Mr Cheyo regrets that the close relationship between donors and government departments, all based in Dar es Salaam, dilutes the powers of parliament in Dodoma.

In development jargon, the rivalry between donors and parliament is known as ‘parallel accountability’. The problem is becoming more vexed as foreign aid to Africa has increased, and often confused by the variety of methods of delivering that aid. High profile campaigns in industrialised nations have mobilised a huge constituency in favour of debt relief and more spending on international development. In July 2005, G8 leaders at the Gleneagles summit agreed to double aid to Africa by 2010. Yet aid remains an experimental project and the ensuing debate over policy is polarised. Critics argue that aid can undermine local institutions to the point where it does more harm than good.

The implications for donors

Among the most influential evangelists for more international development assistance to Africa, Jeffrey Sachs, a former Harvard professor-turned-Special Adviser to the United Nations, has lobbied vigorously on behalf of the Tanzanian government. Professor Sachs wants donors to spend more, and to do so more consistently. He argues that aid should favour tangible inputs such as mosquito nets and medicines, which can be insulated from political concerns: “It is hard to corrupt a mosquito net,” he says. For Sachs, poverty will not be reduced until the flow of aid is stable and predictable.

“Turning the dial up or down according to how the last election was run has not worked, and is not going to work” – Jeffrey Sachs.¹

Among G8 nations, a consensus has emerged around the United Nations’ Millennium Development Goals. Bilateral donors attach new importance to ‘harmonising’ policy, often pooling funds under the stewardship of a single ‘lead’ nation. A gamut of new tactics has been

devised to shift the ‘ownership’ of development policy from aid agencies to recipients. The World Bank, for example, requires governments to submit a Poverty Reduction Strategy Paper (PRSP) as a condition for funding. Britain’s Department for International Development (DFID) aspires to support policies which enhance “permanently” the internal capacity of recipient states to manage their own affairs.²

For the agencies tasked with international development, finding productive ways to spend increasing aid budgets can be daunting. Projects which cost an annual budget of, say, US\$20m may turn out to be ill-suited to disperse US\$40m, and so on. Priorities and methods vary widely between agencies. European donors, for example, have been early converts to General Budget Support (GBS), a policy which channels development aid directly into the treasuries of qualifying states. USAID, the official American aid agency, prefers conventional ‘Project Aid’ under which the agency manages construction of bridges, schools or hospitals. Others contribute via ‘Basket Funds’ focused on specific sectors such as water and sanitation.

As befits a donors’ favourite, Tanzania has experienced just about every approach. Since 2004, the proportion of GBS has risen from less than a quarter of all foreign aid to Africa to almost a third – a higher proportion than in other regions. Tanzania is a test case. By 2008, Britain’s DFID spent 80% of its budget for Tanzania in the form of GBS – more than any other British aid programme. Instead of telling governments how to manage aid money, the basic premise of GBS is that the resources should follow performance. As Mr Cheyo observes in this paper, the logic behind untied aid is that donors vest greater trust in recipient governments – a scenario known, in development jargon, as ‘post-conditionality’.

2. Clare Short MP, former Secretary of State for Development. Centre for Policy Studies, 1999.

The contributors to this paper believe that GBS requires closer scrutiny of government budgets by parliament: in short, that MPs will become more involved in measuring aid effectiveness as donors retreat from a more hands-on role. In practice, however, the new approach has led donors to gauge aid effectiveness by outcomes rather than inputs. In education, for example, DFID gauges literacy levels rather than – say – the tally of teachers who have attended training courses. In parastatals, a new emphasis on Public Finance Management Reform (PFMR) includes upgrading government accounting systems. This approach means more work for the donor-funded consultants needed to install computer software or carry out performance audits.

More questions than answers

However well intentioned, the steep increases in all forms of aid remain a difficult proposition for development agencies and recipients alike. Far from simplifying their symbiotic relationships, the era of ‘post-conditionality’ has reinforced the co-dependence of elites on both sides as donors encourage long-term partnerships with local officials. At the same time, however, new methods have coincided with increases in old-fashioned, donor-managed project aid. In Tanzania, GBS is actually falling as a proportion of the total aid budget as other varieties of donor spending rise at a still faster pace.

Talk of a new paradigm is certainly premature. A survey of contemporary academic research by Paolo de Renzio at the London School of Economics found little evidence that new approaches to aid had fostered stronger local institutions. One researcher acknowledged high-level political support for PFMR, but found this had preceded the introduction of GBS. Another described the “political ventriloquism” in debates over aid, contrasting the “shop windows” where ministers speak of good governance with the “smoke-filled rooms” where real decisions are made.⁴

20 4. de Renzio, P., *Aid, Budgets and Accountability: A Survey Article*. In *Development Policy Review*, 2006, 24 (6), pp 627-645 (Blackwell).

“GBS has been presented as a slightly simplistic theoretical nirvana, I think pushed by DFID. That wasn’t right. It must go hand in hand with PFMR, the rule of law, and a private sector.”

– Ian Shapiro, Head of Governance, DFID Tanzania⁵

The political implications of the new varieties of aid were assessed at a seminal conference of donor agencies in Paris in 2005. The notion that aid should be de-politicised – a cause advanced by Professor Sachs – has been revised. Paris 2005, as the meeting is now known, urged more responsiveness to local conditions, aid programmes “aligned to the policies” of recipient governments, and a concerted strategy to identify and support cooperative local officials. These are explicitly political skills and far closer to the traditional role of senior diplomats than of aid officials.⁶ Similar objectives are outlined in DFID’s ‘Drivers of Change’ initiative, which argues for astute political operators capable of finding local champions to advance donor priorities.

In Africa, this agenda looks certain to become contentious again as politicians accuse donors of interference in domestic politics. Yet donor agencies also face pressure from industrialised nations, where support for more aid for Africa has been galvanised by popular campaigns – from the first *Live Aid* concert during the Ethiopian famine of 1985 to the ‘One’ campaign endorsed by every presidential candidate during the US elections of 2008. Such movements are testimony to a new kind of popular protest, a product of the consumer society and the internet age. The Jubilee Campaign to “Drop the Debt” of developing countries in 2000, was a catalyst for billions of dollars in debt relief written off by the World Bank and IMF.

5. Interviewed by Mark Ashurst, Dar es Salaam, July 2008

6. Arnon, J., *Aid, Politics and Development: A Donor Perspective*. In *Development Policy Review*, 2007, 25 (5), pp 653-656 (Blackwell).

For all their success, the impetus to ‘save’ Africa invites scepticism: the desire among citizens of wealthy countries to contribute to a better life for some of the world’s poorest people is evidently sincere, but the moral suasion of campaigners in the rich world is no guarantee of good policies. The more complex challenge is to devise forms of collaboration and assistance which combine help for the most vulnerable, with longer term incentives to create effective local institutions. Too often, the impotence of African political systems vis-à-vis rich nations is compounded by the cosy relationship between donors and local elites.

In Tanzania, the new claims of parliamentarians argue for a more candid engagement with donors. Under the energetic leadership of Mr Sitta, *Bunge* has wrested a measure of autonomy from the government machine. Its budget is no longer administered by the prime minister’s office and parliamentary staff are no longer bound by civil service regulations. In July 2008, a new Public Audit Act granted an equivalent degree of independence to the National Audit Office – on which MPs and standing committees depend for detailed analysis of the government finances.

Simultaneously, parliament has become a beneficiary of donor largesse. Neither the Public Accounts Committee nor the Controller and Auditor General has any authority to summon evidence from donors: the vanguard in that respect is Mozambique, where donors must formally report to parliament. Nor are parliamentarians an adequate defence of the checks and balances essential to any constitutional order.

Contributors to this paper are convinced that President Jakaya Kikwete is supportive of their cause – but a president’s authority is fleeting, and priorities change. The forced resignation of South African president

Thabo Mbeki in September 2008, seven months before the end of his final term, is a cautionary reminder that internal party rivalries can trump the constitutional process. South Africa's parliament had no role in Mbeki's removal, after the 80-member national executive of the governing African National Congress (ANC) voted to oust him.

The comparison is instructive because, unlike Tanzania, post-apartheid South Africa spurned offers of concessionary loans from multilateral lenders. The Pretoria administration was not in hock to international institutions: its policies were very much its own. Yet the origin of Mbeki's weakened authority began with the impotence of South Africa's parliament when, in the late 1990s, Mbeki used his dominance of the ANC party caucus to stymie investigations by the Public Accounts Committee and the Auditor General into a controversial arms deal.

The lesson of that experience holds true for Tanzania: ultimately, a strong executive needs a vigilant *Bunge*. Once quashed, parliaments become vulnerable to in-fighting and factional disputes which, in turn, make for weak governments. The best prospect of a strong leader is a parliament with teeth – *Bunge Lenye Meno*.

