

# HUMAN RIGHTS AND BUSINESS REPORT 2023/24

## Mainland Tanzania

**Taking Stock of Labour Rights, Land Rights, Tax Responsibility, Corporate Social Responsibility, Local Content Requirements, Corporate Environmental Responsibility, Corporate Respect for Human Rights, Business Environment, and Performance of Regulatory Authorities**

**LHRC's 10th Report on Business and Human Rights in Mainland Tanzania**



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## PARTNERS

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## ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
AIDS	Acquired Immunodeficiency Syndrome
BHR	Business and Human Rights
CAG	Controller and Auditor General
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CGCLA	Chief Government Chemist Laboratory Agency
CHODAWU	Conservation, Hotel, Domestic and Allied Workers Union
CMA	Commission for Mediation and Arbitration
CSR	Corporate Social Responsibility
ELRA	Employment and Labour Relations Act
GGM	Geita Gold Mine
HIV	Human Immunodeficiency Virus
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
LATRA	Land Transport Regulatory Authority
LCR	Local Content Requirements
LHRC	Legal and Human Rights Centre
LIA	Labour Institutions Act
MCPs	Mine Closure Plans
NBS	National Bureau of Statistics
NGO	Non-Governmental Organization
NUMET	National Union of Mine and Energy Workers of Tanzania
OHCHR	Office of the United Nations High Commissioner for Human Rights
OHS	Occupational Health and Safety
OSHA	Occupational Health and Safety Authority
P.A.Y.E	Pay As You Earn
PWDs	Persons with Disabilities
SMEs	Small and Medium-sized Industries
TAMICO	Tanzania Mines, Energy, Construction and Allied Workers Union
TBS	Tanzania Bureau of Standards
TDV	Tanzania Development Vision
TMDA	Tanzania Medicines and Medical Devices Authority
TRA	Tanzania Revenue Authority
TPAWU	Tanzania Plantation and Agricultural Workers Union
TUCTA	Trade Union Congress of Tanzania



TUICO	Tanzania Union of Industrial and Commercial Workers
UDHR	Universal Declaration of Human Rights
UNGPs	UN Guiding Principles
UNIDO	United Nations Industrial Development Organization
UNGPHR	UN Guiding Principles on Business and Human Rights



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## ABOUT LHRC

**The Legal and Human Rights Centre (LHRC)** is a private, autonomous, voluntary non-governmental, non-partisan and non-profit sharing organization envisioning a just and equitable society. LHRC was established in 1995 and her operations mainly focus on Mainland Tanzania, with specific interventions in Zanzibar. It has four offices, two in Dar-es-Salaam, one in Arusha and another in Dodoma. The Head Office is located at the Justice Lugakingira House in Kijitonyama Area Dar-es-Salaam.

*Vision:* The LHRC envisages a just and equitable society, in which the three arms of the State, as well as non-state actors, practice accountability, transparency and there is the rule of law; and where there is public awareness, respect and engagement for human rights and good governance, where justice and respect for human dignity are reality.

*Mission:* To empower the public, promote, reinforce, and safeguard human rights and good governance in Tanzania through legal and civic education and information; sound legal research and advice; monitoring and following-up on human rights violations; and advocacy for reforms of policies, laws, and practices in conformity with international human rights standards.

*LHRC's Values:* Integrity; Equality; Transparency; Accountability; Professionalism; and Voluntarism and Volunteerism.





## FOREWORD

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The Legal and Human Rights Centre (LHRC) is pleased to present the latest edition of the Human Rights and Business Report, a cornerstone of our advocacy efforts since 2012. This report evaluates the adherence to human rights standards within Tanzania's business sector, with a special focus on labor laws, land rights, environmental regulations, and broader human rights obligations, including issues related to taxation and the responsibilities of oversight bodies.

This edition is based on a comprehensive study conducted between April and May 2024, spanning data from January 2023 through March 2024. As part of LHRC's ongoing Strategy, this report aims to furnish stakeholders with robust research data to support evidence-based advocacy efforts. Notably, LHRC continues to lead as the sole human rights organization in Tanzania dedicated to this vital intersection of human rights and business.

Key human rights addressed in this report include equality before the law, the right to fair working conditions, equal pay for equal work, the right to unionize, property rights, and the right to an adequate standard of living—all foundational elements enshrined in international frameworks such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), to which Tanzania is a signatory.

It is our hope that this report not only informs but also inspires all its readers to become proactive agents of change, working towards a just and equitable society.

**Dr. Anna Henga,**  
**Executive Director - LHRC**





## KEY HIGHLIGHTS

1	 <p><i>Employment contracts</i></p>	<p><b>69.4% of workers reported having employment contracts, a small improvement compared to 64.6% in 2022. However, complaints about breach of contract and non-provision of copies remain widespread.</b></p>
2	 <p><i>Trade union membership</i></p>	<p><b>Only 37% of workers said trade unions existed at their workplaces, slightly up from 34% in 2022. Only 39% of employers acknowledged existence of trade unions, down from 60% in 2022.</b></p>
3	 <p><i>Pregnancy &amp; maternity discrimination</i></p>	<p><b>While discrimination and dismissal of female workers because of pregnancy is prohibited, the survey found that incidents of such discrimination continue to occur at some workplaces, especially in SMEs.</b></p>
4	 <p><i>Top labour complaints</i></p>	<p><b>Over 50% of complaints documented by LHRC were about unfair termination. Others included long working hours, social security contributions, non-payment of benefits, and wage payment delay.</b></p>
5	 <p><i>Labour rights awareness</i></p>	<p><b>56% of workers claimed to be well informed or at least informed about their rights at work, down from 71% in 2022.</b></p>
6	 <p><i>Land acquisition process</i></p>	<p><b>Community members identified delays in compensation payment (29%) as the biggest challenge in the land acquisition process. Others include unfair valuation, and lack of meaningful participation .</b></p>



7



*Corporate social responsibility*

**5 out of 10 community members feel that their community benefits from CSR activities, down from 6 out of 10 people in 2022.**

8



*Environmental responsibility*

**6 out of 10 business enterprises do not have a clear policy on environmental management and protection.**

**Business enterprises were mostly implicated in air and land pollution.**

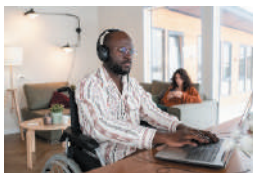
9



*Corporate respect for human rights*

**Labour rights violations identified as the biggest concern (46%). Right to work perceived the most violated (51%), followed by right to environment (36%), and right to health (20%).**

10



*Gender & disability discrimination*

**Gender and disability discrimination remain key challenges in the business sector, women and persons with disabilities (PWDs) being the main victims. Poor enforcement of laws and acceptance of discrimination among contributing factors.**



## EXECUTIVE SUMMARY

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### Introduction

This is the tenth report on human rights within the business sector in Mainland Tanzania produced by LHRC, informed by a survey conducted across 15 regions in April and May 2024. The report covers the period of January 2023 to March 2024. It provides an in-depth analysis of the state of human rights in relation to business activities, highlighting key findings and developments within this period.

The main objective of the survey was to assess compliance of business enterprises with international human rights standards as well as domestic laws, policies and practices relating to labour, land, environment, tax, corporate social responsibility, consumer protection, and local content. The report provides some useful information on human rights and business and is meant to be used as an advocacy tool to advocate for and promote human rights in the business sector. The report consists of nine (9) chapters, mainly touching on business environment, labour standards, land rights, tax obligations, corporate social responsibility, local content requirements, consumer protection, corporate environmental responsibility, corporate respect for human rights, and gender and other forms of discrimination in the business sector. The report also provides relevant recommendations to improve the state of human rights in the business sector.

### Methodology

The survey design incorporated both quantitative and qualitative approaches. As such, both quantitative and qualitative data collection tools were prepared and used to collect primary data in the surveyed regions. Secondary data were obtained through review of various documents, including reports, articles, speeches, and policies. The survey reached a total of 3,078 respondents, sampled among community members, regulatory authorities, workers/employees, corporate management officials, LGA officials, and traders in 15 regions.<sup>†</sup> 55% of the respondents were male and 45% were female. Data were mainly collected through questionnaire, interview, focus group discussion, and observation methods. The survey findings are compared with those of the year 2022.

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<sup>†</sup> Dar es Salaam, Pwani, Morogoro, Dodoma, Singida, Mwanza, Shinyanga, Geita, Mara, Iringa, Mbeya, Kilimanjaro, Arusha, Tanga, and Mtwara.





## Key Findings

1

### Business Environment and Regulatory Frameworks

#### **Business environment**

- ✎ Despite advancements in fostering a conducive business environment for multinational corporations (MNCs) and small and medium-sized enterprises, (SMEs) numerous substantial challenges continue to prevail. Top three business constraints for small, medium and large enterprises are access to finance (40%), electricity (13%), and tax rates (13%).
- ✎ Specifically for small enterprises, the top three constraints were identified as access to finance (44%), electricity (13%), and tax rates (12%), while for medium enterprises it was access to finance (31%), tax rates (13%), and tax administration (11%). For the large business enterprises, access to finance was also identified as the biggest constraint (27%), followed by tax administration (19%), and tax rates (15%).
- ✎ Business environment constraints for local traders, including market traders include poorly managed and dilapidated market infrastructures; poor waste management; proliferation and competition with petty traders (the 'machinga' problem); corruption and lack of transparency; tax and other contributions; power outages and rationing; lack of meaningful participation in decision-making; and lack of capital and limited access to credit.

#### **Regulatory frameworks**

- ✎ Despite increased efforts to engage community members, awareness about regulatory authorities operating in the business sector remains relatively low. While it is commendable that the percentage of awareness increased from 24% in 2022 to 40% in 2024, the fact that 6 out of 10 people are not well informed about these important bodies is concerning. Less than a quarter of respondents also indicated that they had engaged the regulatory authorities.
- ✎ Despite the commendable work done by regulatory authorities to ensure business compliance with laws and standards, their performances are affected by various challenges. Key challenges include shortage of staff, lack of offices in some regions, financial constraints, overlapping mandate, low community awareness about their work, political interference, inadequate coordination and cooperation, and corruption.

2

### Business Compliance with Labour Laws and Standards

- ✎ Business compliance with labour laws and standards remains a challenge as systemic labour rights violations continue to occur.
- ✎ Complaints about denial of employment contracts, copies of contracts, being overworked and underpaid, violence, denial of overtime pay, restricted access to justice, denial of a right to establish or join trade union, and unfair termination of employment were widespread across all the surveyed regions.



### Employment Contracts

- ✎ The percentage of workers claiming to have employment contracts increased from 64.6% in 2022 to 69.4% in 2024. The percentage was higher in regions such as Arusha (94%), Dar es Salaam (87%), Dodoma (85%), Geita (85%), and Mbeya (85%).
- ✎ Complaints about non-provision of employment contracts remain widespread, especially in SMEs, mainly contributed by preference for cheap casual labour. The majority of workers who complained about not being provided with employment contracts were in the private security services, hospitality, and transportation sectors.
- ✎ The percentage of workers claiming to have written employment contracts slightly decreased from 89% in 2022 to 80% in 2024.
- ✎ Complaints about non-provision of copies of employment contracts, especially in SMEs, were widespread in all surveyed regions. Lack of such copies puts workers in a disadvantaged position in terms of knowing and claiming their rights, especially when labour disputes occur.
- ✎ Language of employment contract also continues to be a concern for some workers, especially in SMEs. Some of the workers in the surveyed regions such as Mbeya, Pwani, Mara, and Dodoma complained about their contracts being written in English, making it difficult to understand the content.
- ✎ Complaints about breach of employment contracts were also widespread, especially among workers who work in SMEs in the hospitality, transportation, manufacturing, and private security sectors. Common complaints included being overworked and overpaid, especially for security guards and bus and truck drivers; being denied leave and paid leave; non-payment of allowances, especially for truck drivers; and non-remittance of social security contributions.
- ✎ Preference of short-term contracts was the recurring theme in all surveyed regions, especially observed in industries such as private security, hospitality, manufacturing, and transportation. Workers complained that such contracts threaten their job security and limit their access to credit.

### Working Hours

- ✎ Most of the 1,039 workers who participated in the survey (81%) indicated that they were often free to leave work after normal working hours, unchanged from 2022. However, some employers reportedly violated the working hour-limit, requiring workers to work beyond 8 or 9 hours a day, contrary to the law. Such complaints were made by some of the workers in all surveyed regions, especially in the private security, hospitality, manufacturing, and transportation sectors.
- ✎ The survey also found that over half of the workers were not paid for working extra hours. Only 40% of the workers said they get overtime pay, slightly decreasing from 42% in 2022.
- ✎ Right to adequate rest remained elusive for some of the workers. Complaints about being overworked were common among workers in private security, hospitality, manufacturing, and transportation sectors, including bus drivers, truck drivers, and hotel workers.



### **Remuneration**

- ✎ In 2022, the Government introduced the new Wage Order, increasing wages for workers in different sectors. However, awareness about the new Wage Order of 2022 is relatively low, as only 5 out of 10 workers indicated they were aware of their respective minimum wages.
- ✎ The survey also observed that some employers pay their workers below the minimum wage. Complaints about non-compliance with the Wage Order of 2022 were mostly made in regions such as Dar es Salaam, Pwani, Morogoro, Dodoma, Mwanza, Shinyanga, Mbeya, Tanga, and Mtwara.
- ✎ Similar to the previous survey, conducted in 2022, some workers lamented delays in payment of their wages, allegations which were also confirmed by some of the employers and trade union officials.
- ✎ Percentage of workers complaining about unequal pay for equal work decreased from 41% in 2022 to 37% in 2024.

### **Working Environment**

- ✎ On average, 63% of workers considered the overall working environment to be very good (18%) and good (45%), slightly decreasing from 70% in 2022. However, less than half of the workers felt that the working environment is disability friendly (23%) and women friendly (48%).
- ✎ 63% of workplaces were said to have in place occupational health and safety policies, decreasing from 77% in 2022.
- ✎ Regarding training on occupational health and safety, the percentage of workers who claimed to receive such training stood at 51%, slightly decreasing from 54% in 2022.
- ✎ When asked about availability and sufficiency of personal protective equipment (PPE), nearly two thirds of the interviewed workers (62%) claimed that PPE is available and sufficient, increasing by 8% in comparison with the 2022 survey. Over a quarter of them (29%) indicated insufficiency and lack of PPE at their workplaces.

### **Workplace Violence and Harassment**

- ✎ Over half of employers (57%) claimed they were aware of laws prohibiting workplace violence. They also claimed that they had taken various measures to address violence, including establishment of reporting mechanisms, adoption and implementation of anti-violence policies, supervision, and trainings and seminars.
- ✎ Workers mentioned threats, intimidation and bullying as the most common acts of workplace violence, at 52%, followed by other forms of violence (22%), sexual harassment (15%), and physical violence (10%).
- ✎ The survey found that male workers were likely to be subjected to physical and psychological violence by their supervisors, while female workers were susceptible to sexual violence by both supervisors and male co-workers. Violence was said and found to be more prevalent in SMEs.



### **Compensation for Injury Sustained at Work**

- ✎ Only 23% of the workers said they were well informed about compensation laws and regulations, slightly increasing from 20% in 2022.
- ✎ When asked about existence of compensation arrangements following an occupational injury, only 30% of workers (3 out of 10) said such arrangements exist, slightly decreasing from 32% in 2022.

### **Freedom of Association, Collective Bargaining, and Right to Strike**

- ✎ Most employers continue to arbitrarily restrict workers' freedom of association and collective bargaining through discouraging or threatening them from joining trade unions.
- ✎ Less than half of the workers (37%) said trade unions exist at their workplaces, slightly increasing from 34% in 2022.
- ✎ In terms of effectiveness of trade unions, percentage of workers perceiving trade unions to be ineffective stood at 58%, decreasing from 78% in 2022. The percentages were highest in Mbeya (81%) and lowest in Kilimanjaro (14%).
- ✎ Despite the perceptions and various challenges faced by trade unions, the survey found that continued to play a crucial role in safeguarding labour rights, including through raising awareness of such rights, promoting decent work, facilitating collective bargaining, and helping members get justice (access to remedy).

### **Child and Forced Labour**

- ✎ Incidents of child labour were observed and reported in nearly all surveyed regions, especially in unregistered and small businesses, such as garages and mills.
- ✎ Less than half of employers (45%) indicated that they had in place a minimum age of employment or anti-child labour policy, decreasing from 55% in 2022.
- ✎ Instances of forced labour were reported at some workplaces. Workers were asked about various indicators of forced labour at their workplaces, whereby being deceived into exploitative job was mentioned the most, followed by threat of losing employment for refusing to perform work not agreed (33%), and withholding or delaying wages and allowances (30%).
- ✎ Nearly 5 out of 10 employers said they have in place anti-forced labour policy, slightly decreasing from nearly 6 out of 10 in 2022.

### **Leaves**

- ✎ The majority of workers (55%) indicated that annual leave is often granted and took such leave in the past year, slightly increasing from 51% in the previous survey, conducted in 2022.
- ✎ Further analysis of the data revealed that percentages of male and female workers taking the annual leave were 51% and 55% respectively.
- ✎ When asked whether the leave they took was paid leave, only 52% of workers said it was, suggesting that nearly 5 out of 10 workers are not granted paid annual leave.



- ✎ Workers were also asked about maternity leave, whereby the percentage of workers who said maternity leave is granted increased from 34% in 2022 to 54% in 2024.
- ✎ While discrimination and dismissal of female workers because of pregnancy is prohibited, the survey found that incidents of such discrimination continue to occur at some workplaces, especially in SMEs. The revealed that some employers were reluctant to employ women because of possibility of getting pregnant and having to take maternity leave.
- ✎ Paternity leave remains the least known leave as well as the least granted. Just over a quarter of the respondents (29%) said they are aware that male workers at their respective workplaces are granted paternity leave, slightly increasing from 25% in 2022.
- ✎ The situation of sick leave was found to be better, whereby the percentage of workers claiming such leave is usually granted slightly increased from 71% in 2022 to 72% in 2024.

### **Social security**

- ✎ A key concern for workers regarding social security is non-submission of social security contributions. Complaints about non-submission of contributions were mostly aired in 5 out of the 15 surveyed regions (33%), namely Tanga, Mwanza, Iringa, Kilimanjaro, and Mtwara. In June 2023, the National Social Security Fund (NSSF) revealed that there were 350 non-remittance of contributions cases that were ongoing in courts of law in different parts of the country.

### **Employment Termination**

- ✎ Complaints of unfair termination were widespread in the surveyed regions, including in Shinyanga, where a trade union official revealed that that 80% of the complaints received by the union (TPAWU) were about unfair termination.
- ✎ Over 50% of labour complaints received by LHRC through her legal aid and human rights monitoring programmes in 2023 were of unfair compensation.

### **Labour Disputes and Mechanism for Resolution**

- ✎ The survey found that common labour disputes included wage disputes, leave disputes, physical and sexual violence, poor working conditions, social security disputes, and unfair termination.
- ✎ LHRC's legal aid data for the year 2023 show that common grievances or complaints by workers include unfair termination; breach of contract; non-submission of social security contributions; and non-payment of benefits, including leave and overtime. Over 50% of the complaints received by LHRC in the past year are about unfair termination of employment.
- ✎ When asked about existence of worker or internal grievance mechanisms, 62% of employers or 6 out of 10 employers said they have in place such a mechanism. Only 24% of the workers felt such mechanisms were effective





- ✎ Regarding formal dispute resolution mechanisms, the survey found that the Commission for Mediation and Arbitration (CMA) was mostly accessible to workers. Qualitative survey findings suggest that labour disputes have been increasing and unfair termination constitutes the majority of disputes entertained by the CMA.

### **Awareness of Labour Laws, Rights and Duties**

- ✎ When asked about awareness of labour laws and regulations, only 21% of the workers indicated they were well informed about existing labour laws and regulations, slightly decreasing from 22% in 2022.
- ✎ However, over half of the workers (56%) claimed to be well informed or at least informed about their rights at work, decreasing from 71% in the 2022 survey.

### **Human Rights Violations Resulting from Non-Compliance with Labour Laws and Standards**

- ✎ Human rights violated due to non-adherence to labour standards included the right to form and joint trade union (freedom of association), right to fair remuneration, right to favourable working environment, right to health, freedom from violence, right to adequate standard of living, right to social security, and right to non-discrimination.

## **3**

### **Land Acquisition for Investment**

- ✎ Community members who participated in the survey mentioned delays in compensation payment (29%) as the biggest challenge in the land acquisition process, followed by unfair valuation (28%), lack of or limited access to accurate information (27%), and lack of meaningful participation (25%).
- ✎ Only 16% of community members said they were sure the community is adequately involved in the land acquisition process, while 23% felt community members are only minimally involved, suggesting lack of meaningful participation.
- ✎ Less than half of community members (36%) said they were certain that compensation granted following land acquisition is usually fair and timely.
- ✎ Land disputes continued to be a challenge in land acquisition for investment. Such disputes were mainly reported in Singida, Mwanza, Shinyanga, Mara, Iringa, and Mtwara.

## **4**

### **Business Compliance with Tax Obligations**

- ✎ Recent tax trends suggest an upward trajectory in revenue collection, which is essential ensuring progressive realisation of economic and social rights. The amount of taxes collected during the financial year 2021/22 was Tshs. 22.2 trillion, which increased to Tshs. 24.1 trillion in 2022/23 and then to Tshs. 27.6 trillion in 2023/24.
- ✎ Regarding corporate tax, available statistics show what the amount of revenue increased from Tshs. 2.15 trillion in 2020/21 to Tshs. 3.28 trillion in 2021/22.



- ✎ Despite the improvement in domestic revenue collection, concerns about tax fairness and approachability continue to persist. When asked about fairness of taxes, the majority of business enterprises (30%) indicated that the taxes were somewhat fair, followed by 28% who felt they were unfair, and 26% who said they were fair. Overall, only 31% felt the taxes were fair and very fair, slightly decreasing from 35% in 2022.
- ✎ Tax evasion and avoidance remain key concerns in revenue collection. Other key issues include tax haven and incentives, illicit financial flows, mismanagement of tax revenues (public funds), and narrow tax base.
- ✎ Traders in the surveyed regions were asked about factors contributing to tax evasion, whereby imposition of high taxes (44%) was mentioned the most by the respondents, followed by low awareness about importance of taxes (25%), not seeing the benefits (20%), and unfriendly or unfair tax collection practices (12%).

## 5

## Corporate Social Responsibility, Local Content Requirements, and Consumer Protection

### Corporate social responsibility (CSR)

- ✎ 5 out of 10 community members feel that their community benefits from CSR activities. Percentage of community members who felt as a community they had benefited from CSR slightly decreased from 59% in 2022 to 56% in 2024. Half of the CSR activities (51%) were performed in employment (30%) and education sectors (21%), followed by health (16%).
- ✎ Despite the perceived benefits of CSR, several challenges persist, including delays in implementation of CSR projects; political interference; mismanagement, misuse and misappropriation of CSR funds; lack of transparency and accountability; gaps in legal and policy framework; perception that CSR is only for large scale companies; conflicting priorities between investors and LGAs; and quality and sustainability of some of the CSR projects.

### Local content requirements (LCR)

- ✎ Government reports and speeches suggest strides being made in implementation of LCR in the extractives sector, including increased employment of Tanzanians and procurement of locally produced goods and services. However, several challenges persist, including capacity gaps in employment and provision of goods and services.

### Consumer protection

- ✎ About half of community member (54%) said they make effort to inspect the good before buying them, slightly increasing by 4% in comparison with the findings of the previous (2022) survey.
- ✎ 3 out of 10 community members indicated that they had purchased a counterfeit or sub-standard product. The majority of them (37%) said they complained to the seller, followed by 22% who said they did not take any action. 11% said they had suffered harm after consuming a fake or sub-standard product.



## 6

## Corporate Environmental Responsibility and Respect for Human Rights

### **Corporate environmental responsibility**

- ✎ Survey findings show that 6 out of 10 business enterprises do not have a clear policy on environmental management and protection. The survey further found that large business enterprises are more likely to have in place such policy.
- ✎ Industrial environmental pollution remains a key challenge. Business enterprises in the surveyed regions were mostly implicated in air and land pollution. Other types of pollution include water pollution, noise pollution, and odour pollution.
- ✎ In March 2023, NEMC reported a 65% increase in noise pollution and vibration complaints. In May, it was reported that NEMC had suspended operations at 89 businesses in three regions for causing noise pollution.
- ✎ Other environmental concerns include environmental degradation and deforestation, which also contribute to climate change.

### **Corporate respect for human rights**

- ✎ Community members perceive labour rights violations to be the biggest corporate human rights violation (46%), followed by environmental pollution (39%). Regarding the most violated human rights, right to work and fair remuneration was mentioned the most (51%), followed by right to clean and healthy environment (36%), and right to health (20%). The right to access to justice (access to remedy) was also mentioned as a concern by 17% of the community members.
- ✎ Climate change is a serious threat to human rights. The survey found that business enterprises have not taken adequate measures to integrate climate change considerations into their policies and practices, as part of their responsibility to identify, prevent and mitigate climate-related human rights impacts and provide remedy when they have contributed to such harms.



## Gender and Other Forms of Discrimination in the Business Sector

### Gender discrimination

- ✎ While Tanzania has made strides in advancing gender equality, gender discrimination remains a key challenge in the business sector. Several factors are responsible for this, key among them being gaps in legal and policy frameworks, poor enforcement of laws and regulations, and acceptance of gender discrimination and violence.
- ✎ Pregnancy and maternity discrimination at workplaces are among key issues affecting women's labour rights in the business sector. This type of discrimination includes dismissal of pregnant workers, denial of promotion, pay decrease and redundancy. Complaints about pregnancy and maternity discrimination were aired by some of the respondents in regions such as Mtwara, Shinyanga, Mara, and Tanga.
- ✎ Key gender concerns for women traders include inadequate protection and consideration of gender needs of women in the informal sector.
- ✎ Lack of anti-discrimination and gender equality policies at some workplaces is also a key challenge. Only 20% of interviewed workers at surveyed workplaces said they were aware of the existence of anti-discrimination and gender equality policies at their workplaces.

### Disability discrimination

- ✎ Survey findings show that despite efforts to address discrimination against persons with disabilities (PWDs) in the business sector, they continue to be discriminated against in various ways, including discrimination in employment. Complaints about low employment of PWDs were aired in over half of the regions, including Mtwara, Kilimanjaro, Singida, and Mbeya. Some employers claimed that they preferred not to hire PWDs because 'they are not suitable to the job,' 'can delay production,' or 'cannot operate heavy machines.'
- ✎ Lack of conducive working environment for PWDs, underrepresentation of PWDs in leadership and other decision-making positions, and inadequate enforcement of disability and other laws are also key issues and concerns.

## Key Recommendations

### Business Environment and Regulatory Frameworks

1. The Government, through the Ministry of Industry and Trade, to take deliberate measures to improve the business environment in Tanzania, in line with human rights standards.
2. The Government to strengthen the institutional capacity of regulatory authorities operating in the business sector, including OSHA and NEMC.
3. Regulatory authorities to mainstream gender in their policies and plans and ensure that companies and organizations have gender responsive policies that promote equality, non-discrimination and inclusion.



### Compliance with Labour Laws and Standards

1. The Government, through the Ministry of Labour, Employment and Youth Development, to ensure effective enforcement of labour laws to ensure businesses comply with relevant labour and human rights laws and standards, including through conducting regular inspections.
2. The Government, through the Ministry of Constitution and Legal Affairs and the Judiciary, to improve access to remedy in the business sector.
3. Civil society organizations (CSOs) and the Commission for Human Rights and Good Governance (CHRAGG) to intensify efforts of raising labour and human rights awareness among workers and other community members and help them access available remedy mechanisms.

### Land Acquisition for Investment

1. The Government, through the Ministry of Lands, Housing and Human Settlements to ensure that community members effectively participate in the process of land acquisition for investment, including having the relevant legal knowledge and be fully informed about the impact of proposed investment in order to make free prior informed consent.
2. The Ministry of Lands, Housing, and Human Settlements to ensure that land acquisition process is equitable and that affected community members receive fair and timely compensation.
3. The Commission for Human Rights and Good Governance (CHRAGG) and NGOs to raise public awareness about land laws and rights, including through regular media programmes.

### Business Compliance with Tax Obligations

1. The Government to closely monitor business enterprises to ensure they comply with their tax obligations, especially those in the mining sector – which have been mainly implicated in tax evasion and avoidance.
2. The Government to ensure proper use of tax revenues to improve public services and enhance accountability to boost tax morale.
3. Non-governmental organizations (NGOs) to collaborate with the Tanzania Revenue Authority (TRA) to provide and strengthen tax education and awareness as a way of improving tax compliance.

### Corporate Social Responsibility, Local Content Requirements, and Consumer Protection

1. The Government, through the Ministry of Minerals and other relevant MDAs, to enhance enforcement of laws, regulations, and policies governing corporate social responsibility (CSR), local content requirements (LCR), and consumer protection.
2. Business enterprises, including SMEs, to embrace and practice corporate social responsibility (CSR).
3. The Commission for Human Rights and Good Governance (CHRAGG) and NGOs to monitor business compliance with CSR and LCR and assist business enterprises in complying with the obligations.





### **Corporate Environmental Responsibility and Corporate Respect for Human Rights**

1. The Government, through the Vice President's Office - Ministry of State (Union and Environment) and the National Environmental Management Council (NEMC), to ensure adequate enforcement of environmental laws and regulations in the business sector, including taking relevant action against businesses failing to comply.
2. The Government, through the Ministry of Constitution and Legal Affairs and the Commission of Human Rights and Good Governance (CHRAGG), to ensure business enterprises respect human rights and held accountable when they fail to oblige.
3. The Government, through the Ministry of Constitution and Legal Affairs and the Commission of Human Rights and Good Governance (CHRAGG), to adopt and operationalize the National Action Plan on Business and Human Rights.

### **Gender discrimination and other Forms of Discrimination**

1. The Government, through the Ministry of Constitution and Legal Affairs and the Prime Minister's Office - Labour, Youth, Employment and Persons with Disability, to ensure effective implementation of labour and disability laws and regulations to ensure the rights of marginalised groups, including persons with disabilities (PWDs) and women, are respected and realized in the business sector.
2. The Government, through the Ministry of Industry and Trade, to ensure business enterprises adopt affirmative and other measures to protect PWDs, women and PLHIVs from any form of discrimination, including adopting and implementing anti-discrimination policies.
3. Business enterprises adopt and popularize anti-discrimination policies at workplaces.



## CHAPTER ONE: INTRODUCTION

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### 1.1. Overview of Tanzania

Mainland Tanzania is part of the United Republic of Tanzania (URT), together with Zanzibar. The URT is one of the countries that make up East Africa, bordered by Kenya and Uganda in the North; Rwanda, Burundi and Democratic Republic of Congo in the West; Zambia and Malawi in the Southwest; Mozambique in the South; and the Indian Ocean in the East.

Topographically, the country is blessed with beautiful scenery, water bodies, mountains, national parks, and game reserves. For instance, Tanzania is home to Mount Kilimanjaro, the highest free-standing mountain in the world and the highest mountain in Africa. The country has a tropical climatic condition with the highland temperatures ranging between 10°C to 20°C during the cold and hot seasons, respectively. Rainfall distribution is divided into unimodal and bimodal areas.<sup>3</sup> The unimodal areas experience rainfall once per year whereas the bimodal areas experience rainfall two times a year.

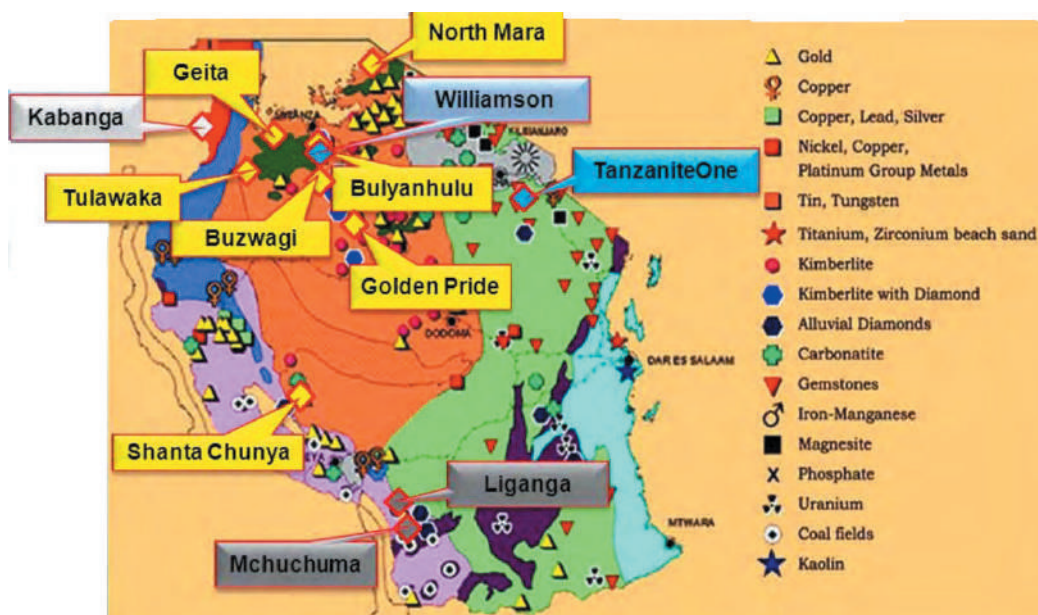
Further, Tanzania is endowed with abundant natural resources (living and non-living), including minerals such as Tanzanite, Gold, Diamond, Copper, and Iron, which are found abundantly. Major mining projects which have materialized due to the existence of minerals include Tanzanite mining in Mererani (Arusha); gold in Geita, Mara, and Shinyanga Regions; coal in Ruvuma; and diamond in Shinyanga. Moreover, a large reserve of natural gas has been discovered in the southern regions of Mtwara and Lindi. It is estimated that there is a reserve of 1 trillion Cubic metres of natural gas in coastal regions.<sup>4</sup>

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<sup>3</sup>See Tanzania Meteorological Authority (TMA) website at <http://www.wamis.org/countries/tanzania/tanzSCF-Mar-May2019-swahili.pdf> and [www.meteo.go.tz](http://www.meteo.go.tz), accessed on 10<sup>th</sup> July, 2022; Borhara K., Pokharel B., Bean B., Deng L., Wang S-YS. On Tanzania's Precipitation Climatology, Variability, and Future Projection. *Climate*. 2020; 8(2):34. <https://doi.org/10.3390/cli8020034>.

<sup>4</sup>United Republic of Tanzania, The National Natural Gas Policy of Tanzania 2013, p. 2.





**Picture 1.1: Tanzania Minerals Map**

Source: Tanzania Chamber of Mines<sup>5</sup>

Further explorations for gas and oil are ongoing in different parts of the country, attracting heavy foreign direct investment through exploration and establishment of manufacturing industry, a good example being the commission of the Dangote Cement plant in Mtwara in 2015, capable of producing high quality grade cement.<sup>6</sup> The plant utilises natural gas as the main source of power generation. Also, natural gas is being utilized to generate power at the Kinyerezi Power Plant for public and commercial consumption.<sup>7</sup>

There are also water bodies such as the Lake Tanganyika (the deepest lake in Africa), the Lake Victoria (the largest lake in Africa and the source of the Great Nile River), the Lake Nyasa, and rivers running across the country, including Rufiji, Ruvuma, Malagarasi, Kagera, Pangani, Wami, Ruvu, Ruaha, Kilombero and Mara Rivers. The Indian Ocean forms the Eastern border of the country with four major ports of Dar es Salaam; Mtwara; Tanga; and Bagamoyo (Mbegani area). These ports have been vital in boosting the country's economic growth as well as those of the landlocked neighbouring countries which depend on Tanzania's ports for exportation and importation of goods.<sup>8</sup>

<sup>5</sup> <https://www.tcme.or.tz/mining.html>.

<sup>6</sup> See <http://www.dangotecement.com/operations/tanzania/>, was accessed on December 2018 during previous studies.

<sup>7</sup> See [www.pesatimes.com/news/energy-mining/kinyerezi-power-plant-to-add-150-megawatts](http://www.pesatimes.com/news/energy-mining/kinyerezi-power-plant-to-add-150-megawatts), re-accessed on 15<sup>th</sup> July 2022.

<sup>8</sup> These countries include Uganda, Rwanda, Burundi, DRC, Zambia, and Malawi.





Existence of various natural resources plus its strategic location in East and Central of African, have made Tanzania ideal for investment, both internal and external.

## 1.2. Human Rights and Business: Applicable Standards

According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), one of the great challenges faced by countries today is harmonizing economic growth with the protection of human rights.<sup>9</sup> Concerns over human rights protection in the business sector prompted the international community, through the UN, to introduce international standards on business and human rights, most importantly the UN Guiding Principles on Business and Human Rights (UNGPHR) of 2011.<sup>10</sup>

According to OHCHR, which leads the business and human rights agenda within the UN system, the concept of human rights and business is informed by various international standards on business and human rights. Key among them (in addition to UNGPHR) being the UN Global Compact's Ten Principles; the International Labor Organization (ILO)'s conventions and declarations;<sup>11</sup> and, international bill of human rights.<sup>12</sup>

Within the context of Africa, key applicable standards include the African Charter on Human and Peoples' Rights of 1981 (Banjul Charter); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa of 2003 (Maputo Protocol); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (African Disability Protocol) of 2018; the SADC Protocol on Gender and Development of 2008; and the SADC Protocol on Employment and Labour of 2014. **It is worth noting that Tanzania has ratified most of these regional conventions, as well as those under international level.**

<sup>9</sup> See OHCHR, *Business and Human Rights: A Progress Report*, at <https://www.ohchr.org/documents/publications/businessshren.pdf>, accessed 16 May 2022.

<sup>10</sup> Note: The Guidelines were proposed by the UN Special Representative on Business and Human Rights, John Ruggie, and endorsed by the UN Human Rights Council in June 2011. See: Business & Human Rights Resource Centre "UN Guiding Principles on Business and Human Rights" at <https://www.business-humanrights.org/en/big-issues/un-guiding-principles-on-business-human-rights/>, accessed 23 July 2022.

<sup>11</sup> There are many ILO labour instruments, including the ILO Declaration on Fundamental Principles and Rights at Work of 1998. Some of those are discussed in part two of this report.

<sup>12</sup> International bill of human rights consists of the said UDHR of 1948; the International Covenant on Civil and Political Rights (ICCPR) of 1966; and, the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966.



The UNGPBHR of 2011 have 31 clauses (principles) in total, which seek to clarify responsibilities of duty bearers in the business sector and fall under three main pillars, namely: **protect**, **respect** and **remedy**. The **protect** means the State has a duty to protect against human rights abuses, including by business enterprises (10 GPs); the **respect** means business enterprises have a responsibility to respect human rights - avoid causing or contributing to adverse human rights impacts (14 GPs); and, the **remedy** means States and business enterprises must ensure victims have access to remedy in case of human rights abuses (7 GPs).

### 1.3. Overview Human Rights and Business in Tanzania

As it is a case all over the world, increased investment in Tanzania has had both positive and negative impacts. Positive impacts include increased revenue for the Government to support realization of, among other benefits, socio-economic rights and increase of employment opportunities for Tanzanians. On the other hand, businesses may violate various labour and human rights when they fail to comply with the relevant national, regional, and international labour and human rights standards. For example, operations of a business may pose environmental and health risks such as poor disposal of waste, which can pollute water sources, threatening communities' right to health and life. Real incidents illustrating such scenarios are discussed in the chapters below.

## 1.4. Report Preparation, Objectives and Structure

### 1.4.1. Sources of Data

This report is informed by both primary and secondary data. Primary data were primarily obtained through fieldwork conducted in 15 regions of Mainland Tanzania in April and May 2024. Additional primary data were obtained through LHRC's internal programmes, particularly human rights monitoring and legal aid programmes. Secondary data were obtained through document review. The survey employed both qualitative and quantitative approaches, seeking to gain in-depth information through the former, and the latter to obtain numerical data and quantify key issues around business and human rights.