2. Mr Speaker

by Samuel Sitta

Samuel John Sitta is Speaker of the National Assembly. He has been MP for Urambo East since 2005. He previously represented Urambo constituency between 1975 and 1995, but left parliament to serve as Regional Commissioner in Kilimanjaro and Iringa. From 1990-1995, he was minister for justice and constitutional affairs. From 1996-2005, he was executive director of the Tanzania Investment Centre. He is a member of the Central Committee of the governing party, Chama Cha Mapinduzi (CCM), and has held a variety of other party positions including Regional Secretary for Iringa and Kilimanjaro. Mr Sitta previously worked as a branch manager for Caltex Oil, and holds a Bachelor of Law degree from the University of Dar es Salaam.

The Westminster inheritance

The Tanzanian political system is based on the Westminster model, although with some variation. This is an historical legacy but, on balance, it forms a good base from which each country can adapt to its own conditions. You can't copy it wholesale, because that simply doesn't work.

In our case, for example, we also copied some aspects of the American system of government, in terms of having an executive president. The president sits outside parliament, but it is the president who calls the shots. The prime minister is the leader of government business in the House, but he does not have the final say in running the country.

Parliament is a good reflection of our society. It represents the whole spectrum of Tanzanians, of who we are. There are farmers, trade unionists, ordinary workers, teachers, health workers, executives and so on. The calibre of members of parliament tends to be good, in the sense that each constituency elects somebody who at least has had high school education. In the current parliament, 49% of MPs are university graduates.

Not all members of parliament are elected. The president can nominate up to ten MPs in order to bring in missing talent or include under-represented constituencies, such as the disabled or academics. Few constituencies would be prepared to elect someone who is deaf or cannot walk, for example. It is very difficult for disabled people to stand as candidates and to win elections.

Ministers are appointed from among the MPs, as in Westminster, but this can cause some difficulty. In America, the legislature is more

independent because the executive is selected from outside. Here, ministers sit in parliament. They form a very powerful block in terms of resisting change, particularly changes which bring more scrutiny of government. In general, executives do not like that.

There is a lopsidedly huge majority in parliament, with roughly 85% of seats for the ruling party. So the government finds it easy to pass legislation. When the government brings its budget, for example, any opposition can be defeated. Even measures that require a two-thirds majority in parliament tend to be beyond the reach of any challenge.

Party discipline

My experience of the Tanzanian parliament has been varied. I have been a cabinet minister and had other roles in government, mostly under the one-party state. I was in cabinet between 1979 and 1995, apart from two intervals when I went into regional administration. The multi-party state began in 1992.

Ironically, under the multi-party state, there is a gagging of members of parliament so they don't endanger their parties. In the early years of the one-party state we used to have a much freer atmosphere in terms of discussion in parliament, because party loyalty was not an issue. For the first decade after independence, parliament was quite robust. People who came from areas where there are strong chiefdoms tended to be 'rightists'. Then there was the younger generation who had studied in Cuba, who tended to be 'leftists'. People stood for issues.

In the 1980s and 1990s, we reached a stage where party loyalty became more important. If you had different ideas, you were looked upon as unpatriotic. In that respect, nothing changed when we brought in the multi-party constitution in 1992: there was no immediate

Julius Nyerere on the one-party state

On class politics

“The British and American tradition of a two-party system is a reflection of the society from which it evolved. The existence of distinct classes and the struggle between them resulted in the growth of this system.

In Africa, the Nationalist movements were fighting a battle for freedom from foreign domination, not from domination by any ruling class of our own. Once the foreign power – ‘the other Party’– has been expelled, there is no ready-made division among the people.

The nationalist movements must inevitably form the first Governments of the new states. Once a free Government is formed, its supreme task lies ahead – the building up of the country’s economy. This, no less than the struggle against colonialism, calls for the maximum united effort by the whole country if it is to succeed. There can be no room for difference or division.”

Against opposition

“The only voices to be heard in ‘opposition’ are those of a few irresponsible individuals who exploit the very privileges of democracy – freedom of the press, freedom of association, freedom to criticise – in order to deflect the government from its responsibilities to the people by creating problems of law and order... There can only be one reason for the formation of such [opposition] parties in a country like ours – the desire to imitate the political structures of a totally dissimilar society. What is more, the desire to imitate where conditions are not suitable for imitation can easily lead us into trouble.

To try and import the idea of a parliamentary opposition into Africa may very likely lead to violence because opposition parties will tend to be regarded as traitors by the majority of our people, or, at best, it will lead to the trivial manoeuvrings of ‘opposing’ groups whose time is spent in inflation of artificial difference into some semblance of reality ‘for the sake of preserving democracy.’ The latter alternative I repeat, is an over-sophisticated pastime which we in Africa cannot afford to indulge in; our time is too short and there is too much serious work to be done...

Where there is one party – provided it is identified with the nation as a whole – the foundations of democracy can be firmer, and the people can have more opportunity to exercise a real choice, than when you have two or more parties.”

transformation. Chama Cha Mapinduzi (CCM), the majority party, still acted as if we were a one-party state.

Although our system is not strictly ‘Westminster’, we have copied the system of one-line, two-line and three-line whips, as a way of ensuring loyal voting on bills. According to our Standing Orders, the rules which govern parliament, the management of legislation has depended to a large extent on the Chief Whip, rather than the Speaker. MPs want a vigorous parliament, but writing parliamentary reforms into legislation has been a challenge.

Of course, no government wants to be defeated. Under our constitution, if the government budget is defeated then it must call a general election. Nobody wants to do that. But the constitution also guarantees the freedom of an individual MP to pursue the truth and to say what he or she feels. Our whip system can undermine freedom of expression within parliament.

“No legal authority has stated that what is going on is in fact unconstitutional.”

The issue of party loyalty is not peculiar to Tanzania; but to give primacy to party rules, over and above the constitution, is a very strange way of running things. In our situation, there are two practical options to tackle this problem:

- Relax the party rules, by measuring them against the provisions in Article 100 of the constitution which guarantees free speech in parliament; or

- Set a precedent in court, whereby MPs go to court to say that the limitations of party rules go against Article 100 of the constitution.

The option of a legal precedent is possible. Ambitious young MPs will tend to be loyal to their parties for the sake of their careers. But what really binds them is the fact that there has been no precedent of dissent. Nobody has tested the constitution. MPs don't have a basis for behaving otherwise because nobody has been able to put the contradiction into practice, nor to show how else we can move on.

Article 100 of the Constitution of the United Republic of Tanzania

Powers and Privileges of Parliament

100. (1) There shall be freedom of opinion, debate in the National Assembly, and that freedom shall not be breached or questioned by any organ in the United Republic or in any court or elsewhere outside the National Assembly.

100. (2) Subject to this Constitution or to the provisions of any other relevant law, a member of parliament shall not be prosecuted and no civil proceedings may be instituted against him in a court in relation to any thing which he has said or done in the National Assembly or has submitted to the National Assembly by way of a petition, bill, motion or otherwise.

The role of the Speaker

The Speaker is elected by parliamentarians. I was one of three candidates, in a competitive election: the other contenders were the incumbent, and a former Deputy Speaker. I stood for election with a rallying call for reform and for more democratic discussion. I wanted to include civil society in decision-making within parliament, and to introduce more open committee systems.

My message was to empower parliament to fulfil its role as a true pillar in terms of governance, so that government doesn't get complacent. MPs responded to that, with an 80% vote in my favour. In hindsight, perhaps I was elected to my position against the wishes of the government.

One of the first things I did, in 2007, was to secure an independent budget, the National Assembly Fund, for parliament. Until then, the costs of running parliament had always been included in the budget for the prime minister's office. MPs were subject to government instructions on driving privileges, mileage limits and other regulations, dictated in the form of circulars.

These circulars were binding, because the clerk to the Assembly acted as an accounting officer of the government. In that sense, MPs were treated as civil servants – the clerk would say: “Sorry, this is our budget, we have to pay heed. Sorry, this year the budget is small therefore we cannot employ new staff”. There were even circulars coming from government departments, from the Treasury and so on.

I found this to be nonsensical because you can't treat MPs as employees. They are not employees of government. The National Assembly Fund is run by parliamentarians themselves. Financial independence is the key.

The National Assembly Fund

The National Assembly Fund is a sign that the government has accepted that parliament should be completely independent. In the past, for example, money from the prime minister's parliamentary budget that remained at the end of the financial year had to be returned to the treasury. Now that is no longer the case. Any surplus in the National Assembly

Fund can be rolled over into the next financial year. The demarcation between parliament and government departments is clearer than before.

Parliament is very expensive to run. Just to keep up with the amount of paperwork requires energy and resources. The National Assembly Fund gives us more autonomy to employ researchers and expertise: we can hire new blood and transfer those members of staff who lack the necessary skills to work in parliament back to the civil service.

We have equipped a library. We have an internet room from which MPs and staff can access the whole world. A new incentive package has been introduced for the Hansard editors who leave at midnight because they have to document all the day's proceedings before the next morning. Specialised work of this kind was not adequately covered by civil service rules.

After negotiations with government, we are now able to receive money directly from external sources. In the past, all funding had to go through the government. Naturally, parliament and freedom of speech would not be given the highest priority. Now, the donors can send what is called 'Democratisation Money' directly to parliament. For example, the World Bank is giving US\$19m this year for the democratisation programme.

Standing Orders

In November 2007 we revised the Standing Orders to enable more vibrant discussion and debate. We went through each rule one-by-one with the government. It was not easy! For example, at first they refused to have Prime Minister's Questions. They said that it was not appropriate because we have an executive president. Despite all this, you can see a new mood, an appetite to get things done in a different way.

“The ideal situation is to have the teeth, and also to have the meat to chew on. I think we are slowly reaching that point.”

It has become possible to appoint a select committee to investigate a public controversy. This would have been very difficult under the old Standing Orders. According to the Standing Orders, MPs must notify the Speaker that they wish to appoint a committee. They put the whole thing in writing and then it will be put to the vote.

In the past, if such a request appeared inconvenient to government, they would impose a three-line whip and the investigation would not happen. In 2006, there was no request for any kind of investigation by parliament.

But in 2007, following concerns raised by the standing committee on Trade and Investments, we agreed to set up a select committee to investigate an electrical power contract with Richmond Development Company. The chairman of the Trade and Investment Committee, William Shelukindo, insisted there was something that could not be explained about Richmond. All our committees are bi-partisan, and all the members of his committee agreed to recommend a select committee enquiry.

Under the new rules, a Commission for Parliament sits under my chairmanship, and that makes a huge difference. When sectoral committees table their reports on the financial year, these are debated in parliament. We permit committees to bring in private members’ bills. The experience of change has been very positive.

Public Accounts Committee

The Public Accounts Committee (PAC) has been trained and has travelled all over the Commonwealth. It is better equipped and has a lot of informal connections with similar committees in other places. We also set up a Local Authorities Accounts Committee, a Public Investments Committee, and a Public Organisations Accounts Committee. These are headed by the opposition.

The new rules require the report of the PAC to be discussed by parliament. The PAC reports to parliament with an analysis of the report of the Controller and Auditor General, and this triggers a two-day debate in parliament. Previously, no discussion was required. The report was tabled and perhaps an MP would take the initiative to raise certain issues. But that was all.

We considered whether donors should be obliged to report to the PAC. But in terms of relationships between nations, we thought that it would not be appropriate to compel donors to report to a committee or to parliament. Instead, we decided, on the suggestion of donors, to create a tri-partite Bunge Foundation, bringing together members of the donor community, civil society and MPs.

In this way, discussions about aid are confined by the strictures of dealing with a sovereign government. Parliament has a lot of connections with the donors, which is very healthy. But we thought that on the issue of government accountability it is better that we deal with the donors through the Bunge Foundation.

The Bunge Foundation

We have been working on a five-year corporate plan for parliament, with support from four or five donors: the Scandinavians, DFID, World

Bank and the Association of West European Parliaments for Africa (AWEPA). This has taken longer than I anticipated, but once operational, the Bunge Foundation will form a committee to meet twice a year to discuss government spending.

Previously, this role of analysing government expenditure to see if we are getting value for money, was exclusively the role of the donor community. This was very inefficient. Sometimes the things which the donors notice are the same things which parliament has noticed through the work of the PAC. We had a problem of multiple accountability. They were not coordinated.

“There was one window to the donors, a bilateral discussion; and another window to parliament; then you had civil society, complaining about all sorts of things. These three were not coordinated.”

The donors-to-government interface tended to be very patronising. The lines of accountability ran in parallel. So it’s very significant that the initiative to have this tripartite group came from the donors, not from us. The Bunge Foundation is an umbrella body. It has committees to deal with oversight, with building parliament as an institution and with democratisation.

It was the donors who said: “Look, we are not comfortable with this annual review which is like a headmaster scolding the government. Why can’t we have something more realistic?” This will be a model for others.

Empowering *Bunge*

The first priority in our five-year plan is in-house training for parliamentary staff. We want it to be a merit-based civil service, serving MPs. We want to take them to visit other parliaments, and to introduce competitive exams. So the service will be of a much better quality than before, empowering *Bunge*.

The second aspect is a legislative programme to entrench the separation of powers, trying to elevate *Bunge* so that its independence is not in question. We started with the National Assembly Fund, but we want to go much further than that so that committees do much more than they can now.

The third priority is to develop a legislative calendar which is owned by *Bunge*. We should not be sitting back, waiting for bills coming from government. We want to introduce legislation or changes in legislation. If the voters are clamouring for something, we can't just sit back like we have been doing.

For example, there are complaints about fair competition in business. Obviously there is a process of negotiation with the government, but the parliamentary committees should be able to introduce a private member's bill to encourage best practice.

Constitutional reform

Some constitutional changes will be necessary to achieve a more effective parliament. There is public appetite for this: people want independent MPs. If you look at the nomination process for someone wanting to go into parliament, it can deter serious candidates. People who don't behave in a certain way won't secure the nomination, and that can put paid to their career – it's difficult to do anything about that.

My arguments for constitutional change relate simply to guiding the way parliament is run, so that serious issues can be determined in a serious manner. I am not sure about other constitutional changes, as advocated by certain political parties. Decentralisation, for example, is a different issue.

Reform has to be a bipartisan process, where opposition MPs and CCM MPs can agree. We have to start at committee level, building consensus among a sufficient number of MPs to support more independence for parliament. The biggest obstacle to change is party loyalty. The parties guard their rights closely.

3. The Opposition

By Willibrod Slaa

Dr Willibrod Peter Slaa *has been MP for Karatu constituency since 1995. He is chairman of the Local Authorities Accounts Committee. He began his political career as the secretary of the CCM Foreign Branch in Rome from 1980-1982, but joined the opposition Tovuti ya Chama Cha Demokrasia na Maendeleo (CHADEMA) in 1995. He has been the party's Secretary General since 2002, and previously served as Vice-Chairman. From 1991-1995, Dr Slaa was executive director of the Tanzania Society for the Blind. He has held several official positions in the Roman Catholic Church, where he was an active member of the Diocese of Mbulu, and served as national development director from 1985-1991. His PhD is in law from Urban University, Rome.*

The strengths of our system

Tanzania's centralised presidential system has served us quite well in the political field. We have national unity, peace and stability. We must not destabilise the unity of the nation, but we must bring decision-making down to a lower level. I have been to all 127 districts in Tanzania, and there is no way you can say that this country has developed. In politics, you need to have balance.

Parliament is changing. We are beginning to be more effective. This year, we have followed closely the evidence of misappropriation of funds at the Bank of Tanzania. Parliamentarians invoked powers under Section 10, Article 3 of the Parliamentary Privileges and Immunities Act 1988 which allows any MP to demand information from any government official. If the official does not oblige, he or she can be sued.

In the course of the Bank of Tanzania scandal, we needed to obtain the particulars of companies that apparently had been funded by the bank. Initially these companies were said to be public, but when we obtained documents they turned out to be private. This was against the law. In that respect, we have been able to demand information and we have been provided with that information.

“We have been provided with information. But it has to be said that the government is often obstinate.”

Access to information is vital, but parliament also needs an ability to influence policy. Fuel prices are an example. A majority of MPs were concerned about the rising price of gasoline. Most of the population use kerosene, and an additional TSh4 charge on kerosene would have been a burden on the population. After an outcry from parliament, the balance

of tax on fuel was shifted from kerosene to diesel and other petroleum products. So we have seen that the government will act under unified pressure from all sides of parliament.

Parliament and the majority party

If we are going to have a parliament with teeth, then we need a president who is willing to drive that. President Jakaya Kikwete – known as “JK” in Tanzania – campaigns on the platform of his party, CCM. But the CCM is fragmented in such a way that JK doesn’t have the full support of colleagues within his own party. JK said this to us openly, in a meeting with our camp in 2007. He said: “Yes I am facing difficulties within my party”.

The president has supported the reforms we have seen in parliament. There is no irony in that: JK came in at a time when there was an outcry for change. He promised to look into mining contracts, for example, and to some extent that is already happening. This is a person who made a promise. People are waiting for that change, but the president’s loyalists are only a small segment within his party.

If we go back to what Julius Nyerere said, he told us that effective opposition in Tanzania will come from within CCM, but only when CCM breaks. There are people within CCM who might want to breakaway, but they don’t believe they can hold their parliamentary seats on an opposition ticket. They are afraid. If they can be convinced, then that day marks the beginning of the end of CCM.

The ‘break’ which Nyerere anticipated does not have to mean a break-up. The break is more likely to be the kind of experience that happened to me: I came from CCM, I was secretary to the CCM foreign branch when I studied in Rome, I won the ticket as a CCM

Parliamentary candidate in 1995. But my name was rejected by the CCM Central Committee. They said: “He is not one of us”. That is when I joined CHADEMA. An effective opposition is not likely to come from an internal split within CCM, but from ‘breaks’ of this kind.

Parliament and donors

Foreign donors fund 43% of Tanzania’s income. Specifically, they finance 34% of recurrent expenditure and about 80% of development spending. This is a huge role and responsibility, and there should be no argument that they have a role to play in parliamentary reform. Personally, I believe that in the process of development you need these partnerships. And partnerships, by their nature, need to be reciprocal.

This is what I have been telling my friends from the diplomatic corps. A serious concern is that most of the time they sit in Dar es Salaam. They know their way around the big hotels, but they never go even to Temeke which is just next door. They don’t know what is happening in Kinondoni, just next door. They go to those areas in an air-conditioned vehicle. They think that Tanzania is what you see in the Mövenpick or the Golden Tulip, our luxury hotels in Dar es Salaam.