### 1.4.2. Research Study Objectives, Areas and Sampling

#### Objectives

The main objective of the survey on human rights and business for the year 2023/2024 was to assess compliance with human rights standards; laws, policies and practices relating to business and human rights. The focus was on the following key issues in the business sector:

- ✎ Labour standards and practices;
- ✎ Land acquisition and associated rights;
- ✎ Tax obligations of companies and other businesses;



- ✎ Issues of discrimination in the business sector, including gender discrimination;
- ✎ Corporate social responsibility;
- ✎ Corporate environmental responsibility;
- ✎ Consumer protection;
- ✎ Corporate respect for human rights; and
- ✎ State duty to protect human rights in the business sector through access to remedy and regulatory authorities.

Specific objectives of the survey were:

- 1) To determine the extent to which businesses observed labour/employment and human rights standards in the year 2023/2024 as part of their responsibility to respect human rights;
- 2) To examine adherence to human rights standards in land acquisition for investment;
- 3) To assess compliance of businesses with tax obligations, corporate social responsibility and environmental responsibility in the year 2023/2024;
- 4) To assess awareness of labour and human rights laws among workers /employees and community members; and
- 5) To provide relevant recommendations to promote human rights in the business sector, including formulation of new policies or reform of existing laws and policies in the sector.

### Areas of Survey

The regions covered by the survey were Dar es Salaam, Pwani, Morogoro, Dodoma, Singida, Mwanza, Shinyanga, Geita, Mara, Iringa, Mbeya, Kilimanjaro, Arusha, Tanga, and Mtwara. Three districts in each of these regions were sampled, primarily based on presence of investments or business activities.

### Respondent Sampling

The survey targeted community members, regulatory authorities, workers/employees, corporate management officials, Local Government Authority (LGA) officials, and traders, as respondents. Random sampling techniques were employed to obtain community members and traders, while other respondents were purposively targeted, due to their detailed knowledge of the topics or expertise.

In total, the survey reached 3,078 respondents, of whom 45% were female and 55% were male. Table 1.1 below shows the number and percentage of respondents reached during the survey by sex.



**Table 1.1: Respondents of Human Rights and Business Survey 2024 by type & sex**

Respondents	Female	Male	Total	%
Community members	499	561	1,060	34
Corporate management officials	43	123	166	5
Workers/Employees	434	605	1,039	34
Regulatory authority officials	16	29	45	2
LGA officials	18	30	48	2
Trade union officials	23	13	36	1
Traders	339	345	684	22
<b>Total</b>	<b>1,372</b>	<b>1,706</b>	<b>3,078</b>	<b>100</b>

Source: Field Data, 2024.

### 1.4.3. Methods and Tools for Data Collection

Being a situational and perception survey, the Human Rights and Business Survey 2024 employed both qualitative and quantitative methods of data collection, namely questionnaire, interview, focus group discussion, and observation. The survey design was built from the data collection tools used in the previous survey, conducted in 2022, but the tools were improved, taking into consideration inputs by stakeholders and users of the report.



**Picture 1.2: LHRC research assistants conducting interviews with respondents in Shinyanga (left) and Mwanza (right)**

Source: Field data, 2024

### 1.4.4. Data Quality and Ethical Considerations

Several measures were undertaken to ensure data quality, including careful selection of research assistants who were engaged to conduct the survey; conducting training on human rights and business, research methodology, research principles, and data collection to research assistants; pre-testing of data collection tools; supervision of research assistants; and gender considerations. A total of 30 research assistants, the majority of whom (70%) had prior experience in undertaking a similar survey, were well trained and prepared for data collection. All the research assistants were also university graduates.





Training research assistants was crucial for collecting accurate and dependable data. Some data collection tools were translated into Swahili to facilitate interviews, especially with community members and workers. Additionally, field supervision ensured that research assistants were present and effectively performing their duties in the field. Additionally, LHRC research coordinator contacted the research assistants to check on progress and provide relevant assistance. A validation session was also conducted, bringing together various government and non-government stakeholders, to further improve data quality and validate survey findings.

All ethical considerations were adhered to before, during and after conducting the survey in selected regions of Mainland Tanzania, including obtaining relevant permits from authorities and institutions. The survey teams worked closely with regional, district, and ward authorities to obtain appropriate authorizations before engaging respondents. All key ethical principles in research, such as free and informed consent, confidentiality, privacy, and anonymity were adhered to. Gender sensitivity was also considered by ensuring, as much as possible, all groups in the society, both male and female, participated in the survey. Half of the research assistants were female, and the other half were male.

#### 1.4.5. Data Analysis

The survey employed qualitative and quantitative techniques in data and information collection, which automatically command use of same techniques in interpretation and discussion of data. Quantitative data, obtained through the questionnaire method, were analysed using LHRC-RMS data collection system, producing tables and charts. Further analysis to obtain cross-tabulated data was conducted using the Statistical Package for Social Sciences (SPSS). Qualitative data were grouped and analysed based on the various themes developed (thematic analysis). Comparative analysis and triangulation of data were used to examine findings and verify the data collected.

#### 1.4.6. Limitations

The survey encountered the following key limitations:

- ✎ Reluctance to cooperate or share information by some of the branches of regulatory authorities: Some of the branches of regulatory authorities were not willing to disclose any or much information that was needed on the grounds of 'confidentiality.'
- ✎ Supervisors prohibiting interviewees from revealing 'damaging' information about their workplaces: Some of the interviewees engaged in the survey were afraid of being seen responding to the questionnaires, while others were only allowed to do so under strict supervision. This was observed at some of the workplaces that were visited in nearly half the surveyed regions. This might have affected the responses given by some of the respondents, especially



workers. Extra efforts were made to validate their responses with follow-up interviews with some of the workers.

- ✎ Fear of participating in the survey: Some of the survey participants, especially the workers, indicated that they could not take part in the survey due to fear of losing their jobs should their employers find out about their participation. Some of them participated in the survey but were uncomfortable sharing some of the information due to fear. The fear was especially observed at mining and manufacturing companies.
- ✎ Poor cooperation by some of the business enterprises approached during the study: Some business enterprises gave no or little cooperation to the research assistants, refusing to disclose information required or prohibiting their workers to participate in the survey. Some of the enterprises repeatedly postponed appointments to conduct surveys at workplaces (using the 'delay tactic').
- ✎ Lack of or low awareness of labor standards and rights: This means the research assistants had to spend more time with some of the survey participants, thus reducing the time to reach others.

It is LHRC's view that it is in the best interest of the businesses and regulatory authorities to respond to surveys so that they get an opportunity to share their side of the story or provide clarifications or clear doubts. This is also important in terms of them sharing best practices and recommendations to support relevant or needed reforms. As indicated above, numerous reforms have been taking place because of this and other studies' recommendations.

#### 1.4.7. Report Objectives

This report discusses the situation of business and human rights in Mainland Tanzania during the period of January 2023 to March 2024. The report seeks to highlight key issues and violations around business and human rights in consideration of applicable human rights standards. The report also provides evidence to support advocacy, inform the duty bearers and rights holders about relevant human rights standards, remind duty bears of their human rights obligations, promote behaviour change in the society, and provide key data on human rights issues to inform interventions by government and non-governmental actors. This report is also a tool for raising awareness and promoting understanding of business and human rights issues, while also highlighting issues for further research.

#### 1.4.8. Report Structure

This report consists of nine (9) chapters, organized as follows:

##### Chapter One

- ✎ provides some background information on the survey, including objectives and methodologies

##### Chapter Two

- ✎ discusses business environment and regulatory frameworks, providing an intrinsic link between such environment and the trend of human rights compliance in business sector

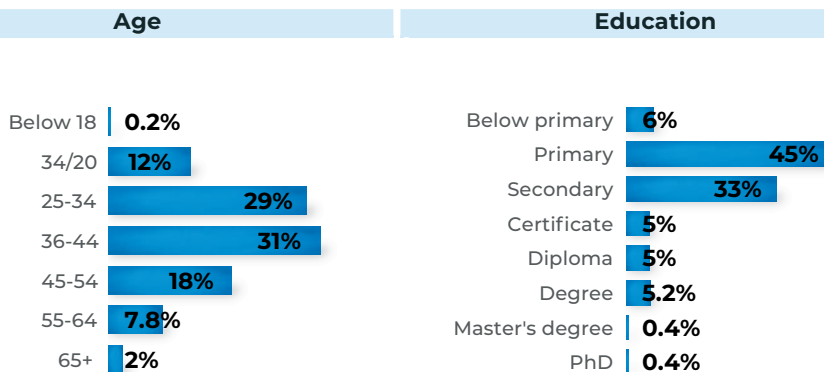
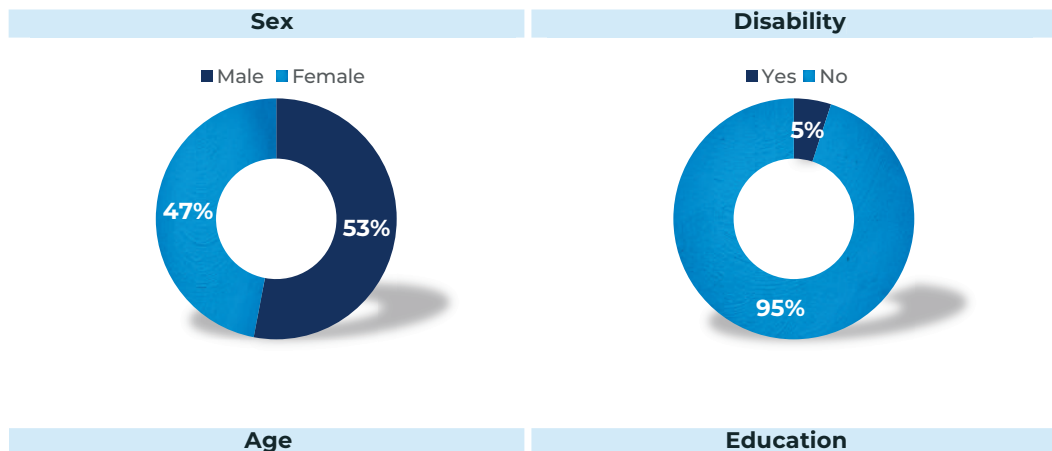


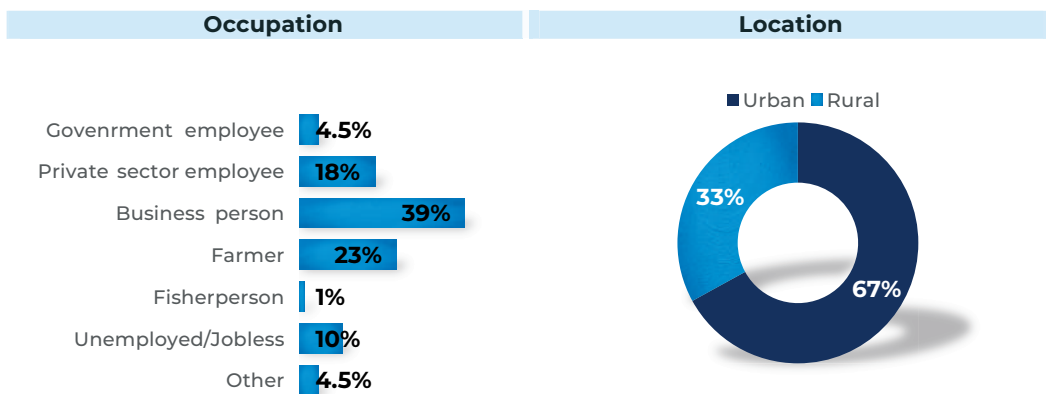
<b>Chapter Three</b>	✎ examines business compliance with labour laws and standards
<b>Chapter Four</b>	✎ covers key human rights issues in land acquisition for investment purposes, focusing on compensation and awareness on land rights by communities
<b>Chapter Five</b>	✎ covers compliance with tax obligations by businesses
<b>Chapter Six</b>	✎ discusses key issues around corporate social responsibility, local content obligations and consumer protection
<b>Chapter Seven</b>	✎ covers corporate environmental responsibility and respect for human rights, checking on how businesses comply with environmental laws and principles and obligation to respect human rights
<b>Chapter Eight</b>	✎ covers gender and other forms of discrimination in the business sector
<b>Chapter Nine</b>	✎ provides conclusion and general recommendations to improve enjoyment and realization of human rights in the business sector

## 1.5. Respondent Profiles

### 1.5.1. Community Members

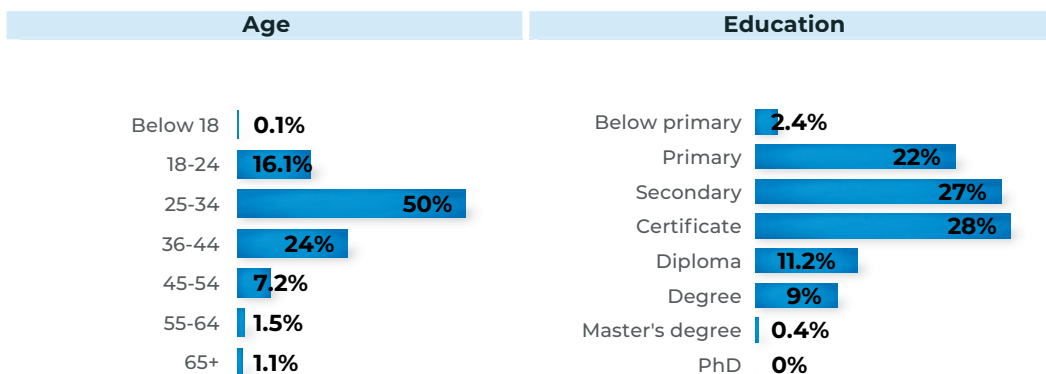
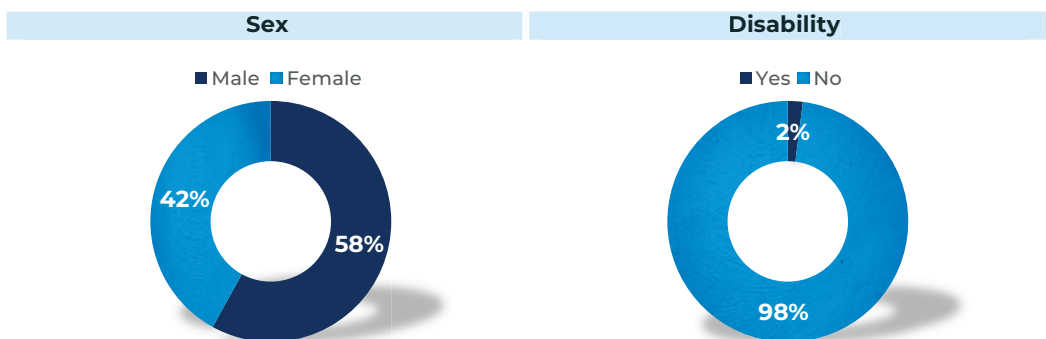
N= 1,060



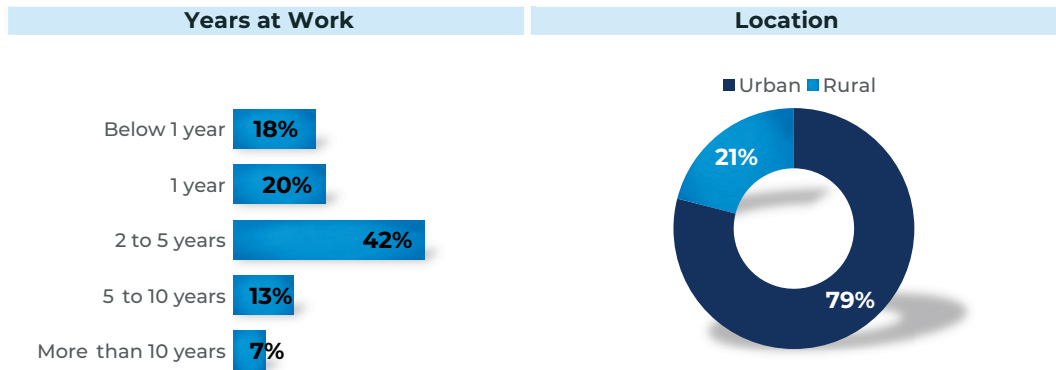


### 1.5.2. Employees

N=1,039

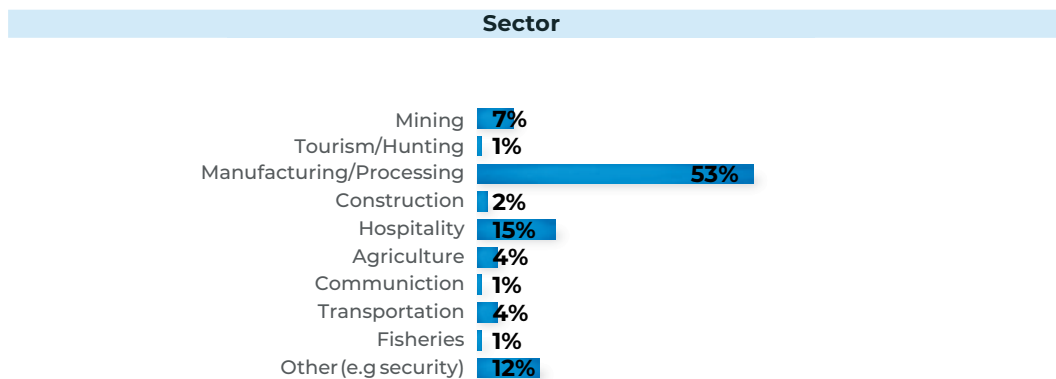
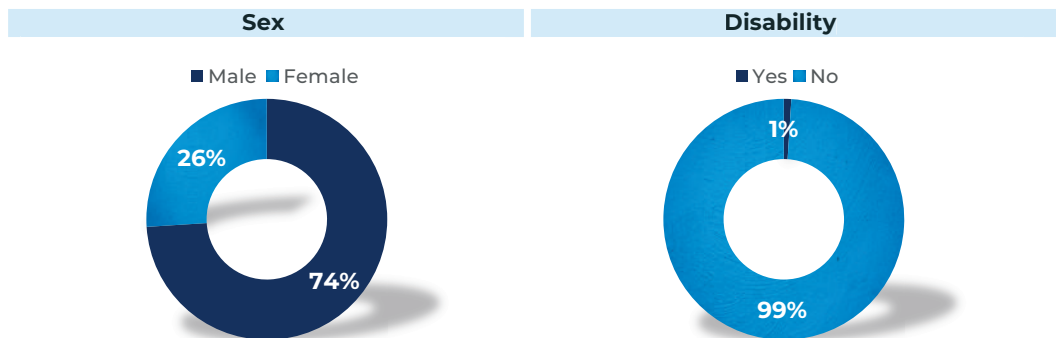






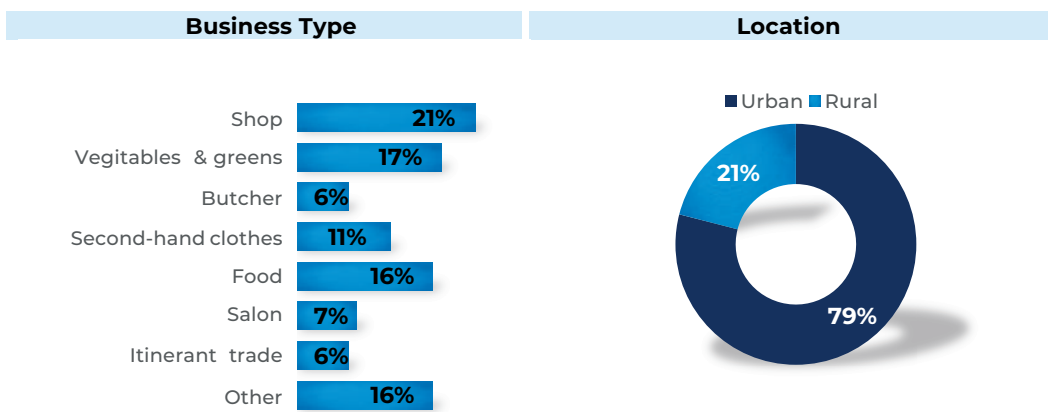
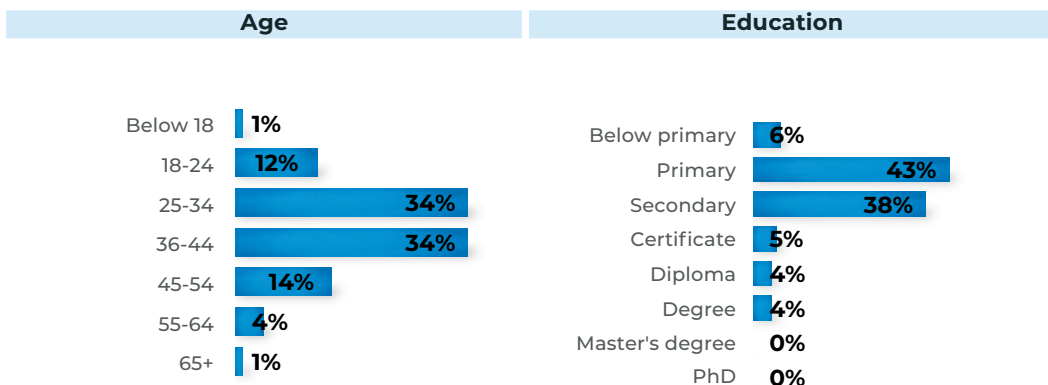
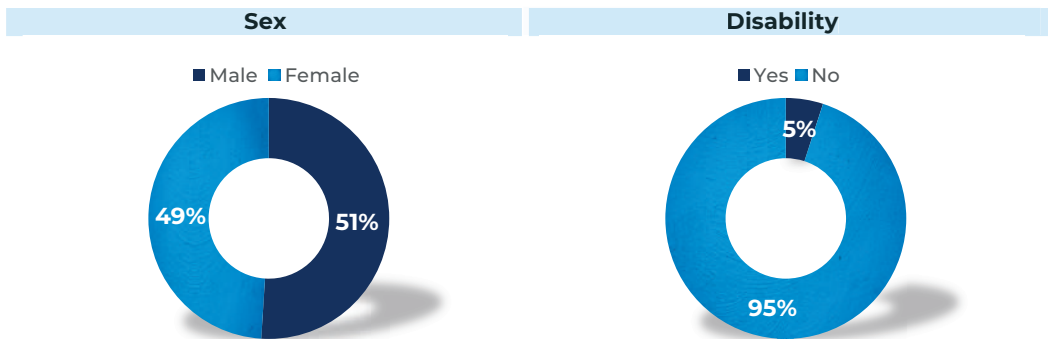
### 1.5.3. Corporate Management

N=166



### 1.5.4. Traders

N=684



## 2

## CHAPTER TWO: BUSINESS ENVIRONMENT AND REGULATORY FRAMEWORKS

This chapter is intended to offer an overview of the current business climate in Tanzania and analyzing, albeit briefly, its implications on the promotion and respect of human rights standards by the business actors. Some of the pillars of business environment or climate are explored. The chapter also maps the performance and efficiency of the regulatory authorities, which oversee compliance with the national standards in the business sector. Specific recommendations on all these issues are also provided in this chapter.

### 2.1. Business Environment

#### 2.1.1. Overview

Business environment simply refers to factors, which are typically outside the control of business enterprises, that may affect or influence a business. Understanding such factors is crucial for the enterprises because they affect and influence business planning and growth, as well as helping in risk management. The components of business environment can be economical, political, social, technological, and legal. They include labour market, access to financing, business registration, power supply, infrastructure, taxation, land transactions, cross-border trade, contract enforcement, and trading practices.

#### 2.1.2. Key Issues and Challenges

##### **Business environment for MNCs and SMEs**

Over the years, the Government of Tanzania has taken various measures to improve business environment for multinational corporations (MNCs) and Small and medium-sized enterprises (SMEs), including through legal and strategic reforms. Key government initiatives in this regard include adoption of the Blueprint for Regulatory Reforms to Improve the Business Environment in 2018, which provides the Government's main framework for enabling a holistic review of business-enabling environment (BEE) in order to improve the business climate in Tanzania.<sup>13</sup> The main objective of the blueprint is to propose reforms to improve business environment in Tanzania through reduction of the regulatory burdens and risks faced by businesses in complying with regulations.<sup>14</sup>

<sup>13</sup> See United Republic of Tanzania, Ministry of Industry, Trade and Investment, *Blueprint For Regulatory Reforms To Improve The Business Environment*, April 2018, at <https://www.brela.go.tz/uploads/documents/sw-1631096805-Blue%20print.pdf>.

<sup>14</sup> Ibid.

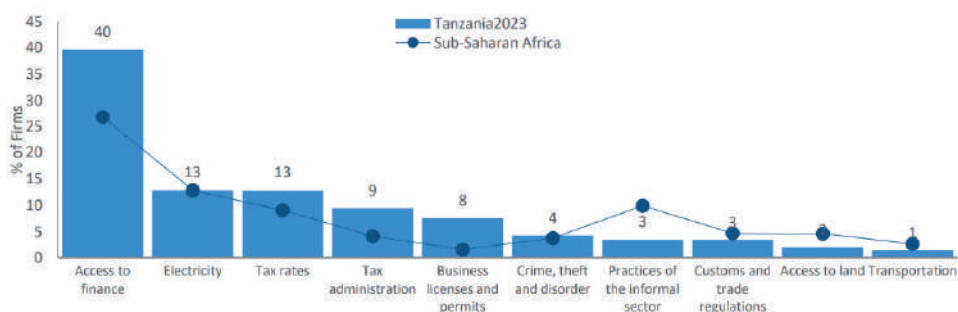


Despite the strides made in improving business environment for MNCs and SMEs, several key challenges persist. The World Bank Enterprise Survey 2023 Tanzania Report highlights various business environment obstacles in Tanzania.<sup>15</sup>

#### World Bank Enterprise Survey 2023

- Conducted by the World Bank and its partners across all geographic regions and cover small, medium, and large firms.
- Administered to a representative sample of firms in the non-agricultural, formal, private economy.
- Interviews conducted with business owners and top managers in 600 firms between June and December 2023.
- Sectors covered: manufacturing (all subsectors); motor vehicles sales and repair; wholesale; retail; hotels and restaurants; storage, transportation, and communications; IT

According to the 2023 enterprise survey report, top three business constraints for small, medium and large enterprises are access to finance (40%), electricity (13%), and tax rates (13%). The report also shows that 34% of firms reported experiencing electrical outages.



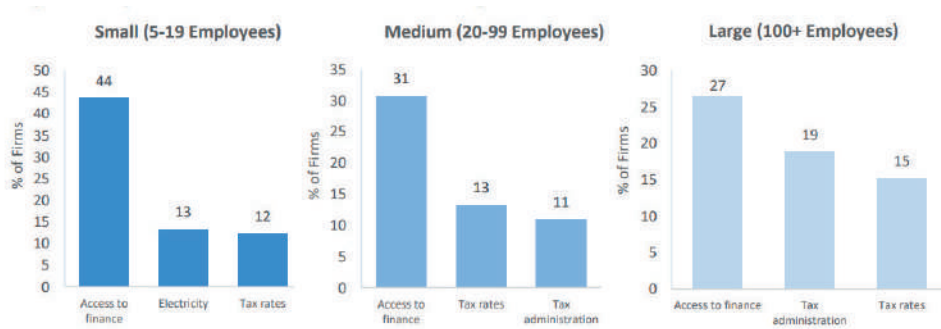
**Figure 2.1: Top ten business environment constraints in Tanzania**

Source: World Bank Enterprise Survey 2023

The enterprise survey findings also show top business constraints by size of the business enterprise, namely small, medium and large. For small enterprises, the top three constraints were identified as access to finance (44%), electricity (13%), and tax rates (12%), while for medium enterprises it was access to finance (31%), tax rates (13%), and tax administration (11%). For the large business enterprises, access to finance was also identified as the biggest constraint (27%), followed by tax administration (19%), and tax rates (15%).

<sup>15</sup> See The World Bank, *ENTERPRISE SURVEYS: WHAT BUSINESSES EXPERIENCE, Tanzania 2023 Country Profile*, at <https://www.enterprisesurveys.org/content/dam/enterprisesurveys/documents/country/Tanzania-2023.pdf>.





**Figure 2.2: Top three business environment constraints by enterprise size**

Source: World Bank Enterprise Survey 2023

Document review findings also show that power shortages remain a significant constraint to economic development in Tanzania, leading to frequent power outages and rationing.<sup>16</sup> It has also been reported that the country needs to improve in information and communication technology (ICT) application and infrastructure.<sup>17</sup> Some of the corporate management officials in the regions reached by LHRC also aired grievances around electricity and taxation as challenges.

Additionally, some of the SMEs contracted by the Government to provide services, especially in Mtwara, lamented Government delay in making payments, which in turn was hindering their ability to comply with tax and labour rights obligations, including wage payment delay.<sup>18</sup> Regarding this issue, a labour officer in the region said:

*'Our office has been receiving many labour complaints from workers of contractors engaged to construct community roads, lamenting delay in wage payment. The contractors note that they cannot pay on time due to Government delays in invoice payments.'*

Labour officer - Mtwara

<sup>16</sup> See Xuan-Ce Wang "Analysis Report on Tanzania's Business Environment" 26 Jul 2023, at <https://www.linkedin.com/pulse/analysis-report-tanzanias-business-environment-xuan-ce-wang>.

<sup>17</sup> Ibid.

<sup>18</sup> Interviews with management officials at *Prince Bites* and *Kiwango Security* in Mtwara.





## Business environment for local traders

Market and other traders in surveyed regions identified various business environment constraints, which are summarized in the table below.

### Poorly managed and dilapidated market infrastructure

- ✎ Complaints about the poor condition of marketplaces were widespread, especially in surveyed regions such as Shinyanga, Geita, and Kilimanjaro.
- ✎ Some markets were characterized by poor drainage system, poor sanitary facilities, and dirt. For instance, at *CDT Market* in Kahama TC, Shinyanga, an open drainage on the entryway surrounding the meat shops was seen as filthy and smelly. The survey further learned that during the rainy season, the environmental conditions at the *Nguzo Nane Market*, also located in the region, worsen so much that it becomes difficult for customers to pass by.
- ✎ At *Ngokolo Market* in Shinyanga MC, Shinyanga, a trader lamented lack of toilets at the market and having to pay to use a nearby public toilet (pre-paid latrine). A similar situation was also noted at *CDT Market* in Kahama TC. In Kilimanjaro, a female trader at *Mbuyuni Market* also said there was no toilet at the market.

### Poor waste management

- ✎ Under the Environmental Management Act, 2004, local governments have a duty to manage and minimize solid waste.<sup>19</sup> LGAs are required to cause to be conducted appropriate environmental impact assessment (EIA) for all new major activities leading to proper management of solid waste, manage solid waste generated in accordance with sustainable plans, and ensure appropriate sorting of waste is made right at the source.<sup>20</sup> Each LGA is also required to undertake periodic studies to determine the type of solid wastes generated from markets, business areas and institutions and determine appropriate method for sorting, storage or disposal of the waste.<sup>21</sup> The survey generally observed inadequate waste management by LGAs in most of the surveyed areas, a challenge that has also been highlighted in the National Environmental Policy of 2021<sup>22</sup> and the most recent Controller and Auditor General (CAG) report on local government audit, released in March 2024.<sup>23</sup>

<sup>19</sup> Section 114 of the Environmental Management Act, 2004. This obligation is also imposed by other laws and regulations such as the Waste Management Regulations of 2009; Local Government (District Authorities), [CAP 287]; and the Local Government (Urban Authorities), [CAP.288].

<sup>20</sup> Ibid, Section 114(2).

<sup>21</sup> Section 115(1) of the Environmental Management Act, 2004.

<sup>22</sup> See The United Republic of Tanzania Vice President's Office, *National Environmental Policy, 2021*, October 2021, at <https://www.nemc.or.tz/uploads/publications/en-1656409821-NATIONAL%20ENVIRONMENTAL%20POLICY%202021%20new.pdf>.

<sup>23</sup> See The United Republic of Tanzania, National Audit Office, *General Report on Local Government Audit for the Financial Year 2022/23*, Controller and Auditor General, March 2024, at



- ✎ The CAG LGA audit report, covering the financial year 2022/23, reveals several challenges in waste management within LGAs, including shortage of staff, limited budgets, unsuitable working environment, inadequate infrastructure, and a growing population, leading to increased waste generation and contributing to environmental pollution and spread of diseases.<sup>24</sup> The CAG observed increased waste management strategies and deficiencies in the effectiveness of solid waste management strategies employed, contributed by scarcity of waste collection tools and absence of efficient infrastructure.<sup>25</sup>

**Table 2: Shortage of waste management infrastructure in 8 LGAs**

Equipment	#Shortage	%Shortage	LGAs
Skip loaders	24	77	Ubungo MC Tanga CC Moshi MC Bariadi TC Nzega TC Dar CC Mpanda MC Same DC
Skip buckets (functional)	124	78	
Tipper truck/Compactors	16	55	
Tractors	10	83	
Trailer	8	80	
Road sweepers	16	100	
Waste collection points	71	85	
Dumpsite	11	79	

Source: CAG LGA Audit Report 2022/23

- ✎ In Shinyanga, the survey found that LGAs were struggling to keep waste collection points clear. Interviewed traders said the points often overflow, leaving surrounding areas with waste and causing unpleasant odors and the emission of harmful effluents, thereby endangering public health. They also lamented paying waste collection fees, but still not being able to enjoy the right to clean and healthy environment.
- ✎ At some of the markets, including Mbuyuni Market in Kilimanjaro, overflowing skip buckets (garbage bins) were observed, emitting bad odour.

[https://www.nao.go.tz/uploads/Annual\\_General\\_Report\\_on\\_Audit\\_of\\_Local\\_Government\\_Authorities\\_FY\\_2022-23.pdf](https://www.nao.go.tz/uploads/Annual_General_Report_on_Audit_of_Local_Government_Authorities_FY_2022-23.pdf)

<sup>24</sup> Ibid, p. 169.

<sup>25</sup> Ibid.





**Picture 2.1: Overflowing skip buckets at Mbuyuni Market in Kilimanjaro**

Source: Field data, 2024

### The 'machinga' problem

The majority of the interviewed market traders, especially in regions such as Dar es Salaam, Shinyanga, and Iringa identified petty traders, popularly known as 'machinga,' as a key business constraint. They noted that the proliferation of petty traders, who are not subjected to tax, had significantly affected their businesses, especially due to the tendency of petty traders selling items outside the markets and 'blocking' their businesses. This was one of the grievances of traders at the *Kariakoo Market*, who called upon the Government to remove the petty traders

*'There are petty traders in all parts of the world, but they have been assigned special places for doing such business, unlike here at the Kariakoo Market, where they are doing business right in front of our businesses, are not paying any taxes, and are blocking customers from entering our shops. We call upon the Government to resolve this issue.'*

Market trader at Kariakoo Market - Dar es Salaam

In 2019, the Government provided identity cards (IDs) to petty traders as a way of formalizing street vending, but little has been done to address the tension between traders and petty traders. Some of the survey respondents in Dar es Salaam recommended that petty traders should be designated special places for business to ensure better regulation of petty trading and protect traders who have permanent business places and are



paying taxes.<sup>26</sup> Another respondent suggested amendment of trade and other relevant laws to better regulate petty trading.<sup>27</sup>



**Picture 2.2: Petty trading observed at Manzese area in Dar es Salaam**

Source: Field data, 2024

### Corruption and lack of transparency

- ✎ Corruption was also mentioned as a business constraint by some traders. For instance, in Morogoro a trader claimed she had to bribe a trade officer to get a business spot.
- ✎ In Shinyanga, traders also noted the existence of unofficial or informal collection procedures introduced by government officials to create an environment for corruption and extortion and further expressed their concerns about the lack of transparency regarding income and expenditures.

### Taxes, levies, and other contributions

- ✎ The majority of the interviewed traders pointed out that taxes and service levies weigh a heavy burden on their operation, as further discussed in Chapter Five below, on business compliance with tax obligations.
- ✎ In Geita, it was reported that some traders had fled markets to escape the burden of taxes, levies, and fees.

### Electricity challenge

- ✎ Inadequate supply of electricity can significantly affect businesses through increasing business costs and disrupting production. Reports indicate that power outages in the country cost businesses a significant percentage of annual sales and affect all businesses.<sup>28</sup>
- ✎ A survey conducted by *The Citizen* Newspaper in February 2024 showed that power outages and rationing had devastating impact on small businesses in the country.<sup>29</sup>

<sup>26</sup> Interviews with traders in Kariakoo and Ilala, Dar es Salaam Region.

<sup>27</sup> Interview with a lawyer in Dar es Salaam.

<sup>28</sup> See Ben Garside & Davida Wood “Improving Tanzania’s power quality: can data help?” 28 June 2018, at <https://www.iied.org/improving-tanzanias-power-quality-can-data-help#:~:text=The%20World%20Bank%20Enterprise%20Survey,higher%20income%20and%20more%20jobs>.

<sup>29</sup> See Jacob Mosenda “Small businesses feeling the heat of ongoing power woes” 15 Feb 2024, at <https://www.thecitizen.co.tz/tanzania/news/business/small-businesses-feeling-the-heat-of-ongoing-power-woes-4526764>.



### Lack of meaningful participation in decision-making

Other reports suggested that the power rationing crisis, which began in September 2023 due to electricity production shortages, especially affected small-scale traders in regions such as Dar es Salaam, Mwanza, Mbeya, and Arusha.<sup>30</sup>

- ✎ Som of the interviewed traders in the surveyed regions also complained about unreliable electricity supply, characterized by outages and rationing, affecting their businesses.
- ✎ In Shinyanga, the respondents stressed how the shortage of electricity affected on great number of businesses such as bakeries, salons, barbershops, butchers, dry-cleaners, and stationaries, considering their dependency on the availability of electricity.
- ✎ The survey also observed lack of meaningful involvement of traders in decision-making to be a challenge.
- ✎ One of the consequences of inadequate involvement of traders in decision-making, especially by LGAs, is the construction of markets that remain unused or abandoned (white elephant!). Survey teams observed several such markets in Dar es Salaam and Mtwara.



**Picture 2.3: An abandoned market in Mtwara which was constructed without adequate stakeholder consultation**

Source: Field data, 2024

### Harassment by tax collectors and other authorities

- ✎ Some of the traders lamented being constantly harassed by people's militia officers (*mgambo*), who are used to enforce levy collection.<sup>31</sup> Some traders also claimed that the officers sometimes resort to taking their items and destroying property. It was later reported that the *mgambo* officers were also held accountable for their actions.<sup>32</sup>
- ✎ In Shinyanga, the survey was notified of harassment of traders from municipal officials who tend to abuse their powers. It was noted that the officials take upon themselves

<sup>30</sup> See Adonis Byemelwa "Tanzania: Economic Stability in Peril Over Ongoing Power Outages" Pan African Visions, 16 Feb 2024, at <https://panafricanvisions.com/2024/02/tanzania-economic-stability-in-peril-over-ongoing-power-outages/>.

<sup>31</sup> Interview with traders in Msamvu area, Morogoro.

<sup>32</sup> Revelation by a government official during report validation.





**Access to market stalls**

to close businesses without notice and sometimes collect the produce from the vendors that are selling their produce outside the market area, paying no regard to their cases and demanding fines that they deem fit.

- ✎ In Shinyanga, some of the traders at *Nguzo Nane Market* in Shinyanga Municipality lamented the shortage of market stalls. In neighbouring Geita, monopoly of market stalls by local prominent and influential figures was said to prompt fleeing of markets by some traders.

**Unfavourable working environment**

- ✎ Most of the markets in the surveyed regions were said to be unfriendly for women due to lack of changing rooms, breastfeeding rooms, and clean toilets. LGAs, which are responsible for the markets, should take measures to ensure such gender needs are met.