Donors regularly come under fire from Tanzanian politicians for interfering. If you look at what is happening you can understand why: the politicians who come up with those fiery statements want to cover up something. If a donor is willing to support our development programmes, then to a certain extent it’s important that the donor becomes involved in the supervision – monitoring, policy development, any specific interventions.

The important point is that these relationships need to be reciprocal, and that applies also to donors’ relationships with parliament. Any good

accountable government should be ready to open its books whenever it is asked to do so. I don't think anything should be private between the government and donors. For example, 70% of government purchases are financed almost entirely by the donors. Donor funds pay our salaries. In that respect there should not be the kind of total, absolute secrecy that we have at the moment.

The Development Partners Group

The relationship between parliament and donors is improving. Donors regularly complain to the government, but the people of Tanzania have their representatives in parliament. We are not aware of the conditions that donors attach to aid. I don't think the taxpayers in Europe would want their money allocated without accountability and transparency. We need to be involved in the oversight role.

Some contracts, by their nature, require a degree of confidentiality. In practice, donors should give details of all their contracts with the government to parliament – not necessarily to the floor of the Assembly, but to the select committees or to the standing committees. If government officials can be trusted, parliamentarians should equally be trusted.

“We are the people who assume responsibility for taxpayers’ money from industrialised countries.”

We participated in a workshop with the World Bank, where we expressed this concern. The World Bank agreed in principle with parliament. We have formed a Development Partners Group where donors interact directly with parliament and its select committees, but this is not a formal or institutional relationship. In order to be involved, we have to share information: resources are being misused,

misappropriated and embezzled. If we are partners, nothing should be hidden from parliament.

The case for devolution

The relationship between parliament and the executive in Tanzania is emblematic of a wider problem. The government has a policy known as ‘D-by-D’, or Decentralisation by Devolution, but D-by-D has not worked because the existing legislation has not changed.

Decisions come from the top in Tanzania. This is the structure of our republic. Each district has a District Commissioner. He is in charge, but his loyalty is to the president in Dar es Salaam, sometimes 1500 km away. The District Commissioner answers to the president. He cannot be held to account by local people.

In my constituency of Karatu, CHADEMA has resisted pressure from the top. We have been able to make our own decisions. When I was elected in 1995 for the first time, there was only one secondary school in Karatu. Today we have 30 secondary schools and Karatu is an opposition stronghold. We know that we will have to answer to the people in five years. But the district commissioner in Karatu, whose salary is assured, doesn’t have that kind of responsibility. He is an appointee of the president.

We have first hand experience of accountability in Karatu. We have seen the kind of impact that would occur if you introduced an elected regional commissioner, for instance. This is why CHADEMA advocates a federal approach. We want the country divided into regions and provinces, with elected and representative structures. That way, decisions are brought closer to the people. It is only in that way that you can develop the country.

Comparative advantage

In Africa, nationalist governments traditionally have resisted federal structures. I can see why, but the logic is only political. If you want a better balance of power, you need a more comprehensive grasp of the African realities. I don't think the centralised state really works when it comes to development. Tanzania is a huge country and we will never develop under the current system.

What little does trickle down quickly dissipates. Many local resources are currently untapped because of our centralised political structure. Resources tend to come from the centre, while local resources are ignored. Of course, resources vary between regions. But I don't accept that under a devolved system there would be a greater risk of authority becoming too fragmented, or of the competition for resources becoming harder to manage.

There is no reason for a district with a number of gold mines to be poor. A place endowed with gold is not the same as a place which relies on growing maize. Different regions have different domains of comparative advantage, which should be recognised. If region X is producing minerals, state resources should be concentrated in region Y, which is producing maize.

The current policy is not responsive to local needs or comparative advantage. Politicians who live in Dar es Salaam tell everyone else to just cultivate four acres of crops, without looking at the geographical differences. That is the disadvantage of centralisation. We must look for the comparative advantage in our regions, if the economy is going to grow. We can't really come to a stage where development is possible unless we review our administrative structures.

Electoral reform

In order to reform our system, we need to start with the way parliament is elected. In the opposition, we have always supported a certain degree of state funding. We agree that this must be subject to a threshold and certain criteria. It is possible to devise a system which discriminates between credible candidates and ‘chancers’. If a party does not make an impact, there is no point in continuing to support it. Parties must demonstrate their seriousness.

We are not calling for any kind of wholesale subsidy, but from the outset we would like fair play. In the US, a candidate who raises a certain level of funding will qualify for financial support from the state. In Tanzania, you don’t have to base the threshold only on financial indicators: for example, we could require a political party to demonstrate at least 200 supporters from at least 10 regions, including two regions from the islands of Zanzibar, and from the islands of Unguja and Pemba. There should be some degree of initial support.

The same assistance should be made available to independent candidates. Our constitution does not allow for independents, but there is a constitutional principle at stake. My view is that it is the right of an individual to have both passive and active rights; that is, a passive right to vote, and an active right to stand for election. That is the constitutional provision. Anything that vitiates against those rights is wrong in principle.

This is CHADEMA’s official position, but it is also part of a larger argument for devolution. The president appoints everybody in the country. He appoints the directors of councils. He appoints the chairman of the electoral commission, who in turn appoints everyone else with responsibility for the implementation of the electoral processes. The

In defence of the ban on independent MPs

Former Speaker of *Bunge*, Pius Msekwa, on the case against independent candidates:

“With regard to the question of the freedom of association, [there is an] argument that ‘freedom of association includes the freedom not to associate’. This is of course true. But unwillingness to associate with others is basically a negative characteristic of human nature which is known as individualism, or selfishness.

... Association with others is normally done in recognition of the principle that a person can lead a fuller life through associating closely with his fellow persons. Cooperation with others enables the individual person to provide for his material needs more easily; to satisfy his spiritual desires more completely; and to develop his political aspirations more richly. Hence any person who does not wish to associate with his fellow persons for any specified purposes, just remains in his natural condition of individualism. But in doing so, he deliberately denies himself all the benefits accruing to the members of the relevant organisation which he has chosen not to join.

... In representative democracies people usually join together to form political parties in order to achieve a specific objective, which is to create viable groups of like-minded citizens, so as to facilitate the economic and social advancement of the people; and to facilitate the peaceful resolution of potential conflicts through discussions. It would appear that individualism, or selfishness, has no role to play in this particular scheme of things...the independent candidate just does not fit into the pattern of parliamentary government, which is based on the party system.

... If indeed there is such a ‘person of integrity’ whom citizens would prefer to elect, the political parties will certainly want to recruit him as their member and candidate. And if he is really and seriously interested in serving his community, he will be willing to accept nomination by one of the parties. This is because, being a person of integrity, he will certainly want to demonstrate that he is prepared to put the public interest before his own self-interests. For in accepting to stand as a party candidate, he will have shown that he is ready to join hands with like-minded colleagues, so that they can work for the advancement of the community as a whole.”

question of official loyalty to the president and the ruling party needs to be eliminated from the electoral system.

The case of Zanzibar

Electoral law does not allow for adequate responses to fraud, or to allegations of fraud. Consider Zanzibar, where everyone believed that the opposition Civic United Front (CUF) won the election on October 29th 1995. People understand that the president in Zanzibar won only on a small margin, because the constitution requires only a simple majority. The opposition can't go to court because the constitution does not allow that.

There was a fear within the government that in a re-run of the election the opposition would come up with a majority of 50%. It would have been easy for the opposition to win at that time. Instead, they immediately came up with a constitutional amendment, Number 13 of 1995, to prevent the opposition groups from securing a re-run of an election where people say there has been fraud.

The amendment was drafted hastily, as many people are aware. But people also say that in instances where, for example, two or three opposition candidates secured a majority of the votes against one who has won by a simple majority, the country would become ungovernable. People are aware of this situation and that this kind of thing goes on. Most Tanzanians don't quite know what to expect from a constitution, but they see that if the president can be just announced and we can't go to court, this is undemocratic.

Constitutional reform

The foundation of all the other changes is the constitution. There is an argument that the constitution should evolve organically. But if you

want reform in other sectors, you have to reform the constitution first. The constitution begins with a preamble: “We Tanzanians”, as if to say that Tanzanians have accepted our constitution. But that is an unfounded assertion. Tanzanians have never been involved.

In the last 20 years, we have introduced 14 amendments to the constitution – an indication that the constitution is inadequate. These amendments have been patchy. It would be better to begin with a constitutional review, to identify those areas which are acceptable and those which need work. If we want an effective parliament we have to ask for constitutional reform. This is an uphill struggle with the kind of parliament that we have; but there is mounting pressure.

Constitutional reform means much more than simply a new Electoral Act. Even if we reform the electoral system, Article 99 of the constitution is categorical that parliament cannot override the president. There are things which parliament cannot amend, even if we have changed the Standing Orders. For example, parliament cannot amend the budget. There is no way that MPs can exert meaningful influence on the budgets or on any bill that is brought by the government.

We need to do this as Tanzanians. People are completely dissatisfied. If I were to be given freely the presidency of this country, I would think twice about taking the job. Parliament is changing, but it is not going to be easy. We have all learned a great deal from the scandals at the Bank of Tanzania and the committee of enquiry into the Richmond Power Supply Contract. The political parties are dissatisfied. The biggest complaint in all 127 districts of this country is that we need a new constitution.

Article 99 of the Constitution of the United Republic of Tanzania:

Powers and Privileges of Parliament

99. (1) The National Assembly shall not deal with any of the matters to which this Article relates except if the President has proposed that the matter be dealt with by the National Assembly and the proposal has been submitted to the National Assembly by a Minister.

99. (2) The matters to which this Article relates are the following:

(a) A Bill to enact a law providing for any of the following:

- (i) to levy a tax or to alter taxation otherwise than by reduction;
- (ii) the imposition of any charge upon the Consolidated Fund or any other public fund or the alteration of any such charge otherwise than by reduction;
- (iii) the payment, issue or withdrawal from the Consolidated Fund or any other public fund of any moneys not charged thereon, or any increase in the amount of such payment, issue or withdrawal;
- (iv) the composition or remission of any debt due or payable to the United Republic;

(b) A motion or any amendment of a motion for the purposes of any of the matters referred to in paragraph (a) of this sub-article.

99. (3) The provisions of this Article shall not apply to a Bill or any amendment to a Bill introduced by or a motion or an amendment to a motion moved by a minister or a deputy minister.

4. The Public Accounts Committee

by John Momose Cheyo

John Momose Cheyo was member of parliament for Magu constituency from 1997-2000, and has represented Bariadi East constituency since 2005. During each parliamentary term, he has been chairman of the Public Accounts Committee. In 2008, he was appointed to the presidential Mining Review Commission under Judge Mark Bomani. He stood as presidential candidate for the United Democratic Party in 1995 and 2000, and since 2005 has been the party's sole representative in parliament. The UDP supports land tenure for smallholders, drawing most of its support from cotton farmers and cattle herders in the regions near Lake Victoria. Mr Cheyo formerly worked in Swaziland, where he exported pine furniture to La Redoute, a French retailer; and as a regional technical manager in southern Africa for ICI, a multinational chemicals group. He studied textiles technology at Leeds University in the United Kingdom.

Keeping the books

In 2007, for the first time in the recent history of Tanzania, the Public Accounts Committee (PAC) received the annual report of the Controller and Auditor General (CAG) by March 31st, that is, within nine months from the end of the government financial year. We have a law stating that the CAG's report should be tabled in parliament no later than nine months after the end of the government financial year – and that is what happened.

The report is then discussed by my committee, the PAC, which presents its own report to be discussed by parliament. In the six years prior to 2006, the deadline had not been met and our report had not been discussed. In 2006, we managed to have our report discussed in parliament, and then in 2007 the CAG's report arrived on time. It raised quite a few issues, including the potential of the mining sector to fund government revenues.

The PAC is becoming more effective because the quality and detail of our information is getting better: the CAG report in 2007 was an A4 document of 450 pages. A number of structural problems within the National Audit Office has been addressed since the appointment of a new CAG in 2006. The new Public Audit Act, which came into force in July 2008, gives more independence to the CAG, in terms of management and funding.

The role of the president

The first report of the new CAG became a high profile document from the moment it was tabled in parliament in 2007. There was a cabinet meeting specifically to discuss the CAG report. A special meeting was called for all the accounting officers for central government, chaired by the president. It became clear this process was taken very seriously by the president.

This example, from the ‘Number One Citizen’ of the country, had a tremendous effect on the accounting officers in government. By law, accounting officers are personally responsible for where the money goes: for example, the permanent secretary at the ministry of education is personally responsible for the budget allocated to education. But the accounting officers had become accustomed to the idea that reporting to the PAC was merely a routine task.

“The word ‘accountability’ has been sold well, from the top to the bottom. For us in the PAC, this was a very good result.”

The president told them in no uncertain terms about the importance of a clean report from the CAG. This is important because the president appoints principal secretaries and district executive secretaries. He is actually their employer. So if there are weaknesses, obviously this should be an issue for the president.

The constitution

The basis of the power of the PAC is Section 63 of our constitution. This emphasises two functions of parliament. The first is an advisory function, to advise the government. The more important role, which is my part, is the oversight function on behalf of parliament. The oversight function cannot be exercised by the whole parliament, so it is devolved to committees. When it comes to actual financial accountability – Value for Money – that role is given to the PAC, the Local Authorities Accounts Committee and the Public Organisations Accounts Committee.

The PAC has stated our constitutional mandate very clearly. People are beginning to understand that our role is not optional. Officials cannot

just take public money, spend it and then not account for it. They must answer the various questions raised by the CAG. In this parliament, more clearly than in the previous parliaments, we are getting stronger in our constitutional role. The Speaker is pushing the PAC to do its job.

For the first time, we have a National Assembly Fund. This is important: it gives us some edge. In previous years, my predecessors would go to the minister and say: “Look, my committee is travelling to Shinyanga to go and check on road A”. The minister would say: “OK, I will facilitate that”. But it is not right to have to ask for resources from an auditee in order to carry out our work. Now, we plan our work without having to beg for funding from the people we are going to audit.

The multi-party system

The hallmark of our centralised system is a concentration of power in the president. Under the old single party system, everything was settled ‘in-house’. Now, under a multiparty system, everybody is on his toes. When something negative is said by the opposition, it weakens the position of the majority party. One aspect of our work is cleaning up the old system.

Under a multi-party system, we are pushing more and more aspects of accountability. Under previous administrations, the role of parliament had been undermined for a long time. Circumstances were different under a one-party system. The opposition is very small in terms of numbers, but in terms of ideas we are having a fantastic influence. We are a different parliament now, and our effectiveness ought to be measured in a different way.

The best protection against too much party loyalty in Tanzania is actually the president himself. That seems to be another hallmark of our

centralised system, with so much presidential power. Of course, the president is the leader of CCM, the majority party. Of course, he doesn't want CCM to go down. Of course, he wants to keep as many seats as possible in the coming years. But the president has realised that parliament has a role to play – in the opposition, but also in respect of the composition of his own party.

Tanzania is now a small village in the larger world. Interactions between countries are more frequent and more important than even a decade ago. About 40% of our budget is funded by international institutions – bilateral donors, the World Bank and the African Development Bank. For the development budget, more than 80% of our expenditure comes from abroad. We are no longer a country which can make decisions in isolation.

Varieties of aid

It is useful to understand the difference between direct project financing and General Budget Support (GBS). For example, direct project finance is preferred by USAID, the official American aid agency. They say: “We will build this bridge”. They will send an American official to disperse funds. They will make payments directly to the contractor.

These kinds of donors are accountable to their nations. They report to their own jurisdictions. They do not have to report to the parliament of Tanzania. USAID is notorious. In Tanzania, because of the problem of AIDS, the American Ambassador himself wants to go and distribute condoms to A, B, C and D. But when we look into the government budget here, we are not able to trace any of the American money which is funding the response to AIDS.

Very little information actually reaches parliament. When you go to the American embassy, they say: “We are sending so much money to A, B, C and D”. Probably the worst example is the United Nations High Commission for Refugees (UNHCR). Refugees arrive in Tanzania and the UNHCR sends money, vehicles and food to help refugees. Meanwhile, we have no idea what is actually happening: how on earth can donors expect us to hold the government accountable?

General Budget Support is a very different approach. Under GBS all the monies from a donor or donors go into the government’s consolidated fund. They are managed by the government of Tanzania. They are declared to parliament, and to the public, in an Appropriation Bill. This process enables an entirely different chain of accountability, which forms part of a more open process.

The problem of parallel accountability

In every method of allocating aid, the democratic principle at stake is always the same. Donors are wary of being accused of intervening in domestic politics, but it is not uncommon to hear that a certain sum of money - designated for, say, the construction of a road - will not be allocated during a particular budget because the government has ‘misbehaved’.

When this happens, our system is moving away from domestic accountability through parliament towards a parallel process of accountability to foreign donors. This is wrong. The mere presence of donors in Tanzania has in some way diluted the power of parliament. It has diluted democracy.

If the government misuses funding which the UK is giving to Tanzania, then Tanzanian MPs should be answerable to MPs in the donor country for our performance. In principle, parliament should be informed of both project funding and budget support.

“As parliamentarians in Dodoma, we should be able to answer to our fellow parliamentarians in the UK for how Tanzania is doing.”

There are reasons why donors might not discuss all their concerns with us: the executive has the right to negotiate the terms of contracts and sources of funds in private. At that particular stage, they do not have to tell parliament what they have agreed. The government is also empowered to enter into contracts with the World Bank, without informing parliament of the terms of these contracts. This has been a tradition for many years.

The constitution accords the government a right to borrow anywhere. But as donors move towards a different modality of funding – notably, the method of General Budget Support in Tanzania – the question of accountability arises again. In effect, donors who favour GBS are saying: “We give you this money. We trust you are going to use it well”. The expectations are higher, so the question of accountability is more important.