**Picture 2.4: A dirty and minute women's toilet observed at one of the surveyed markets in Mtwara**

Source: Field data, 2024

- ✎ Non-consideration of gender needs, suggested gaps in gender analysis and mainstreaming in market trading. Indeed, the National Trade Policy 2003 (Edition 2023) recognizes that despite efforts made to ensure effective participation of both men and women in trade, gender imbalances continue to exist, characterized by low levels of active participation of women in trade.<sup>33</sup> The policy thus sets an objective of ensuring equitable gender participation in trade, including through mainstreaming gender issues in trade development plans.<sup>34</sup>

**Lack of capital and limited access to credit**

- ✎ Most market traders mentioned lack of sufficient capital and limited access to justice as a challenge hindering business growth. Thus, the survey generally found that female traders struggle more than their male counterparts to access credit,

<sup>33</sup> See The United Republic of Tanzania, Ministry of Industry and Trade, *National Trade Policy 2003 (Edition 2023)*, October 2023, at [https://www.viwanda.go.tz/uploads/documents/en-1722423611-National%20Trade%20Policy%202003%20Edition%202023\\_compressed.pdf](https://www.viwanda.go.tz/uploads/documents/en-1722423611-National%20Trade%20Policy%202003%20Edition%202023_compressed.pdf).

<sup>34</sup> Ibid.





mostly due to lack of collateral. The situation was said to be worse during the rainy season.<sup>35</sup>

*'We urge the Government to re-introduce the loans provided by Local Government Authorities (LGAs) and extend coverage to traders because unlike most groups of current beneficiaries, we can actually repay the loans.'*

Trader – Msalala DC, Shinyanga

*'As women traders, one of our key challenges is lack of capital to expand our businesses, hence stuck with low-cost small businesses, such as selling vegetables.'*

Trader at Igawa Market – Mbarali, Mbeya

**Poor road infrastructure**

In Shinyanga, poor conditions of roads, especially in rural areas, were said to create a difficult business environment for agribusiness traders. The respondents noted that the depravity of roads hinders the transportation of fragile crops and sometimes they find themselves with rotten produce before they reach the markets.



**Picture 2.5: A new market built for entrepreneurs in Shinyanga, launched in January 2024**

Source: Shinyanga MC website

<sup>35</sup> Interview with a farmer and agribusiness trader in Kambarage, Shinyanga MC.



## 2.2. Effectiveness and Performance of Regulatory

### 2.2.1. Overview

There are several regulatory authorities established to regulate the different types of business ventures. These key ones in the context (scope) of this study include the Occupational Health and Safety Authority (OSHA); the Tanzania Revenue Authority (TRA); the Tanzania Bureau of Standards (TBS); the Tanzania Fair Competition Commission (FCC); the National Social Security Fund (NSSF); the Land Transport Regulatory Authority (LATRA); the Tanzania Communications Regulatory Authority (TCRA); the Tanzania Medicines and Medical Devices Authority (TMDA); and the National Environmental Management Council (NEMC). Others include the Chief Government Chemist Laboratory Agency (CGCLA), the Mining Commission, and the Lake Victoria Basin Water Board (LVBWB).

Despite differed mandates, based on their statutory functions, they generally discharge registration and oversight functions, including inspection and monitoring of businesses - to check compliance with relevant laws and regulations. Their functions can be summarized as follows:

1. **OSHA:** Established by the Occupational Health and Safety Act, 2003 (Section 4). It is responsible for protecting workers from workplace hazards that can cause illnesses and accidents.
2. **NEMC:** Established by the Environmental Management Act, 2004 (Section 16(1)). Its mandate is to undertake enforcement, compliance, review and monitoring of environmental impact assessment and in that regard, facilitate public participation in environmental decision-making, exercise general supervision and coordination over all matters relating to the environment.<sup>36</sup>
3. **TMDA:** Established in 2003 after enactment of the Tanzania Food, Drugs and Cosmetics Act, Cap 219 by the Parliament. This Act was later amended in 2019 to Tanzania Medicines and Medical Devices Act, Cap 219 (Section 4) after the shift of responsibilities of regulating food and cosmetics to Tanzania Bureau of Standards (TBS). The change in legislative framework, which was done through the Finance Act, No. 8 of 2019 also resulted into the change of name to TMDA. It is responsible for regulating quality, safety and effectiveness of medicines, medical devices, diagnostics, biocidals and tobacco products.<sup>37</sup>
4. **TBS:** Established under Section 3 of the Standards Act, 2009 (amended by Finance Act, No. 8 of 2019). It is mandated to undertake measures for quality control of products of all descriptions and to promote standardization in industry and commerce.

<sup>36</sup> Section 17(1) of the Environmental Management Act, 2004.

<sup>37</sup> See TMDA Profile at <https://www.tmda.go.tz/pages/tfda-profile>.



5. **LATRA:** Established by Land Transport Regulatory Authority Act, 2019 (Section 4). It issues, renews and cancels permits or licenses; establishes standards for regulated goods and services; regulates rates and charges; coordinates land transport safety activities; monitors the performance of the regulated sectors, including levels of investment, availability of safe, quality and standards of services, cost of services, efficiency of production and distribution of services; etc.
6. **FCC:** Established by the Tanzania Fair Competition Act, 2003 (Section 62(1)). It develops and promotes policies for enhancing competition and consumer welfare; investigates impediments to competition, including entry into and exit from markets, in the economy as a whole or in particular sectors' etc.
7. **TCRA:** Established by the Tanzania Communications Regulatory Authority Act, 2003 (Section 4). It protects the interest of consumers; financial viability of efficient suppliers; promotes the availability of regulated services to all consumers; promotes effective competition and economic efficiency; etc.
8. **BRELA:** Established by the Government Executive Agencies Act, 1997 (Section 3). Its mandate is registration of business ventures, responsible for business administration and regulation of the laws namely; the Companies Act, Cap. 212, Business Names Act, Cap. 213 R.E. 2002, the Trade and Service Marks Act, Cap. 326 R.E 2002, the Patent Registration Act, Cap. 217 R.E 2002, the Business Licensing Act, Cap. 208 R. E 2002 and the National Industries (Licensing and Registration) Act, Cap. 46 R.E. 2002.<sup>38</sup>
9. **TRA:** Established by various laws including the Tanzania Revenue Authority Act of 1995 (Section 4). It assesses, collects, and accounts for all revenues, etc.
10. **CGCLA:** Established under Section 4(1) of the Government Chemist Laboratory Authority Act, 2016. It is the supreme referral laboratory on all matters related to forensic science and DNA services, product quality and chemicals management. Among its core functions is to conduct research activities, laboratory analysis and advise the Government on matters relating to forensic toxicology, forensic biology, DNA, illicit drugs, forensic chemistry, food, drugs, occupational health, industrial chemicals and products and environmental samples for executing health, legal, social wellbeing and environmental interventions.<sup>39</sup>
11. **The Mining Commission:** The Mining Commission was established under Section 21 of the Mining Act 2010 as amended by the Written Laws (Miscellaneous Amendment) Act 2017. The Commission came into existence through Government Notice No. 27 issued on 7<sup>th</sup> July 2017. The Commission aims to enhance the management of the Mining Sector and to ensure that the Government is benefiting from the income generated sustainably. Among its functions are to supervise and regulate the proper and effective carrying out of the provisions of the Mining Act CAP 123; Issue license under Mining Act CAP 123; regulate and monitor the mining industry and mining operations in

<sup>38</sup> See BRELA Introduction at <https://www.brela.go.tz/pages/introduction>.

<sup>39</sup> Section 5(2) (a) of the Government Chemist Laboratory Authority Act, 2016.



Tanzania; resolve disputes arising out of mining operations or activities; and carry-out inspections or investigations on health and safety issues related to mining operations or activities.<sup>40</sup>

12. **LVBWB:** established in the year 2000 in accordance with Water Utilization (Control and Regulation) Act No.42 of 1974, which was repealed by Water Resources Management Act, No. 11 of 2009.<sup>41</sup> The major roles of the Basin are as stipulated in section 23 of the Act which may be summarized as water resources assessment, allocation and water sources protection and pollution control.

Local Government Authorities (LGAs) also play the role of regulatory authority in various ways. For instance, the Environmental Management Act imposes a duty upon the local government to manage and minimize solid waste.<sup>42</sup> With respect to their areas of respective jurisdiction, they are required to: cause to be conducted appropriate Environmental Impact Assessment for all new major activities leading to proper management of solid waste; manage solid waste generated in accordance with sustainable plans produced by respective local government authority; and ensure the appropriate sorting of waste is made right at the source and in accordance with standards or specifications prescribed by the local government authority concerned.<sup>43</sup> Additionally, they are required to ensure proper disposal of solid waste from markets, business areas, and institutions, and ensure that industries located within their respective areas of jurisdiction provide adequate space and facilities for managing all solid waste generated from such industries before they are collected for disposal at designated places.<sup>44</sup>

## 2.2.2. Key Issues and Challenges

### **Community engagement of regulatory authorities**

Community members who participated in the survey were asked if they were aware of various regulatory authorities operating in the business sector. Nearly half of them (45%) said they were not aware of such authorities, followed by 40% who acknowledged knowing them.<sup>45</sup> The remaining 15% said they were not sure. The percentage of awareness of the regulatory authorities increased from 24% in the previous survey.

<sup>40</sup> Section 22 of the Mining Act, CAP 123, RE 2019.

<sup>41</sup> THE UNITED REPUBLIC OF TANZANIA, MINISTRY OF WATER LAKE VICTORIA BASIN WATER BOARD, *STRATEGIC PLAN FOR 2019/2020 - 2023/2024*, April, 2019, at <https://www.maji.go.tz/uploads/publications/sw1571398255-lake%20Victoria%20Basin%20Board%20SP%202019%20-%202024>.

<sup>42</sup> Section 114 of the Environmental Management Act, 2004.

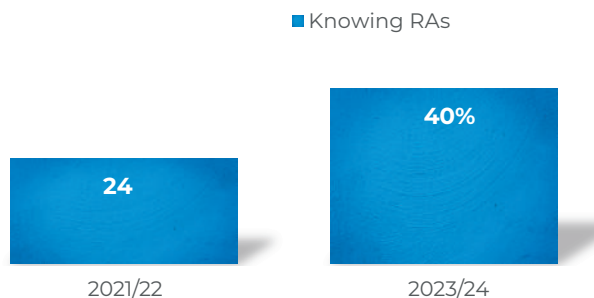
<sup>43</sup> *Ibid*, Section 114(2).

<sup>44</sup> *Ibid*, Sections 115(1) & 116(1) of the Environmental Management Act, 2004.

<sup>45</sup> N=988.







**Figure 2.3: %Community members claiming to be aware of regulatory authorities operating in the business sector**

Source: Field data, 2024

The majority of the respondents who claimed to know the regulatory authorities mostly mentioned TBS, TRA, NEMC, OSHA, and TMDA. They were then asked whether they had ever engaged and been engaged by the regulatory authorities. Regarding engaging the authorities, only 22% said they had, increasing from 11% in the previous survey. On the question of being engaged by the authorities, about a quarter (26%) said they had been engaged in the past, increasing from 8% in the previous survey.

### Performance of regulatory authorities

The survey generally found that the regulatory authorities continued to perform their various functions, in line with respective legal mandate, including conducting inspections, conducting training, and raising community awareness of regulatory issues through different forums. One of the positives that was observed that was said to boost performance was the use of ICT and online systems to facilitate provision of services and enhancing consumer protection. For instance, interviews with TRA officials revealed that use of ICT and online systems had made it easier to collect tax and provide tax-related services to businesses, including facilitating online submission of tax returns.

### Challenges affecting performance of regulatory authorities

Despite doing the good work of regulating businesses, regulatory authorities are faced with several key challenges that affect their operations, as summarized in the table below.

#### Shortage of staff

- Shortage of staff was identified as a challenge during interviews with various regulatory officials. For instance, in Geita, an interviewed TRA officials acknowledged that the regional office was facing staff shortage.

#### Regional absence

- Most regulatory authorities, including NEMC and OSHA, do not have offices in all regions, which often affects their performance and contributes to accessibility challenge for community members.



**Financial constraints**

- ✎ Financial constraints were also found to affect the performance of regulatory authorities, especially in terms of conducting regular visits at business enterprises to check compliance with relevant laws and standards.

**Overlapping mandate/functions**

- ✎ Despite government efforts to ensure the functions of regulatory authorities do not overlap, the survey discovered that the problem persists.
- ✎ In Tanga, an official from OSHA told the survey team that there was an overlapping function with the Tanga City Council. According to the official, the overlapping function is conducting occupational health checkups among workers. He added that some employers and workers resist cooperating with the authorities when the same exercise has been conducted by another, raising concerns of production time and inconvenience for workers.
- ✎ In Shinyanga, the survey team was informed of the overlapping functions between OSHA and FIRE, in terms of checking compliance with the obligation of occupational health and safety, leading to confusion among some of the workers. A similar concern was expressed by a business manager in Mtwara, who said:

*'You get officers from OSHA coming to inspect fire extinguishers, then officers from the fire and rescue authority later come to do the same thing. I don't understand this.'*

Petrol business manager – Mtwara

**Low community awareness of the functions of regulatory authorities**

- ✎ As highlighted above, community awareness of regulatory authorities and the functions they perform is still generally low, which translates into limited engagement with such authorities.

*'I always thought OSHA and NEMC are just departments from within a single institution, but then you are telling me they are not, and then there is the Fire and Rescue Force, which is different from OSHA. This is news to me!'*

Worker – Shinyanga MC

**Political interference**

- ✎ The survey found that sometimes regulatory authority officials are hindered from effectively carrying out their duties due to political interference.



**Inadequate coordination and monitoring and evaluation**

✎ As was the case in the previous survey, conducted in 2022, inadequate coordination and cooperation between regulatory authorities and other government institutions was identified as a challenge. Recent CAG reports<sup>46</sup> have also highlighted inadequate monitoring and evaluation concerns.

**Narrow tax base**

✎ Like in the 2022 survey, narrow tax base was identified as a key challenge for TRA in revenue collection, with a small section of the population still bearing the brunt of tax burden. Some of the TRA officials indicated that the regulatory authority was working on expanding the tax base.

**Corruption**

✎ Like in the 2022 survey, some of the regulatory authority officials were implicated in corrupt practices. For instance, some of the interviewed workers in Shinyanga suggested corruption to be a contributing factor behind lack of regular inspection by OSHA officials.

**Negative perceptions and inadequate cooperation**

✎ In Mbeya, an interviewed OSHA official lamented negative perception about the regulatory authority and lack of cooperation from some employers when they make some recommendations to improve occupational health and safety.

**Multilayer protection for investors**

✎ The survey also learned that efforts of the Government to reduce regulatory burden for investors has affected the ability of regulatory authorities to enforce some of the regulations, giving them 'more freedom.' One Of the interviewed respondents argued that the increased protection of investors defeats the purpose of adopting the regulations.<sup>47</sup>

<sup>46</sup> Annual General Report of the Controller and Auditor General for the Financial Year 2021/22: Public Authorities (*supra*).

<sup>47</sup> Interview with a trade official in Dar es Salaam.



## 3

## CHAPTER THREE: : BUSINESS COMPLIANCE WITH LABOUR LAWS AND STANDARDS

### 3.1. Labour Laws, Rights and Standards Applicable in Tanzania

Employment and labour issues in Tanzania are governed by domestic, regional, and international laws, which provide for labour rights and standards. At the international level, the starting point for protection of labour rights are the Universal Declaration of Human Rights (UDHR) of 1948 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966. However, labour rights and standards have been expanded in the conventions and other instruments of the International Labour Organization (ILO). Tanzania has been a member of ILO since 1962, working with the organization in different programmes, including labour law compliance, and has ratified 37 ILO conventions relating to labour rights and standards,<sup>48</sup> including all 8 fundamental conventions.<sup>49</sup> These standards recognize four core labour standards, namely: **Freedom of association and the effective recognition of the right to collective bargaining; Elimination of all forms of forced and compulsory labour; Effective abolition of child labour;** and **Elimination of discrimination in respect of employment and occupation.** In 1998, ILO adopted the **Declaration on Fundamental Principles and Rights at Work**, under which member states agreed to respect **core labour standards.** States, including Tanzania, also agreed to promote and realize these standards, as contained in ILO fundamental labour conventions, regardless of ratification status. These standards are also reflected in the **UN Guiding Principles on Business and Human Rights** and the **Ten Principles of the UN Global Compact.**

Other key conventions ratified by Tanzania that promote and protect labour rights include the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Minimum Age (Industry) Convention (Revised), 1937 (No. 59), the Collective Bargaining Convention, 1981 (No. 154) and the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148).<sup>50</sup> These conventions protect the

<sup>48</sup> See ILO website at [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:103476](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103476), accessed 17<sup>th</sup> May 2022.

<sup>49</sup> The eight ratified conventions are; Forced Labour Convention, 1930 (No. 29); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Abolition of Forced Labour Convention, 1957 (No. 105); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); and Worst Forms of Child Labour Convention, 1999 (No. 182).

<sup>50</sup> Ibid. Note: The Working Environment (Air Pollution, Noise and Vibration) Convention was ratified with reservations.



fundamental labour rights of workers and employees and stipulate duties for both.<sup>51</sup> These rights are connected to the right to work, which is a fundamental human right protected under UDHR, ICESCR and the Convention on the Elimination of all forms of Discrimination Against Women of 1979 (CEDAW).<sup>52</sup> Key regional conventions ratified by Tanzania, such as the African Charter on Human and Peoples' Rights of 1981 (ACHPR) and Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003 (Maputo Protocol), also provide for these labour and human rights.<sup>53</sup>

At the national level, labour and employment relations are governed by the Employment and Labour Relations Act [CAP. 366 R.E. 2019] (ELRA), which provides for fundamental labour rights and standards, in line with international labour standards. The law applies to all employees in Mainland Tanzania, except to members of the Tanzania People's Defence Forces, the Tanzania Police Force, the Tanzania Prisons Service and the National Service.<sup>54</sup> ELRA prescribes the legal framework for effective and fair employment relations and minimum standards regarding conditions of work and a framework for voluntary collective bargaining. It gives effect to constitutional provisions relating to labour and work; provides a framework for resolution of labour disputes; and gives effect to the core ILO and other conventions relating to labour or work as ratified by Tanzania.<sup>55</sup> Fundamental rights and protections provided under ELRA are prohibition of child labour, prohibition of forced labour, prohibition of discrimination in the workplace, prohibition of discrimination in trade unions and employer associations, employees' right to freedom of association, employers' right to freedom of association and rights of trade unions and employer associations.<sup>56</sup> Other applicable laws include the Occupational Health and Safety Act, 2003 and the Labour Institutions Act, Chapter 300, Revised Edition of 2019. There are also several rules, regulations and policies relating to labour and employment.<sup>57</sup>

This chapter examines the extent to which businesses complied with the relevant labour laws and key labour standards on employment contracts, working hours, remuneration, working conditions, compensation for injury sustained at work, employment termination, leaves and social security within the period of January 2023 to March 2024. It also looks at adherence to labour rights of freedom of

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<sup>51</sup> Include the **right to freedom of association, right to non-discrimination, right to strike, right to collective bargaining, right to fair remuneration, right to just and favourable working conditions and right to compensation.**

<sup>52</sup> UDHR, Article 23(1); ICESCR, Article 6(1); CEDAW, Article 11(1)(a).

<sup>53</sup> See ACHPR, Articles 10 & 15; Maputo Protocol, Articles 2 & 13.

<sup>54</sup> Section 2(1) of ELRA.

<sup>55</sup> Ibid, Section 3.

<sup>56</sup> Other domestic laws governing relations between employees/workers and employers in Tanzania include: Constitution of the United Republic of Tanzania of 1977; Law of Contract Act, CAP 345; Labour Institutions Act, [CAP. 300 R.E. 2019]; Workers' Compensation Act, CAP 263, R.E. 2015; Non-Citizen (Employment Regulations) Act, 2014; and Occupational Health and Safety Act, 2003.

<sup>57</sup> Including the Employment and Labour Relations (Code of Good Practice) Rules, G.N. No. 42 of 2007; Labour Institutions (General) Regulations 2017 (GN 45 2017); the National Employment Policy of 2008; the Tripartite Code of Conduct on HIV/AIDS at the Workplace in Tanzania Mainland of 2008; and the National Strategy for Gender Development of 2005.

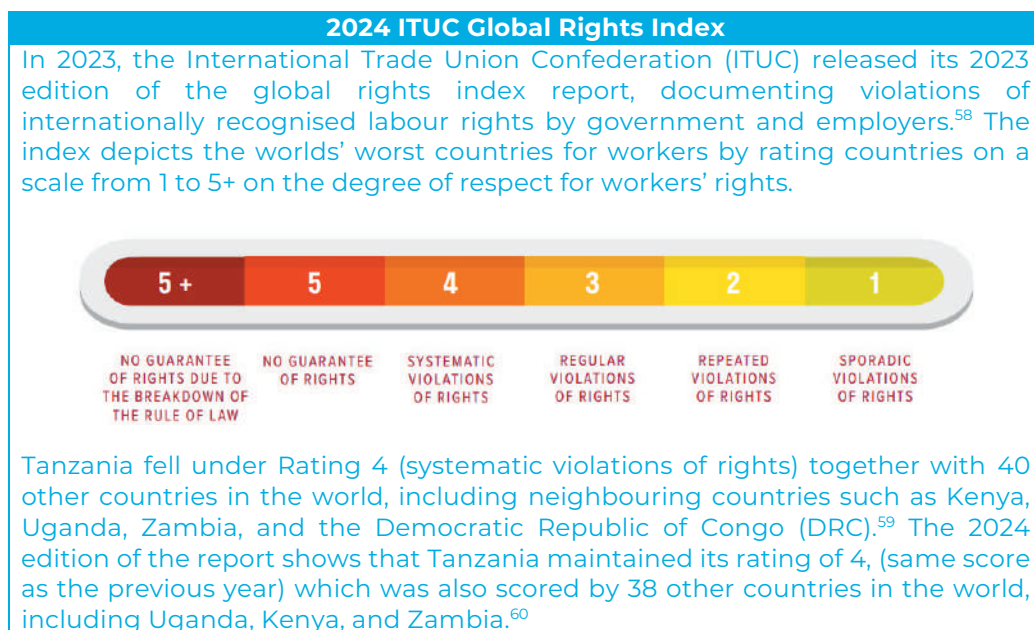




association and collective bargaining, the situation of forced and child labour, the situation of access to remedy in case of violation of labour and human rights, and awareness of labour laws, rights, and duties. The Chapter concludes by summarizing human rights violations resulting from non-compliance with labour laws and standards.

### 3.2. Labour Rights Situation in the Business Sector

The situation of labour rights in the business sector continued to be critical, owing to violations of various fundamental labour rights relating to employment contracts, working hours, remuneration, working environment, violence in the workplace, compensation, freedom of association, child rights, leaves, social security, and access to justice. Complaints about denial of employment contracts, copies of such contracts, being overworked and underpaid, violence, denial of overtime pay, restricted access to justice, denial of a right to establish or join trade union, and unfair termination of employment were widespread across all the surveyed regions.



<sup>58</sup> See International Trade Union Confederation, 2023 ITUC Global Rights Index, at <https://www.ituc-csi.org/ituc-global-rights-index-2023>.

<sup>59</sup> Ibid.

<sup>60</sup> See International Trade Union Confederation, 2024 ITUC Global Rights Index, at [https://www.ituc-csi.org/IMG/pdf/2024\\_ituc\\_global\\_rights\\_index\\_en.pdf](https://www.ituc-csi.org/IMG/pdf/2024_ituc_global_rights_index_en.pdf).



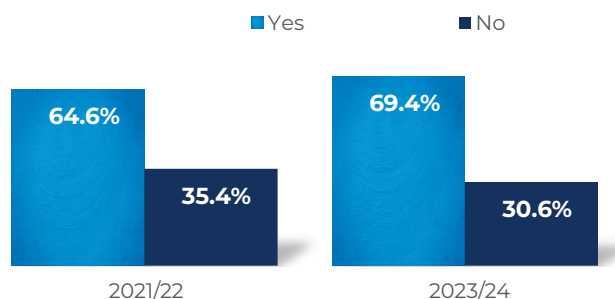
### 3.3. Employment Contracts

Contracts<sup>61</sup> are important in safeguarding labour rights. The Employment and Labour Relations Act (ELRA) recognizes three main types of employment contracts, namely: contract for an unspecified period; contract for specified period for professional and managerial cadre; and contract for a specific task. Since 2019, the law stipulates that a contract with an employee must be in writing, whether they are working within or outside Tanzania.<sup>62</sup>

#### 3.3.1. Workers with Employment Contracts

##### **Majority of workers claim to have employment contracts**

Workers who were engaged to participate in the study on business and human rights were asked whether they had employment contracts. Their responses suggest a slight percentage increase of workers with employment contracts (4.8%) in comparison with the previous survey conducted in 2022. As shown in Figure 3.1 below, percentage of interviewed workers who claimed to have employment contracts increased from 64.6% in 2022 to 69.4% in 2024.<sup>63</sup>



**Figure 3.1: Status of employment contracts amongst workers in 2021/22 and 2023/24**  
Source: Field data, 2024

Percentage of male workers with employment contract stood at 67%, while that of female workers was 69%. In terms of regional variations, percentage of workers who claimed to have employment contracts (oral or written) was higher in regions such as Arusha (94%), Dar es Salaam (87%), Dodoma (85%), Geita (85%), and Mbeya (85%) and lower in regions such as Mara (15%), Pwani (49%), Mwanza (55%), Morogoro (55%), and Mtwara (59%). The situation appeared to be critical in Mara, the only region where less than half of workers (15%) claimed they had employment

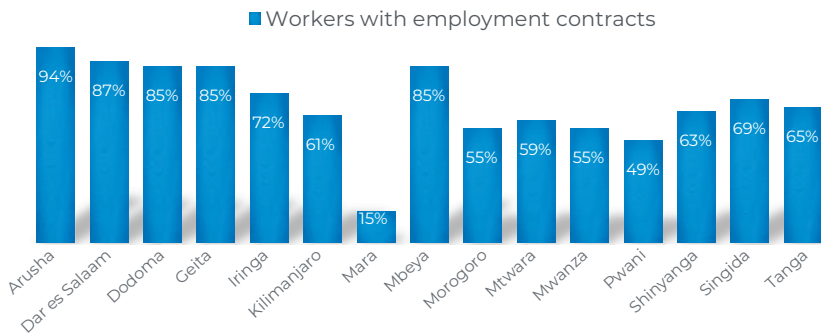
<sup>61</sup> Defined as an agreement made by free consent of parties competent to contract, for a lawful consideration and with a lawful object.

<sup>62</sup> Section 14(2) of the Employment and Labour Relations Act, CAP. 366 R.E. 2019.

<sup>63</sup> N=1,039



contracts. Possible reasons for this include seasonal nature of some of the jobs and concentration of small-scale business enterprises, which prefer casual labour.



**Figure 3.2: Percentage of workers who claimed to have employment contracts by region**

Source: Field data, 2024

### Employment contract complaints

As was the case in the 2022 survey, some interviewed workers complained about working for a long period of time without being provided with employment contracts, while for others the promise of such contract is yet to be fulfilled by their employers. Some of the interviewed workers and community members in Dar es Salaam and Pwani acknowledged that most employers are reluctant to provide employment contracts but indicated that the situation is worse in Chinese and Indian-owned companies in terms of non-provision of contracts and violations of labour rights in general.

*'If you really want to see labour rights violations then go visit Chinese-owned industries, where labour exploitation is the order of the day, employment contracts are not provided, there is no overtime pay, e.t.c. I remember Hon. Godwin Gondwe once visited a company when he was District Commissioner and found some serious labour rights violations, which continue to date, as the owners are not afraid of anything.'*

A worker - Dar es Salaam

The majority of interviewed workers who complained about not being provided with employment contracts belonged to the private security services, hospitality, and transportation sectors.



In Tandahimba District, Mtwara Region, the survey team met with a security guard who said he worked at a private security firm for ten years without a contract.<sup>64</sup>

A significant majority of private security workers reported not having employment contracts, with many lacking written agreements.

*'My brother, I don't have a contract as the employer is reluctant to issue contracts. Even when they eventually decide to give you a contract, you contribute printing costs. We were once deducted Tshs. 10,000 for printing our contracts but a year has passed, and we are yet to receive any contract.'*

Private security worker - Geita

### **Reasons for not issuing employment contracts**

Several reasons for not issuing employment contracts were identified during the survey. Workers and some community members frequently cited a preference for inexpensive and casual labor as the primary reason. Trade union officials and workers in regions such as Morogoro, Shinyanga, Dodoma, Mwanza, Mtwara, and Mbeya noted that it is cheaper and simpler to exploit workers who lack formal employment contracts. In Mtwara, a security guard from *G4s Security Company* said his colleague, who worked for another company, had not been issued with an employment contract because his employer was afraid that he would become knowledgeable about his rights and benefits, which are typically outlined in such a contract.<sup>65</sup> In Mbeya an official from the Tanzania Union of Industrial and Commercial Workers (TUICO) said:

*'There are three types of employment contracts, namely contract for an unspecified period, contract for specified period, and contract for a specific task. Most employers prefer contracts for a specified period and for a specific task to avoid payments of various benefits.'*

TUICO official - Mbeya

Some of the workers said they are not granted or entitled to employment contracts because they are not employees but rather casual labourers.<sup>66</sup> Unemployment and poverty were also cited as key factors contributing to non-provision of employment contracts in nearly all surveyed regions, leaving most people seeking jobs without a choice and giving business owners an advantage.<sup>67</sup>

<sup>64</sup> Human Rights and Business Survey 2024: Mtwara Field Report.

<sup>65</sup> Human Rights and Business Survey 2024: Mtwara Field Report.

<sup>66</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

<sup>67</sup> Human Rights and Business Survey 2024: Pwani & Morogoro Field Reports.





In Mwanza, the survey found that preference is given to skilled workers when it comes to provision of employment contracts, leaving unskilled workers without formal agreements, regardless of their job tenure.<sup>68</sup> Some of the interviewed human resources officers and managers at the visited workplaces also indicated or implied that employers are reluctant to provide employment contracts to many workers to avoid making contributions to social security and workers' compensation funds, as well as having to pay such workers even when they are not engaging in production.<sup>69</sup>

In Mara, the TUICO Chairperson, Mr. Mansuri Ramadhani, said that lack of trade unions at workplaces and poor membership was a contributing factor for non-provision of employment contract in the region. In some cases, workers themselves do not see the need for an employment contract, as revealed by a worker at *Joshi Feed Meel Ltd* in Kilimanjaro Region, who said the workers at the company live 'as a family with the boss' and 'trust each other' hence do not see why they need the contract.<sup>70</sup> In Arusha, the seasonal nature of the business was cited as a reason for preference of 'casual' workers and non-issuance of employment contracts during an interview with a manager at *Octagon Lodge*, a tourist lodge.<sup>71</sup>

*'We, at Octagon, only provide written contracts for professional positions, which are few and mainly covered by workers from Arusha and other neighbouring regions. As for casual labourers, usually engaged for cleaning purposes and other minor activities, we avoid issuing contracts to them to avoid deductions from their already low daily wages.'*

Lodge manager – Karatu, Arusha

### **Majority of workers claimed to have contract for unspecified period of time**

According to Tanzanian labour laws, there are three primary types of employment contracts. When asked about their contractual arrangement, the majority of interviewed workers (46%) reported having a contract for unspecified period of time, while 40% indicated they had a contract for a specific task. In contrast, only 14% reported having a contract for a specified period. This breakdown is illustrated in Figure 3.3.

<sup>68</sup> Human Rights and Business Survey 2024: Mwanza Field Report.

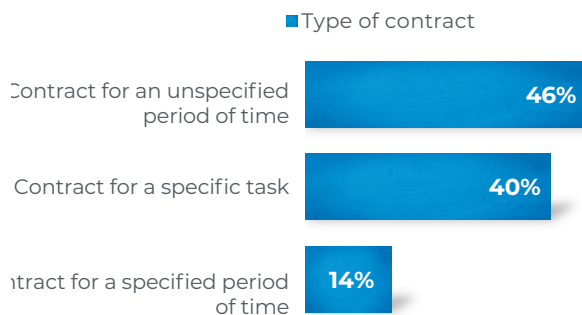
<sup>69</sup> Human Rights and Business Survey 2024: Mwanza & Mara Field Reports.

<sup>70</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.

<sup>71</sup> Human Rights and Business Survey 2024: Arusha Field Report.







**Figure 3.3: %Responses on type of contract granted to workers (N=717)**

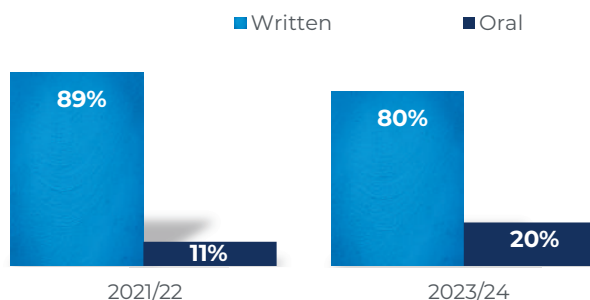
Source: Field data, 2024

LHRC attempted to get copies of employment contracts from the interviewed workers to ascertain the type of contract. However, this proved to be a difficult task, since most of them did not have copies of such contracts.

### 3.3.2. Written Contracts and Copies of Contracts

#### Majority of workers claiming to have written employment contracts

The interviewed workers in the surveyed regions and workplaces who claimed to have employment contracts were asked about the form of such contracts. As in the previous (2022) survey, over three-quarters (80%) of the workers said they had written contracts, while the remaining 20% said they had oral contracts. The percentage of workers claiming to have written employment contracts slightly decreased by 9% in comparison with the results of the previous survey, as shown in Figure 3.4 below.



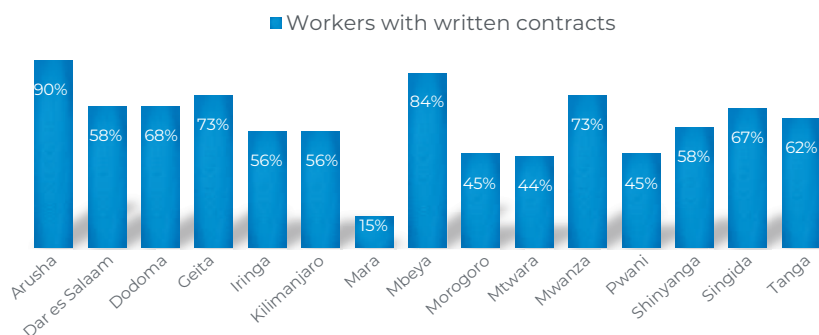
**Figure 3.4: %Responses on form of contract granted to workers (N=717)**

Source: Field data, 2024

In terms of sex, the proportion of both male and female workers claiming to have written employment contracts stood at 62%. Regionally, the highest prevalence of written contracts was found in Arusha, where 90% of workers reported having such contracts.



Mbeya (84%) and Geita (73%) followed closely, while Mwanza also reported a high percentage (73%). In contrast, Mara had the lowest rate, with only 15% of workers reporting a written contract. Mtwara, Pwani, and Morogoro also reported relatively low rates, at 44% and 45%, respectively. The survey found that low awareness about labour rights, nature of businesses, and low trade union membership were among the contributing factors for low percentage of workers with written contracts in Mara, Mtwara, Pwani, and Morogoro.



**Figure 3.5: %Workers with written employment contracts by region**

Source: Field data, 2024

In Iringa, the survey revealed that small and medium-sized enterprises (SMEs) — including mills, private security firms, accommodation services, and garages — predominantly prefer oral contracts. In contrast, larger businesses in manufacturing, processing, and agro-industries typically issue written contracts.<sup>72</sup> A human resources officer at *Kamongo Mills* in the region stated that they do not perceive a need for written employment contracts, as most of the people they hire are relatives, and there have been no complaints regarding the absence of such contracts. In Dodoma, an official from the Tanzania Conservation, Hotels, Domestic and Allied Workers' Union (CHODAWU) confirmed that most companies prefer oral contracts over written ones.<sup>73</sup>

The primary purpose of having written contracts in place is to safeguard the rights of workers in the event of a labour dispute, including in cases where unfair termination is alleged. However, some of the interviewed workers felt that having such a contract does not always guarantee protection of their rights. For instance, a truck driver in Morogoro told the survey team that he was at peace not having such a contract as long as he was getting paid in his 21 years of working for the transportation company and getting along with his boss.<sup>74</sup> In Pwani, a worker at one of the visited companies said:

<sup>72</sup> Human Rights and Business Survey 2024: Iringa Field Report.

<sup>73</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

<sup>74</sup> Human Rights and Business Survey 2024: Morogoro Field Report.



*'To tell you the truth, I don't see the point of having an employment contract, because a co-worker was once dismissed from work and her contract did not help at all. You are bound to be oppressed by the rich when you not well educated.'*

Company employee - Pwani

As the law requires all employees to be provided with written employment contracts, employers who provide oral contracts contravene Section 14(2) of the Employment and Labour Relations Act, as revised in 2019. They are therefore required to abandon this old practice and issue written contracts to safeguard labour rights.

### **Complaints about copies of employment contracts**

Similar to the previous survey, conducted in 2022, there were complaints regarding non-provision of employment contract copies. This grievance was expressed by interviewed workers in regions such as Dodoma, Singida, Geita, Mara, Iringa, Mbeya,<sup>75</sup> Kilimanjaro, Tanga, Pwani, Morogoro, and Mtwara. For instance, in Dodoma two interviewed workers at *Dane Holdings Co. Ltd* and *Modern Mattress Limited* claimed they were not provided with copies of their contracts.<sup>76</sup> Such complaints were also commonly made at small-scale companies, including at *Ngeme Rice Mill* in Singida<sup>77</sup> and *3M Security Company, Nyinda Tourist Hotel, Lospol Cleaning Company* in Tanga City and *AgroTanga LTD* in Muheza, Tanga Region.<sup>78</sup> Similar complaints were made at Salama *Security Company Limited* and *Butiama Milk Company* in Mara, where some interviewed workers said they were not provided with copies after signing their contracts.<sup>79</sup>

*'We only sign the contract and return the original and copy. The boss keeps all the copies.'*

Company employee - Dodoma

In Pwani, a controversy arose when the regional and district leaderships decided to review the employment contracts of the 91 workers at *Tan-Ko Factory*, a South Korean-owned factory located in Dundani Ward, Mkuranga District. However, the survey team discovered that no such contracts were available on site and the company was required to send them electronically from its headquarters in Dar es

<sup>75</sup> Including by some interviewed workers at *Buchosa Security Guard LTD* and *BISSE Security*.

<sup>76</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

<sup>77</sup> Human Rights and Business Survey 2024: Singida Field Report.

<sup>78</sup> Human Rights and Business Survey 2024: Tanga Field Report.

<sup>79</sup> Human Rights and Business Survey 2024: Mara Field Report.



Salaam.<sup>80</sup> In Mtwara, complaints about non-provision of employment contracts were levelled by some interviewed workers against sub-contractors of *Dangote Cement Company*.

*'We were given the contracts to sign then told to submit them to the human resources manager.'*

Dangote Company sub-contractor employee - Mtwara

### **Consequences of lack of copies of contracts for workers**

Non-provision of employment contract copies to workers places them at a great disadvantage, hindering their ability to understand and assert their rights, as observed in the Mbeya Region.<sup>81</sup> The survey also revealed that some workers were unaware of their entitlement to copies of their employment contracts. Additionally, others were denied the opportunity to read and understand the contract terms, as they were rushed into signing them,<sup>82</sup> increasing the risk of inadvertently agreeing to unfavourable terms.<sup>83</sup>

In some instances, some workers are only provided with a written employment contract once despite their contracts being renewed, as it was revealed in Moshi, Kilimanjaro<sup>84</sup> and Tanga.<sup>85</sup> This situation poses risks to employees, including the inability to update terms and conditions in accordance with current labour laws and regulations.<sup>86</sup>

In Mtwara, the survey found that the lack of employment contract copies hinders workers' ability to claim their rights and benefits. For instance, a worker at a company subcontracted by *Dangote Cement Company* reported that without contract copies, retired workers struggle to follow up on and claim benefits from the National Social Security Fund (NSSF).<sup>87</sup> The TUICO trade union General Secretary in the region also expressed concerns over non-provision of copies of written contracts, noting that:

<sup>80</sup> Human Rights and Business Survey 2024: Pwani Field Report.

<sup>81</sup> Human Rights and Business Survey 2024: Mbeya Field Report.

<sup>82</sup> As revealed during interviews with some of the workers at A to Z Company in Arusha.

<sup>83</sup> Human Rights and Business Survey 2024: Arusha Field Report.

<sup>84</sup> Interview with a worker at S&M Bakery Ltd.

<sup>85</sup> Interviews with some of the workers at AgroTanga Sisal Limited and Lospol Cleaning Company.

<sup>86</sup> Human Rights and Business Survey 2024: Tanga Field Report.

<sup>87</sup> Human Rights and Business Survey 2024: Mtwara Field Report.



*'How can you claim your employee benefits such as leave and others without a written employment contract? This is the reason rights of security guards are often violated, including the right to timely remuneration and the right to PPE. Most employers deliberately don't issue such contracts to facilitate exploitation of their workers.'*

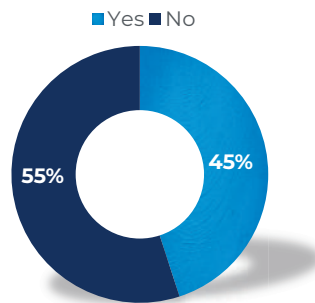
TUICO official - Mtwara

In Dodoma, the survey found that lack of copies of employment contracts limits access to justice for workers when there is a labour dispute with the employer or former employer. For instance, a former employee of *Chico Co. Ltd* claimed that he had filed a case at the Commission for Mediation and Arbitration (CMA), claiming Tshs. 40 million but was likely to lose the case because did not have a copy of employment contract.<sup>88</sup> The absence of an employment contract copy also complicates workers' ability to secure credit from financial institutions.

### 3.3.3. Ready-made Contracts and Room for Bargaining

Good employment and labour practices discourage ready-made contracts (standard form contracts) and provide room for bargaining among employers and workers. The study also observed that such contracts rarely indicate how remuneration is calculated, while others do not stipulate the hours of work.

Interviewed workers in all surveyed regions who claimed to have signed employment contracts were asked whether they discussed terms with their employers before signing the contracts, whereby 45% said they did, decreasing from 53% in the 2022 survey.



**Figure 3.6: %Responses on discussing terms with employer before signing contract (N=717)**

Source: Field data, 2024

<sup>88</sup> Human Rights and Business Survey 2024: Dodoma Field Report.





Across all regions surveyed, most workers and trade union officials reported being required to sign pre-drafted contracts during interviews. Similarly, human resources officers and company owners confirmed that they had pre-prepared contracts and did not have the time or resources to bargain with workers. In Morogoro, a human resources manager at *Shambani Milk Ltd* told the survey team that the company management is too busy to sit down with each prospective employee and discuss terms of their contract.<sup>89</sup>

In Dodoma, employees of a private security firm and drivers at some transportation companies reported being pressured to sign pre-drafted contracts under the threat of losing jobs to numerous other candidates actively seeking employment.<sup>90</sup> Similar claims were made by some of the interviewed workers in Mwanza, Iringa, Mbeya, Dar es Salaam, Pwani, Kilimanjaro, Tanga, and Mtwara. In Kilimanjaro, an employee at a flower company in Hai District disclosed that the company does not allow bargaining with a prospective employee because they might demand high salaries that they cannot provide and some of them do not even meet educational qualifications.<sup>91</sup>

*'To tell you the truth, we are too busy to sit down with each worker to explain terms of contract. We only provide them with contracts to sign, if they want the job. If not, then others will do, because there are many people looking for jobs.'*

HR manager - Morogoro

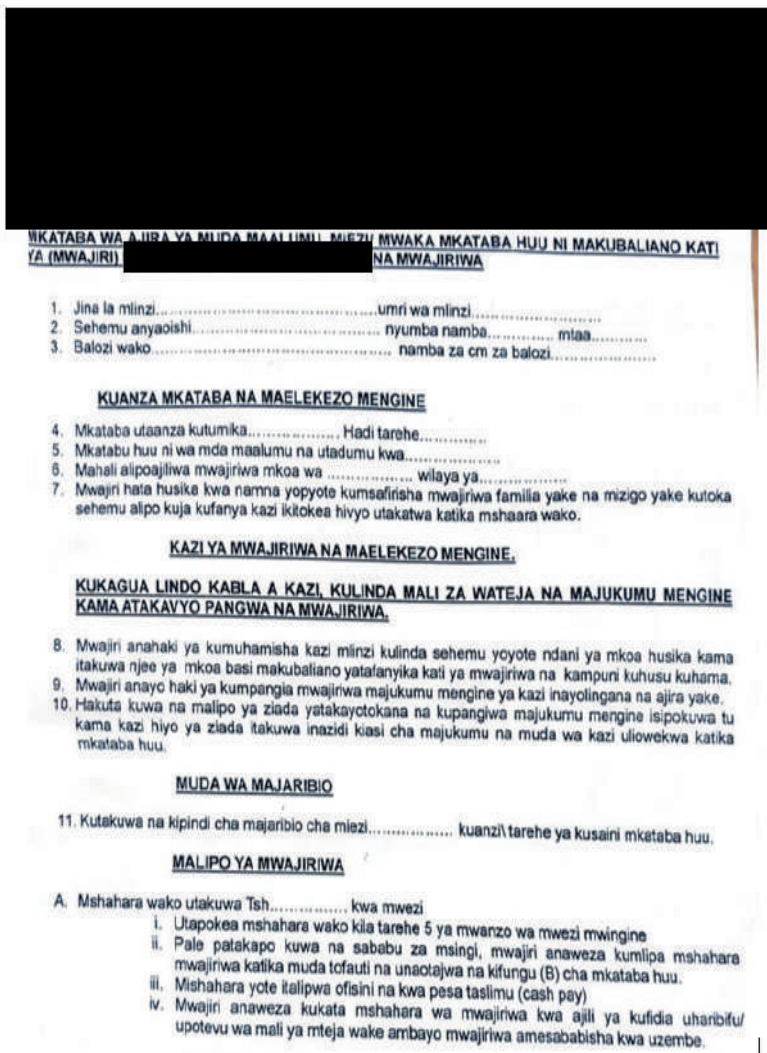
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<sup>89</sup> Human Rights and Business Survey 2024: Morogoro Field Report.

<sup>90</sup> Interviews with an employee at SGA Security Co. Ltd and a driver at Beijing Co. Ltd.

<sup>91</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.





**Picture 3.1: An extract of a ready-made contract of a private security company in Mbeya**

Source: Field data, 2024

In Mbeya, companies which were said to allow room for collective bargaining included *ALAF Limited*, *Kinglion Company Limited*, *Marmo E. Granito Mines Ltd*, *City Coffee Ltd*, *G and B Foam Industries*, *BEACO Resort*, *Herocean (Dragon) Enterprises Ltd*, *Olympic Petroleum Mbeya* and *Lulu Saccoss Ltd*.<sup>92</sup> In Tanga, the same was said of *Metallurgical Engineering Works*, a sub-contractor of *Tanga Cement Company*, as was the case at *UCC Company* in Mtwara, which is a sub-contractor of *Dangote Cement PLC*.

<sup>92</sup> Human Rights and Business Survey 2024: Morogoro Mbeya Field Report.



*'The UCC Company gives their workers contracts and encourages them to take their time to read them at home before signing, and if there are clauses which are unclear, they are amended.'*

Community member – Hiari Village, Mtwara DC

In Tanga, employees of the EACOP project expressed concern that pre-drafted contracts prevent both employers and employees from thoroughly reviewing terms, ensuring mutual understanding, and addressing any unfair or ambiguous clauses. Some workers reported identifying such terms but still chose to sign, intending to raise concerns about the contract's fairness at a later stage.<sup>93</sup>

### 3.3.4. Language and Reading of Employment Contracts

Labour standards, including domestic laws and regulations, require employment contracts prepared using a language that is easily understood by employees. Despite these requirements, some employers neglect to adhere to this standard in contract preparation. Interviews conducted across surveyed regions, consistent with findings of the 2022 survey, highlighted worker dissatisfaction regarding the language used in employment contracts. The majority of workers, particularly those in unskilled and lower-paying positions, voiced concerns over contracts being exclusively in English. In Pwani, a survey of workplaces revealed that 95% of contracts were written in English, a language that is not easily understood by the majority of workers. In Mara, an employee at *China Civil Engineering Construction Corporation* noted that employment contracts are often not understood by workers with lower educational levels due to being written entirely in English.<sup>94</sup> In Mbeya, an employee at *Apex and Xepa Resources Ltd*, said:

*'...you may be provided with an employment contract to read, but you hardly understand anything because it is written in English, only to later realize that there are ambiguous or unfair clauses.'*

Employee – Chunya, Mbeya

In Dodoma, an official from CHODAWU, a trade union, had this to say regarding language of employment contract:

<sup>93</sup> Human Rights and Business Survey 2024: Tanga Field Report.

<sup>94</sup> Human Rights and Business Survey 2024: Mara Field Report.



*'We have come across companies that issue contracts written in English, while knowing full well that some of the workers only attained primary education and don't understand a word in English. When a labour dispute emerges then you realize language was a contributing factor.'*

CHODAWU official – Dodoma

Best practices regarding the language of employment contracts were observed at companies such as *Buchosa Security Company* and *Beaco Resort* in Mbeya, *Harsho Group Limited* and *Bondeni Flower Machame* in Kilimanjaro, and *North Mara Barrick Gold Mine* in Mara.

*'The contracts that we are given are in Swahili Language, so it's easy for us to understand the contents before signing them. We also discuss the terms with the boss and reach an agreement.'*

Employee at Harsho Company – Hai, Kilimanjaro

Across all surveyed regions, workers also expressed frustration over insufficient time allotted to read and understand employment contracts, particularly when written in English. They claimed that they end up just signing the contracts without necessarily understanding the terms.<sup>95</sup>

### 3.3.5. Contracts with Unfair, Unclear or Discriminatory Terms

The survey teams in all visited regions made efforts to obtain copies of employment contracts from employers to assess compliance with labour standards. However, only a few employers shared copies of the contracts. The teams were able to obtain additional copies from employees to review whether the terms adhered to the provisions of employment and labour laws. In regions like Dodoma and Dar es Salaam, some employers cited reasons such as contracts being 'misplaced' or 'with another manager who is currently unavailable' for not providing copies or samples of the contracts.<sup>96</sup>

A review of selected employment contracts revealed several issues, including a requirement of working beyond maximum working hours; non-payment of night work allowance; and contract not stipulating job title and clear job description. These issues were raised during interviews with workers in nearly half of the surveyed regions, especially in Mbeya, Iringa, and Kilimanjaro. For instance, in Mbeya, the survey team reviewed a contract sample of a private security company

<sup>95</sup> Human Rights and Business Survey 2024: Mtwara & Dodoma Field Reports.

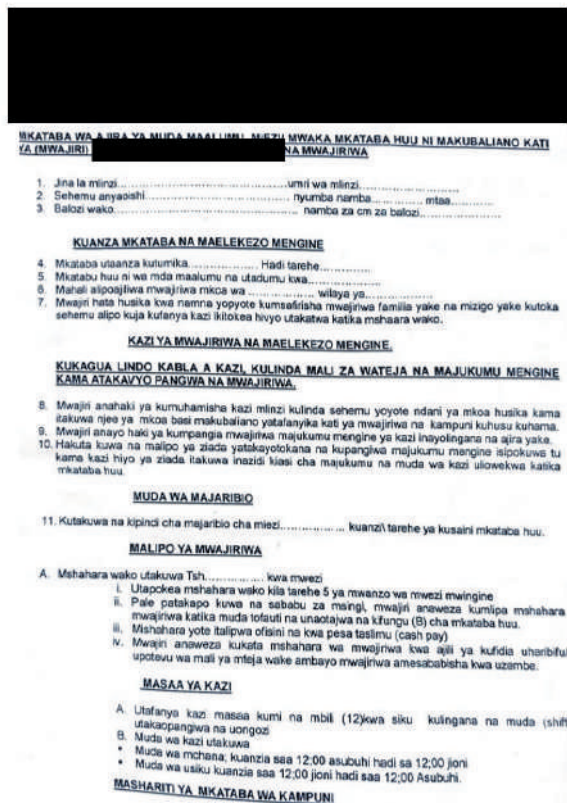
<sup>96</sup> Human Rights and Business Survey 2024: Dar es Salaam & Dodoma Field Reports.





which stipulated 12 hours as normal working hours.<sup>97</sup> This practice contradicts the Employment and Labour Relations Act of 2004, which defines normal working hours as 8 or 9 hours per day and maximum working hours as 12 hours, inclusive of 3 overtime hours.<sup>98</sup>

Some of the interviewed security guards also complained about excessive fines stipulated in their contracts, including a fine of Tshs. 30,000 for ‘not following supervisor’s instructions’ and ‘using abusive words or language.’<sup>99</sup> Some of the interviewed workers in the region, especially in the private security services and hospitality sectors, also complained about being fined for arriving at work late even when they had valid reasons.



**Picture 3.2: An extract of a contract of security company in Mbeya stipulating 12 hours as normal working hours**

Source: Field data, 2024

In Kilimanjaro, some of the interviewed workers at a flower company in Hai District complained about their contracts not clearly stipulating their duties.<sup>100</sup> In Iringa,

<sup>97</sup> Human Rights and Business Survey 2024: Mbeya Field Report.

<sup>98</sup> Section 19 (1) of the Employment and Labour Relations Act 2004 [RE 2019].

<sup>99</sup> Interview with security guards from Buchosa Security Guard Ltd.

<sup>100</sup> Interviews with some workers at Bondeni Flowers Company.





some of the workers in the transportation and hospitality sectors complained about contractual clauses requiring them to work beyond 12 hours per day, contrary to labour standards.<sup>101</sup> Truck drivers in the region also complained about unfair or ambiguous<sup>102</sup> contractual terms, one of them saying:

*'Most of the contracts we get as bus drivers tend to contain clauses that favour the employer, leaving us with fewer rights and benefits.'*

Truck driver – Iringa

### 3.3.6. Breach of Employment Contracts

Some of the interviewed respondents in all surveyed regions complained about breach of employment contracts by their employers. These complaints were mostly made by workers at small and medium-sized companies, especially in the hospitality, transportation, manufacturing, and private security sectors. Complaints included being overworked and underpaid, especially for security guards and bus and truck drivers; being denied leave and paid leave; non-payment of allowances, especially for truck drivers; and non-remittance of social security contributions. For instance, in Dodoma, a truck driver told the survey team that he was not granted annual leave despite his contract stipulating entitlement to such leave.<sup>103</sup> Similar complaints were made regarding non-payment of overtime and allowances in Kilimanjaro and Mtwara.<sup>104</sup>

*'Yes, we do have employment contracts. However, employers breach some of the terms, such as overtime pay, which is not provided. If you insist on the law and demand such benefits you attract dismissal.'*

Worker – Hai, Kilimanjaro

### 3.3.7. Employment Contract and Fear of Losing One's Job

As observed in the previous survey, conducted in 2022, the majority of interviewed workers expressed reluctance to assert their employment rights due to fear of job loss. In Mara region, some workers who reported signing employment contracts admitted refraining from requesting copies due to apprehension about potential job repercussions.<sup>105</sup> Similar sentiments were shared by workers in other regions such as Mbeya, Pwani, Dodoma, Dar es Salaam, Iringa, Kilimanjaro, Arusha, and

<sup>101</sup> Human Rights and Business Survey 2024: Iringa Field Report.

<sup>102</sup> Ambiguity means language in an agreement has more than one meaning. A contract is ambiguous when two provisions conflict or when a term is reasonably susceptible to more than one meaning. Unfair contract terms create an imbalance between the rights of two parties in a contract, favouring one at the detriment of another.

<sup>103</sup> Interview with a driver from Beijing Co. Ltd.

<sup>104</sup> Interviews with some of the workers at Bondeni Flower Machame and Dangote Cement Company.

<sup>105</sup> Human Rights and Business Survey 2024: Mara Field Report.



Mtwara. For instance, in Dodoma it was reported that some employers threatened to fire workers who constantly demanded contracts,<sup>106</sup> while in Kilimanjaro a worker at *Joshi Feed Meel Ltd* said she knew she was entitled to a contract but was afraid of losing her job.<sup>107</sup>

*'If you ask about an employment contract you get fired.'*

FDG participant (*daladala* bus driver) – Dodoma

*'I am yet to be issued a contract despite working here for about two years. Every time I ask about it, I get threatened with dismissal.'*

Bakery worker – Mara

### 3.3.8. Long Term Contracts Versus Short-Term Contracts

Preference of short-term contracts was the recurring theme in all surveyed regions, especially observed in industries such as private security, hospitality, manufacturing, and transportation. The short-term contracts that most employers provided ranged from three months to one year. Only 25% of interviewed employers said they retain employees through provision of long-term contracts.<sup>108</sup> In Pwani and Morogoro, it was found that long-term contracts are typically reserved for a select group of workers, including managers and supervisors. In contrast, production workers are often offered contracts ranging from three to six months in duration. In Dodoma, an official from CHODAWU, a trade union, revealed that most employers tend to reserve long-term contracts for managerial positions, while skilled and unskilled workers, also known as casual workers, are typically provided with short-term contracts or contracts for specific tasks.<sup>109</sup> In Mwanza, it was reported that short-term contracts left workers vulnerable to job insecurity and exploitation.<sup>110</sup> In Kilimanjaro, a bakery worker expressed ongoing concern about job stability, as he signs a new contract every three months.<sup>111</sup> In Mtwara, a representative at *Kiwango Security* revealed that the company has shifted from offering one-year contracts to exclusively providing six-month contracts.

<sup>106</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

<sup>107</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.

<sup>108</sup> Field data, 2024.

<sup>109</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

<sup>110</sup> Human Rights and Business Survey 2024: Mwanza Field Report.

<sup>111</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.



*'I have four years at the company but only issued three-month renewable contract. The manager says I am still 'on probation.'*

Factory worker – Morogoro

In Mara and Kilimanjaro, some of the interviewed workers indicated that most industries such as private security, hospitality, manufacturing, and tourism prefer to use short-term contracts ranging from three months to one year. They noted that such contracts instil fear of job insecurity among workers, and some mentioned that these contracts make it challenging for them to secure loans from financial institutions.<sup>112</sup> At *Uyoga Company* in Iringa, a procurement officer revealed that most workers at the factory are provided with a one-month renewable contract.<sup>113</sup>

*'We only get one-year contracts, which limit our access to loans provided by financial institutions, especially banks.'*

Construction worker – Mara

In Mtwara, the survey observed that women may be disproportionately affected by short-term contracts, leaving them vulnerable to maternity discrimination. For instance, a female worker at *Kiwango Security* said that it was better for female workers in terms of pregnancy when the company was providing one-year contracts, but now that they only get six-month contracts, they are less likely to get maternity benefits because their contracts will have expired by the time they need maternity leave.<sup>114</sup>

LHRC acknowledges that some works warrant a short-term contract due their nature. However, the study observed that some employers, especially in SMEs, tend to offer successive short-term contracts even for continuous business operations, leaving workers at a disadvantage.

### 3.4. Working Hours

International labour standards set 8 hours as the normal working hours per day.<sup>115</sup> Domestically, the Employment and Labour Relations Act (ELRA) conforms to the

<sup>112</sup> Interviews with workers from Nyanza Road Work Company, Matiko Bakery, and China Civil Engineering Construction and Corporation.

<sup>113</sup> Human Rights and Business Survey 2024: Iringa Field Report.

<sup>114</sup> Human Rights and Business Survey 2024: Mtwara Field Report.

<sup>115</sup> See for example the Hours of Work (Industry) Convention, 1919 (No. 1); Hours of Work (Commerce and Offices) Convention, 1930 (No. 30); Forty-Hour Week Convention, 1935 (No. 47); Reduction of Hours of Work Recommendation, 1962 (No. 116); Weekly Rest (Industry) Convention, 1921 (No. 14); Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106); and Night Work Convention, 1990 (No. 171).



international standard, providing for a maximum number of 45 hours in a week, 6 days in a week and 9 hours in a day permitted to work.<sup>116</sup> ELRA also prohibits an employer to require or allow an employee to work for more than 12 hours in a day.<sup>117</sup> Overtime work is allowed under the law, but should not exceed 50 hours in any four week cycle<sup>118</sup> and is subject to an agreement between employer and employee<sup>119</sup> as well as additional pay (overtime pay).<sup>120</sup> However, a written agreement may be entered between employer and employee to work for up to 12 hours in a day without overtime pay.<sup>121</sup> Employer is also required to give employee working continuously for more than 5 hours a break of at least 60 minutes and pay them if they work on a public holiday.<sup>122</sup>

### 3.4.1. Compliance with Working Hours Limit

Regarding working hours, the survey found that the majority of employers at the visited workplaces included clauses aligning with employment and labour laws, stipulating 8 or 9 hours per day. When asked if they were free to leave work after normal hours, 81% of workers affirmed their freedom to do so, consistent with findings from previous surveys, including the 2022 survey.<sup>123</sup> However, 19% reported not being free to leave after 8 or 9 hours. Despite these regulations, the majority of interviewed workers acknowledged working beyond stipulated hours on at least one occasion.

Complaints about non-compliance with the working hours limit were made by some interviewed workers in all 15 surveyed regions, especially in Pwani, Morogoro, Dodoma, Mwanza, Shinyanga, Mara, Iringa, Mbeya, Kilimanjaro, Arusha, and Mtwara. Similar to findings in the 2022 survey, the majority of employers accused of non-compliance were concentrated in the private security, hospitality, and transportation sectors, with the manufacturing sector following closely. In Pwani, some workers in manufacturing and food processing industries expressed concerns over being made to work beyond scheduled hours, with some claiming to work for up to 16 hours.<sup>124</sup> The survey team in the region obtained a copy of a contract from *Goldsun Mattress Limited* which stipulated 12 working hours as normal working hours.<sup>125</sup> In Morogoro, the survey revealed that nearly 80% of truck drivers work up to 16 hours a day without breaks, especially those transporting goods across borders to neighboring countries. Additionally, some hotel workers in the region expressed dissatisfaction with working hours exceeding 9 hours.<sup>126</sup>

<sup>116</sup> Section 19(2) of the Employment and Labour Relations Act [CAP. 366 R.E. 2019].

<sup>117</sup> Ibid, Section 19(1).

<sup>118</sup> Ibid, Section 19(3) (b).

<sup>119</sup> Ibid, Section 19(3) (a).

<sup>120</sup> Ibid, Section 19(5).

<sup>121</sup> Ibid, Section 21.

<sup>122</sup> Ibid, Sections 23 and 25 respectively.

<sup>123</sup> 81% of workers also said they were free to leave work after normal working hours in the previous survey, conducted in 2022.

<sup>124</sup> Interviews with workers at -FRESH Food limited Company, CPL, Maisha Undertaking Co. Limited, and H.J Stanley & Sons Limited.

<sup>125</sup> Human Rights and Business Survey 2024: Pwani Report.

<sup>126</sup> Interviews with hotel workers at Flomi Hotel, Morena Hotel, and Aika Hotel.





*'...we don't have a specific working time. For example, I can drive a car from here to Zimbabwe and I can't afford to arrive there late for logistical purposes. Consequently, I may drive for up to 18 hours, only finding a place sleep in the middle of the night.'*

Truck driver – Morogoro

In Dodoma, Iringa, Mwanza, Kilimanjaro, Mtwara, and Pwani, some of the workers pointed out that regardless of the working hours limit, they are usually not allowed to leave work until the job or target of the day is reached. In Mwanza, some of the interviewed workers at petrol and diesel stations lamented working for 12 hours, from 6am to 6pm or 12am to 6am.<sup>127</sup> In Mara, a construction worker told the survey team that they usually go to work at 5am and sometimes work up to midnight.<sup>128</sup>

*'We usually continue working beyond normal working hours if the daily target has not been reached. We left work at 8:00pm the day before yesterday.'*

Manufacturing company worker – Dodoma

In Iringa, workers at mills acknowledged that while they sometimes work long hours, they also occasionally leave work early when there is less work to do.<sup>129</sup> In neighbouring Mbeya, complaints about long working hours were made at companies such as *Buchosa Security Guard, Intelligence Securico* and *ALAF Limited*.<sup>130</sup> One of the employees claimed that the normal working hours at his workplace are 12 hours.

### 3.4.2. Payment for Overtime Work

#### **Less than half of workers claim they get overtime pay for extra hours**

Labour standards require employers to pay employees extra amount of money when they work beyond the stipulated working hours, which for Tanzania is 8 or 9 hours a day. However, most employers in the business sector have been criticized for failing to comply with this labour standard. Workers who participated in the survey on business and human rights were asked whether they get overtime pay when they work extra hours.

**Only 4 out of 10 workers claim they get paid for overtime work.**

<sup>127</sup> Interview with some workers at Olympic Petrol Station.

<sup>128</sup> Interview with a construction worker at Expanc Construction Limited.

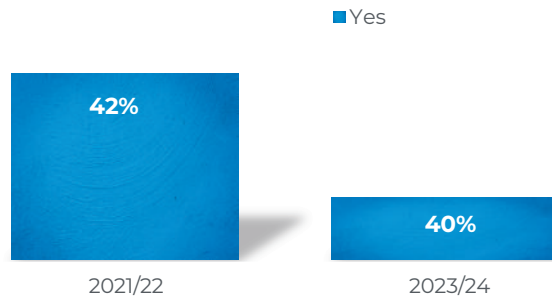
<sup>129</sup> Human Rights and Business Survey 2024: Iringa Report.

<sup>130</sup> Human Rights and Business Survey 2024: Mbeya Field Report.





Only 40% of the workers said they get overtime pay, slightly decreasing from 42% in the previous survey. 47% of the workers reported not getting overtime pay, while the remaining 13% were unsure about their overtime pay.



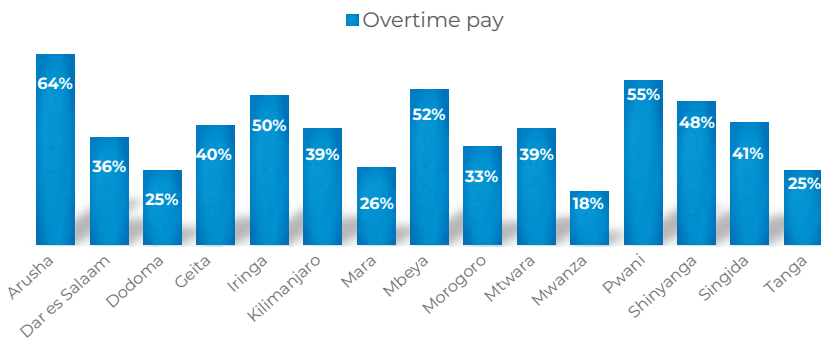
**Figure 3.7: %Responses on overtime pay - 2021/22 & 2023/24**

Source: Field data, 2024

*'We are very pleased with this company, as we are paid good wages and compensated for overtime work. We are paid well and timely.'*

A worker at Harsho Group Ltd – Kilimanjaro

Further analysis of the responses regarding overtime pay revealed that the highest percentage of workers who said they get paid for working overtime was Arusha (64%), followed by Pwani (55%), Mbeya (52%), and Geita (50%). In all the remaining regions, less than half of the workers claimed they get overtime pay and the lowest percentage was Mwanza (18%), followed by Dodoma and Tanga, both at 25%.



**Figure 3.8: %Responses on workers getting overtime pay by region**

Source: Field data, 2024



Atten Allow (Posho ya mahudhuria)	150,000
Service Allow (posho ya utumishi)	5,000
Technical Allow (Posho ya ufundi)	10,000
Polys Allow (posho ya kufanya kazi kutanisi)	0
Respons Allow (Posho ya uwajibikaji)	0
Night Allow (Posho ya kuingia kazini usiku)	0
Excavator Allow (Posho ya kufanya kazi kutanisi)	0
Bonus (Malipo ya bonasi)	0
Advance (Malipo ya Schemu ambayo haikupewa)	0
OT (Malipo ya kufanya kazi masaa ya ziada)	0
Other OT (Malipo ya masaa ya ziada kwa mwezi)	57,500
<b>Gross (Malipo ya Jumla)</b>	<b>222,500</b>
Advance (Malipo ya awali)	2,877
Advance OT (Malipo ya awali ya masaa ya ziada)	0
Sacco Contribution	0
TUICO (Ada ya chama cha wafanyakazi)	0
NSSF	22,250
PAYE (kodi ya selkari)	0
Transport (Malipo ya maitiri)	0
Medical (malipo ya Matibabu)	0
Housing (Malipo ya Makazi)	0
Other Allow (enginezo)	0
Sacco Deduction	0
<b>Total (Jumla ya makato)</b>	<b>27,127</b>
<b>Net Pay (Mshahara baada ya makato)</b>	<b>195,373</b>

**Picture 3.3: An extract of a salary slip of a worker at A to Z Company in Arusha**

Source: Field data, 2024

In Mwanza, where over two thirds of workers said they do not get paid for working overtime, complaints about lack of overtime pay or little pay were made at nearly all visited workplaces.<sup>131</sup> The survey in the region also revealed disparities in overtime pay, whereby the overwhelming majority of workers who do not get overtime pay are unskilled and casual workers, who were also found to generally bear the brunt of unfair labour practices.<sup>132</sup> In Dodoma, the majority of workers who complained about lack of overtime pay were those working in the transportation and hospitality sectors.<sup>133</sup> In Tanga, the issue of overtime pay was mostly raised by workers employed by sub-contractors.<sup>134</sup>

In Mara and Kilimanjaro, complaints about overtime pay were made by some of the interviewed workers from bakery factories such as *Musoma Bakery* and *S&M Bakery Ltd*, who said they usually work for more than 12 hours but were not paid for the extra hours at work. Allegations of lack of overtime pay made by workers in Kilimanjaro were confirmed by a TUICO trade union official in Moshi, who said most workers work long hours, 12 or more hours, and denied overtime pay. TUCTA, TUICO, and TPAWU trade union officials interviewed in Dar es Salaam also made similar allegations against most employers.

Other workplaces where workers claimed to work for 12 or more hours without additional pay included *Joshi Feed Meel Ltd* in Kilimanjaro, and *Luhamba Security* and *Kiwango Security* in Mtwara. In Mtwara, the survey found that the more skilled and aware of labour rights a worker is the more likely they get paid for working overtime. Working for a big company also seemed to increase likelihood of overtime pay.

<sup>131</sup> Human Rights and Business Survey 2024: Mwanza Field Report.

<sup>132</sup> Ibid.

<sup>133</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

<sup>134</sup> Human Rights and Business Survey 2024: Tanga Field Report.



*'As you can see, my partner has just left, and I am here covering for him. There is no off-time per se, and no overtime pay. We struggle to get our wages on time, let alone the overtime pay.'*

Security guard – Tandahimba, Mtwara

In certain regions, such as Arusha and Dar es Salaam, reports indicated that some employers do compensate workers for overtime. However, it was noted that the compensation is often inadequate or unfair, and sometimes paid untimely.<sup>135</sup> This scenario was confirmed by a TUICO trade union official in Morogoro, who said:

*'Some of the companies do provide compensation for overtime work, but the compensation is usually unfair. You may find a security guard working for up to 18 hours a day but receiving very little compensation for overtime work.'*

TUICO official – Morogoro

In Mbeya and Kilimanjaro, some interviewed workers reported that their employers instructed or requested them to substitute overtime pay with a day off.<sup>136</sup> They told the survey teams that employers are reluctant to pay for extra hours, hence offer a day of rest instead and that overtime pay is considered to be a privilege rather than a right of a worker. In Kilimanjaro, an official from the Tanzania Plantation and Agricultural Workers Union (TPAWU) opined that reluctance of some employers to provide overtime pay may partly be attributed to low awareness of labour laws.

### **Consequences of constantly demanding overtime pay**

In Mwanza, an interview with the Secretary General of the National Union for Mines and Energy Workers of Tanzania (NUMET) revealed that consequences for demanding overtime pay include dismissal or termination of employment. The Secretary General informed the survey team that seven workers from a company based in the region were dismissed for demanding overtime pay.

### **3.4.3. Right to Rest for Workers**

International labour standards set by the International Labour Organization (ILO) have set maximum ordinary working hours. The maximum weekly working hours include the ordinary working hours and the overtime hours. The cap on working hours has been introduced purposely to ensure that workers get **daily workplace rest breaks, daily rest, weekly rest, and annual leave**.<sup>137</sup> In Tanzania, the

<sup>135</sup> Human Rights and Business Survey 2024: Arusha & Dar es Salaam Field Reports.

<sup>136</sup> Interviews with a worker at ALAF Limited in Mbeya and Bondeni Flower Machame in Kilimanjaro.

<sup>137</sup> See Ghosheh, Naj (2016), *Remembering rest periods in law: Another tool to limit excessive working hours*, Conditions of Work and Employment Series No. 78, International Labour Office, Geneva,



Employment and Labour Relations Act [CAP. 366 R.E. 2019] clearly stipulates that an employee should not be made to work more than 12 hours a day, inclusive of overtime. Even where the employee has agreed to work beyond this limit, “the employer shall not require or permit an employee to work more than 12 hours in any day.”<sup>138</sup> The law also requires an employer to ensure an employee gets a daily rest period of at least 12 consecutive hours between ending and recommencing work.<sup>139</sup>

### **Situation of right to rest among workers in the business sector**

Similar to findings in the 2022 survey, long working hours remain a significant concern for workers, especially in the private security, hospitality, manufacturing, and transportation sectors. Across all surveyed regions, there were numerous complaints about workers being overworked in these industries.

In Dodoma and other regions, bus and truck drivers expressed grievances about working long hours without rest, sometimes up to 18 hours. An official from the Land Transport Regulatory Authority of Tanzania (LATRA) attributed this issue to transportation companies, accusing them of overworking drivers and failing to cooperate with them, thereby contributing to road accidents.<sup>140</sup>

*‘We work long hours, which deny us adequate rest, reporting for work early in the morning and coming out at night. We get very tired, but can’t leave until the job is done, and there is no extra pay.’*

Baker worker – Kilimanjaro

In nearly half of the surveyed regions, such as Kilimanjaro, Mbeya, Dar es Salaam, and Mtwara, reports indicated that some workers were required to work during weekends and holidays. In Kilimanjaro, a TUICO trade union official substantiated these claims, stating that many workers are compelled to work more than 9 or 12 hours per day, with some even denied rest on holidays and weekends. This practice was highlighted as detrimental to their health and overall well-being.<sup>141</sup> Casual and unskilled workers bear the brunt of long working hours and inadequate rest.

There is a compelling reason why international and domestic labour standards emphasize on rest for workers in the form of **daily workplace rest breaks, daily rest, weekly rest, and annual leave**. The main essence is protection of the health of workers, hence the reason the right to rest is recognized under the International Covenant on Economic, Social, and Cultural Rights (ICESCR) of 1966 as a

Switzerland at [http://ilo.ch/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_516123.pdf](http://ilo.ch/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_516123.pdf), accessed 19 May 2022.

<sup>138</sup> See Section 19(1) of the Employment and Labour Relations Act [CAP. 366 R.E. 2019].

<sup>139</sup> Ibid, Section 24(1)(a).

<sup>140</sup> Interview with a LATRA official in Dodoma.

<sup>141</sup> Interview with a TUICO official in Kilimanjaro.





component of the right to the enjoyment of just and favourable conditions of work.<sup>142</sup>

### 3.5. Remuneration

The right to just and favourable remuneration is a fundamental human and labour right, protected under the Constitution of the United Republic of Tanzania of 1977, the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966, the African Charter on Human and Peoples' Act (ACHPR), the ILO Equal Remuneration Convention, 1951 (No. 100) and the Employment and Labour Relations Act (ELRA),<sup>143</sup> among other instruments. Every individual has the right to work under equitable and satisfactory conditions and receive **equal pay for equal work**.<sup>144</sup>

#### 3.5.1. Wages and the Wage Order

##### **A new Wage Order after a long time**

In December 2022, the Prime Minister's Office - Labour, Youth, Employment and Persons with Disability (PMO-LYED) published a new Wage Order, the Wage Order of 2022, which became operational in January 2023. Up until then, the Wage Order which was in use was the Wage Order of 2013, while the law requires review after every 3 years.<sup>145</sup> In terms of the changes made in the new Wage Order, the biggest winners were domestic workers employed by diplomats and big businessmen, who saw their minimum wages increase by 67%, followed by domestic workers employed by entitled officers (54%), employees in broadcasting and mass media, postal and courier services (50%), domestic workers other than those employed by diplomats and big businessmen and entitled officers who are not residing in the household of the employer (50%), other domestic workers (50%), employees in small companies in the energy sector (50%), employees in inland (ground) transport services (50%), employees in the mining sector for primary mining licences (50%), employees in the mining sector for dealer licences (50%), employees in trade and industry services (50%), and employees in other sectors not mentioned in the Wage Order (50%). There are also employees with a 48% increase in minimum wages, namely those in the health services, private security services, and energy services (international companies).

**The largest wage increase was Tshs. 192,000, for workers in financial institutions and energy services (international companies). The lowest was Tshs. 20,000, for other domestic workers.**

<sup>142</sup> See Article 7(d) of the International Covenant on Economic, Social, and Cultural Rights of 1966.

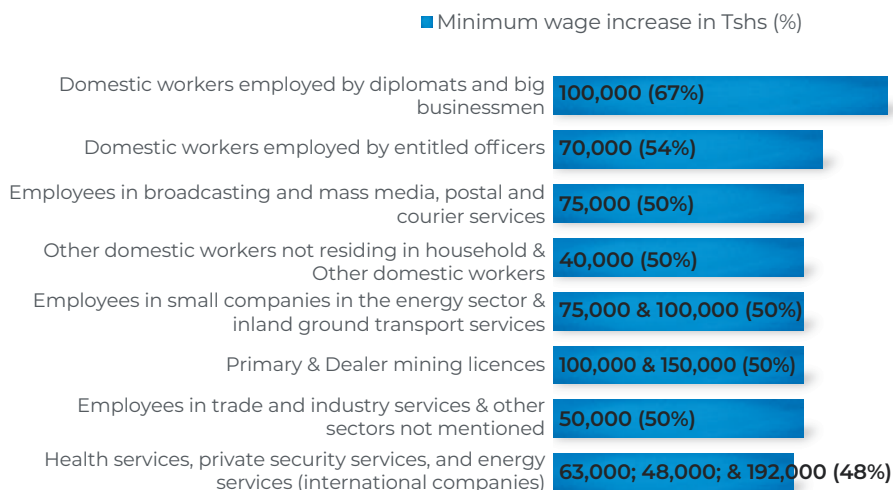
<sup>143</sup> The ELRA provides for the right to remuneration under Section 27(1).

<sup>144</sup> Article 15 of African Human Rights Charter, 1981.

<sup>145</sup> Regulation 8 of the Labour Institutions (General) Regulations 2017 (GN 45 2017).







**Figure 3.9: Top % minimum wage increases (48 - 67%) in the Wage Order 2022**

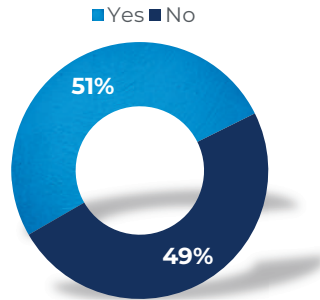
The lowest wage increases in minimum wages (30% and below), were for employees at restaurants, guest houses, and bars (15%), in fishing and marine services (19%), large and tourist hotels (20%), medium hotels (20%), clearing and forwarding services (20%), telecommunication services (25%), mining and prospecting licences (25%), broker licences (25%), construction services (28 - 29%), and aviation services (30%).

**Wages of workers and minimum wage awareness**

Only 30% of workers who were interviewed claimed they were paid Tshs. 300,000 and above, followed by 21% who said they were paid Tshs. 151,000 to Tshs. 200,000, and 20% who fell under the category of Tshs. 101,000 to Tshs. 150,000. The workers were also asked whether they were aware of their respective minimum wages. Only half (51%) of the respondents said they were aware of the minimum wage, while the remaining 49% said they were not.