The Development Partners Group

Donors are becoming more interested in parliament. They recognise the usefulness of a strong parliament which can hold the executive to account, both for domestic revenue but also for financing from abroad. But the donors who contribute directly to the government budget themselves have a role to play in building parliamentary accountability.

The Development Partners Group includes all the donor countries which contribute to Tanzania, whether in the form of GBS, or via pooled funds known as Basket Funds, or via direct project financing. The donors have arranged for the government to report every three months to the Development Partners Group through a process known as Public Finance Management Assessment (PFMA).

The PFMA reports are a diagnosis of the internal operations of the government. They assess critical issues of how money is spent, whether it is delivered on time, or diverted elsewhere, and so on. This information is not disseminated to parliament. The Development Partners Group takes its concerns directly to the government and discusses these issues in closed rooms.

“Information obtained by donors means they are stronger in their oversight role than parliament.”

This is a particular concern for me, and for the PAC. For example, we learned that the government had promised the Danish development agency that legislation for the Prevention and Combating of Corruption would be presented to parliament by the end of April 2007. This agreement included a set of conditions which affected the terms of aid from Denmark. But Denmark had no means to enforce these criteria other than to refuse to pay the money.

If parliament had known of these terms, we would have raised those issues. The United Nations Development Programme has launched a Deepening Democracy Programme in Tanzania, with the aim of encouraging interaction between ministries, UNDP, World Bank and parliament. Previously, the tradition has been that the donor group will talk only to government and not to parliamentarians.

A closer relationship with donors

The PAC has highlighted the issue of parallel accountability. If we continue as we have in the past, the authority of parliament is watered down. Instead of this parallel accountability, the PAC should be included in government reporting to donors. After all, the PAC and donors are asking the same questions.

“The donors are coming under pressure from parliamentarians and in the case of General Budget Support we are beginning to see a closer relationship with donors.”

In 2007, all the donor nations from the European Union (EU) came to Dodoma. I had the pleasure of a two-hour interview with all the European ambassadors, which was a very good gesture. They discussed their concerns. They agreed that we should share as much information as possible. In the case of GBS, donors are beginning to share documents with us. This cooperation should be extended to project support. The EU and the UNDP should share their reports with parliament.

When we talk about accountability we mean budget accountability: the work of the PAC is about monies tabled in parliament. These funds include ‘basket’ funding and project financing. We should be able entirely to remove the issue of parallel accountability, by routing the process of donor accountability through parliament. Accounting officers in government are accountable to parliament.

Democratising the budget

Budgeting is very much a top-down process. I would like to see a more participatory approach. The centre dictates the terms of distribution of government monies and tax receipts. For example, the accounting officer responsible for government building contracts will say: “This year the payment due on completed work is US\$10 million”. Then, in the budget, the ministry of finance will say: “This year, we have allocated US\$2m for those contracts”. The result is that projects are not completed on time or within budget.

The members of parliament will say: “Why is there so much money for this particular region?” and, “Why not for Mtwara?”, then “Why not for Mwanza?” These battles go on in parliament all the time. This year, for the first time, we discussed a set of benchmarks, or priorities, for the budget in parliament. If we can make the distribution of public money more transparent and more participatory, we can reduce the scuffles during the budget session. We are moving towards that.

The real numbers

Priorities need to be determined by parliament. If that is done transparently, there will be fewer scuffles. In Brazil I’m told that the parliament actually passes a law prior to the actual budget. The law sets out the priorities; it says what is going to be spent for A,B,C,D. If you do that, more people will participate in deciding the priorities for that particular year.

We need a proper understanding of how our economy works. I don’t accept the argument that countries with very concentrated economic productive capacities need a highly centralised political system. In Tanzania, industry contributes about 15% of our total gross domestic product. Agriculture is close to 44% of GDP. After agriculture, the productive sectors are mining and tourism.

More people pay income tax in Dar es Salaam, but that is not the centre of our economy. In the mining sector, for example, companies have not paid tax. In 1996, the value of gold exported from Tanzania was less than US\$2 million. By 2007, gold exports were worth US\$87.5m, but the gold companies still had not paid any corporation tax. This caused uproar in parliament and the issue of mining contracts became highly personalised. Maybe some of the ministers have contracts with the mining companies.

We also found the government failed to keep proper records. The PAC investigated sales of government houses, for example, but the book-keeping was not good. The issue of record-keeping and the reconciliation of financial statements is important, especially for Tanzania's international debt accounts.

Personal risks

When we interfere with these things, obviously there could be personal risks. People don't want to be challenged. More transparency means less flexibility for the government. We don't have enough members from the opposition, who in my opinion have a better chance of holding government to account than the people in the ruling party.

The more transparent a process becomes, the more people will want to sabotage it. The politics is not very clear in these conflicts: the people who want to sabotage our work may also want to protect a party, while people who want to support this process may consider it gives an advantage to the opposition. To me, the best policy is to be consistent.

We will stay on course. The PAC is demanding accountability, and people should know that whoever is in a government position will be held to account. This is the key point.

5. Conclusions and Recommendations

Common cause

The contributors to this paper want the National Assembly of Tanzania to perform better in its constitutional role, namely the ‘oversight’ of government business. Scrutiny of legislation is principally the work of standing committees, which have become more assertive under the parliament elected in 2005. Other reforms incorporated in the new Standing Orders, which regulate the work of parliament, allow MPs to assume a larger role in making law. This includes greater scope for MPs to amend draft legislation and to introduce new laws in the form of Private Members Bills.

Led by the Speaker of *Bunge*, Samuel Sitta, parliamentarians have asserted the ‘challenge function’ of the National Assembly. Its first committee of enquiry, appointed in November 2007, found evidence of maladministration in the award of the Richmond Power Supply Contract, a state tender for emergency electrical generating capacity. All three contributors to this paper believed the enquiry had set a useful precedent for parliament in responding to public controversies.

Mr Sitta, Dr Slaa and Mr Cheyo substantially agree on the constitutional role and responsibility of parliament. However, their contributions to this paper were made independently; at no point have the authors collaborated in its preparation, nor agreed common positions. The following recommendations reflect both areas of consensus and the differences of opinion and emphasis which emerge from this study.

Party loyalty

The dynamics of parliament have changed since the introduction of a multi-party system, for better and for worse. None of the contributors favoured a return to the one-party system championed by founding

president Julius Nyerere. However, the greater powers of party whips under multi-partyism created situations where the constitutional role of parliament could be frustrated by partisan loyalties.

Mr Sitta argues that during the first decade of the one-party state, MPs were at liberty to speak freely. Parliament had been characterised by vigorous and open debate. A left-leaning group of younger MPs, many of them with experience of nationalist and socialist movements outside Africa, had challenged a right-leaning and conservative constituency of rural chiefs and other traditional authorities. On occasion, MPs had refused to enact draft laws and sent back proposed legislation to be revised or amended by Nyerere's administration.

Dr Slaa acknowledges the inherent stability of the one-party state, which had been a strength of Nyerere's centralised political system. However, the deficiencies of the old system are still evident under multi-partyism. Unless these can be addressed, Dr Slaa argues that socio-economic development will not be achieved in Tanzania. Reform of the electoral system is a necessary first step towards reducing the adverse effects of party loyalty in parliament.

Mr Cheyo defends the record of parliament under multi-partyism. The world in 2008 is substantially different to the independence era of the 1960s. Tanzania has become both more dependent on, and more responsive to, the global environment. As sole parliamentary representative of the United Democratic Party, Mr Cheyo considers opposition parties better able to hold the government to account than members of the governing CCM.

Priorities for reform include:

- Removal of the ban on independent MPs
- More free votes in parliament; limitations on the whip system
- Reforms to encourage more competitive selection of party candidates
- Electoral reform and more state funding for ‘serious’ candidates

Autonomy for *Bunge*

New Standing Orders regulating the work and procedures of the National Assembly have significantly enhanced the autonomy of parliament. In particular, the creation of a National Assembly Fund has vested control of the parliamentary budget in a Commission of Parliament chaired by the Speaker. Previously, funding for parliament was included as a line item in the annual departmental budget of the prime minister’s office. A five-year Corporate Action Plan for parliament will set priorities for *Bunge*, supported by an allocation of US\$19 million from the World Bank.

Mr Sitta argues that financial independence for parliament enables more effective separation of powers between the legislature and the executive. Unspent monies from the parliamentary budget can be retained by the National Assembly Fund for the next year. Budgetary independence brings greater managerial autonomy, allowing parliament to recruit technical staff such as Hansard editors on specialist terms outside the normal conditions of employment stipulated by the civil service.

Dr Slaa expects changes in the management and funding of *Bunge* to be followed by further devolution of administrative power. He argues that greater autonomy for parliament would encourage the government to review its policy of ‘D-by-D’, or Decentralisation by Devolution, to facilitate more efficient allocation of resources at a local level. Dr Slaa

maintains that in his constituency of Karatu, elected local authorities allocated state resources more efficiently than the District Commissioner appointed by the president.