**Nearly 5 out of 10 workers are not aware of their minimum wage.**





**Figure 3.10: %Responses of workers' awareness of their minimum wages**

Source: Field Data, 2024

*'I don't know anything about the minimum wage.'*

A worker at Chico Co. Ltd- Dodoma

### **Complaints about non-compliance with the Wage Order**

Complaints about non-compliance with the Wage Order of 2022 were mostly made in regions such as Dar es Salaam, Pwani, Morogoro, Dodoma, Mwanza, Shinyanga, Mbeya, Tanga, and Mtwara. For instance, interviewed government officials at the Dar es Salaam City Council said that they had received complaints about non-payment of wages from workers of some of the Government contractors, while the contractors had already been paid.<sup>146</sup> This constitutes wage theft and violation of not only the Wage Order but also the Employment and Labour Relations Act of 2004, which was revised in 2019.

Another form of wage violation which was commonly reported is denial of accurate wages or payment of wages below the minimum wages stipulated in the Wage Order of 2022. In Pwani, the majority of interviewed hotel, guest house, and bar workers said they were paid below the Tshs. 180,000 (hotel) and Tshs. 150,000 (restaurant, guest house, and bar) minimum wages. In Morogoro, the Secretary of the TPWU trade union told the survey team about underpayment of wages of workers in the agricultural sector, noting:

<sup>146</sup> Human Rights and Business Survey 2024: Dar es Salaam Field Report.



*“The minimum wage for plantation workers is Tshs. 140,000, but we know of employers who pay as low as Tshs. 100,000, which is too little, especially for workers who have dependants.”*

TPAWU Secretary – Morogoro

In Dodoma and Mtwara, the majority of workers in the private security sector voiced concerns over receiving wages below the minimum wage. For example, in Dodoma, one security guard reported earning Tshs. 80,000 per month, while another stated their monthly income ranged between Tshs. 80,000 and Tshs. 100,000.<sup>147</sup> The Wage Order of 2022 indicates that the minimum wages for private security services (small companies) is Tshs. 148,000. In Mtwara some of the security guards said they were paid Tshs. 130,000 monthly wages, which are Tshs. 18,000 below the minimum wage.<sup>148</sup> A TUICO trade union official in the region said most security firms in the region were implicated in labour rights violations, including wage violations.

In Mwanza, the NUMET trade union Secretary General said that some mining companies in the Lake Zone were paying their workers below the minimum wage.<sup>149</sup> A similar claim was made by the TUICO trade union Secretary in Mbeya, who said:

*“Some employers do not comply with the Wage Order, while others pay the exact minimum wage or below. Those who pay the exact minimum wage maintain it throughout the year.”*

TUICO Secretary – Mbeya & Songwe

In Shinyanga, it was revealed that nearly two-thirds of workers were not aware of their minimum wages and some employers took advantage of the lack of awareness to pay wages below the minimum wage.<sup>150</sup> A similar finding was made in Tanga, where some Chinese-owned companies were implicated in labour rights violations, including payment of wages below the minimum wage.<sup>151</sup>

### **Wages vis-a-vis costs of living**

Complaints about wages not being commensurate with the current costs of living were made by the majority of interviewed workers in all surveyed regions. For

<sup>147</sup> Interviews with security guards at KOM Food Product Co. Ltd and Dane Holdings Co. Ltd.

<sup>148</sup> Interviews with security guards from Luhamwa Security and Shark Security.

<sup>149</sup> Human Rights and Business Survey 2024: Mwanza Field Report.

<sup>150</sup> Human Rights and Business Survey 2024: Shinyanga Field Report.

<sup>151</sup> Interview with a TAMICO trade union official in Tanga.



instance, in Mara low-wage complaints were made by some of the interviewed workers at *Butiama Milk Industry*, *Musoma Bakery*, *Expanxe Construction Ltd*, *Multivilla Beach Resort*, *Mossegi Sunflower Company Ltd* and the *ASM*.<sup>152</sup> Similar concerns were shared by some of the workers at *Joshi Feed Meel Ltd Company* and *S&M Bakery Ltd* in Kilimanjaro.<sup>153</sup>

*'Considering the rising costs of living, we are paid very low wages, such that you cannot save anything. Complaining about the wages can get you fired. It happened to a co-worker, a driver, who was fired for asking a pay rise.'*

Bakery worker – Kilimanjaro

Some of the employers in these regions insisted that they were paying wages as set by the Government in the Wage Order. As the law requires review of the Wage Order every three years, it is recommended that the Government starts to review the current wages and increase them to help workers better cope with the rising costs of living.

#### Good Labour Practices – Marenga Millers Co. Ltd, Harsho Group, & TPC Sugar Ltd

In Kilimanjaro, the survey found good labour practices at *Marenga Millers Co. Ltd*, *Harsho Group*, and *TPC Sugar Ltd* to help workers cope with the rising costs of living. It was observed that most of the workers at these companies were paid good wages, above the minimum wage, and additionally provided with incentives such as bonuses, rent money, housing, loans, and selling them foods at lower prices. For instance, at *Marenga Millers Co. Ltd*, some interviewed workers revealed that they were sold food items such as beans and rice at about half the market price.



**Picture 3.4: Some of the food items sold to workers at cheaper prices at Marenga Co. Ltd**

Source: Field data, 2024

At *Harsho Group* and *TPC Sugar Ltd*, some of the workers said they were provided with incentives such as loans, free lunch, accommodation, and health services. The survey team observed houses provided to some workers by *TPC Sugar Limited*.

<sup>152</sup> Human Rights and Business Survey 2024: Mara Field Report.

<sup>153</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.





While the introduction of the new Wage Order is a step in the right direction, LHRC fears that most of the minimum wages do not constitute living wages – which allow workers and their families to afford adequate shelter, food, and other life necessities. Moving forward, adequate consultation of relevant parties, including trade unions, is needed to ensure the minimum wages set are enough to facilitate adequate standard of living and prevent workers and their families from falling into poverty.

### **Payment of wages through mobile money and non-issuance of payslip**

During a session with stakeholders invited to validate this report the issues of payment of wages through mobile money services and non-issuance of payslip emerged. Some of the participants, including trade union officers, indicated that some employers pay wages through mobile money, while others do not issue payslip, which puts workers at a disadvantage when they want to claim benefits or when a labour dispute arises. These issues shall be further investigated in the next study on business and human rights.

#### **3.5.2. Timely Payment of Salaries**

Labour standards not only demand salaries or wages to be fair but also timely. However, some employers continue to violate this labour standard by not paying wages in a timely manner. As was the case in the 2022 survey, there were widespread complaints from workers about delays in payment of wages in all surveyed regions, especially at small and medium-sized companies. The complaints were mostly made in 9 out of the 15 surveyed regions (60%), namely Mbeya, Iringa, Dodoma, Shinyanga, Mara, Mtwara, Tanga, Dar es Salaam, and Pwani. For instance, in Mbeya, some workers at *Apex and Xepa Resources Ltd* located in Chunya District lamented delayed wage payments. Similar concerns were raised at *Yisen International* in Iringa; *KOM Food product Co. Ltd* in Dodoma; *Salu Security* and *Bonga Security* in Shinyanga; *Buchosa Security Guard* in Mbeya; and *Luhamwa Security Services* and *UCC* in Mtwara, where some of the workers at *Luhamwa Security Services* said they had to file complaints at the Prevention and Combating of Corruption Bureau (PCCB) for their employer to pay seven-month wages in installments. In Tanga, subcontractors were accused of several labour rights violations, including delayed wage payment.

*'Our employer owes us ten-month wages. We are yet to be paid despite constantly following up and even reporting the employer to the local government.'*

Security guard – Dodoma

Interviewed trade union and local government officials in some of the surveyed regions confirmed the allegations made by workers regarding delayed wage payments. For instance, in Mbeya, TAMICO trade union official told the survey team that some mining companies delay salary payments by up to three months,





sometimes even more. In Mtwara, the TUICO trade union General Secretary said delay in wage payment was a big challenge at most companies. In Dodoma, CHODAWU trade union officials said that they had received many complaints against *NAM Hotel*, which had not paid workers for 10 months. In Iringa, the Ward Executive Officer (WEO) of Wambi Ward in Mafinga District told the survey team that his office had received many complaints about non-payment of wages from workers working at Chinese-owned industries, especially *Yisen International*.

Complaints about untimely payment of wages were fewest in Kilimanjaro and Arusha Regions, where the majority of the interviewed workers said they were paid on time.<sup>154</sup> In Kilimanjaro, one of the employees at *Bondeni Flower Machame* said:

*'Truth be told, our employer pays us on time, no problem there. Even when there is a slight delay, he informs us and issues an apology. The only problem is the wages being low.'*

Employee – Kilimanjaro

Delay in payment of wages has a huge effect on the lives and well-being of not only workers, but also their families, especially where they are the only or main breadwinners in the family. The majority of the interviewed workers who had experienced delayed payment of wages said their lives were severely affected and, in most cases, resorted to acquiring loans to take care of their families, finding themselves in huge debts. In Mtwara, some of the workers said they had been given notice by their landlords because they had not paid rent due to delays in salary payment.<sup>155</sup>

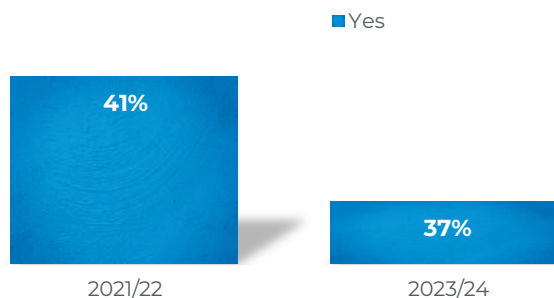
### 3.5.3. Unequal Pay for Equal Work

Survey respondents were questioned about their perceptions of wage inequality within their workplace. They were specifically asked if their pay differed from that of colleagues performing the same or similar work, highlighting concerns about potential wage discrimination. This inquiry aimed to identify disparities in compensation that could suggest systemic issues of fairness in wage distribution. According to the findings, a significant percentage of respondents (37%) reported receiving unequal pay for equal work, a decrease from the 41% reported in the previous survey. A quarter of the respondents (25%) indicated that they were not receiving unequal pay for equal work, while the remaining 38% were unsure or did not know.

<sup>154</sup> Human Rights and Business Survey 2024: Kilimanjaro & Arusha Field Reports.

<sup>155</sup> Human Rights and Business Survey 2024: Mtwara Field Report.





**Figure 3.11: % Workers who felt they received unequal pay for equal work - 2021/22 & 2023/24**

Source: Field data, 2022 & 2024

Figure 3.11 above suggests that, like in the previous (2022) survey, there is still a problem of unequal pay for equal work in the business sector. When asked who gets paid more than they do while doing the same work, over two-thirds of the respondents (84%) said it is both male and female co-workers, followed by 12% who mentioned male co-workers, and 4% who mentioned female co-workers.<sup>156</sup> In Mara, one of the female workers at a bakery in Musoma, said:

*'As female workers, we start work early in the morning and perform similar tasks to our male counterparts within the same department, but the pay isn't equal. For instance, both my co-worker and I are cooks, but I get paid Tshs. 4,000 per day while he gets Tshs. 12, 000.'*

Bakery worker – Mara

Various reasons were put forward for the existence of unequal pay for equal work, one of them being how close one is to the employer or supervisor. Other reasons which were mentioned by some of the interviewed workers and corporate management officials include work experience, internal policies and procedures, nepotism, corruption, and skills. Other contributing factors might include low awareness of labour laws and rights, which would diminish the ability of a worker to negotiate a better pay and lack of trade union membership, which might help negotiate better terms on behalf of the worker. Gender discrimination is also a contributing factor, mostly affecting women and hindering their progression.

### 3.5.4. Non-payment of Allowances

The right to fair remuneration, which is a fundamental labour right, is not just about payment of wages or salaries, but also entails payment of bonuses, allowances, and incentives, as stipulated in labour laws and regulations, and/or individual employment contracts. In some of the regions that were visited, some

<sup>156</sup> N=372.



workers, especially in the transportation sector, complained about non-payment and delays in payment of allowances. Truck drivers in regions such as Mtwara and Morogoro complained about non-payment or inadequate payment of different allowances, including mileage allowance, return allowance, and overstay allowance.<sup>157</sup>

Another complaint raised by some workers, particularly security guards, and the NUMET Secretary General in Mwanza, was the non-payment of the night-shift allowance.<sup>158</sup> They noted that some companies fail to pay the night-shift allowance as required by the Employment and Labour Relations Act of 2004.<sup>159</sup>

### 3.5.5. Unfair Deduction of Wages

As was the case in the previous survey, conducted in 2022, some interviewed workers complained about unfair deduction of their wages. Such complaints were primarily made in 5 out of the 15 surveyed regions (33%), namely Mwanza, Dodoma, Mbeya, Arusha, and Mtwara. Reasons for wage deductions included arriving late to work, leaving early, making mistakes, absence due to illness, breaking utensils, damaging equipment, taking leave (annual, sick, or maternity), and buying personal protective equipment (PPE). For instance, in Dodoma, a worker at **NAM Hotel** reported that wage deductions are routine for any mistake or accidental breakage.<sup>160</sup>

In Mbeya, a community member in Hiari Village told the survey team that some companies, which are sub-contractors of the **Dangote Cement Company** were deducting wages from their workers for buying PPE. In Mtwara and Mbeya, some workers lamented unexplained changes or reduction of wages. In Mbeya, the General Secretary of TUICO, a trade union, said:

*There are many illegal deductions of wages. For instance, wages may be deducted when a worker gets sick, sometimes up to Tshs. 100,000 for missing work for 5 days.'*

TUICO General Secretary – Mbeya & Songwe

Some corporate management officials, including employers, acknowledged that they had policies in place for deducting wages as a form of punishment at workplaces, depending on the nature of the misconduct.

<sup>157</sup> Human Rights and Business Survey 2024: Mtwara & Morogoro Field Reports.

<sup>158</sup> Companies that were accused of not paying the night shift allowance at all include REM, Ruvuma Coal Ltd, and KASSCO.

<sup>159</sup> Section 20(1) of the Employment and Labour Relations Act, 2004 [RE 2019]. Defines 'night' as the hours after twenty hours (2000) and before six hours (0600) and requires employer to pay employee at least 5% of their basic wage for each hour worked at night and if the hours worked are overtime hours, then the 5% has to be calculated on the employee's overtime rate.

<sup>160</sup> Human Rights and Business Survey 2024: Dodoma Field Report.



LHRC fears possible misuse of such policies and non-alignment with labour and human rights standards.

### 3.6. Working Environment: Overall Environment and Occupational Health and Safety in the Workplace

A safe and healthy working environment is essential in realization of the right to health and right to work. **The right to safety and health at work is a fundamental human right that is closely connected to the right to health and the right to**

**ILO estimates that 2.02 million people die each year from work-related accidents or diseases, while more than 300 million people suffer from work-related diseases and another 300 plus million people experience fatal and non-fatal accidents.**

**life.**<sup>161</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 recognizes the right of everyone to the enjoyment of just and favourable conditions of work which, among other things, ensure safe and healthy working conditions.<sup>162</sup>

In Tanzania, issues relating to occupational health and safety are mainly governed by the Occupational Health and Safety Act, 2003 and the Employment and Labour Relations Act

[CAP. 366 R.E. 2019]. The Occupational Health and Safety Act contains provisions seeking to protect the health and welfare of workers and improve working environment, including supply of drinking water, washing facilities, first aid facilities, protective equipment, and medical examination.<sup>163</sup> The Occupational Health and Safety Act, 2003 and the Employment and Labour Relations Act [CAP. 366 R.E. 2019] are supplemented by various laws and policies that also govern occupational health and safety in Tanzania.<sup>164</sup>

#### 3.6.1. Overall Working Environment

The survey assessed safe and healthy working conditions by probing on availability of adequate equipment, air, light, water, toilets, fire equipment, and first aid. The assessment also included the state of buildings, and friendliness of the workplace to persons with disabilities (PWDs) and women. The results of this assessment are summarized in Table 3.1.

<sup>161</sup> See Article 23 of Universal Declaration of Human Rights (UDHR); Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966.

<sup>162</sup> See Article 7 of the ICESCR, 1966.

<sup>163</sup> Sections 24, 54, 56, 58 & 62 of the Occupational Health and Safety Act, 2003.

<sup>164</sup> Including the Occupational Safety and Health (Building and Construction Industry) Rules, 2015; and the National Occupational Safety and Health Policy 2010.

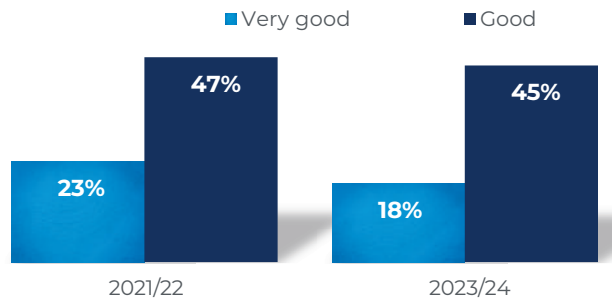


**Table 3.1: % Responses on overall working environment at surveyed business enterprises and factories**

	Very Good	Good	Somewhat Good	Poor	Very poor
Equipment	15	39	32	9	5
Air	20	52	19	7	2
Light	23	53	19	4	1
Water	23	54	17	5	1
Toilets	17	48	23	10	2
Fire equipment	19	45	22	10	4
Disability friendliness	8	25	28	25	14
First aid	18	41	22	14	5
Women friendliness	11	37	37	11	4
State of buildings	22	52	18	6	2

Source: Field data, 2024

The findings in Table 3.1 above suggest that the state of equipment, air quality, lighting, water supply, toilets, fire equipment, first aid facilities, and buildings at surveyed workplaces was generally good or very good, with a combined total of over 50%. On average, 63% of workers rated the overall working environment as very good (18%) or good (45%), a slight decrease from 70% in the 2022 survey.

**Figure 3.12: % Workers claiming overall working environment is good and very good - 2021/22 & 2023/24**

Source: Field data, 2022 & 2024

Findings from the survey revealed that the main concern expressed by respondents was the workplace friendliness towards PWDs. Less than a third (23%) rated it as good or very good, while just over a third (39%) rated it as poor or very poor. Additionally, less than half of the respondents (48%) felt that the overall working environment was women friendly.

To validate the claims of respondents regarding the working environment, the survey teams conducted on-site observations. The focus was on the condition of toilets and other sanitary conveniences, the availability of first aid kits, and the adequacy of fire equipment.





## State of toilets

### Standards

International and domestic standards on occupational health and safety provide the following key conditions regarding sanitary facilities:<sup>165</sup>

- ✘ Sufficient privacy and supplied with flushing systems and traps and with toilet paper or some other hygienic means of cleaning;
- ✘ Sanitary facilities to be maintained and **kept clean**;
- ✘ Separate facilities for women and men;
- ✘ Facilities to be freely and readily accessible;
- ✘ Facilities to be adequately supplied with water;
- ✘ Separate facilities for male and female persons;
- ✘ Availability of items such as soap or similar cleansing agent, toilet papers, and sanitary towel disposal bins for female employees; and
- ✘ Sanitary facilities to be marked with relevant sex signs, ensure privacy, and be naturally or artificially ventilated.

Toilets at nearly a quarter of the surveyed workplaces were found to be dirty and/or in a dilapidated condition. Such conditions were observed at workplaces in all surveyed regions, including Mtwara, Kilimanjaro, Dodoma, Dar es Salaam, Shinyanga, Geita, and Mara. In Mtwara, for instance, toilets at *Amama Farms Ltd* in Tandahimba District were noted to be inadequate relative to the number of workers.<sup>166</sup> At *Mkunazini Clearing and Forwarding Company* in Mtwara, issues of water scarcity led to the closure of toilets, while *Petro Africa* in Masasi TC had toilets without functioning flushing systems.



**Picture 3.5: A toilet without a flushing system observed at Petro Africa in Masasi TC, Mtwara**

Source: Field data, 2024

<sup>165</sup> See Recommendation 37 of the R120 - Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120), at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:R120](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R120); R120 - Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120); the Occupational Health and Safety Act, 2003; Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015.

<sup>166</sup> Human Rights and Business Survey 2024: Mtwara Field Report.



Complaints about the state of toilets, including insufficient water supply, were also noted at several workplaces. These included *Bonden Flower Machame* in Kilimanjaro, *Dangote Mattress Co. Ltd* in Dodoma, *Jie Long Holdings* in Shinyanga, and *Mossegi Sunflower Company Limited* and *Expanco Construction Limited* in Mara. Some toilets at the surveyed workplaces lacked items such as soap or cleansing agents, toilet paper, sanitary towels and disposal bins for female employees. Additionally, there were complaints about the lack of women-friendly facilities at certain workplaces, such as *Jie Long Holdings* in Shinyanga.



**Picture 3.6: Dirty workers' toilets observed at Dangote Mattress Co. Ltd in Dodoma(left) and Bondeni Flower Machame in Kilimanjaro(right)**

Source: Field data, 2024

*'Our toilets lack water and are filthy and stinky. By using them, we are risking infections and our health.'*

Worker – Kilimanjaro

On the other hand, the survey teams observed toilets which were in satisfactory and clean condition at workplaces such *S&M Bakery Ltd*, *Joshi Feed Meel Ltd*, *Harsho Group Ltd*, *TPC Sugar Ltd*, and *Marenga Millers Co Ltd* in Kilimanjaro; *Multivilla Beach Resort* and *China Civil Engineering Construction Corporation* in Mara; *Mkwawa Leaf Ltd*, *Mazava Fabric Ltd* and *Sherry Hotel* in Morogoro; and *ALAF Limited* in Mbeya.





**Picture 3.7: Clean workers' toilets observed at Mazava Fabric Ltd in Morogoro (left) and Multivilla Beach Resort in Mara**

Source: Field data, 2024

Female workers were disproportionately affected by dirty toilets, inadequate water supply, and the absence or shortage of essential items such as soap, toilet paper, and sanitary towel disposal bins at the majority of surveyed workplaces. Additionally, workers with disabilities faced challenges due to the lack of disability-friendly toilets, especially at small and medium-sized industries.

### **Other sanitary conveniences**

International and domestic standards on sanitary facilities requires availability of washrooms and washing facilities and workers to be provided with adequate and suitable accommodation for clothing not worn during working hours, including separate changing rooms for each sex.<sup>167</sup> However, full adherence to these standards has proven a challenge for most business enterprises. The survey findings suggest that while the majority of workplaces claimed to have changing rooms in place, the challenge observed was maintaining them in a clean and orderly condition, particularly evident in small-scale companies or industries.

### **First aid kits and fire equipment**

Labour standards require employers to have in place first aid kits, and to affix a notice in every workroom, stating the name of the first aid attendant in that section of work.<sup>168</sup> In line with this standard, observations were made to determine the availability of first aid kits and fire extinguishers.

As in the 2022 survey, first aid kits and fire extinguishers were observed at most workplaces. However, some workplaces lacked this equipment altogether, and

<sup>167</sup> Section 57 of the Occupational Health and Safety Act, 2003; Rule 9(1)(b) of the Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015.

<sup>168</sup> Rule 15(1) of the Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015.



several first aid kits were found to be empty. In Kilimanjaro, first aid kits and fire extinguishers were present at most workplaces, including *Harsho Group Ltd*, *TPC Sugar Ltd*, *Marenga Millers Co Ltd*, *City Coffee Ltd*, and *S&M Bakery Ltd*.<sup>169</sup>



**Picture 3.8: Fire extinguishers observed at Dangote Cement PLC in Mtwara (left) and Flomi Hotel in Morogoro (right)**

Source: Field data, 2024

In Mara it was observed that some of the fire extinguishers had expired,<sup>170</sup> while in Shinyanga first aid kits were not observed at nearly half of the visited workplaces.<sup>171</sup> In Mtwara, the survey team came across a fire extinguisher which was last inspected in 2020.<sup>172</sup> In Dar es Salaam and Pwani, some of the interviewed workers acknowledged existence of fire extinguishers but said they had been trained on how to use them.



**Picture 3.9: First aid kits observed at Petro Africa Company in Mtwara (left) and H.J. Stanley & Sons Limited in Pwani (right)**

Source: Field data, 2024

<sup>169</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.

<sup>170</sup> For instance, at Multivilla Beach Resort.

<sup>171</sup> Human Rights and Business Survey 2024: Shinyanga Field Report.

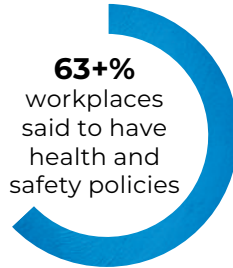
<sup>172</sup> Human Rights and Business Survey 2024: Mtwara Field Report.





### 3.6.2. Occupational Health and Safety Policies

Corporate management officials who participated in the survey were asked whether there were occupational health and safety policies in place. The majority of them, nearly two thirds (63%), said they had such policies, decreasing from 77% in 2022. Nearly a third (31%) said they did not have in place such policies, while the remaining 6% said they were not sure, suggesting they are less likely to be in place.



**Figure 3.13: %Workplaces with occupational health and safety policies (N=166)**

Source: Field data, 2024

The survey team was able to obtain and review copies of work health and safety policies at several workplaces in regions such as Iringa, Mtwara, Geita, Mbeya, Kilimanjaro, Morogoro, Mara, and Tanga. Such copies were obtained from various business enterprises, including *PCT Ltd* in Iringa and *Barrick's North Mara Gold Mine* in Mara.



**Picture 3.10: Copies of occupational health and safety policies observed at PCT Ltd in Iringa (left) and Barrick's North Mara Gold Mine in Mara (right)**

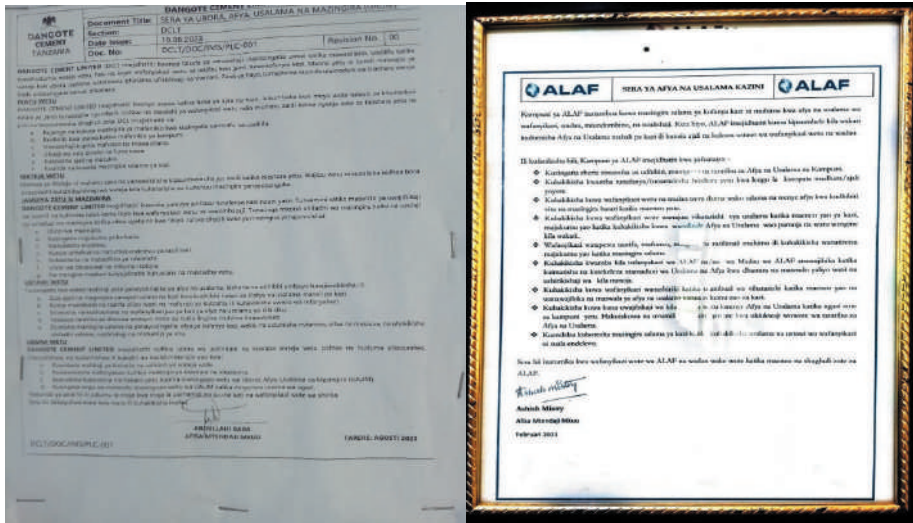
Source: Field data, 2024

The findings suggest that the majority of observed or obtained occupational health and safety policies were written only in English. This language barrier presents challenges for workers who are not proficient in English.





In Mtwara, the survey team obtained a Swahili copy of the occupational health and safety policy at *Dangote Cement PLC*, while a similar observation was made in Mbeya at *ALAF Limited*.



**Picture 3.11: An extract of Swahili copies of occupational health and safety policies observed at Dangote Cement PLC in Mtwara and ALAF Limited in Mbeya**

Source: Field data, 2024

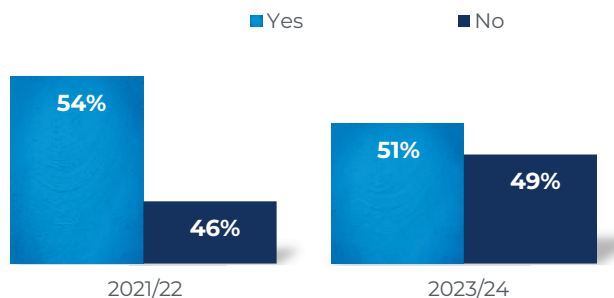
### 3.6.3. Training on Occupational Health and Safety

Labour standards require provision of regular training on occupational health and safety to ensure a safe and conducive working environment. In this regard, both employers and workers who participated in the survey were asked about provision of training on occupational health and safety, which is mainly provided by the Occupational Safety and Health Authority (OSHA). 84% of employers said they provide such training,<sup>173</sup> slightly decreasing from 89% in the previous survey. The majority of them said they provide training once or twice per year. For workers, just over half of them (51%) claimed they had received such training,<sup>174</sup> slightly decreasing from 54% in the previous survey of 2022.

<sup>173</sup> Number of respondents = 166.

<sup>174</sup> Number of respondents = 993.





**Figure 3.14: % Responses on receiving training on occupational health and safety**

Source: Field data, 2022 & 2024

The majority of interviewed workers reported receiving occupational health and safety training at least once or twice. In Mwanza, the Human Resources Manager of *Nyaza Bottling Company Ltd* regularly conducts occupational health and safety training through a committee that has been trained by OSHA. A similar practice was noted by the Manager of *Shambani Milk Ltd* in Morogoro.

*'I have just recently paid the fees to facilitate training of my staff by OSHA.'*

Managing Director of *Prince Bites*– Mtwara

*'We receive occupational health and safety training facilitated by OSHA at least twice a year. Additionally, we have an occupational health and safety committee at our workplace.'*

Worker at *East Africa Born Wood Ltd* – Iringa

The decrease in the percentage of workers receiving training may be attributed to the hiring of new workers each year. However, the fact that nearly half of workers have not received such training is concerning. In Morogoro, an interview with an OSHA officer revealed the existence of small companies or industries that are not registered under OSHA, making it challenging for the regulatory authority to reach them for inspections and training.<sup>175</sup>

LHRC believes that occupational health and safety training is essential for a conducive and safe working environment. As such, it is in the best interests of employers to ensure such training is provided regularly to improve workplace safety and atmosphere and thereby prevent accidents and potential lawsuits or legal action. Injuries that can lead to disability can also be prevented.

<sup>175</sup> Human Rights and Business Survey 2024: Morogoro Field Report.



### 3.6.4. Labour Inspection

Labour inspection mandate in Tanzania Mainland mainly falls under the labour section within the ministry responsible for labour and employment (Prime Minister's Office, Labour, Youth, Employment and Persons with Disability) and the Occupational Safety and Health Agency (OSHA). A robust labour inspection system is crucial for ensuring compliance with labour laws and standards by both employers and employees. Inspection services play a vital role in ensuring decent working conditions, promoting compliance, and enforcing labour laws.

Some of the interviewed workers, mostly in Mwanza,<sup>176</sup> expressed concerns over labour inspection, as was the case in the 2022 survey. In Mara some of the workers felt that OSHA, labour officers, and trade unions were not doing enough to ensure occupational health and safety for workers, including conducting labour inspection. Similar sentiments were echoed in Mtwara,<sup>177</sup> Iringa,<sup>178</sup> and Shinyanga.<sup>179</sup> In Mtwara, some workers claimed inspectors usually end up engaging in conversations with the management officials in their offices before leaving.<sup>180</sup> A similar claim was made by a worker at *Jie Long Holdings* in Shinyanga and *U-Fresh Company* in Mwanza.

*'We see OSHA officers and labour officers coming to our workplace, but only end up in the office and then leave. This is the reason for continued violations of our labour rights.'*

Security guard – Mtwara

In Mtwara, the OSHA Southern Zone Manager acknowledged that they had not been able to conduct inspections at workplaces as frequently or regularly as desired. He attributed this challenge to a shortage of labour inspection experts.

On the other hand, some workers in some of the surveyed regions claimed labour inspection was conducted regularly at their workplaces. For instance, in Kilimanjaro, interviewed workers at *Harsho Group Ltd*, *Marenga Millers Co Ltd*, and *S&M Bakery Ltd*, revealed that OSHA inspectors regularly visit their workplaces for inspection.

<sup>176</sup> Interviews with workers at Musoma Bakery, Butiama Milk industry, Mossegi Sunflower Company Limited.

<sup>177</sup> Interviews with workers at Kiwango Security Company.

<sup>178</sup> Interview with a worker at Kamongo Mills.

<sup>179</sup> Interview with a worker at Jie Long Holdings.

<sup>180</sup> Human Rights and Business Survey 2024: Mtwara Field Report.



*'OSHA comes here to inspect the workplace every now and then, ensuring safe working environment and workers wear PPE. We also undergo regular medical checkups.'*

A worker at Marenga Millers Co Ltd – Kilimanjaro

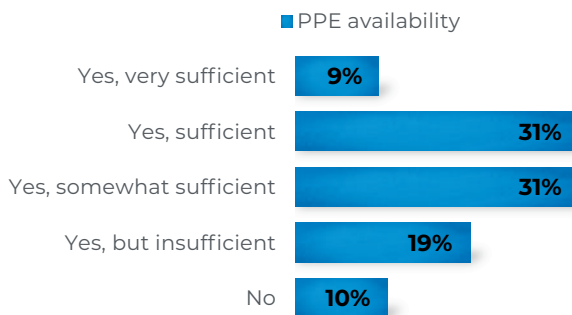
### 3.6.5. Availability and Wearing of Personal Protective Equipment



Personal protective equipment (PPE) refers to any equipment designed to protect users against health or safety risks at work. This includes helmets, goggles, protective clothing, safety footwear or boots, safety gloves, dust masks, earplugs, and eye protection. These equipment are intended to safeguard workers and visitors at workplaces from injury or infection. According to the Occupational Health and Safety Act of 2003, employers in any factory or workplace must provide workers with effective protective equipment where the workers are employed in any process involving exposure to any injurious or offensive substance or environment.<sup>181</sup>

#### Majority of workers claim PPE to be available and sufficient

Nearly two-thirds of the interviewed workers (62%) claimed that PPE is available and sufficient (31%) and somewhat sufficient (31%) at their workplaces. Compared to the previous survey findings, the percentage of workers claiming PPE to be available and sufficient and somewhat sufficient increased by 8%.



**Figure 3.15: %Responses on availability of personal protective equipment at workplaces (N=993)**

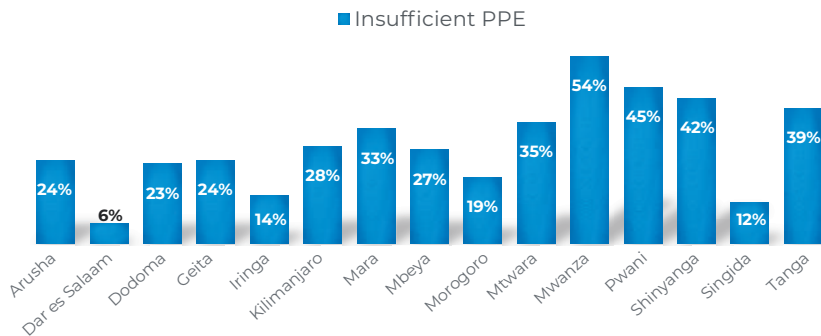
Source: Field data, 2024

<sup>181</sup> See Section 62 of the Occupational Health and Safety Act, 2003.





From Figure 3.15 above, it can be observed that over a quarter of workers (29%) work without sufficient PPE or without PPE at all. Qualitative findings of the survey suggest that the majority of them work at small companies or industries.



**Figure 3.16: % Workers with insufficient PPE by region**

Source: Field data, 2024

Further analysis of field data showed that the percentage of workers who claimed they did not have sufficient PPE, or any PPE was highest in Mwanza (54%), followed by Pwani (45%), Shinyanga (42%), Tanga (39%), and Mtwara (33%), as shown in Figure 3.16 above. The lowest percentage was in Dar es Salaam (6%), followed by Singida (12%), Iringa (14%), and Morogoro (19%).

### On-site observations

On-site observations conducted by the survey teams revealed various places with sufficient PPE and others without sufficient PPE. Some of the workplaces found or said to have sufficient or somewhat sufficient PPE included *North Mara Gold Mine*<sup>182</sup> in Mara; *Kijiji Cha Nyuki Company Limited* and *Mount Meru Miller Company Limited* in Singida; Nyanza Bottling Company in Mwanza; *Wakulima wa Mara Cooperative Union* in Mara; *Sun Flag Textile Industry* in Arusha; and *Becco Coal Ltd*<sup>183</sup> and *Dangote Cement PLC* in Mtwara.

<sup>182</sup> Received OHS best company in the mining sector award in 2023.

<sup>183</sup> Mtwara branch.







**Picture 3.12: Some of the workers observed wearing sufficient PPE at Kijiji Cha Nyuki Investment Company in Singida (left) and Nyanza Bottling Company in Mwanza (right)**

Source: Field data, 2024



**Picture 3.13: Workers observed wearing PPE at Wakulima wa Mara Cooperative Union in Mara (left) and Sun Flag Textile Industry in Arusha (right)**

Source: Field data, 2024

Workplaces where PPE was said or found to be insufficient included *Amama Farms Ltd* in Mtwara; *Kamongo Mills* in Iringa; *NIDA Co Ltd* and *Quaim Steel Ltd* in Dar es Salaam; *U-FRESH FOOD Limited* in Pwani; *Matimbwi Security Company* in Dodoma; *Ikundi Sunflower Oil Company* and *Shinde Investment Company Limited* in Singida; and *Salama Security Company Limited* and *Expance Construction Limited* in Mara. Others included *Kamongo Mills Company* in Iringa; *Joshi Feed Meel Ltd* in Kilimanjaro; *Lodhia Steel Industry* in Arusha; and *Shark Security Ltd* in Mtwara. In mining regions such as Geita, Mara, Dodoma, and Shinyanga, most of the artisanal or small-scale miners were found working in hazardous conditions without wearing PPE. In Arusha, some of the workers at *Lodhia Steel Industry* were observed wearing worn-out footwear and some without masks. In Mtwara, some of the security guards were observed working without wearing PPE, especially



boots. One of the security guards in the region reported being provided with only a single uniform, despite having to work every day.<sup>184</sup>



**Picture 3.14: Workers observed working without PPE at U-FRESH FOOD Limited in Pwani (left) and Exance Construction Limited in Mara**

Source: Field data, 2024



**Picture 3.15: Workers (small-scale miners) observed working without PPE at Mwambo wa Luvile Mine in Chato, Gieta**

Source: Field data, 2024

### Complaints about PPE

PPE-related grievances, including non-provision of masks, safety footwear, gloves, and protective clothing, were aired by some of the interviewed workers in Mtwara, Dar es Salaam, Iringa, Mara, Dodoma, Mbeya, Kilimanjaro, Mtwara, and Tanga. In Iringa and Mbeya, the majority of small businesses, including mills and agencies, allegedly denied their workers PPE and some of the interviewed workers said they usually buy some of the gear, such as masks, themselves. In Mtwara and Iringa,

<sup>184</sup> Interview with a security guard at Shark Security Limited.





some of the workers claimed PPE are usually provided when inspectors are scheduled to visit their workplace.<sup>185</sup> In Kilimanjaro, some of the workers said they are provided with PPE, but the problem is that such equipment are only provided once per year, such that a worker has to wait another year even when their PPE is worn out or damaged.<sup>186</sup> In Tanga, some of the subcontractors were also accused of not providing PPE to their workers.<sup>187</sup>

*'We are only given all the PPE we need, such as gloves, masks, and others, when the inspectors schedule a visit.'*

Employee – Mtwara

*'Yes, we are given PPE, but the issue is that they must last a year before you get a replacement. Hence, it is normal to see a worker without PPE, because they are already worn out.'*

Employee – Kilimanjaro

The survey also found that workers engaged under contracts for specific tasks (casual workers) are less likely to have sufficient PPE and more likely to be denied PPE at all. For instance, some of the casual workers working with clearing and forwarding companies at the Mtwara Port lamented non-provision of sufficient PPE and often having to buy them themselves.<sup>188</sup> A casual worker at a cashew nut company in Tandahimba District, Mtwara, also lamented non-provision and inadequate provision of key PPE such as gloves, masks, and headphones.<sup>189</sup>



**Picture 3.16: Casual workers observed working without PPE in Mbeya**

Source: Field data, 2024

<sup>185</sup> Interviews workers at Amama Farms Ltd in Mtwara and Kamongo Mills in Iringa.

<sup>186</sup> Interviews with some of the workers at Worker at Bondeni Flowers Machame Limited.

<sup>187</sup> Interviews with workers at Boto Contractors Limited and Xuaxin Cement(Maweni Limestone Limited).

<sup>188</sup> Interview with a casual worker from Mkunazini CF Company.

<sup>189</sup> Interview with a casual worker at Amama Farms Ltd.



*'We get insufficient PPE. For instance, you may only get one pair of gloves per week, while the recommended standard is a pair per day. You therefore find yourself deshelling cashew nuts without gloves. Most PPE are only provided when the guests or inspectors visit, or when the European industry owners pay a visit.'*

Casual worker – Mtwara

### **Some workers opting not to wear PPE**

The survey found that some workers tend to work without PPE even when they are provided with them, putting themselves at various risks. For instance, at **Marenga Millers Co Ltd** in Kilimanjaro, some of the interviewed workers acknowledged that they are provided with PPE, but sometimes do not wear them because 'they are too heavy' and 'they work faster' without them. Others said they disregard wearing certain PPE, such as protective clothing, when it is too hot.<sup>190</sup> At **Harsho Group Ltd**, also located in Kilimanjaro Region, the Human Resources Manager said they provide workers with PPE, but some do not wear them, leaving them in their lockers.

At some of the surveyed workplaces employers indicated that they had taken various measures to promote wearing of PPE at workplaces, including imposing fines on workers found without their PPE. For instance, at **KNUF Gypsum Tanzania** in Pwani it was revealed that workers found working without PPE could be subjected to a fine of Tshs. 30,000. In Dodoma, a human resources officer at **Marmo E. Granito Mines (T) Limited** said a fine of Tshs. 10,000 was imposed on workers contravening health and safety rules, including by not wearing PPE, following advice provided by OSHA. At **North Mara Gold Mine** in Mara, it was reported that failure to wear PPE is a serious employee misconduct that could even attract termination.

Some of the employers have put in place various workplace health and safety signs and information boards to ensure the safety and wellbeing of workers and visitors, including signs and boards reminding workers to wear PPE. Some of the signs are illustrated in Picture 3.17 below.

<sup>190</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.





**Picture 3.17: Health and safety PPE signs and information boards observed at Wakulima wa Mara Cooperative Union in Mara(left), ALAF Limited in Mbeya (middle) and China Henan International Company in Mbeya(right)**

Source: Field data, 2024

**Consequences of not having or wearing PPE**

Some of the workers reported that they or their colleagues had suffered harm due to lack of or not wearing PPE. For instance, in Mtwara the survey found that some workers working at cement companies were vulnerable to and had acquired asthma. Others had reportedly suffered injuries and infections, causing inflammation, skin burns, hardened skin, and blisters.

*'We have recently buried a fellow worker who suffered an occupational disease because of the cement dust pollution. The amount of dust emissions produced are enough to cause TB.'*

Casual worker – Mtwara

*'Because of the liquid produced by cashew nut shells and not using gloves when deshelling the nuts, I suffered some blisters and sores on my fingers. I had to stay at home for three weeks for the fingers to heal.'*

Casual worker – Mtwara

**3.7. Violence and Harassment in the Workplace**

In the world of work, ILO has defined “violence and harassment” as “range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and





harassment.”<sup>191</sup> Gender-based violence and harassment is defined as “violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.”<sup>192</sup>

According to ILO, violence and harassment in the world of work is a widespread phenomenon across the world in all sectors.<sup>193</sup> It deprives people of their dignity, and is incompatible with decent work, and a threat to equal opportunities and to safe, healthy, and productive working environments.<sup>194</sup> It is a disruptive behaviour at workplaces, which includes **threatening behaviour, verbal or written threats, verbal abuse, and physical attacks**; and must be addressed to protect workers, clients/customers, and visitors. Examples of such behaviour include intimidation, bullying, pranks, sabotage, pushing, rape, sexual harassment, gestures, and psychological trauma.

### 3.7.1. ILO Violence and Harassment Convention of 2019

In June 2019, the International Labour Organization (ILO) adopted the Violence and Harassment Convention, 2019 (No. 190).<sup>195</sup> It recognizes the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment. The convention seeks to protect workers and other persons in the world of work, including employees as defined by national law and practice, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer.<sup>196</sup> It applies to all sectors, whether private or public, both in the formal and informal economy, and whether in urban or rural areas.<sup>197</sup>

The Convention requires States to adopt laws and regulations to define and prohibit violence and harassment in the world of work, including gender-based violence and harassment.<sup>198</sup> It also requires members to adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment.<sup>199</sup>

LHRC believes that the ILO Violence and Harassment Convention, 2019 is very important and can play a big role in addressing workplace violence if ratified and domesticated. LHRC therefore calls upon the Government to take immediate

<sup>191</sup> See Article 1 of the ILO Violence and Harassment Convention, 2019 at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C190](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190).

<sup>192</sup> Ibid.

<sup>193</sup> See ILO “Violence and harassment in the world of work” at <https://www.ilo.org/global/topics/violence-harassment/lang--en/index.htm>, accessed 21<sup>st</sup> May 2022.

<sup>194</sup> Ibid.

<sup>195</sup> See C190 - Violence and Harassment Convention, 2019 (No. 190) at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C190](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190).

<sup>196</sup> Article 2(1) of ILO Violence and Harassment Convention, 2019 (No. 190).

<sup>197</sup> Ibid, Article 2(2).

<sup>198</sup> Article 7 of ILO C190.

<sup>199</sup> Ibid, Article 9.

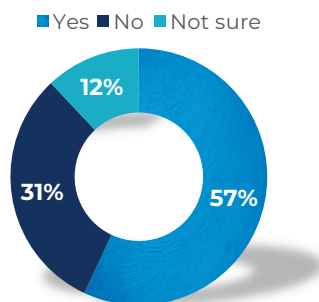


measures to ratify and later domesticate this convention, which entered into force in June 2021.

### 3.7.2. Reported Incidents of Workplace Violence

#### **Awareness of workplace violence prohibition laws among employers**

Employers targeted by LHRC's survey on business and human rights were asked about their awareness of laws prohibiting workplace violence, a question that was not asked in the previous survey. Just over half (57%) of the respondents said they were aware of laws prohibiting workplace violence. Nearly a third of employers (31%) indicated they were not aware of such laws, while the remaining 12% were unsure, as shown in Figure 3.17 below.



**Figure 3.17: %Responses about awareness of laws prohibiting workplace violence among employers (N=166)**

Source: Field data, 2024

However, some of the employers could not mention specific laws, labour or otherwise, that prohibit workplace violence, while others who are more informed about labour laws mentioned the Employment and Labour Relations Act of 2004 and the Constitution of the United Republic of Tanzania of 1977.

The employers were also asked what measures they had put in place to protect workers from all forms of violence at workplaces. The majority mentioned the establishment of reporting mechanisms, the adoption and implementation of anti-violence policies, increased supervision, and the provision of training and seminars as key measures.

#### **Forms of workplace violence and reported incidents**

Workers at the surveyed workplaces were asked about the forms and acts of violence that are common at their workplaces. Threats, intimidation and bullying were mentioned as the most common acts of workplace violence, at 52%, followed by other forms of violence (22%), sexual harassment (15%), and physical violence (10%).<sup>200</sup> The other acts of violence (22%) that were reportedly being perpetrated at workplaces included sextortion and intimate image abuse. Workers demanding their labour rights and advocating for the rights of others were said to be mostly

<sup>200</sup> Field data, 2024.



subjected to threats and intimidation. As discussed above, some workers face threats when they demand employment contracts or wages, and request to join trade unions.

The survey suggests that male workers are usually subjected to physical and psychological violence by their supervisors, including slapping, kicking, threats, verbal abuse, and humiliation. This was found to be the majority of workplaces in nearly all surveyed regions, especially those occupying lower positions. They lamented being subjected to such violence by their immediate supervisors. For instance, some of the workers at *Egystern Security Services* and *Dangote Cement PLC* accused their supervisors of verbally abusing and humiliating them.<sup>201</sup>

*'It has become a norm to be verbally abused at our workplace, even when one makes an innocent mistake.'*

WDL male worker – Shinyanga

*'There is a fellow worker, a security guard, who was slapped several times by the boss after his Indian supervisor had found him sleeping, took a picture, and sent it to the boss.'*

A worker at Egystern Security Services – Mtwara

Female workers are often subjected to sexual violence, including unwarranted touching of buttocks and breasts, unwanted sexual advances, and sextortion. In some of the surveyed regions, male human resources officers or managers were accused of demanding sexual favours from female casual and other workers in exchange for job security. In the hospitality sector, hotel and bar owners in some of the regions were accused of forcing their female workers to sleep with customers (sex trafficking). In Dodoma, this allegation was levelled against the manager of *NAM Hotel* and confirmed by an officer from CHODAWU, a trade union, who said they had received many complaints of sexual harassment and sextortion against the manager.

*'The workers at NAM, especially female attendants, are subjected to sexual abuse and exploitation by the manager, who compels them to sleep with customers in exchange for money that he takes.'*

NAM Hotel worker – Dodoma

<sup>201</sup> Human Rights and Business Survey 2024: Mtwara Field Report.



In extreme cases, female workers are forced or intimidated into sleeping with their bosses or supervisors and sometimes become pregnant as a result. This issue is particularly prevalent in small and medium-sized companies and industries. Female workers with short-term contracts or working on a casual basis are the most vulnerable to various forms of sexual abuse and often endure these acts for fear of losing their jobs. Other female workers in Pwani and Dar es Salaam claimed being forced to engage in unprotected sex with their supervisors and being sodomized.

### 3.8. Compensation for Injury Sustained at Work

States parties should ensure that workers suffering from an accident or disease, and where relevant, their dependants, receive adequate compensation, including for costs of treatment, loss of earnings and other costs, as well as access to rehabilitation services.<sup>202</sup> This is in line with various international standards, including the ILO Workmen's Compensation (Accidents) Convention, 1925 (No. 17), which has been ratified by Tanzania,<sup>203</sup> and other relevant ILO conventions.<sup>204</sup> The right to compensation in case of injury also forms part of social protection, thus covered under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides for the right to social security.

Domestically, there is the Workers' Compensation Act,<sup>205</sup> which provides for the **right to compensation for occupational injury** (resulting in disablement or death)<sup>206</sup> and the **right to compensation for occupational diseases**.<sup>207</sup> It also establishes the Workers Compensation Fund<sup>208</sup> and creates **an obligation for an employer to contribute** to it.

#### 3.8.1. Awareness of Compensation Laws and Regulations

Workers were asked about their awareness of compensation laws and regulations in case of workplace injury. Nearly a quarter of the respondents (23%) said they were aware of such laws and regulations,<sup>209</sup> while over two-thirds (70%) said they were not, and the remaining 7% were not sure.

<sup>202</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 23 of 2016.

<sup>203</sup> Article 1 of the Convention states that "Each Member of the International Labour Organisation which ratifies this Convention undertakes to ensure that workmen who suffer personal injury due to an industrial accident, or their dependants, shall be compensated on terms at least equal to those provided by this Convention."

<sup>204</sup> Other ILO compensation conventions include the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) and the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19).

<sup>205</sup> CAP 263, R.E. 2015.

<sup>206</sup> Section 19(1) of the Workers' Compensation Act.

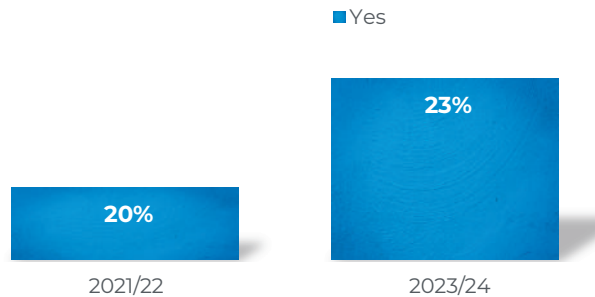
<sup>207</sup> Ibid, Section 22(1).

<sup>208</sup> Ibid, Section 5(1).

<sup>209</sup> Number of respondents =993



This constitutes a slight increase in comparison with the previous (2022) survey, in which 20% of the respondents said they were aware of such laws and regulations, while 75% claimed they were not aware.



**Figure 3.18: %Responses on awareness of laws and regulations governing compensation following injury at work**

Source: Field data, 2024

As shown in Figure 3.18 above, lack of awareness of relevant laws and regulations governing compensation following an injury in the workplace is still a big challenge among workers in the business sector. The data suggests that only 2 out of 10 workers felt that they were well informed about the laws and regulations. This implies that most employers do not make efforts to ensure their workers are aware of compensation procedures in case of workplace injury, perhaps doing so deliberately so that they do not have to incur much or any expenses when accidents do occur. Deliberate efforts are therefore needed to increase workers' awareness of workplace injury compensation and applicable laws. Trade unions, the media, and NGOs should help in this regard.

### 3.8.2. State of Occupational Injury and Disease Compensation

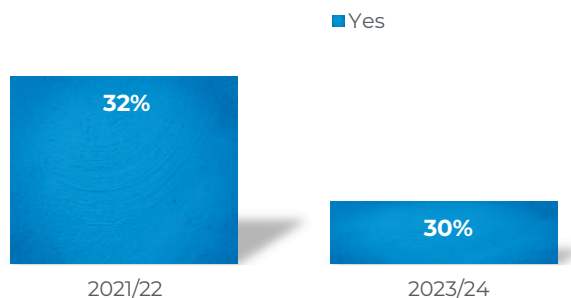
#### **Compensation arrangements and payment of compensation**

Workers who participated in the survey were also asked whether there were arrangements in place at their workplaces to compensate workers for occupational injuries and diseases. Only 30% of the respondents said they were sure of the existence of such arrangements at their workplaces,<sup>210</sup> slightly decreasing from 32% in the previous survey. Others said there were no such arrangements (31%) and were unsure (39%).

<sup>210</sup> Number of respondents =993







**Figure 3.19: %Responses on compensation arrangement for injury sustained at work**

Source: Field data, 2024

Although the majority of workers indicated they were aware of compensation arrangements at their workplaces for injuries or occupational diseases, the data suggests that some employers do not comply with workplace injury compensation labour standards. As shown in Figure 3.19, only 3 out of 10 workers are likely to seek compensation if they sustain an injury at work.

In some of the surveyed regions workers alleged that their employers had not submitted some or all of their WCF contributions, while others claimed employers only submit such contributions for some of the workers as a strategy to reduce expenses, as revealed in Mtwara Region.<sup>211</sup> Similar observations were made upon reviewing LHRC's labour-related legal aid data. Casual workers are usually considered the least for WCF contributions and less likely to get any form of compensation compared to other workers.

Another key challenge identified by the survey is that some employers do not register with the WCF and therefore do not contribute to it. This issue was highlighted by some of the interviewed WCF officials, including in Morogoro.<sup>212</sup> As a result, their workers cannot be compensated by the Fund.

The survey further found that some of the victims of occupational injury and disease fail to get compensation for failure to file claims with WCF within the prescribed time, which is 12 months.<sup>213</sup> Indeed, this happened to one of the workers of a *Dangote Cement PLC* subcontractor in Mtwara.<sup>214</sup> This stems from lack of or low awareness of compensation laws and regulations. Others fail to fulfill their right to compensation for occupational injury and disease due to limited access to justice, as they face various difficulties or practical obstacles when pursuing compensation claims.<sup>215</sup> During this reporting period, LHRC attended three legal

<sup>211</sup> Interview with TUICO General Secretary in Mtwara.

<sup>212</sup> Human Rights and Business Survey 2024: Morogoro Field Report.

<sup>213</sup> Interviews with the TUICO General Secretary and WCF officer in Mtwara.

<sup>214</sup> Ibid.

<sup>215</sup> Human Rights and Business Survey 2024: Tanga Field Report.



aid clients at the Dar es Salaam-based legal aid clinic who had failed to file WCF claims within the prescribed timeframe.

In Mbeya the TAMICO (trade union) Secretary expressed concern over discrepancy in assessments of disability by hospital doctors and WCF doctors. He pointed out that sometimes a hospital doctor concludes a worker has suffered a permanent disability, while a WCF doctor says it is a partial disability, which affects compensation payment. During the reporting period, LHRC also attended a client who was compensated for partial disability while he had actually suffered a permanent disability.<sup>216</sup>

### **Occupational injury and disease compensation complaints**

10% of the interviewed workers in all surveyed regions said they knew someone who had sustained injury while working or acquired occupational disease but was not compensated by the employer or the Workers Compensation Fund (WCF).<sup>217</sup> Incidents of workplace injury and complaints about compensation were mainly reported in 13 out of 15 surveyed regions (87%). The survey teams documented a total of 15 incidents of occupational injury and disease, whereby 7 victims (47%) were reportedly compensated and the remaining 8 (53%) were allegedly not compensated. These incidents were reported in Pwani, Dodoma, Singida, Mara, Mbeya, Kilimanjaro, Arusha, Tanga, and Mtwara Regions. For instance, in Pwani a driver, who preferred anonymity, said his colleague had sustained an injury while working but the employer did not give him any form of compensation, including for medical expenses.<sup>218</sup> The survey team in the region also met with a man who claimed to be an employee of *Goldsun Mattress Limited* and sustained an occupational injury but has been struggling to get compensation.

#### **Occupational injury compensation claim: The case of Meshack Alfred**

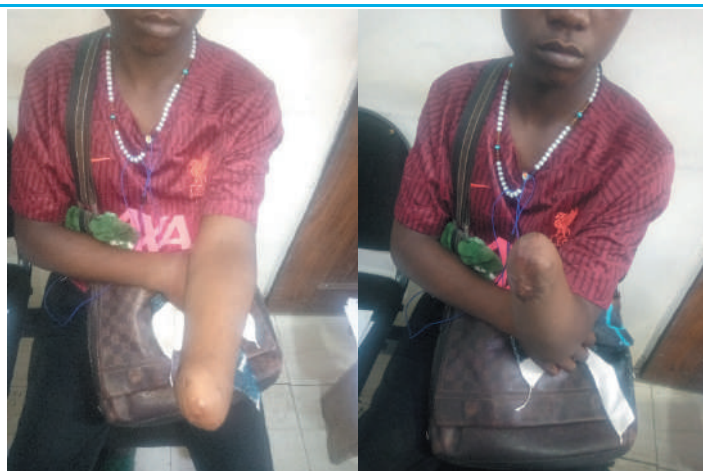
The survey team in Pwani met with a man called Meshack Alfred, who claimed to be an employee of *Goldsun Mattress Limited* in Mkuranga District. He said that he had been employed by the company in January 2023 and his contract was to end in April 2024. While at work, on 12<sup>th</sup> October 2023, he allegedly sustained a machine crush injury, which claimed his hand, after getting stuck in a machine. He was immediately given first aid and rushed to the local hospital (Mkwalia Centre) by his co-workers and a good samaritan and later taken to the Muhimbili National Hospital via an ambulance. He further stated that his employer covered medical expenses for operation, x-rays, and other tests totalling Tshs. 1,500,000 but has been adamant to provide compensation.

<sup>216</sup> LHRC Kinondoni Legal Aid Clinic Dat, 2023.

<sup>217</sup> Number of respondents =993.

<sup>218</sup> Interview with a bus driver in Kibaha, Pwani.





**Picture 3.18: Meshack Alferd with a missing hand after sustaining an occupational injury**

Source: Field data, 2024

According to Meshack, officers from the Workers' Compensation Fund (WCF), Occupational Safety and Health Administration (OSHA), and the company's HR manager had assured him of getting compensation, but his employer tricked him into signing a WCF notification form which claims he sustained the injury and resulting disability due to negligence. Consequently, WCF said they could not pay him compensation because of the form he signed. He told the survey team that at the time of signing the form he neither understood the details nor the language, which is English Language. He added that until then had been unable to return to work, although the Human Resources Manager advised him to go back and explore alternative tasks. In the meantime, he claimed he was still being treated at Muhimbili and had a medical debt.

In Singida, occupational disease compensation complaints were levelled against *Home of Afrika Company Limited (HAICO)* by one of the workers at the company. In Iringa, the Ward Executive Officer (WEO) of Wambi Ward in Mufindi District told the survey team that his office regularly received complaints of occupational injuries and denial of compensation or delayed compensation levelled against Chinese-owned industries.

### **Occupational injury and disease victims who were reportedly compensated**

On the other hand, survey teams met with some victims of occupational injury who claimed they were compensated. For instance, in Mbeya, a worker at *Xepa Resources Ltd* in Chunya District said he sustained occupational injury and received compensation from WCF. Similar statements were made by a worker at *Bondeni Flowers Machame Limited* in Kilimanjaro and another one at *UCC* in Mtwara, both of whom sustained occupational injuries. In Arusha, the Human Resources Manager at *Garda World Security* also narrated an incident involving the company security guard who was attacked and injured by robbers while at



work. The manager noted that the company covered all medical expenses and ensured he got compensation in collaboration with the WCF.



**Picture 3.19: Workers at Bondeni Flowers Machame Limited and UCC who claimed they received compensation following workplace injury**

Source: Field data, 2024

*'The company stood with us and covered the medical expenses, while continuing to pay the salaries. They even provided transport and a doctor to accompany us when we got a transfer to the Muhimbili National Hospital. After completing medical treatment I went to WCF, filled a form, and later received a total of Tshs. 4.8 million as compensation for the occupational injury. The family of my co-worker who passed away was also compensated and the company is covering educational costs for the children until they reach 18 years.'*

UCC employee – Mtwara

Some of the interviewed workers said it takes too long for the victims to get compensated, while others complained about the inadequacy of the compensation. In Dodoma, a female worker found at CHODAWU trade union office said she had finally received after sustaining an occupational injury a long time ago, but it was because of the trade union's intervention. In Kilimanjaro, a worker at *Bondeni Flowers Machame Limited* also said he was compensated following a workplace injury, but it took a long time. In Tanga, an employee at *Progress 2013 Limited* acknowledged that he received compensation in January 2024 following an occupational injury, but complained about the time it took to get the compensation, considering the incident occurred 2021, and felt the compensation was not fair.





### 3.9. Freedom of Association, Collective Bargaining and Right to Strike

Freedom of association is a fundamental human right, provided for under various regional and international human rights instruments<sup>219</sup> and several ILO labour conventions.<sup>220</sup> It **includes right to form and join trade unions for the protection of one's interests** and provides a platform for enjoyment of another fundamental labour right, the right to collective bargaining.<sup>221</sup> ILO defines collective bargaining as **'a voluntary process through which employers and workers discuss and negotiate their relations, in particular terms and conditions of work'** and recognizes it as an essential part of freedom of association.<sup>222</sup> Closely associated with freedom of association and collective bargaining is the **right to strike**.

Domestically, this right is incorporated in the Employment and Labour Relations Act (ELRA), providing for the right of workers to form or join trade unions and employers to form or join employers' association.<sup>223</sup> Section 68 of ELRA imposes a duty upon an employer or his association to bargain in good faith. ELRA also recognizes the right of employees to strike under Section 75.

Regarding freedom of association, collective bargaining, and right to strike, the survey found that these rights generally continued to be restricted by most employers in the surveyed regions.

#### 3.9.1. Trade Union Membership at Surveyed Workplaces

As part of realization of freedom of association, Tanzania has allowed establishment of various trade unions to accommodate and serve workers from different sectors and industries. These unions are essential for realization of workers' freedom of association at workplaces. Registered trade unions in Tanzania include: the Tanzania Union of Industrial and Commercial Workers Union (TUICO); Tanzania Plantation and Agriculture Workers Union (TPAWU); Communication and Transport Workers Union of Tanzania (COTWUT); Tanzania Media Workers Union (TMWU); Tanzania Mines, Energy, Construction and Allied Workers Union (TAMICO); Tanzania Road Transport Workers Union (TARWOTU); Conservation, Hotels, Domestic, Social Services and Consultancy Workers Union (CHODAWU); National Union of Mine and Energy Workers (NUMET); and Tanzania Union of Private Security Employees (TUPSE).

<sup>219</sup> Including the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICCPR) and the African Charter on Human and Peoples' Right (ACHPR).

<sup>220</sup> including the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the Collective Bargaining Convention, 1981 (No. 154).

<sup>221</sup> Protected under several ILO labour conventions, including the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the Collective Bargaining Convention, 1981 (No. 154).

<sup>222</sup> See ILO, *Right to collective bargaining* at [http://www.ilo.org/empent/areas/business-helpdesk/WCMS\\_DOC\\_ENT\\_HLP\\_CB\\_EN/lang-en/index.htm](http://www.ilo.org/empent/areas/business-helpdesk/WCMS_DOC_ENT_HLP_CB_EN/lang-en/index.htm), accessed 20<sup>th</sup> May 2022.

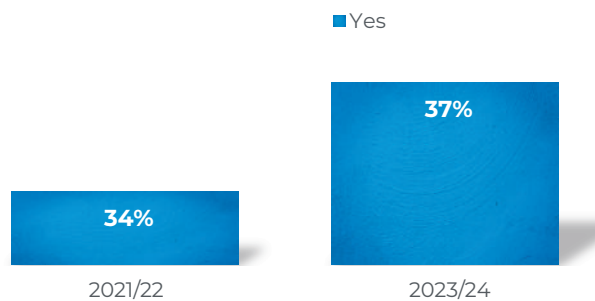
<sup>223</sup> Sections 9(1) & 10(1) of ELRA.





### Trade union membership still a challenge at many workplaces

Workers engaged during the survey were asked about trade unions at their workplaces, whereby only just over a third (37%) said there was a trade union representation at their workplaces, while 36% said there was no such representation.<sup>224</sup> About a quarter of the workers (27%) said they were not sure about trade union representation at their respective workplaces. In comparison with the 2022 survey, the percentage of workers who claimed existence of trade union at their workplaces increased by 3%.



**Figure 3.20: %Workers claiming existence of trade union at workplaces**

Source: Field data, 2024

Employers were also asked about existence of trade unions at the 166 workplaces that were visited, whereby just over a third (39%) said they hosted trade unions, while the remaining 61%, which is nearly two thirds, said there was no trade union representation at their workplaces. This means only 4 out of 10 workplaces in the business sector have allowed or facilitated workers to join trade unions. In the previous survey, 6 out of 10 employers claimed that trade unions had representation at their workplaces.

Workers at the workplaces where trade union was non-existent were also asked why they had not joined trade unions. The majority of them said their employers had discouraged or prohibited them from joining,<sup>225</sup> while others expressed concerns over effectiveness of trade unions, feeling that they would not be of much help to them.<sup>226</sup> Other reasons that they mentioned included lack of awareness of work and importance of trade unions,<sup>227</sup> and concerns of monthly trade union contributions.<sup>228</sup> At *Joshi Co. Ltd*, some of the interviewed workers said they did not see the point of joining trade union since they never had any dispute with their employer. At *Blue coast Investment Limited* in Tanga, a worker said he could not withstand any more deductions, including trade union monthly contributions, on

<sup>224</sup> N=993.

<sup>225</sup> Human Rights and Business Survey 2024: Mara Field Report.

<sup>226</sup> Human Rights and Business Survey 2024: Mtwara Field Report.

<sup>227</sup> Human Rights and Business Survey 2024: Mwanza, Geita, Tanga, & Shinyanga Field Reports.

<sup>228</sup> Human Rights and Business Survey 2024: Kilimanjaro & Tanga Field Reports.



top of NSSF, PAYE, and WCF deductions. In Mtwara, fear of non-renewal of contract was mentioned as a contributing factor.

*'I don't see the point of being a member of a trade union because despite making the contributions, the trade union failed to help me when I got suspended from work.'*

Former employee at *Mkwawa Drinkina Water* – Iringa

Trade union officials also confirmed the tendency of some employers discouraging workers from joining trade unions. For instance, in the Lake Zone Regions of Mwanza, Geita, and Shinyanga some officials from NUMET and workers accused some employers of persuading workers not to join the trade union and not cooperating with the union.<sup>229</sup> In Mbeya, TUICO and CHODAWU officials accused most employers of being anti-trade union and said they were afraid of workers becoming more aware of their rights when they become members.

Employers attributed the lack of trade union membership to several factors, including a lack of awareness about the benefits of trade unions and workers' perceived lack of readiness to join. Some of the employers claimed they had not allowed trade unions because their companies were still relatively new and hence still growing, some said they were in the process of establishing union, while others said there was no need because most of the workers were close relatives. At *Trianon Investment Company* in Tanga, a manager said trade unions had never engaged them to persuade workers to join them.

*'The trade unions exist, and some officers visit our workplaces to encourage workers to join. However, some of them join then later withdraw their memberships due to the monthly contributions deducted from their salaries. Only two workers have remained with TUICO, whom we have also signed a collective bargaining agreement (CBA) with.'*

HR Manager at *Shambani Milk Company* – Morogoro

### 3.9.2. Violation of Employees' Freedom to Join Trade Unions by Employers

Domestic and international laws recognize and guarantee the right of everyone to form or join trade union.<sup>230</sup> Interference with this right is only allowed in line with restrictions imposed by international standards. However, LHRC has observed over the years that for the most part there has been no justification for interference with this fundamental right.

<sup>229</sup> Interviews with NUMET officials and some workers in Shinyanga, Geita & Mwanza.

<sup>230</sup> See Article 20 of the Constitution of the United Republic of Tanzania, 1977; Article 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).



As was the case in the 2022 survey, reports of employers discouraging or prohibiting their workers from joining trade unions were widespread in most of the surveyed regions. Some of the workers in regions such as Mara, Shinyanga, Mwanza, Geita, Pwani, Dodoma, Iringa, Mbeya, Kilimanjaro, and Mtwara, told the survey teams that their employers had discouraged and sometimes even threatened them when they wanted to join trade unions. For instance, some of the interviewed workers said they or their co-workers had been threatened with non-renewal of contract if they join trade unions. In Geita, most of the accusations of violation of workers' freedom to join trade union were directed to subcontractors of *Geita Gold Mine (GGM)*.<sup>231</sup> In Iringa, it was reported that most of the workers at Chinese-owned industries were not free to join trade union.<sup>232</sup> In Kilimanjaro, some of the workers said being an active trade union member increases the risk of dismissal.

In regions such as Mwanza and Shinyanga, trade union officials including from NUMET, said some employers were blocking their access to workplaces for purposes of recruiting new members.<sup>233</sup> Similar remarks were made by trade unions from TUCTA, TPAWU, and TUICO in Dar es Salaam.<sup>234</sup> TUICO reported that they have recently, in 2024, filed a case against *AML Finance Ltd* for refusing them access to workers.<sup>235</sup>

### 3.9.3. Effectiveness of Trade Unions

#### **Trade unions still largely perceived ineffective**

A large percentage of workers still perceive trade unions to be ineffective. Like in the 2022 survey, over half of workers (58%) suggested that trade unions were ineffective. Only 14% of the workers felt they trade unions were effective, while just over a quarter (28%) perceived them to be somewhat effective. In the 2022 survey, over three quarters of respondents (78%) claimed that the trade unions at their workplaces were ineffective and very ineffective.

<sup>231</sup> Interview with NUMET Lake Zone Secretary.

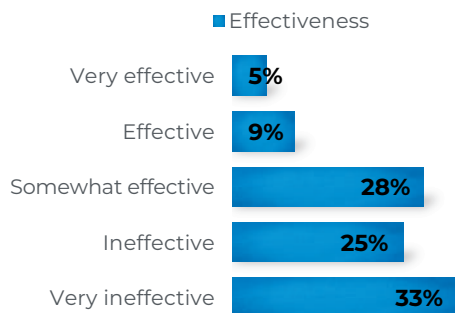
<sup>232</sup> Interview with the Ward Executive Officer (WEO) of Wambi Ward in Mafinga District.

<sup>233</sup> Interview with a NUMET official in Mwanza.

<sup>234</sup> Interviews with TUCTA, TPAWU, and TUICO trade union leaders in Dar es Salaam.

<sup>235</sup> Interview with a TUICO trade union leader in Dar es Salaam.

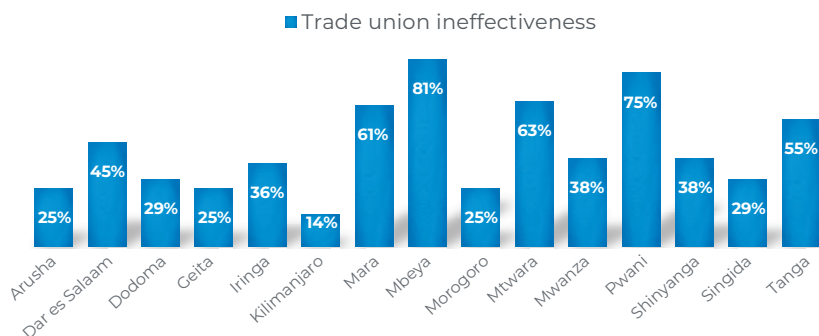




**Figure 3.21: %Responses on effectiveness of trade unions (N=395)**

Source: Field data, 2024

Further analysis of field data showed that percentages of perceptions of trade unions being ineffective were highest in Mbeya (81%), Pwani (75%), Mara (61%), and Tanga (55%). In all other 11 surveyed regions, the percentages were below 50, including in Kilimanjaro Region, which recorded the lowest percentage, 14%.



**Figure 3.22: %Responses on workers' perceptions on effectiveness of trade unions**

Source: Field data, 2024

### Reasons for perceived ineffectiveness

Qualitative findings revealed several reasons for perceiving trade unions to be ineffective. One of the reasons is trade union leaders being perceived to side with employers. For instance, in Shinyanga an employee alleged that TPAWU officials tend to side with employers as he had never heard of any worker with a problem at work who was successfully assisted by the trade union.<sup>236</sup> A similar claim was made by a Ward Executive Officer (WEO) in Iringa. In Tanga, TPAWU was accused of not providing regular feedback by a worker at *East Usambara Tea Company Limited*. A similar accusation was made against TUICO in Mbeya by a worker at *ALAF Limited*.

<sup>236</sup> Interview with an employee at Jie Long Holdings.



*'Labour rights are not respected by employers and the trade unions have not done anything to make things better, instead keep demanding the fees.'*

Employee at *Panic System Group* – Mbeya

In Mara, the human resources manager of *China Civil Engineering Construction and Corporation* alleged that some trade union officials were corrupt and doing little to help members. In Morogoro, another factor affecting the work and performance of trade unions was found to be overlapping responsibilities, citing an example of TPAWU and TUICO.<sup>237</sup>

On their part, trade union officials cited several factors that affect their work. One of them is shortage of workers and other resources, which affects their ability to regularly visit workplaces, as revealed by CHODAWU Secretary in Tanga. Another challenge, mentioned by TUICO official in Mwanza, that affects the work of trade unions, is the tendency of members not attending trainings and meetings organized by the unions. Other reasons include intimidation and dismissal of active trade union leaders and activists at workplaces, trade unions being perceived to cause divide at work by employers, and political interference.

### **Trade unions still crucial in promotion and protection of labour rights**

Despite the various challenges faced by trade unions and perceptions of some workers, LHRC has observed that they play a crucial role in safeguarding labour rights, including through raising awareness of such rights, promoting decent work, and facilitating collective bargaining and access to justice. For instance, in Kilimanjaro, it was reported that TPAWU had provided legal assistance to 13 workers who had been unfairly retrenched at *Oasis Young Plants Ltd.*<sup>238</sup> In another incident reported in the region, which involved unfair dismissal, TUICO successfully represented a member at the Commission for Mediation and Arbitration (CMA) and the High Court in Moshi in a case against *Serengeti Breweries Limited*. In Singida, some of the interviewed workers acknowledged that lack of trade union at their workplace had limited their access to justice for labour rights violations, saying *'we have no one to defend us'*.<sup>239</sup>

LHRC has also observed that trade unions such as TUICO, TPAWU, and NUMET have been busy in court in the past two years, defending labour rights as applicants, defendants, and witnesses. For instance, TUICO was referenced in 50 judgements in 2023 alone and 15 times by August 2024.<sup>240</sup> High Court records also

<sup>237</sup> Interview with TPAWU Secretary.

<sup>238</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.

<sup>239</sup> Interview with some of the workers at *HS-IMPEX Company Limited*.

<sup>240</sup> See TANZLII website at [https://tanzlii.org/search/?q=tuico&doc\\_type=Judgment&year=2023](https://tanzlii.org/search/?q=tuico&doc_type=Judgment&year=2023).





show that NUMET has been referenced in the judgements 3 times in 2023 and once so far in 2024, while for TPAWU it is 7 times in 2023 and 3 times so far in 2024.<sup>241</sup>

In 2023, trade unions also continued to conduct various other activities to promote labour rights in Mainland Tanzania, including recruitment of new members, dispute resolution, provision of awareness-raising trainings and seminars, filing labour disputes on behalf of workers with the Commission for Arbitration and Mediation (CMA), and concluding collective bargaining agreements (CBAs) with employers. For instance, TPAWU reportedly increased the number of its members from 48,037 in 2022 to 53,178 in 2023, recruiting 10,027 new members in the process. TPAWU also filed a total of seven (7) disputes with the CMA on behalf of 1,122 workers across Mainland Tanzania within January to December 2023.<sup>242</sup> Additionally, TPAWU succeeded in concluding new CBAs, reaching a total of 180 CBAs in Mbeya (7), Kilimanjaro (19), Mtwara (7), Iringa (48), Lake Zone (4), Tanga (41), Arusha (36), and Morogoro (18) special zones.<sup>243</sup>

In the financial year 2022/2023, TUICO reportedly received and facilitated resolution of 301 labour disputes, helping 209 workers to get remedy in the process, while some of the cases were ongoing before the High Court of Tanzania.<sup>244</sup> The trade union also received and referred to the CMA a total of 134 labour disputes. Additionally, TUCTA and TPAWU have been collaborating to promote gender equality in the labour sector, including by successfully empowering women to hold leadership positions within trade unions and their boards.<sup>245</sup> Further, TUCTA and TPAWU have created an electronic database of members across the country.

In 2023, TPAWU, TUICO, and CHODAWU also collaborated implementing various projects, including a campaign to urge the Government to ratify the ILO Violence and Harassment Convention, 2019 (No. 190).<sup>246</sup> They also collaborated to raise awareness about labour rights among workers, touching on various aspects of labour laws.

### **Challenges faced by trade unions**

TUCTA, TUICO, and TPAWU trade unions revealed several challenges that they face in their quest to promote and protect labour rights. One of the key challenges is time to conduct seminars with members, whereby they seminars are often scheduled by employers in the evening, when the workers are tired and thinking of getting home. Another challenge is reluctance of some workers to join them due to monthly contributions of 2% (about Tshs. 1,000), deducted from their wages. The trade union officials interviewed in Dar es Salaam also acknowledged having a

<sup>241</sup> Ibid.

<sup>242</sup> TPAWU, TAARIFA YA KAZI JANUARI HADI DESEMBER 2023.

<sup>243</sup> Ibid.

<sup>244</sup> Interviews with TPAWU and TUICO leaders in Dar es Salaam.

<sup>245</sup> Ibid.

<sup>246</sup> Ibid.



problem of inadequate cooperation with each other and ‘stealing’ members from each other, a situation which affects their ability to effectively perform their functions, including concluding CBAs. They also mentioned difficulties protecting labour rights of workers in public institutions and enterprises, due to poor cooperation. As discussed above, some employers also deny trade unions access to their workers and others discourage workers from joining, which affects the recruitment process and membership.

#### 3.9.4. Collective Bargaining

According to the ILO, the right of workers to bargain freely with employers is an essential element in freedom of association.<sup>247</sup> It defines collective bargaining as ‘**a voluntary process through which employers and workers discuss and negotiate their relations, in particular terms and conditions of work**’ and recognizes it as an essential part of freedom of association. The Employment and Labour Relations Act, 2004 [CAP. 366 R.E. 2019] allows **trade unions to bargain collectively with employers or employers’ association**. The goal is to protect workers’ rights by ensuring the terms and conditions of work are fair.

In practice, realization of workers’ rights is largely backed by collective bargaining, lack of which leaves them vulnerable to mistreatment by employers as they lack the backing of trade unions in negotiating fairer terms and conditions of work. The situation is compounded when employers deny them their right to form and join trade unions, as highlighted above. One of the areas where workers suffer the most in the absence of collective bargaining is in wages.