Mr Cheyo praised the work of the National Audit Office under Ludovick Utouh, appointed Controller and Auditor General (CAG) in August 2006. Its annual reports have reached parliament within the statutory deadline of nine months from the end of the financial year, and the quality of information has improved. A new National Audit Act of July 2008 increased the financial and managerial autonomy of the CAG, on which parliament depends for auditing and analysis. Under the new Standing Orders, the report of the Public Accounts Committee (PAC) must be debated by *Bunge*.

Priorities for reform include:

- More opportunity for parliamentarians to propose legislation
- Completion of a five-year Corporate Action Plan for parliament
- A defined role for parliament in national budget preparation
- A greater ‘challenge function’ in setting spending priorities
- Improvement in the calibre of technical and in-house research

Parallel accountability

The contributors to this paper recognised that the influence on government of international donors, and notably the Development Partners Group, may dilute the power of parliament. Dr Slaa and Mr Cheyo believe parliament has been undermined by donors, although Mr Sitta argues that this problem has been addressed. All three accept the right of the executive and donors to negotiate in privacy, as in any other business transaction.

Mr Sitta is satisfied that the danger of parallel accountability is understood by donors. The issue had been considered seriously during the preparation of the new Standing Orders which regulate government business. A proposed Bunge Foundation would institutionalise consultation between parliament, the Development Partners Group and other interests from civil society. In view of the close diplomatic ties between the government and its bilateral donors, Mr Sitta believes it would not be appropriate to compel representatives of sovereign states to report to the PAC.

Dr Slaa argues that once the executive has entered into a contractual relationship with donors, the terms of that agreement should be disclosed in their entirety to parliament. In his view, the published reports from the Development Partners Group fell short of full disclosure. He welcomes the increased attention to parliament shown by donors, and visits by diplomats and aid officials to Dodoma. In principle, he would like donor funding to be restricted to capital investment such as infrastructure. Current account spending, including MPs' salaries, should be funded from domestic revenues.

Mr Cheyo admires the institutional arrangement between donors and parliament in Mozambique, where Development Partners report – in person – to the PAC. He wants the same arrangement for Tanzania, where he is concerned that donors possess more detailed analysis of the government's performance than is available to MPs. He is critical of project aid, notably the actions of USAID and the United Nations High Commission for Refugees which fall outside the scrutiny of the PAC.

Priorities for reform include:

- Institutionalised briefings between donors and parliamentarians
- More disclosure of donors' performance audits of the public sector

- A clear mandate for the proposed Bunge Foundation
- Open debate and scrutiny of donors' role in policy formulation

Constitutional reform

Measures to assert the role of parliament have implications for the constitutional order in Tanzania, even when they do not require explicit changes to the constitution. Attitudes to constitutional reform vary widely according to political affiliation – in part, as Dr Slaa argues, because CHADEMA has adopted calls for a new constitution as a campaign theme for the opposition. Mr Sitta and Mr Cheyo are more reticent, but all three contributors to this paper favour some degree of constitutional reform. This includes provision for independent MPs and greater devolution of administrative authority.

How much constitutional reform is implied by the recommendations in this paper is open to dispute. Mr Sitta argues that the current provisions are adequate justification for MPs to speak freely in *Bunge*, but these have yet to be asserted in a court of law. He blames parliamentarians, rather than executive power, for failing to assert the 'challenge function' by testing the limits of existing legislation.

Outside Dodoma, the prospects for more accountable local and regional administration entail some dilution of the powers of central government and the presidency. Speaking for CHADEMA, Dr Slaa favours a new tier of elected regional administration, implying a significant change to the constitution. Even without such measures, further devolution of power to local administrations is likely to test the will of national politicians.

Several opposition parties contend that the balance of public opinion would support a new constitution – a claim likely to be tested as the

political temperature rises in the run-up to elections in 2010. However, the first priority must be to defend and entrench the existing provisions – whether or not a majority of parliamentarians favour a new constitution. The most important principle is to be consistent.

The contributors to this paper share a conviction that their efforts to build a more effective *Bunge* enjoy the support of the president. Donors, too, are anxious that momentum is sustained. Tanzania's new breed of activist parliamentarians has drawn succour from such powerful friends – but it would be fanciful to count on them. At this juncture, their interests are aligned; inevitably, at some point they will diverge – and that will be the real test of *Bunge*'s newfound teeth.

6. Appendices

Appendix A:

An interview with Ludovick S. L. Utouh
Controller and Auditor General of Tanzania

Appendix B:

An interview with Harrison George Mwakyembe
Chairman of the parliamentary committee of enquiry into the Richmond
Power Supply Contract
The Richmond Power Supply Contract, Key Dates

An interview with Ludovick S. L. Utouh

Controller and Auditor General of Tanzania

Ludovick S.L. Utouh is a professional accountant, registered in Tanzania as a Fellow Certified Public Accountant with the National Board of Accountants and Auditors, the national accountancy regulatory body. He was registrar to the NBAA from 1987, where he was appointed executive director in 1995. Mr Utouh previously taught financial accounting, management accounting, auditing and taxation as senior lecturer at the Institute of Development Management in Mzumbe, now Mzumbe University. He was appointed Controller and Auditor General in charge of the National Audit Office in August 2006.

Is Westminster a good model for Tanzania?

You have to look at this question from the historical perspective of the country. Whichever model you use, it has got pros and cons. Under the Westminster model, the Controller and Auditor General (CAG) comes up with observations and recommendations, which are subject to scrutiny by parliamentary committees. The parliamentary committees then make recommendations to the executive.

Here, the National Audit Office (NAO) sits between parliament and the executive. We have brought in a new concept whereby the government is required formally to respond to the observations and recommendations of the CAG. It is not easy to change a model too radically, because you will have to change the whole system. I believe the local systems work well, and you need to build on what you already have.

What changed under the Public Audit Act of 2008?

The Public Audit Act was signed into law by the president on July 4th 2008. Previously, the NAO was regulated under the Public Finance Act. We had two laws in one, so people thought we were a child of the ministry of finance. The Public Audit Act was given special consideration by the president and processed under a certificate of urgency, to signify the importance the government attaches to it.

Under the new law, the CAG has more powers to recruit staff and build capacity. Unlike the Public Finance Act, the Public Audit Act proposes a National Audit Fund. We do not have to return any unspent budget to the ministry of finance. Our budget can be rolled over, and kept in the fund for improvement of the operations of the NAO. The law has broadened the scope of the CAG's work to include performance audits, forensic audits, environmental audits and any other sort.

How is the Controller and Auditor General appointed?

There has been much debate about the appointment of the CAG. I was appointed by the president, and my appointment had nothing to do with parliament. The Public Audit Act has kept that formula, because any other arrangement would have derailed the passing of the Act. There are other countries in which the appointment of the CAG would have to be approved by parliament.

The National Audit Act has brought in a term limit of 10 years for the CAG, and the retirement age has been raised from 55 to 65. Finally, the budget for the NAO must be discussed by the Public Accounts Committee, the minister of finance and the CAG, at a meeting chaired by the chairman of the PAC .

What is the role of the president?

My report goes directly to the president, who is required to submit it to the Speaker to be tabled in parliament. If this has not been done within seven days of a new parliamentary session, the National Audit Act requires the CAG to give the report directly to the Speaker. But the lesson we have learned from other countries is that, with most governments, unless the executive is really willing to take decisive steps, most times we end up with nice reports but no action.

When the president received my first report in 2007, he called a full cabinet meeting on April 12th. He said, ‘Mr Utouh, present your report.’ On April 15th, he called a meeting of all the accounting officers in the central government. The president was chairing the meetings and the accounting officers felt very threatened. On April 27th, he called a meeting of local councils and the leaders of all local government authorities. There were follow-up meetings in 2008, and we noticed a substantial improvement.

What is the influence of foreign donors?

The donors in Tanzania are fitting into the budgeting system of the country. We are working together and we have a development project with the Swedish National Audit Office, funded by the Swedish International Development Agency and the government of Tanzania. We focus on building capacity, and exchange programmes. Our auditors can take up placements with the Canadian National Audit Office and the Government Audit Office in the United States. I would not see donor funding as undermining democracy.

The NAO should see itself as a development partner of the institutions we audit. Our advisory role has been written into the law. The government departments which we audit expect us to advise them on

how to work better. As the supreme audit institution of the country, we are members of AFROSAI-E [the group of Supreme Audit Institutions in English speaking African countries] and of INTOSAI [International Organization of Supreme Audit Institutions], the international association with about 160 members.

What are your priorities for the NAO?

The biggest thing is to change the attitude of our employees, to empower the auditors to be more confident. We have completed a comprehensive audit manual, assisted by AFROSAI-E. There is an emphasis on training and recruitment, and a role for outsourcing and private sector auditors. We have introduced computer software packages for executing audits.

Fortunately, the law in Tanzania is clear and categorical. It gives us immense power. We have a mandate to report on what we see, and that's what I have done. If you look at my report, it is very critical of the government. We publish three reports: on central government and the regions; on local government authorities; and on parastatals, which is a new report published in March 2008.

Next year, we will introduce a fourth report to review and summarise all our performance audits for the year in question. We released our reports to the media and had lots of coverage. We are coming up with the basics which are required to make an audit office.