#### **Collective bargaining agreements at workplaces**

A collective bargaining agreement (CBA) is simply defined as a written legal contract or agreement between an employer or registered employers’ association and a registered trade union representing the employees, which serves to improve employment and labour matters set under labour laws and employment contracts.<sup>248</sup> Such an agreement is a product of extensive negotiations between these parties on any labour matter.<sup>249</sup> Topics that can be covered in the agreement include wages, hours, terms and conditions of employment, allowances, training, and health issues or benefits. However, before concluding a CBA with employers or their associations, a trade union must first acquire a majority of the employees.<sup>250</sup>

As discussed above, trade union representation was said to exist at only 39% of the surveyed workplaces, which is about 4 out of 10 workplaces. However, not all employers who had allowed trade union membership had concluded CBAs with

<sup>247</sup> See ILO, *Right to collective bargaining* at [http://www.ilo.org/empent/areas/business-helpdesk/WCMS\\_DOC\\_ENT\\_HLP\\_CB\\_EN/lang-en/index.htm](http://www.ilo.org/empent/areas/business-helpdesk/WCMS_DOC_ENT_HLP_CB_EN/lang-en/index.htm), accessed 20<sup>th</sup> May 2022.

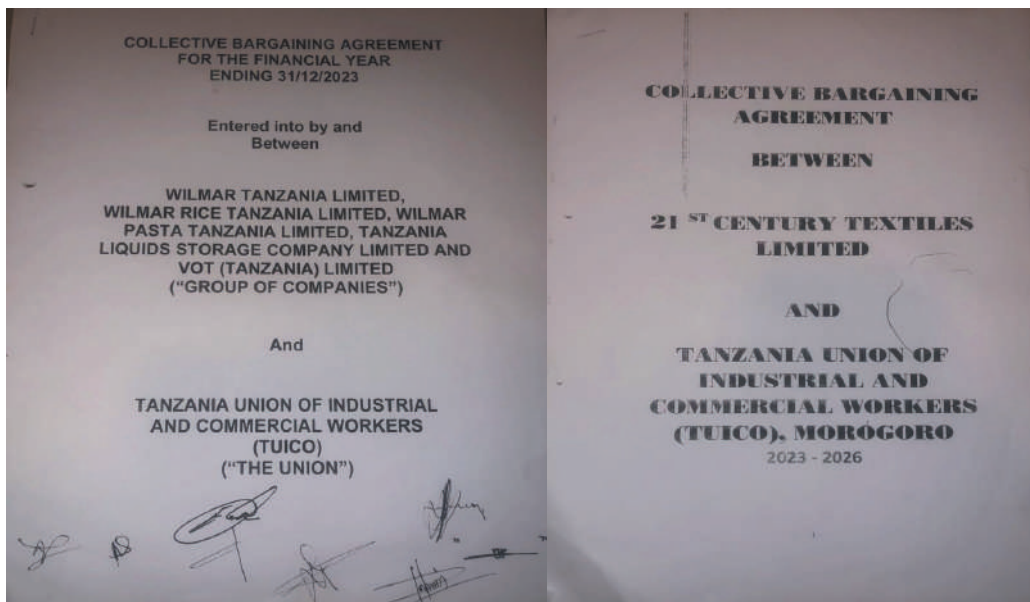
<sup>248</sup> See Africaorg.pay/Tanzania, *Collective Bargaining Agreements*, at <https://africapay.org/tanzania/labour-law/employment-security/collective-bargaining-agreements#:~:text=Collective%20Bargaining%20Agreements%20are%20written,employees%20or%20an%20individual%20employee.>, accessed 8<sup>th</sup> August 2022.

<sup>249</sup> Section 68 of the Employment and Labour Relations Act, 2004.

<sup>250</sup> Africaorg.pay/Tanzania, *Collective Bargaining Agreements (supra)*.



trade unions. Like in the 2022 survey, only a few employers shared copies of the agreements when asked to, especially in Morogoro, Iringa, and Mbeya. Therefore, the survey generally suggests that few companies have collective bargaining agreements (CBAs) with trade unions. The majority of the CBAs were between the employers and TUICO, as was the case in the 2022 survey.



**Picture 3.20: Copies of CBAs between Wilmar Tanzania Limited and TUICO and 21<sup>st</sup> Century Textiles Limited and TUICO in Morogoro**

Source: Field data, 2024

In Iringa, some of the workers at *East Africa Born Wood Industry*, *PCT Company* and *AK Industry* revealed during interviews that they had joined TUICO, and it benefitted from collective bargaining.<sup>251</sup> TAMICO Secretary in the region said, through collective bargaining, the trade union had helped some construction sector workers get better salaries.

*'We have concluded collective bargaining agreements (CBAs) with companies and successfully advocated for increasing the minimum wage for construction workers from Tshs. 150,000 to Tshs. 421,000 per month.'*

TAMICO Secretary – Mbeya

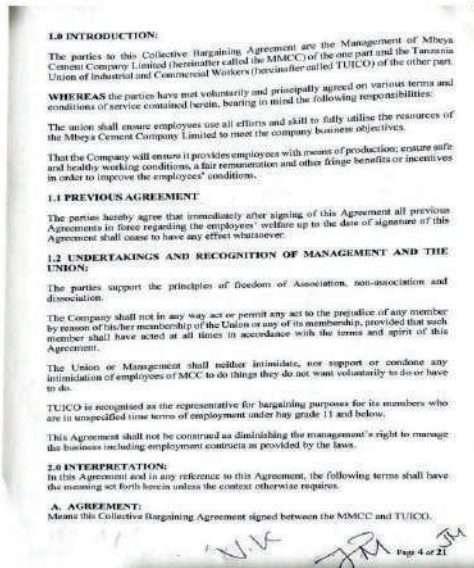
In Mbeya, it was reported that existence of two or more trade unions at a single workplace presented problems when it comes to concluding CBAs.<sup>252</sup> This is because a CBA can only be attained if more than half of the workers at a workplace

<sup>251</sup> Human Rights and Business Survey 2024: Iringa Field Report.

<sup>252</sup> Interview with TUICO Deputy Secretary for Mbeya and Songwe.



are members of a particular trade union. This creates a situation whereby two or more trade unions compete for members, and none can conclude a CBA.



**Picture 3.21: Extract of a copy of CBA between Mbeya Cement Company Limited and TUICO in Mbeya**

Source: Field data, 2024

### 3.9.5. Right to Strike

Right to strike is essential for protection of freedom of association and promoting and protecting workers' interests.<sup>253</sup> This right is recognized under Section 75 of the Employment and Labour Relations Act [CAP. 366 R.E. 2019], subject to various conditions, including arbitration, conciliation, 30-day mediation period, and workers providing essential services. Strikers are also prohibited or preventing employers from entering premises or locking them inside, and employers should not hire replacements during a lawful strike.

LHRC has observed that right to strike is one of the most violated labour rights in Tanzania and most workers are afraid to exercise this right. For instance, some of the workers in Dar es Salaam indicated that they were less likely to strike for fear of losing their jobs.<sup>254</sup> Incidents of strike therefore rarely occur and are rarely reported. However, in 2023, LHRC documented one incident of strike involving migrant workers, reported in Dar es Salaam. It was reported that 2,000 Turkish workers employed by the Turkish construction company *Yapı Merkezi* engaged by

<sup>253</sup> United Nations Office of the High Commissioner for Human Rights, *UN rights expert: "Fundamental right to strike must be preserved"* at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21328&LangID=E>, accessed 20<sup>th</sup> May 2018; "Right to Strike upheld at ILO" at <http://www.industrial-union.org/right-to-strike-upheld-at-ilo>, accessed 20<sup>th</sup> May 2022.

<sup>254</sup> Human Rights and Business Survey 2024: Iringa Field Report.





Tanzania to construct the Standard Gauge Railway went on strike in August 2023.<sup>255</sup> The migrant workers began their strike on 5<sup>th</sup> August 2023, demanding that they would continue to do so until their voices are heard, and the company pays their seven-month wages. They lamented living a difficult life and not being able to support their families.<sup>256</sup> The African Regional Organisation of the International Trade Union Confederation (ITUC-AFRICA) issued a statement expressing 'deep concern over the challenging conditions these workers have been enduring, including the non-payment of wages for seven months, which compelled them to strike.'<sup>257</sup> It called for meaningful dialogue with the workers to address the pressing issue.

### 3.10. Child and Forced Labour

Child labour and forced labour are universally condemned and prohibited as violations of human rights. Regional and international human rights and labour instruments prohibit child and forced labour. These include the Forced Labour Convention, 1930 (No. 29), Abolition of Forced Labour Convention, 1957 (No. 105), Worst Forms of Child Labour Convention, 1999 (No. 182) and Minimum Age Convention, 1973 (No. 138).

Domestically, labour standards on child and forced labour are provided under the Employment and Labour Relations Act [CAP. 366 R.E. 2019] (ELRA) and the Law of the Child Act [CAP 13, R.E 2019]. These Acts prohibit employment of a child under the age of 14 years, providing an exception of light work for a 14-year-old and above, provided it is not harmful to their health and development or does not hinder school or training attendance.<sup>258</sup> A person under 18 years of age is also not allowed to be employed in a mine, factory or any other worksite in conditions the **minister responsible for labour considers hazardous**.<sup>259</sup> Forced labour is prohibited and amounts to an offence under the ELRA.<sup>260</sup> It includes bonded labour or any work exacted from a person under the threat of a penalty and to which that person has not consented.<sup>261</sup>

<sup>255</sup> See "Workers Constructing SGR Are Striking Over Delayed Pay: 'Enough Is Enough'" The Chanzo Initiative, 12 Aug 2023, at <https://thechanzo.com/2023/08/12/workers-constructing-sgr-are-striking-over-delayed-pay-enough-is-enough/>; "Wafanyakazi wa kampuni ya Yapi Merkezi kwenye ujenzi wa SGR wagoma kufanya kazi kutokana na Madai ya kutokulipwa kwa miezi 7" Jamii Forums, 12 Aug 2023, at <https://www.jamiiforums.com/threads/wafanyakazi-wa-kampuni-ya-yapi-merkezi-kwenye-ujenzi-wa-sgr-wagoma-kufanya-kazi-kutokana-na-madai-ya-kutokulipwa-kwa-miezi-7.2127996/>.

<sup>256</sup> Ibid.

<sup>257</sup> ITUC-Africa Statement on the Plight of Turkish Construction Workers on Strike in Tanzania, at <https://ituc-africa.org/ITUC-Africa-Statement-on-the-Plight-of-Turkish-Construction-Workers-on-Strike.html>.

<sup>258</sup> Section 5(1) & (2) of ELRA and Section 12 and Part VIII of the Law of the Child Act [CAP 13, R.E 2019].

<sup>259</sup> Ibid, Section 5(3) and Section 82(1,2 & 3) of the Law of the Child Act [CAP 13, R.E 2019].

<sup>260</sup> Ibid, Sections 6(1) and 80(1).

<sup>261</sup> Ibid Sections 6(2) and 80(2).





### 3.10.1. Child Labour

Child labour denies a child their fundamental human rights, including right to education and freedom from all forms of violence. It also hinders children's development.<sup>262</sup> According to the Food and Agriculture Organization of the United Nations (FAO), child labour refers to "work that is inappropriate for a child's age, affects children's education, or is likely to harm their health, safety or morals."<sup>263</sup> Child labour is said to be exploitative labour as a child is used as cheap labour, paid less than the labour provided (unequal payment) and exposed to various hazards.<sup>264</sup> Child labour may lead to impairment of a child's physical, mental, moral, spiritual and social development.<sup>265</sup>

In Tanzania, children are allowed to work, but under certain conditions. One of the conditions is not doing hazardous work. The first schedule of the Employment and Labour Relations (General) Regulations of 2017 provides a list of work considered hazardous for children.<sup>266</sup> The list includes hazardous works in the sectors such as agriculture, fishery, mining, construction, service, trade, and transport. Examples include fetching and carrying firewood, portering of heavy loads, feeding farm animals, crushing ore, drilling and blasting, cement mixing, painting, brick making, carpentry, welding, stone crushing, water vending, masonry, cleaning toilets, working in places such as bars, hotels and places of entertainment, and electrical repair. Other conditions for children to work include work not interfering with education; minimum age of employment being 14 years; a child who is in school to work only in excess of three hours per day; one-hour rest after working for three consecutive hours; not working overtime and during night hours; a child of 14 to 16 years not carrying any load weighing more than 15 kilograms; and a child above 16 years not being allowed to carry more than 20 kilograms. If these conditions are not fulfilled, then child labour occurs. Nevertheless, employer must keep register and maintain a register in respect of children employed in his workplace,<sup>267</sup> pay the child wages,<sup>268</sup> and provide written employment contract and a copy of such contract to the child.<sup>269</sup>

<sup>262</sup> ILO, *International Labour Standards on Child labour* at <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/child-labour/lang--en/index.htm>, accessed 21<sup>st</sup> May 2022.

<sup>263</sup> See FAO "Child Labour in Agriculture" at <http://www.fao.org/childlabouragriculture/en/>, accessed 17<sup>th</sup> September 2022.

<sup>264</sup> Law Reform Commission of Tanzania, *Report on Labour Law*, presented to the Minister of Justice and Constitutional Affairs, Ministry of Justice and Constitutional Affairs, 2001.

<sup>265</sup> Ibid.

<sup>266</sup> Employment and Labour Relations (General) Regulations, GN. 47 of 2017 and under section 82(3) of the Law of the Child Act 2009

<sup>267</sup> Ibid, Regulation 8(1) and under section 85(1) of the Law of the Child Act entitled Registration of a child in

Industrial Undertakings

<sup>268</sup> Ibid, Regulation 9 and section 81(1,2) of the Law of the Child Act [CAP 13, R.E 2019].

<sup>269</sup> Ibid, Regulation 10(1).



### Reported incidents of child labour

Incidents of child labour were observed and reported in nearly all surveyed regions, especially in unregistered and small businesses, such as garages and mills. The regions include Pwani, Dar es Salaam, Shinyanga, Geita, Mara, Iringa, Mbeya, Kilimanjaro, and Mtwara. Child labour was found to be common in the sectors of agriculture, mining, and trade. For instance, in Shinyanga some children were observed vending fruits and soft drinks at bus terminals during school hours. In Geita, some children were also employed by some traders to sell food items at bus terminals while others were observed working at bars and restaurants, including during school hours. However, the survey found that child labour had decreased in the region,<sup>270</sup> save in artisanal and small-scale sale mining, where child labour is still a problem, as revealed by the Executive Director of New Light Children Center Organization (NELICO) based in Geita. In Dodoma, child labour was also reported to be a big problem in mining and grape farming.<sup>271</sup>



**Picture 3.22: Some children observed working at a meat joint and selling soft drinks during school hours in Old Shinyanga (left) and Kahama (left) – Shinyanga Region**

Source: Field data, 2024

In Mbeya, it was reported that children were mostly employed in agriculture and mining sectors, working under exploitative conditions and sometimes working during school hours or beyond working hours for children stipulated in the labour regulations.<sup>272</sup> Children were observed and reported working in rice mills, rice plantations or farms (including chasing away birds and plant seeds), marketplaces, and mines, especially in Mbeya City, Mbarali, and Chunya Districts.<sup>273</sup> Poverty and family neglect were mentioned as some of the factors behind some parents

<sup>270</sup> Interviews with LGA officials in Geita.

<sup>271</sup> Interviews with LGA officials in Dodoma.

<sup>272</sup> Human Rights and Business Survey 2024: Mbeya Field Report.

<sup>273</sup> Ibid.



pushing or allowing their children to work to generate family income. However, a trade officer in Mbeya City Council told the survey team that incidents of child labour had somewhat decreased in the city. In Mbarali District, a trade officer said child labour was preferred by some business owners because it is cheap.



**Picture 3.23: Children found crushing stones in Mbeya City (left) and working at a rice mill in Mbarali District (right) – Mbeya Region**

Source: Field data, 2024

Overall, child labour was observed and said to be non-existent in large and medium-sized companies, including in the mining sector. Therefore, more efforts are needed to combat child labour in small and unregistered businesses. Additionally, only 45% of the employers that were interviewed claimed they had in place the minimum age of employment policy,<sup>274</sup> which is important in combating child labour, decreasing from 55% in 2022.

### 3.10.2. Forced Labour

Forced labour contravenes fundamental human rights, including the right to economic development, freedom of movement and right to just and favourable working conditions. The Forced Labour Convention defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."<sup>275</sup> It includes situations where persons are coerced to work through the use of violence or intimidation.<sup>276</sup>

#### **Indicators and incidents of forced labour in surveyed regions**

Workers who participated in the survey were asked about various indicators of forced labour, including being deceived into an exploitative job, threat of losing employment for refusing to perform work not agreed, and restriction of movement. Being deceived into exploitative job was mentioned the most as an indicator of forced labour at workplaces (47%), followed by threat of losing

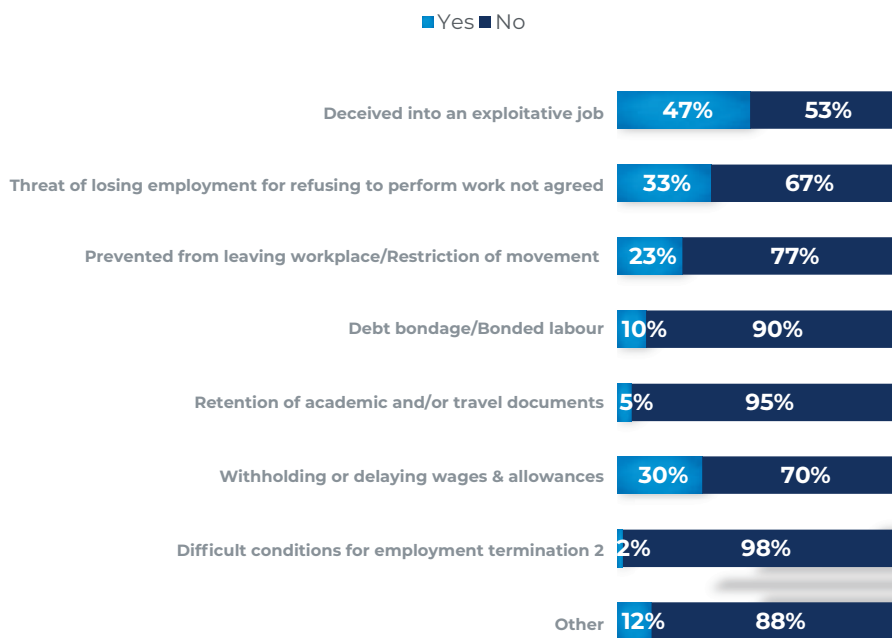
<sup>274</sup> N=166

<sup>275</sup> Article 2 of the Forced Labour Convention, 1930 (No. 29).

<sup>276</sup> See ILO "What is forced labour, modern slavery and human trafficking" at <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>, accessed 24<sup>th</sup> May 2022.



employment for refusing to perform work not agreed (33%), and withholding or delaying wages and allowances (30%), as shown in Figure 3.23 below.



**Figure 3.23: %Responses on workers' perceptions of key forced labour indicators**

Source: Field data, 2024

Other indicators of forced labour that were reported or observed included excessive overtime and physical and sexual violence. For instance, in Dodoma, a manager at *NAM Hotel* was accused by some workers at the hotel and a CHODAWU trade union official of taking money from customers and forcing female workers to sleep with them.<sup>277</sup>

*'The manager is heartless and abusive. He forces us to sleep with customers for his own benefit, and if you refuse, he threatens to ensure you don't get employed anywhere else.'*

Female hotel worker – Dodoma

Some of the workers in all surveyed regions indicated that they were constantly promised increased wages, but the promises were never fulfilled. Other said they were made to go and do some house chores at their supervisors' homes, which is outside their job description. In Iringa, an LGA official said some companies in Mafinga District, including *Yisen International*, were forcing workers to continue working beyond normal working hours and would sometimes even lock them

<sup>277</sup> Human Rights and Business Survey 2024: Dodoma Field Report.





inside buildings to prevent them from leaving before finishing work.<sup>278</sup> However, the majority of workers at all surveyed workplaces (81%) said they were free to leave workplace after work hours, save for when there is overtime work.<sup>279</sup>

As outlined in sub-Chapter 3.3 above, the survey revealed that some workers were compelled to work beyond the regular 9 hours, and in some cases, even beyond the maximum 12 hours, without their consent. Absent consent, this constitutes forced labour.<sup>280</sup> However, for such labour to be deemed legitimate, it requires a mutual agreement between the worker and employer outlining the expectation to work overtime. Some of the workers stated that because of fear of losing their jobs, they must continue with work beyond normal working hours until they are told they can leave, which means free consent is absent.

### **Most employers not having in place anti-forced labour policy**

Employers who participated in the survey were asked about anti-forced labour policy. The majority of the corporate management officials, mostly human resources managers (47%), said they did not have in place such a policy, followed by 43% who said they have the policy.<sup>281</sup> The remaining 10% of the officials indicated that they were not sure of the existence of such policies, either as a standalone document or part of a bigger workplace policy. In the 2022 survey, 56% of the management officials said there was such a policy in place.

## **3.11. Leaves**

There are no international standards on leaves in general, except for maternity leave. Recognizing the need for special protection for expectant and nursing mothers, the international community, through ILO, developed some international labour standards on maternity protection, stipulated under various ILO conventions - including the Maternity Protection Convention, 2000 (No. 183),<sup>282</sup> which has not been ratified by Tanzania. Nevertheless, labour standards on leaves are adequately covered under domestic laws, particularly the Employment and Labour Relations Act [CAP. 366 R.E. 2019] (ELRA). It provides for four main types of leaves, which are **annual leave (28 days), maternity leave (84 to 100 days), paternity leave (3 days), compassionate leave** and **sick leave (126 days maximum)**.<sup>283</sup>

An employee with less than six months of service is not entitled to paid leave.<sup>284</sup> However, if an employee with less than six months service has worked more than

<sup>278</sup> Interview with a WEO in Mafinga District.

<sup>279</sup> N=1,010

<sup>280</sup> Ibid.

<sup>281</sup> N=166.

<sup>282</sup> Provides for maternity leave of not less than 14 weeks and cash benefits 'at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.'

<sup>283</sup> Sections 31(1), 32(1), 33(1) & 34(1) of ELRA.

<sup>284</sup> Ibid, Section 29(1).





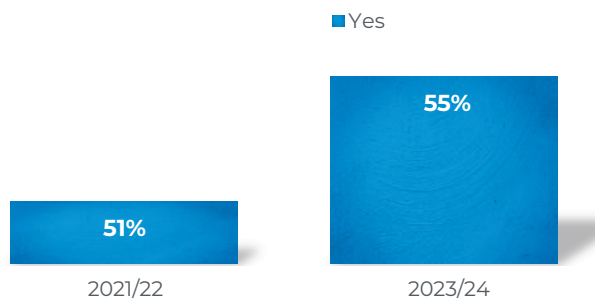
once in a year for the same employer and the total period of work exceeds six months in that year, then he or she is entitled to paid leave.<sup>285</sup> An employee employed on seasonal basis is also entitled to paid leave.<sup>286</sup>

Employer has a duty of ensuring that no employee is continuously working in any leave cycle without applying for annual leave.<sup>287</sup> The employer also has a duty to allow a female employee to leave the office for a maximum of two hours during working hours for breast feeding of her baby for a period of not less than six consecutive months after maternity leave.<sup>288</sup>

### 3.11.1. Annual leave

#### **Over half of workers claim they take annual leave**

Workers in the business sector were asked two questions about leave at their workplaces. The first question was whether annual leave is usually granted, and whether they had taken such leave in the past year. Just over a half of them (55%) said they were granted annual leave and took such leave in the past year.<sup>289</sup> In comparison with the previous survey, the percentage increased by 4%. 13% of interviewed workers said they were not eligible for annual leave.



**Figure 3.24: %Workers claiming annual leave is granted and they took it**

Source: Field data, 2022 & 2024

Further analysis of the data revealed that percentages of male and female workers taking the annual leave were 51% and 55% respectively. Regionally, the highest percentage of workers who claimed they took their leave was recorded in Arusha (80%), followed by Mbeya (76%), Dodoma (66%), Dar es Salaam (64%), Singida (55%), and Morogoro (50%). In all other regions, the percentages were below 50%, including Mwanza, which recorded the lowest percentage, 16%. Other regions with lower percentages were Mara (23%) and Iringa (31%).

Another question that the workers were asked was whether they get paid while on annual leave. Specifically, they were asked whether they got paid the last time they

<sup>285</sup> Ibid, Section 29(b).

<sup>286</sup> Ibid, Section 29(a).

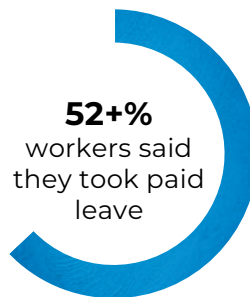
<sup>287</sup> Regulation 14(2) of Employment and Labour Relations (General) Regulations, GN. 47 of 2017.

<sup>288</sup> Ibid, Regulation 15.

<sup>289</sup> Number of respondents = 953.



took leave. About half of the respondents (52%) said they took a paid leave. In terms of sex, 41% of male workers and 46% of female workers said they got paid leave.



**Figure 3.25: %Workers claiming they took paid leave (N=524)**

Source: Field data, 2024

*'Each worker is granted an 18-month leave each year, and we get paid, even during leave.'*

Worker at Harsho Group Ltd – Kilimanjaro

### Complaints about annual leave

Complaints about annual leave were aired by some of the workers in all surveyed regions. These complaints included denial of annual leave, lack of paid leave, reduced leave, leave being considered a privilege, manager deciding if and when leave is granted, fear of applying for leave, short-term contracts, and shortage of workers. For instance, in the Commission for Mediation and Arbitration (CMA) in charge of Morogoro said most of the complaints received from workers are about unfair dismissal, delay in wage payments, and denial of leave. In Mara and Tanga, some of the workers said they were not granted annual leave<sup>290</sup> while others said they were granted unpaid leave.<sup>291</sup> In Dar es Salaam, Mbeya, and Mtwara, some security guards who participated in the survey lamented being denied annual leave.<sup>292</sup> In Kilimanjaro and Mtwara, some of the interviewed workers said they were afraid of applying for annual leave because even their bosses or supervisors had not taken any leave and might lose their jobs respectively.<sup>293</sup> In Arusha, some of the workers also said they were reluctant to take their annual leave due to concerns about potentially losing their jobs or not receiving payment while on leave.

<sup>290</sup> Interviews with workers at Butiama Milk, Musoma Bakery and Mossegi Sunflower.

<sup>291</sup> Interview with workers at Expance Construction in Mara and Nyinda Tourist Company in Tanga.

<sup>292</sup> Interviews with workers of SGA Security, BISSE Security, and Kiwango Security respectively.

<sup>293</sup> Interviews with workers at Joshi Feed Meel Ltd in Kilimanjaro and Kiwango Security Ltd in Mtwara.



In Mtwara, some of the interviewed workers at **Petro Africa** in Masasi District claimed that they had not taken leave for three years and this was confirmed by the branch manager. However, the manager noted that the company would resume provision of leave.

*'I am new to the company, and it's true that the workers have not taken annual leave for the past three years. However, we are in the process of re-introducing the leave, and we have started with a female worker, who has taken a maternity leave, then the others shall follow.'*

Branch Manager at Petro Africa – Mtwara

In Mbeya, a worker at **ALAF Limited** said that employees in certain departments facing staff shortages often struggle to take annual leave. A TUICO official in the region also revealed that some workers find it difficult to get annual leave because of short-term contracts.

*'Leave is not granted at some business enterprises, especially mining companies. Some workers are issued one-year contracts, hence having to decide between taking leave and renewing a contract. You may find people here who have worked for 5 or 6 years without taking a leave.'*

TUICO Secretary – Mbeya

The majority of the complaints were aired by workers in the private security services, hospitality, manufacturing, and transportation sectors. For instance, in Dodoma and Iringa it was reported that workers employed by lodge, bar, and restaurant owners rarely get any leave, especially annual leave, and when they do get a leave, it is often unpaid.<sup>294</sup> Some of the bus drivers in Dodoma also lamented getting unpaid annual leave. Truck drivers in Mtwara also complained about being overworked and lack of annual leave.

*'There is no leave for drivers. If you get the leave, it is unpaid.'*

Bus driver – Dodoma

The survey found that the right to annual leave is more likely to be violated for workers occupying lower positions at workplaces and unskilled workers. Additionally, it was found that workers who are members of trade unions and those

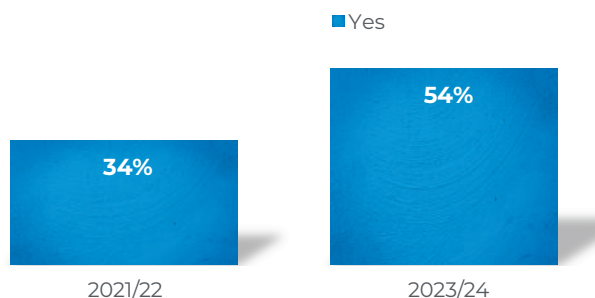
<sup>294</sup> Human Rights and Business Survey 2024: Dodoma & Iringa Field Reports.



who are well informed about their labour rights are more likely to get paid leave. In Shinyanga, the survey found that some workers do not know annual leave is a paid leave, hence remain at work so that they can get paid.

### 3.11.2. Maternity leave

Workers at the surveyed workplaces were asked whether female workers were granted maternity leave. The majority of them (54%) said such leave was granted to female workers at their workplaces, followed by 24% who said they were not sure, and 22% who said it was not granted.<sup>295</sup> The percentage of workers who said maternity leave was granted increased from 34% in 2022.



**Figure 3.26: %Responses on female workers being granted maternity leave**

Source: Field data, 2022 & 2024

*'Female workers at our workplace take maternity leave and are restored to their positions upon return.'*

Worker at Morena Hotel – Dodoma

### Pregnancy and maternity discrimination at workplaces

Pregnancy and maternity discrimination at workplaces are one of the key issues affecting women's labour rights, including in the business sector. This type of discrimination includes dismissal of pregnant workers, denial of promotion, pay decrease and redundancy.<sup>296</sup> Discrimination and dismissal of female workers because of pregnancy is prohibited under key international instruments, including the ILO Conventions on maternity protection<sup>297</sup> and termination of employment,<sup>298</sup> both of which have not been ratified by Tanzania. However, Tanzania has ratified the Convention on the Elimination of All Forms of Discrimination against Women

<sup>295</sup> N=953

<sup>296</sup> <sup>296</sup> Olena Mykhalchenkoisabel Santagostino Recavarren "In 38 countries, women can still be fired for being pregnant" World Bank Blogs, May 13, 2021.

<sup>297</sup> See ILO C183 - Maternity Protection Convention, 2000 (No. 183).

<sup>298</sup> ILO C158 - Termination of Employment Convention, 1982 (No. 158)





(CEDAW) of 1979, which prohibits dismissal on the grounds of pregnancy or of maternity leave.<sup>299</sup> Additionally, the Employment and Labour Relations Act of 2004 prohibits all forms of discrimination at workplaces, and specifically states that no employer should discriminate, directly or indirectly, against an employee, in any employment policy or practice, on various grounds, including gender and pregnancy.<sup>300</sup> It also provides that termination of employment for reasons related to pregnancy is not a fair termination.<sup>301</sup>

Unlike in 2022, the survey found fewer complaints about maternity discrimination, reported mainly in Mtwara and Mbeya. For instance, in Mbeya it was reported that some employers replace female workers with new workers immediately after taking maternity leave and their jobs are no longer available. Consequently, getting pregnant is tantamount to dismissal for female workers.

*'Some companies immediately hire a replacement when you take a leave, thus workers choosing to renew contract instead of taking the leave. Our Chinese and Indian bosses hate it when female workers get pregnant or must return home early to breastfeed. That's why today you might find 60 females, tomorrow 30, the day after tomorrow 25, as the number keeps on declining. They prefer you quit your job during pregnancy.'*

TUICO Secretary – Mbeya

The study also uncovered that some employers were hesitant to hire women due to concerns about potential pregnancy and subsequent maternity leave. In Mtwara, interviews with workers revealed that female employees were often offered six-month contracts as a strategy to circumvent granting maternity leave.

### 3.11.3. Paternity leave

Workers at the surveyed workplaces were also asked about male workers being granted paternity leave. Just over a quarter of the respondents (29%) said they were aware that male workers at their respective workplaces are granted paternity leave, while just over a third (39%) said paternity leave was not granted.<sup>302</sup> The remaining 32% said they were not sure whether such leave is granted or not. The percentage of workers who said paternity leave is granted slightly increased from 25% in 2022.

<sup>299</sup> Article 11(2)(a) of the Convention on the Elimination of All Forms of Discrimination against Women, 1979.

<sup>300</sup> Section 7(4)(h) & (i) of the Employment and Labour Relations Act, 2004.

<sup>301</sup> Ibid, Section 37(3)(b)(i).

<sup>302</sup> N=953.





*'I was granted a three-day paternity leave last year when my wife gave birth to our second born.'*

Employee at Amama Farms LTD – Mtwara

As was the case in the previous (2022) survey, qualitative findings also show that awareness of paternity leave is very low among workers in the industrial, transportation, private security and hospitality sectors.

*'To tell truth, I don't know anything about the so-called paternity leave at my workplace, considering I neither have a wife nor a fiancée.'*

Bakery worker – Kilimanjaro

#### 3.11.4. Sick and Compassionate leave

The Employment and Labour Relations Act [CAP. 366 R.E. 2019] recognize sick leave as a labour right.<sup>303</sup> An employee is entitled to sick leave of at least 126 days in any leave cycle.<sup>304</sup> For the first 63 days the employee is entitled to full wages, while for the remaining 63 days the employer is only required to pay half wages.<sup>305</sup> It also recognises a four-day paid compassionate leave.<sup>306</sup>

When asked about sick leave, the overwhelming majority of workers, nearly three quarters (72%), said such leave is usually granted to workers. 19% of the workers said sick leave is usually denied, while the remaining 9% said they were not sure.<sup>307</sup> The percentage of workers who said sick leave is often granted increased from 71% in 2022.

Some of the workers in nearly half of the surveyed regions complained about being denied sick and/or compassionate leave. Others said such leaves were granted but unpaid or resulted in wage deduction. Some workers in Mtwara, Dodoma, and Dar es Salaam indicated that they were afraid of pushing for such leaves for fear of losing their jobs, hence sometimes going to work while sick. Some of the security guards in Dar es Salaam said that sometimes they were even not allowed time to go and attend a funeral,<sup>308</sup> while in Mbeya another security guard said sick leave is granted for 3 days but followed by a wage deduction.

<sup>303</sup> See Section 32 of the Employment and Labour Relations Act, [CAP. 366 R.E. 2019].

<sup>304</sup> Ibid, Section 32(1).

<sup>305</sup> Ibid Section 32(2) (a)&(b).

<sup>306</sup> Ibid, Section 34(1)(b).

<sup>307</sup> N=913.

<sup>308</sup> Interview with a worker at SGA Security Company in Dar es Salaam.



*'We work in very difficult conditions, characterized by lack of leave, overtime pay, and compassionate leave. You are not even allowed time to attend a funeral.'*

Security guard – Dar es Salaam

### 3.12. Social Security

**The right to social security** is a fundamental human right, protected under various human and labour rights instruments. Core international human rights instruments protecting this right include the Universal Declaration of Human Rights (UDHR),<sup>309</sup> the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>310</sup> and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).<sup>311</sup> Key international labour rights instruments providing for the right to social security are the Social Security (Minimum Standards) Convention, 1952 (No. 102) and the Equality of Treatment (Social Security) Convention, 1962 (No. 118).<sup>312</sup> The essence of social security is to address 'insecurities related to making a living through work.'<sup>313</sup>

Currently in Tanzania, there are two social security schemes, namely the National Social Security Fund (NSSF) and the Public Service Social Security Fund (PSSSF). NSSF was established under the National Social Security Fund Act [Cap. 50 R.E 2018] provides social security services to members from private and informal sectors.<sup>314</sup> Employers and employees covered under the Act include employees in the private sector, including business enterprises, NGOs, and religious organizations.<sup>315</sup> Under this law, 20% of an employee's monthly wages is contributed to the fund, whereby the employee contributes 10% and the employer contributes the remaining 10%, but the employer may opt to contribute more.<sup>316</sup>

#### 3.12.1. Submission of Employees' Social Security Contributions

Workers in the surveyed regions were asked about payment of social security contributions as required by the social security law. Some of them acknowledged that their employers paid the contributions, some said they were not sure if the

<sup>309</sup> Article 22 of UDHR.

<sup>310</sup> Article 9 of ICESCR.

<sup>311</sup> Article 11(1) (e) of CEDAW.

<sup>312</sup> Note: These two conventions have not been ratified by Tanzania.

<sup>313</sup> ILO, *International Labour Standards on Social Security* at <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang--en/index.htm>, accessed 21<sup>st</sup> May 2022.

<sup>314</sup> See NSSF website at <https://www.nssf.or.tz/pages/overview>, accessed 26<sup>th</sup> May 2022.

<sup>315</sup> Section 6 of the National Social Security Fund Act [Cap. 50 R.E 2018].

<sup>316</sup> Ibid, Section 12.



contributions had been paid since they did not check with NSSF, while others said such contributions were not paid.

*'I had to quit my job at ASAS Company for health reasons after working there for 14 months. I immediately followed-up on and later received my benefits from NSSF.'*

Former ASAS employee – Iringa

As was the case in the previous survey, conducted in 2022, LHRC documented widespread complaints about non-payment of social security contributions by employers. These complaints were mostly aired by some of the workers and trade union officials in 5 out of the 15 surveyed regions (33%), namely Tanga, Mwanza, Iringa, Kilimanjaro, and Mtwara. For instance, in Tanga, a former employee Mara, at *Nupina Petro Chem Limited* in Muheza District said that he left the company and then followed up on his social security contributions at NSSF but was surprised to learn that the employer had not paid any of his contributions.<sup>317</sup> Similar complaints were made by another employee at *Progress 2013 Limited* and another one at *East Usambara Tea Company Limited*, who complained about some of his deceased uncle's contributions not being paid.<sup>318</sup> Complaints about non-payment of such contributions were aired at nearly half of the visited workplaces in the region. In Mtwara, concerns over delays in payment or non-payment of social security contributions were raised by some of the interviewed workers, including at *UCC*, and the TUICO Secretary. According to the TUICO Secretary, there is one company which has not submitted Tshs. 600 million worth of contributions but 'is untouchable.' He further said:

*'The right to social security is among the most violated labour rights because most employers do not submit contributions to NSSF. Consequently, workers suffer a lot when requesting for their benefits, and some even tire and give up on their benefits.'*

TUICO Secretary – Mtwara

In Mara, it was reported that CATA Mining Company had also not remitted contributions worth millions and MMG Gold had not paid contributions for six months, from October 2023 to March 2024.<sup>319</sup> In Shinyanga, some of the workers called for NSSF to follow up on and hold accountable employers who do not pay the contributions.<sup>320</sup>

<sup>317</sup> Human Rights and Business Survey 2024: Tanga Field Report.

<sup>318</sup> Ibid.

<sup>319</sup> Interview with NUMET General Secretary.

<sup>320</sup> Interview with workers at Jie Long Holdings.



In June 2023, NSSF revealed that there 350 non-remittance of contributions cases that were ongoing in courts of law in different parts of the country and said that this also contributes to delays in payments of benefits to some of its members. This situation threatens the enjoyment of the right to social security.

The survey found that non-remittance of employees' social security contributions is a serious issue that deprives workers of their rightful benefits. It constitutes violation of the right to social security and affects the ability of the NSSF to pay the benefits and do so timely.