Extracted from interviews with Mark Ashurst in July 2008 and October 2008, and edited for clarity.

An interview with Harrison G. Mwakyembe

Chairman of the parliamentary committee of enquiry into the Richmond Power Supply Contract

Dr Harrison George Mwakyembe has been MP for Kyela, near the border with Malawi, since 2005. In November 2007, he was appointed to a select committee of enquiry into the Richmond Power Supply Contract, Tanzania's first parliamentary enquiry into a public controversy, of which he was elected chairman. From 2001-2005, he represented Tanzania in the East African Legislative Assembly. A lawyer by profession, Dr Mwakyembe lectured in company and constitutional law at the University of Dar es Salaam from 1984-2000. He previously worked as a journalist for the Tanzania News Agency, the government-owned Daily News, and the CCM party newspaper Uhuru.

Was parliament effective under the one-party system?

During the one-party system, parliament was robust. It was very active – but only in the context of the one party system. You couldn't think outside that box. In the multi-party parliamentary set-up, of course the party line hinders open and free debate. But we have grown out of that since the first elections. MPs are realising, more and more, that people are looking at your contribution rather than your loyalty to the party – especially on issues which touch the public interest. People see us. They read papers. They know the issues being debated.

What was the background to the Richmond Enquiry?

It started with the parliamentary standing committee on investment and trade. I was the vice-chairman of that standing committee. We came up with our annual report, questioning the argument of the ministry of

energy and minerals in relation to the Richmond contract: we thought there was something fishy about it. For seven months, we were not given opportunity to table our report in the House. It was getting on our nerves. Towards the end of 2006, we were allowed to table the report. We asked parliament to constitute a select committee to look into the Richmond affair.

What was the motivation for establishing a select committee?

We were not getting straight answers from the government. In late 2005, we had very serious power problems in Tanzania. It disturbed people. Richmond was the company that the government said would rescue us from this problem, but it didn't deliver. We asked ourselves why the government had spent so much money in the process of selecting a company that we thought was not a credible company. Its website quoted a number of projects in Tanzania that were not true: for example, it said it had built a petrol and oil pipeline from Dar es Salaam to Mwanza.

Why did parliament vote to support your enquiry?

Because every MP wanted to know the answers and the government was not forthcoming. There was pressure from the public and the government was speechless. It couldn't explain why the company was given the tender. We thought there must be something fishy about it. We decided to set up a parliamentary select committee so we could gain access to a number of classified documents under the Parliamentary Immunities and Privileges Act.

What did you learn from leading parliament's first select committee of enquiry?

Two factors motivated us a lot. First, we had behind us a very dynamic Speaker who encouraged us to go on. He did not show that he was afraid

of anything. The Speaker was careful in selecting us: I don't see any of us as people who really want to look nice to the government so that tomorrow we can be appointed as a minister or deputy minister. Second, we sat down and said, "We have a job to do and there are two ways we can do it. We can be like the last anti-corruption enquiry - which had said earlier there was no problem with the Richmond contract - or we can do our job as required under the constitution, to oversee government operations."

What were the consequences of your report?

We managed to prove beyond reasonable doubt that Richmond Development Company LCC was not registered in the United States. It appears as a different company there. We also proved beyond reasonable doubt that the procurement laws in Tanzania were not followed. The ministry of energy and minerals did not conduct itself properly.

For example, we had a company called CDC Globeleq working on a 70 MW gas turbine to be installed in Dar es Salaam. On February 10th 2006, the cabinet ordered the minister of energy and minerals to continue with the project, but to ask CDC Globeleq to reduce the high tariffs. Instead of talking to CDC Globeleq, the minister wrote a letter to say they were calling off the project. There was something seriously wrong with the procurement system, and within the government.

What made the prime minister resign?

We avoided making any judgements on the prime minister. We had not given him the opportunity to be heard, because of the constitutional arrangements we have. The role of prime minister is a position between the executive and the National Assembly. So a select committee in the National Assembly cannot call the prime minister to answer questions. You have to follow the long route: you inform the Speaker, the Speaker

The Richmond Power Supply Contract, Key Dates

2002-2005

- **2002-2005:** Poor rains reduce hydroelectric generating capacity, power shortages.
- **December 2005:** Electricity parastatal TANESCO seeks government approval to lease emergency generating capacity for one year.

2006

- **January 11th 2006:** CDC Globeleq, holding company of Tanzanian/ Canadian joint venture SONGAS, submits proposal to supply gas turbines with capacity of MW74.
- **January 13th:** TANESCO tender board endorses bid from CDC Globeleq.
- **January 30th:** A government evaluation committee advises TANESCO to negotiate a new longer-term contract with CDC Globeleq spanning 3-5 years.
- **February 10th:** Cabinet rejects plan for longer lease and instructs CDC Globeleq either to sell the turbines to TANESCO or lease them for a shorter period. The Ministry of Energy and Minerals cancels plans to lease the turbines.
- **February 23rd:** Cabinet orders 'fast-track' leasing of gas turbines under the Public Procurement Act of 2004.
- **February 27th:** TANESCO issues revised tender for emergency power production, without approval from Public Procurement Regulation Authority (PPRA).
- **March 20th:** Eight companies submit tender documents.
- **March 28th:** Government evaluation committee finds all eight bidders failed to meet tender conditions, advises TANESCO to re-issue tender.
- **April 1st:** Minister of energy and minerals, Dr Ibrahim Msabaha, instructs TANESCO to re-summon all eight bidders to re-negotiate tender.
- **June 8th-16th:** A joint negotiating team (Ministry of Energy and Minerals, Ministry of Finance, Attorney General's Office, Bank of Tanzania and TANESCO) meets Richmond Development Company LLC (RDC).
- **June 19th:** Dr Msabaha writes to the prime minister, Edward Lowassa, recommending RDC for a two-year electricity generating contract.

- **June 21st:** Prime minister instructs TANESCO to enter into contract with RDC.
- **June 23rd:** TANESCO managing director Johannes Lottering signs a two-year contract with RDC.
- **September 2nd:** Commercial bank HSBC issues US\$30m letter of credit to RDC.
- **October 6th:** US lawyers Hunton and Williams discover that Richmond Development Company LLC was not registered in Texas when its Tanzanian contract was signed.
- **October 27th:** TANESCO announces RDC has defaulted on terms of contract.
- **December 21st:** RDC transfers contract to Dowans Holding, South Africa.

2007

- **November 13th 2007:** A parliamentary select committee is appointed to investigate.
- **December 31st:** Select committee submits its final report to Speaker of parliament.

2008

- **February 6th 2008:** Select committee calls for resignation of government officials.
- **February 7th:** Prime Minister Edward Lowassa, energy and minerals minister Nazir Karamagi, and East African Community minister Ibrahim Msabaha resign from parliament. President Jakaya Kikwete dissolves the 60-person cabinet.
- **February 8th:** Mizengo Pinda appointed new prime minister.
- **February 12th:** New 47-person cabinet sworn in.
- **July 1st:** TANESCO dissolves contract with Dowans Holding, from August 1st.
- **August 28th:** Prime minister Mizengo Pinda announces proposals to implement recommendations of select committee report

informs the president, who tells the prime minister. You have to give an explanation. We did not want to give an explanation, as he would have interfered with our investigation.

Do you expect any prosecutions?

We made 23 recommendations to the government. The House adopted all the recommendations. The contract between the government and Richmond's successor, Dowans Holding, has been terminated. If the government is serious about the fight against corruption, then we should see a few prosecutions. If we are discovered to have done injustice to anybody, then I and my colleagues are willing to resign.

What precedent has been set?

One thing is very clear. The attitude of the government towards the House has changed. I think the whole political landscape in the country has changed in the course of a single year.

Extracted from interviews with Mark Ashurst in July 2008 and November 2008, and edited for clarity.

Glossary of Terms

AFROSAI-E	Organisation of Supreme Audit Institutions in English-speaking African countries
ANC	African National Congress, of South Africa
AWEPA	Association of Western European Parliaments for Africa
<i>Bunge</i>	Parliament of Tanzania
CAG	Controller and Auditor General, head of the National Audit Office
CCM	Chama Cha Mapinduzi (Party of the Revolution)
CHADEMA	Chama Cha Demokrasia na Maendeleo (Party for Democracy and Progress)
CUF	Civic United Front
D-by-D	Decentralisation by Devolution, a policy of the Government of Tanzania
DFID	Department for International Development, of the United Kingdom
DPG	Development Partners Group, of international donors
EU	European Union
GBS	General Budget Support
GDP	Gross Domestic Product
IMF	International Monetary Fund
INTOSAI	International Organisation of Supreme Audit Institutions
JK	President Jakaya Mrisho Kikwete, of Tanzania
LAAC	Local Authorities Accounts Committee
NAO	National Audit Office
PAC	Public Accounts Committee
PFM	Public Finance Management
PFMA	Public Finance Management Assessment

PFMR	Public Finance Management Reform
PIC	Public Investment Committee
POAC	Public Organisations Accounts Committee
PPRA	Public Procurement Regulation Authority
PRSP	Poverty Reduction Strategy Paper
UDP	United Democratic Party
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees
USAID	United States Agency for International Development