### 3.13. Employment Termination

ILO provides for international labour standards on employment security under the Termination of Employment Convention, 1982 (No. 158), prohibiting termination of employment unless valid reasons for such termination exist, based on the employee's capacity/conduct or operational requirements.<sup>321</sup> While Tanzania has not ratified this Convention, it provides for clear standards on termination of employment under the Employment and Labour Relations Act [CAP. 366 R.E. 2019] (ELRA). Sub-Part E of the Act covers **unfair termination of employment**, applying only to an employee with 6 or more months of employment with the same employer.<sup>322</sup> Unfair termination of employment is prohibited under the ELRA and occurs if the employer fails to prove that:<sup>323</sup>

- the reason for the termination is valid;
- the reason is a fair reason related to the employee's conduct, capacity, or compatibility; or based on the operational requirements of the employer; and
- the employment was terminated in accordance with a fair procedure.

In proceedings relating to unfair termination, the burden of proof lies with the employer to prove that it was fair.<sup>324</sup>

#### 3.13.1. Complaints of Unfair Termination

Incidents and complaints of unfair termination were reported and documented in regions such as Mwanza, Dar es Salaam, Morogoro, Singida, Shinyanga, Geita, Iringa, Kilimanjaro, and Mtwara. For instance, in Singida, a former employee of *Home of Africa Company Limited (HAIKO)* complained about his employment being terminated without following fair procedure,<sup>325</sup> while in Mwanza it was reported that 7 workers at *Risa Resources Co. Ltd* had been dismissed for

<sup>321</sup> ILO, *International Labour Standards on Employment security* at <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/employment-security/lang--en/index.htm>, accessed 21st May 2022.

<sup>322</sup> Section 35 of ELRA.

<sup>323</sup> Ibid, Section 37(1) & (2).

<sup>324</sup> Ibid, Section 39.

<sup>325</sup> Human Rights and Business Survey 2024: Singida Field Report.



demanding overtime pay.<sup>326</sup> In Kilimanjaro, complaints of unfair termination were made at several companies, including *S & M Bakery Limited* and *Oasis Young Plants Ltd*. Similar complaints were made against *Dangote Cement PLC* and *Kiwango Security* in Mtwara.

*'Drivers are fired every now and then, especially when they demand their labour rights.'*

Community member – Hiari Village, Mtwara

In Shinyanga, a TPAWU trade union official told the survey team that 80% of the complaints received by the union were about unfair termination. TUCTA and TUICO trade union officials interviewed in Dar es Salaam also mentioned unfair termination as the most common labour disputes. In Morogoro, the CMA In-Charge noted that majority of the cases filed against companies relate to unfair termination, delayed wage payment, and denial of leave. Additionally, the CMA In-Charge said that complaints of unfair termination are common.

Additionally, as discussed above, some of the workers were reportedly dismissed for demanding written employment contract and demanding better pay. Workers advocating for their labour rights and those of others, including the right to join trade unions, were said to be more likely to be unfairly dismissed. For instance, in Shinyanga, some of the workers said their employers threatened them with dismissal when they wanted to join trade unions.

In 2023, through human rights monitoring and legal aid, LHRC received 2,653 new labour rights violations complaints, of which 624 were filed by women (24%) and 2,029 by men (76%).<sup>327</sup> Overwhelming majority of the complaints (54%) were of unfair termination, followed by benefits (29%). In the first quarter of 2024, over half of the labour complaints filed by clients at LHRC's legal aid clinics (56%) were also about unfair termination.

<sup>326</sup> Interview with NUMET Secretary in Mwanza.

<sup>327</sup> LHRC Labour Unit Annual Report 2023.







**50+%**  
of labour  
complaints  
received by LHRC  
are about unfair  
termination

**Figure 3.27: %Unfair termination complaints received by LHRC in the 2023 & first quarter of 2024**

Source: LHRC legal aid & human rights monitoring data – 2023 & 2024

### 3.14. Labour Disputes and Mechanism for Resolution

The Employment and Labour Relations Act [CAP. 366 R.E. 2019] (ELRA) and the Labour Institutions Act [CAP. 300 R.E. 2019] (LIA) provide for mechanism for resolution of labour disputes. LIA establishes the Commission for Mediation and Arbitration (CMA)<sup>328</sup> and the Labour Division of the High Court<sup>329</sup> as key bodies for resolution of labour disputes. CMA mediates any dispute referred to it under labour law and determines any labour dispute referred to it by arbitration.<sup>330</sup> It appoints mediators and arbitrators to perform its functions.<sup>331</sup> ELRA also provides for dispute resolution procedures in collective agreements. It states that a trade union and employer or employer association may conclude a collective agreement providing for resolution of disputes, provided the disputes are mediated or arbitrated in an independent, neutral, expedited, and professional manner.<sup>332</sup>

#### 3.14.1. Worker Grievances and Response

##### **Common grievances: Field Findings**

From the interviews with workers in the 15 regions of Mainland Tanzania that were surveyed, the survey found that common grievances, formal and non-formal, include wage disputes, whereby some workers claimed they were underpaid; leave disputes; physical violence, especially against male workers; sexual violence, especially against female workers; poor working conditions, including lack of sufficient PPE; health and safety concerns; social security disputes, fuelled by non-payment of social security contributions; and unfair dismissal.

<sup>328</sup> Section 12 of LIA.

<sup>329</sup> Ibid, Section 50(1).

<sup>330</sup> Ibid, Section 14(1)(a) & (b).

<sup>331</sup> Ibid, Section 19(1).

<sup>332</sup> Ibid, Section 95(1) & (2).



Other grievances include wage payment delays; non-payment of allowances, especially among bus and truck drivers and security guards; non-provision of employment contracts and/or copies; and wage deduction.

*'Most of the employers in the sector covering hotels and bars (hospitality sector) don't care about their workers at all. This sector accounts for the majority of the labour complaints that we receive at my desk in Tanga, whereby employers are often accused of oppressing and exploiting workers.'*

CHODAWU Secretary – Tanga

### **Common grievances: LHRC's Legal Aid Data**

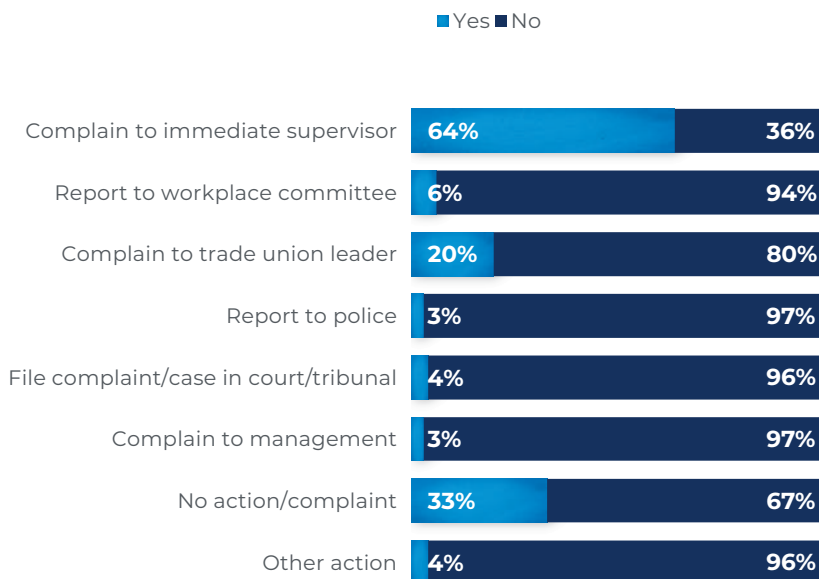
LHRC's legal aid data for the year 2023 show that common grievances or complaints by workers include unfair termination; breach of contract; non-payment of social security contributions; and non-payment of benefits, including leave and overtime. Over half of the complaints received by LHRC in the past year were about unfair termination of employment.<sup>333</sup>

### **Response by workers**

Workers in surveyed regions were asked how they usually respond to grievances in the workplace. They were provided with various answer options, including complaining to the immediate supervisor, complaining to the trade union leaders, and not taking any action. Nearly two-thirds (64%) said they usually complain to immediate supervisors, decreasing from 79% in the 2022 survey. This was followed by taking no action (33%) and complaining to a trade union leader (20%). Only 6% of the workers said the usual practice is reporting to the workplace committee or grievance mechanism, while only 4% said they would consider filing a complaint or case in court or tribunal.

<sup>333</sup> LHRC Legal Aid Data, 2023.





**Figure 3.28: %Responses on how workers respond to grievances in workplace**

Source: Field data, 2024

During interviews with some workers, it was revealed that complaining to the immediate supervisors usually works when a grievance is raised against a co-worker. This suggests that workers are less likely to report their supervisors and managers when aggrieved by them. The majority of workers said they do not prefer filing complaints externally, whether in courts or tribunals such as CMA, because ‘they want to keep the peace’ and keep their jobs. This was mostly found to be the case among unskilled workers and those with short-term contracts in medium and small companies. Others, including female workers, acknowledged that some female workers decide to ‘forgive and forget’ when subjected to sexual harassment, especially by their supervisors, usually for fear of losing their jobs.

*‘We endure the difficult working conditions as we don’t have a choice. Sometimes we go two months without a salary, and when the money eventually comes in, we don’t get paid salary arrears.’*

Worker – Shinyanga

Another action taken by workers is reporting to other law enforcement institutions. For instance, in Mtwara some of the workers at a private security firm said they had to go and complain to the Prevention and Combating of Corruption Bureau (PCCB) for their employer to start paying them their seven-month salary.<sup>334</sup>

<sup>334</sup> Human Rights and Business Survey 2024: Mtwara Field Report.



### 3.14.2. Workplace Grievance Mechanisms

#### **Existence of internal worker grievance mechanisms**

Employers in the surveyed regions were asked whether there is an internal worker grievance mechanism to address workers' grievances. Like in the previous survey (2022), **62% of employers or 6 out of 10 employers** said they have in place such a mechanism. This is encouraging because workers need to have access to justice internally and safeguard their well-being. Such mechanisms are also easily accessible to workers and guarantee prompt resolution of issues or problems.

Employers were also asked how the internal grievance mechanisms work. Some of them said the disputes or grievances are first dealt with by the supervisor, and when they fail, the matter is taken to the committee for hearing and final decision-making. Others indicated that the employee is allowed to reach out to the mechanism or committee directly and then a hearing is arranged in line with the grievances procedure policy. At most workplaces, the Human Resources Manager was said to be part of the mechanism, while at others it was indicated that employee representatives were also part of the committee. At *Sunflag Ltd* in Arusha, the survey found that the company has a grievance committee, and employees must fill out a special form detailing their issues. The committee then holds meetings to discuss the matter and provides recommendations to management.

*'Labour disputes are first addressed by department supervisors, who then refer them to the Human Resources Manager if they fail to resolve them.'*

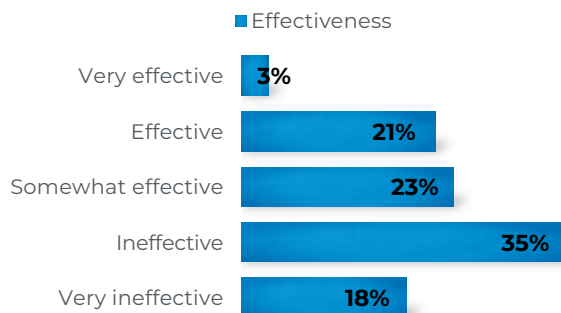
Manager at ALAF Limited – Mbeya

In the absence of a specific mechanism, disputes were said to be addressed by company management, referred to a trade union, and taken to the Commission for Mediation and Arbitration (CMA) and later court of law. This was revealed at the majority of the workplaces where employers claimed not to have in place such a mechanism.

#### **Effectiveness and fairness of internal grievance mechanisms**

In this year's survey, workers at surveyed workplaces were also asked about the effectiveness of the worker grievance mechanisms. The findings show that just over half of them (53%) felt they were ineffective (35%) and very ineffective (18%). Only 24% of the workers said such mechanisms were effective (21%) and very effective (3%).





**Figure 3.29: % Worker responses on effectiveness of worker grievance mechanisms (N=799)**

Source: Field data, 2024

Some of the workers suggested that the internal mechanisms were ineffective because of the slow pace of addressing complaints.<sup>335</sup> This suggests limited access to justice for workers, as ‘justice delayed is justice denied’ and other workers might be discouraged from airing their grievances.

### 3.14.3. Labour Dispute Resolution through CMA and the High Court

The Commission for Mediation and Arbitration (CMA) was established under the Labour Institutions Act [CAP. 300 R.E. 2019]<sup>336</sup> as an independent department of the Government.<sup>337</sup> The law provides that CMA is not to be subjected to the direction or control of any person or authority and should be independent of any political party, trade union, employers’ association, or federation of trade unions or employers’ associations.<sup>338</sup> Additionally, CMA is empowered to provide advice and training relating to prevention and settlement of disputes upon requests by employees, employers or registered organizations and federations.<sup>339</sup> It can also offer to mediate a dispute that has not been referred to it and conduct or scrutinise any election or ballot of a registered trade union or employers’ association if required to do so by the Labour Court or at the request of the union or association concerned.<sup>340</sup> There are mediators and arbitrators appointed by CMA to perform these functions on part-time or full-time basis.<sup>341</sup> CMA offices are scattered across Mainland Tanzania.

## Dispute resolution and challenges

Interviews with CMA and trade union officials in over half of the surveyed regions, including Morogoro, Singida, Mara, Iringa, and Mtwara, revealed increased

<sup>335</sup> Interviews with some workers in Mwaduai – Kishapu.

<sup>336</sup> Section 12 of the Labour Institutions Act [CAP. 300 R.E. 2019].

<sup>337</sup> Ibid, Section 13(1)(a).

<sup>338</sup> Sections 13(1) (b) & (c) of the Labour Institutions Act [CAP. 300 R.E. 2019].

<sup>339</sup> Ibid, Section 14(2)(a).

<sup>340</sup> Ibid, Section 14(2) (b) & (c).

<sup>341</sup> Section 19 of the Labour Institutions Act [CAP. 300 R.E. 2019].





complaints about labour rights violations, especially about unfair termination. For instance, in Morogoro, the CMA In-Charge told the survey team that they receive many complaints from workers, especially from unregistered companies.<sup>342</sup> Similar views were expressed by the CMA In-Charge in Mtwara.

*'We receive many labour complaints from workers, especially from unregistered companies. Most of the labour disputes are about unfair termination, delay in wage payment, and denial of leave.'*

CMA In-Charge – Morogoro

In Singida the TUICO Regional Secretary General also mentioned that labour disputes had been increasing. However, he expressed a huge concern over the lack of CMA office in Singida, which has caused delays in resolution of labour disputes. Due to absence of CMA officials in the region, there is limited access to justice for workers and overreliance on mediators and arbitrators from the neighbouring region of Shinyanga.<sup>343</sup>

In Iringa, the CMA In-Charge highlighted various challenges in resolution of labour disputes. One of the key challenges is political interference in the administration of justice, whereby some authorities tend to intervene in favour of foreign investors (European and Chinese) at the expense of aggrieved workers. Other challenges include poor working conditions, especially office infrastructure; shortage of staff; low awareness of labour laws and rights among workers; and the 30-day limitation in filing labour cases. Regarding the 30-day time limitation, he noted that it is insufficient and has denied many workers access to justice and recommended an extension of time to at least 90 days.

LHRC understands that the labour law stipulates a time-limit of 30 days for filing unfair termination labour cases and 60 days for other labour disputes. This is indeed a concern in terms of access to justice and the right to effective remedy, considering that in all other civil cases the time limit is much higher, ranging from six months to over 10 years. Hence, there a need for the law to be amended and LHRC proposes the time limited to be 3 years for unfair termination disputes and 6 years for breach of contract, drawing from the legal regimes of Kenya, which provides for the time limit of 3 years, and Uganda, which provides for the time limit of 6 years.

<sup>342</sup> Human Rights and Business Survey 2024: Morogoro Field Report.

<sup>343</sup> Human Rights and Business Survey 2024: Singida Field Report.



### 3.15. Awareness of Labour Laws, Rights and Duties

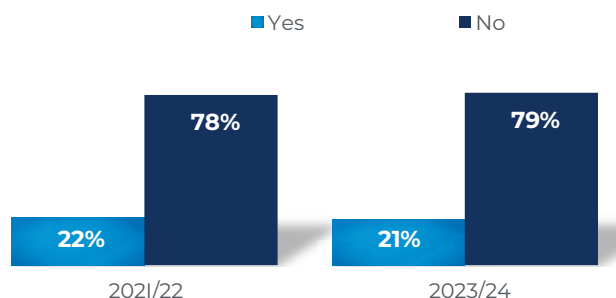
#### 3.15.1. Workers' Knowledge of Labour Laws, Regulations, and Rights

**8 out of 10 workers felt that they were not well informed about existing labour laws and regulations.**

Knowledge of labour laws and rights is important for workers and employers to effectively safeguard labour and human rights. The survey suggests that workers' knowledge of labour laws, regulations, and rights is generally low among most workers, like it was the case in the previous survey of 2022. When

asked about awareness of labour laws and regulations, only 21% of the workers indicated they were well informed about existing labour laws and regulations.<sup>344</sup>

**However, over half of the workers (56%) claimed to be well informed or at least informed about their rights at work**, decreasing from 71% in the previous survey. However, the survey found that only 40% could mention at least three such rights correctly. From the interviews, the survey also generally found that right to wages or a salary was the most popular among workers.



**Figure 3.30: %Workers claiming to be well informed about labour laws and regulations**

Source: Field data, 2022 & 2024

Similar to the findings of the 2022 survey, it was established that knowledge about labour laws and rights is higher among members of trade unions than those who are not members, based on interviews with both sets of workers. Such knowledge also increases with the position of workers in a company or industry. Knowledge about such laws and regulations was also found to be slightly higher among male workers (21%) than female workers (20%). Some of the workers called upon the Government and non-governmental organizations (NGOs), including LHRC, to provide labour law and rights education to workers, including through provision of education and information materials such as flyers and booklets.

<sup>344</sup> N=990.



*'I am not well informed about labour laws and rights, but what I know is that when one works they are entitled to a salary.'*

An employee at AK Industry – Iringa

The survey observed regional variations in terms of knowledge about laws and regulations governing labour in Tanzania. The percentage of workers who claimed to be well informed or at least informed about labour laws and regulations was highest in Arusha (46%), followed by Kilimanjaro (43%), Iringa (37%), and Shinyanga (35%). The lowest percentages (below 25%) were recorded in Mara (5%), Pwani (11%), Mwanza (16%), Singida (17%), Geita (17%), Mtwara (19%), Mbeya (22%), Dodoma (23%), and Dar es Salaam (24%).

The majority of interviewed key informants, including labour officers, CMA officials, and trade union representatives, also confirmed that low awareness about labour laws, regulations, and rights remains a significant challenge among workers. This lack of awareness contributes to violations of their rights. For instance, in Iringa, the CMA In-Charge noted that such awareness is still very low among the majority of workers in the region. In Shinyanga, a trade union official revealed that most workers at processing industries, gas stations, hotels, lodges, small-scale mines, and transportation companies were not informed or well informed about their labour rights.<sup>345</sup> In Mbeya, a TUICO official told the survey team that some workers have been manipulated or coerced into writing resignation letters so that their employers do not have to pay them any benefits, due to low awareness of labour laws and rights. In Arusha, a CHODAWU trade union official revealed that the majority of domestic workers are unaware of their rights and existing labour laws.

### 3.15.2. Employers' Duty to Promote Labour Rights

Employers have to ensure their workers are aware of their rights at work. When generally asked whether they have in place any guidelines or policies which address human rights issues at workplaces, only 39% of employers said they do have such policies,<sup>346</sup> which is approximately 4 out of 10 employers. However, only half of them produced a copy when asked to.

Under the Employment and Labour Relations (General) Regulations of 2017, employers are required to place a policy statement on human rights at a place within the workplace where all workers will be able to see.<sup>347</sup> The survey sought to assess compliance with this mandatory requirement at the surveyed workplaces. Just over a third of employers (37%) claimed to have such a statement, slight increasing from 23% in the previous survey. However, LHRC observed some copies of the statement at only a few workplaces, at a place where all workers were able

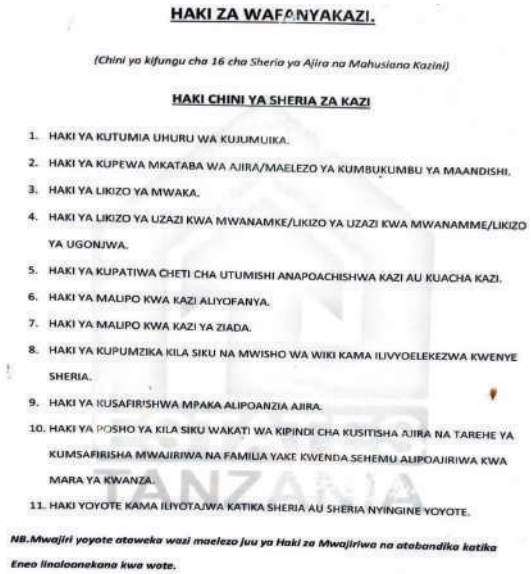
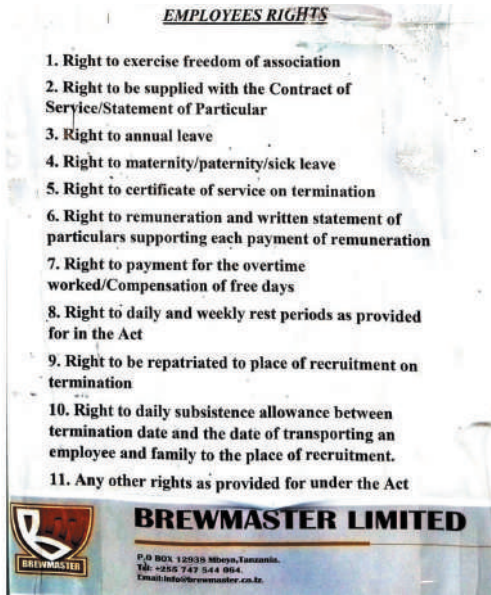
<sup>345</sup> Human Rights and Business Survey 2024: Shinyanga Field Report.

<sup>346</sup> N=166.

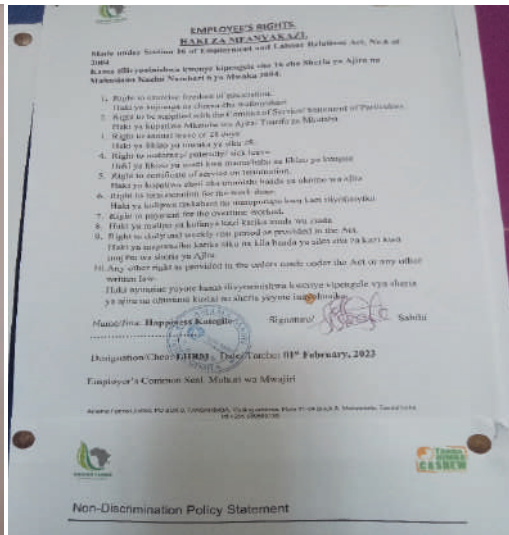
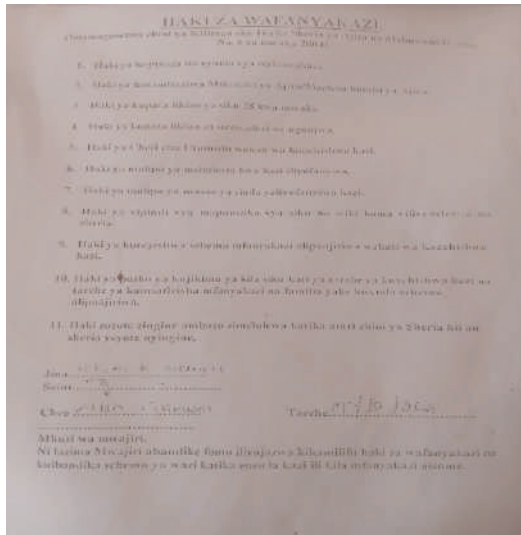
<sup>347</sup> See Regulation 12 & the Second Schedule of the Employment and Labour Relations (General) Regulations, GN. 47 of 2017.



to see. However, some of them were written in English only, which is not easily understood by most workers.



Picture 3.24: Statements of rights found displayed at Brewmaster Limited (left) and Highlands Estates Limited in Mbeya  
Source: Field data, 2024



Picture 3.25: Statements of rights found displayed at Marenga Millers Co Ltd in Kilimanjaro (left) and Amama Farms Ltd in Mtwara (right)  
Source: Field data, 2024





### 3.15.3. Employers' Awareness of UN Guiding Principles on Business and Human Rights

The survey on human rights and business also sought to determine employers' awareness of the UN Guiding Principles on Business and Human Rights (UNGPs) of 2011, adopted by the United Nations Human Rights Council in 2011 to provide guidance protection and respect of human rights in the business sector. These are set of guidelines for States and business enterprises to prevent and address human rights abuses committed in business operations.<sup>348</sup>

When asked how informed they were about the UN Guiding Principles on Business and Human Rights (UNGPs), **only 13% of employers or their representatives indicated that they were well-informed.** This constitutes a slight decrease in comparison with the previous survey, in which 20% of corporate management officials said they were aware of the principles. There is therefore still a lot of work that needs to be done around popularizing the UNGPs among employers in the business sector.

### 3.16. Human Rights Violations Resulting from Non-Compliance with Labour Laws and Standards

Non-adherence to labour standards discussed above may lead to violation of human rights as follows:

**Table 3.2: Human rights violated as a result of non-adherence to labour standards**

Non-adherence of labour standard	Human right(s) violated
Discouraging/preventing workers from joining trade unions	Right to form and join trade union/Freedom of association
Threatening workers for demanding better working environment	Right to fair remuneration Freedom of expression Freedom from violence
Poor working environment	Right to favourable working environment Right to health Right to safety and security Right to privacy
Subjecting or allowing workers to be subjected to different forms of violence	Freedom from violence Right to health Right to life Right to safety and security Freedom from slavery
Lack of collective bargaining	Right to fair remuneration
Denial of leave and paid leave	Right to the enjoyment of just and favourable conditions of work Right to family life
Unfair wage cuts/deductions	Right to fair remuneration

<sup>348</sup> See [https://www.ohchr.org/Documents/Issues/Business/Intro\\_Guiding\\_PrinciplesBusinessHR.pdf](https://www.ohchr.org/Documents/Issues/Business/Intro_Guiding_PrinciplesBusinessHR.pdf)





	Right to adequate standard of living
Disregard of occupational health and safety	Right to the enjoyment of just and favourable conditions of work Right to health Right to life
Forced labour	Freedom from slavery Freedom of movement
Overtime work without pay	Right to fair remuneration
Making employees work for a long time beyond 12 hours consistently	Right to the enjoyment of just and favourable conditions of work Right to family
Lack of regular workplace inspection	Right to the enjoyment of just and favourable conditions of work Right to safety and personal security
Employing child labour	Right to education Right to health Right to safety and security
Provision of inadequate wages	Right to fair remuneration Right to adequate standard of living
Denying workers copies of employment contracts	Right to equality before the law/Right to non-discrimination Right to access to justice/effective remedy Right to information
Firing female workers because of pregnancy/breastfeeding	Right to non-discrimination Right work
Non-payment of social security contributions	Right to social security Right to adequate standard of living Right to health

### 3.17. Comparison of Performance Indicators on Adherence of Labour Standards

This subchapter provides a summary of key findings for some of the key performance indicators relating to labour rights and standards. The key findings on labour rights and standards for the survey covering the period of 2023/2024 are compared with those of the period of 2021/22. Most of the indicators were assessed during both surveys.



**Table 3.3: Comparison of some of the key performance indicators on labour rights and standards in surveys conducted in 2022 and 2024**

Labour Standard	Performance Indicators	
	2021/22	2023/24
Employment contracts	<ul style="list-style-type: none"> <li>64.6% of respondents claimed they had employment contracts.</li> <li>89% of workers with written employment contracts.</li> </ul>	<ul style="list-style-type: none"> <li>69.4% of workers claiming to have employment contracts.</li> <li>80% of the workers said they had written contracts.</li> </ul>
Trade unions	<ul style="list-style-type: none"> <li>34.2% of workers said trade union branches exist at their workplaces.</li> <li>78.4% of workers perceive trade unions to be ineffective.</li> </ul>	<ul style="list-style-type: none"> <li>37% of workers said trade unions exist at their workplaces.</li> <li>58% of workers suggested trade unions were ineffective.</li> </ul>
Working hours	<ul style="list-style-type: none"> <li>81% of workers not forced to work beyond normal working hours.</li> <li>42% of workers said they receive overtime pay.</li> </ul>	<ul style="list-style-type: none"> <li>81% of workers also said they were not forced to work beyond normal working hours.</li> <li>Only 40% of the workers said they get overtime pay.</li> </ul>
Leaves	<ul style="list-style-type: none"> <li>51% of workers said they take annual leave.</li> <li>53.2% of workers said they had not taken leave in the past year.</li> </ul>	<ul style="list-style-type: none"> <li>55% said they were granted annual leave and took such leave in the past year.</li> </ul>
Awareness of labour laws	<ul style="list-style-type: none"> <li>78% of workers are not well informed about labour laws and regulations.</li> </ul>	<ul style="list-style-type: none"> <li>79% of workers are not well informed about labour laws and regulations.</li> </ul>
Awareness of labour rights	<ul style="list-style-type: none"> <li>71% of workers claimed to be well informed or somewhat informed about labor rights, but less than a third mentioned at least 3 correctly.</li> </ul>	<ul style="list-style-type: none"> <li>56% claimed to be well informed or at least informed about their rights at work, but only 40% could mention at least three such rights correctly.</li> </ul>



## 4

## CHAPTER FOUR: LAND ACQUISITION FOR INVESTMENT

### 4.1. Overview of Land Tenure and Acquisition in Tanzania

#### **Importance of Land in Tanzania**

Land is a crucial resource for approximately 65% of Tanzania's population, who rely on agriculture, the top contributor to the country's Gross Domestic Product (GDP), accounting for 26% of the GDP (NBS 2024). Beyond being a property, land represents the upper part of the Earth's surface where people build homes, conduct daily businesses, and sustain their livelihoods.

#### **Legal Definition and Rights Associated with Land**

The legal definition of land varies by country. In Tanzania, land is defined as the upper part of the Earth's surface, including any developments and attachments, excluding minerals, oil, and gas. This legal distinction creates separate rights such as land rights, mineral rights, and petroleum rights. Tanzanian laws emphasize public ownership of land, where individuals possess rights to occupy rather than own land. There is one land tenure in Tanzania: namely the right of occupancy, applied as granted right of occupancy for non-village (general and reserve land) and customary/deemed right of occupancy for village land.

#### **Land Rights for Foreign Investors**

Land rights in Tanzania are primarily reserved for Tanzanians, with foreign investors only allowed to exercise these rights for investment purposes. The nature of the investment determines the rights, such as in the petroleum sector, where the Tanzania Petroleum Development Corporation (TPDC) holds the land title and leases it to investors. Similarly, in the mining sector, the Tanzania Investment Center (TIC) grants derivative rights to investors for the duration of the investment.

#### **Land Acquisition and Valuation Process**

Local investors can acquire land directly from the land holders, and for large-scale acquisitions, they may use the compulsory land acquisition process outlined in the Land Acquisition Act of 1967. The Valuation and Registration of Valuers Act of 2016 and its 2018 regulations guide the valuation process.

For foreign investors, international valuation standards may be applied, often involving the development of a Resettlement Framework Policy (RFP) and Public



Participation Practices (PPP). This process culminates in a Resettlement Action Plan (RAP), aligning domestic standards with international ones, applying international standards to complement gaps in the domestic standards, often guided by the International Finance Corporation (IFC) Performance Standards (PS) 5 for land acquisition and involuntary resettlement.

### **Compensation for Land Acquisition**

Individuals possess a range of rights over their land, including the right to possess, use, control, make decisions, and benefit from it. These rights can only be extinguished for public interest purposes, such as mining or oil and gas projects, and require fair, prompt, and adequate compensation as per the Land Acquisition Act of 1967. The compensation process begins with announcing the intention to acquire land, appointing valuers, and conducting site visits to assess the land's value. Investors must deposit the compensation amount into a land compensation fund, ensuring their commitment to the process.

During valuation, valuers engage with communities, informing them about the acquisition intentions, their rights, and obligations. They declare a cut-off date to halt further developments on the land and identify project-affected persons (PAPs). The valuation involves assessing buildings' value against standard pricing and calculating compensation for income losses. The chief government valuer must verify the valuation reports, and compensation payments must be made within six months to avoid interest penalties.

### **The Essence of the Land Compensation Fund**

The Land Act, 1999, under section 173, establishes the land compensation fund. The fund serves as a crucial mechanism to ensure that investors are committed to the land acquisition process and that communities' land rights are protected. Before commencing valuation, investors are required to deposit the estimated compensation amount into this fund. The fund board was inaugurated on March 01, 2018, making the fund operational after nearly 19 years since the law was enacted.

This deposit demonstrates the investor's commitment and secures the necessary funds to compensate affected landowners promptly. If the actual compensation exceeds the deposited amount, the investor must cover the additional costs. Conversely, if the compensation is less than the deposit, the remaining balance is refunded to the investor. This system is meant to prevent delays in compensation and safeguards the interests of the communities involved in land acquisitions.

### **Valuation Methods and Compensation Payment**

Valuers use various methods to assess land value, including market price for land, cost replacement for buildings, and income approach for losses of income accrued from the land. If the chief government valuer approves the compensation, it must be paid within six months. Delays attract interest equivalent to what the payable compensation would accrue in a commercial bank's fixed deposit. If payment is delayed beyond twenty-four months, the valuation report expires, necessitating a new valuation exercise. This comprehensive approach ensures that land



acquisition processes in Tanzania are fair, transparent, and adhere to both domestic and international standards.

### **Land as a human rights issue**

Land is essential for Tanzanians, forming a base for them to enjoy other human rights, including the right to life and the right to adequate standard of living. Land is even more important for Tanzanians since the country is still heavily dependent on the agriculture. Land is therefore a prerequisite for sustainable development, helping to increase agricultural productivity and food security.<sup>349</sup>

### **Land classification and ownership in Tanzania**

Currently, land in Tanzania is classified into the following three categories:

- **General land** - all public land which is not reserved land nor village land includes unoccupied or unused land;
- **Village land** - land other than reserved land and the land within the boundaries of a registered village; and
- **Reserved land**<sup>350</sup> - land reserved, designated or set aside under the provisions of various other laws,<sup>351</sup> land parcel within a natural drainage system from which the water resource the concerned drainage basin originates; land reserved for public utilities; and land declared by order of the Minister following the provisions of the Land Act to be hazardous land.

All land in Tanzania is public land vested in the President as trustee for and on behalf of all the citizens of Tanzania.<sup>352</sup> A citizen, group of citizens and institutions can be granted right of occupancy for certain period of time, as specified in the land laws. Citizens enjoy granted right to granted right of occupancy (regulated by the Land Act) and the right to customary right of occupancy – included deemed right of occupancy (regulated by the Village Land Act).<sup>353</sup> Non-citizens can only acquire land for investment purposes , following approval by the Tanzania Investment Centre (TIC).<sup>354</sup> The law also allows a citizen to partially transfer land for purposes of investment, for instance through a partnership with a foreign investor.<sup>355</sup>

<sup>349</sup> See LANDLINKS “Why Land Matters for the Sustainable Development Goals” at <https://land-links.org/2015/11/why-land-matters-for-the-sustainable-development-goals/>, accessed 20<sup>th</sup> August 2022.

<sup>350</sup> Land protected under any law applicable in the particular sector. Reserved land includes forests, national parks, conservation areas and hazardous land.

<sup>351</sup> Including the Forests Act [Cap. 323]; National Parks Act [Cap. 282]; Ngorongoro Conservation Area Act [Cap. 284]; Wildlife Conservation Act [Cap. 283]; the Urban Planning Act [Cap. 355]; the Roads Act; [Cap. 167]; and Land Acquisition Act [Cap. 118].

<sup>352</sup> Section 4(1) of the Land, CAP 113 [RE 2019].

<sup>353</sup> See section 19 of the Land Act & section 22 of the village Land Act.

<sup>354</sup> See section 20 (1) & (2) of the Land Act.

<sup>355</sup> Ibid, Section 19(2).





## 4.2. Compulsory Acquisition of Land and Compensation

### 4.2.1. Introduction

In Tanzania, land can be acquired from citizens or natives for public purposes, including investment. The primary legislation governing land acquisition in the country is the Land Acquisition Act, CAP 118 [RE 2019]. Compulsory acquisition in Tanzania can be summarised into four key steps, namely: planning and the decision to acquire land; legal preliminaries, including getting statutory authority and serving notices; field investigations, including valuation; and payment of compensation to person(s) dispossessed of land.<sup>356</sup> These steps are discussed under Part II (a) of the Land Acquisition Act, CAP 118 [RE 2019]. Part II (b) of the law provides for compensation following compulsory land acquisition. In this part, the law stipulates that where any land is acquired for public purposes, the Government, through the Minister responsible for lands, has to pay compensation to the entitled persons not exceeding the value of the acquired land and no compensation is paid to the vacant land but subjected to exhausted improvements.<sup>357</sup> The Government may also provide another piece of land as an alternative to or in addition to compensation, as long as the person entitled to compensation consents.<sup>358</sup>

In line with the Constitution of the United Republic of Tanzania of 1977, which recognizes the right of every person to own property and the right to protection of such property,<sup>359</sup> compensation following compulsory land acquisition must be **fair** and **adequate**. Where the Government has taken possession of the land before a person is paid compensation, then such person is entitled to be paid interest in addition to compensation.<sup>360</sup>

### 4.2.2. Key Issues in the Land Acquisition Process

Community members gave their views on the main challenges experienced in their community during the land acquisition process. Delays in compensation payment (29%) were mentioned the most as the main challenge, followed by unfair valuation (28%), lack of or limited access to accurate information (27%), and lack of meaningful participation (25%). Additionally, nearly 10% of respondents identified several other key issues, including non-payment of compensation, forced eviction, fraudulent practices, and broken promises, which contributed to their dissatisfaction. Furthermore, a lack of inclusiveness in the decision-making process was also a major concern for many.

<sup>356</sup> Willbard Kombe, *LAND ACQUISITION FOR PUBLIC USE: EMERGING CONFLICTS AND THEIR SOCIO-POLITICAL IMPLICATIONS*, Crisis States Working Papers Series No.2, Working Paper no. 82, October 2010, <https://www.files.ethz.ch/isn/123450/WP82.2.pdf>, accessed 8<sup>th</sup> August 2022.

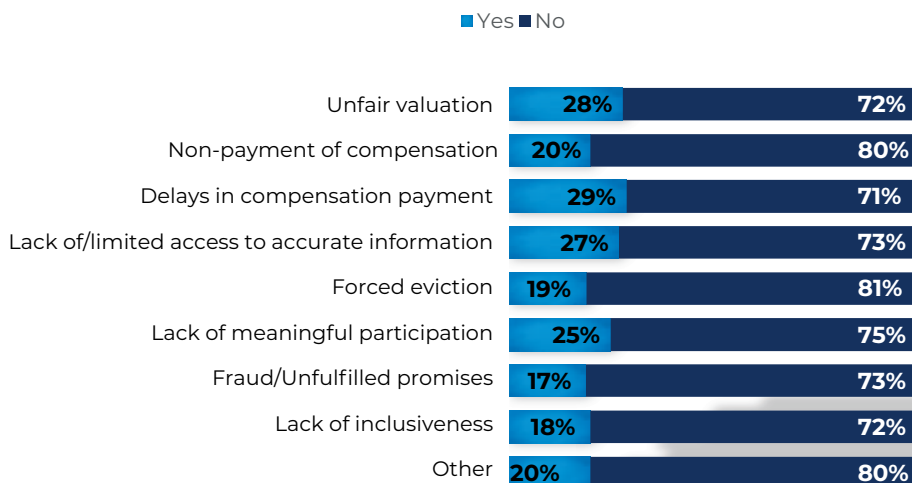
<sup>357</sup> Section 11 & 12 of the Land Acquisition Act, CAP 118 [RE 2019].

<sup>358</sup> *Ibid*, Section 11(2).

<sup>359</sup> Article 24(1) of the Constitution of the United Republic of Tanzania, 1977.

<sup>360</sup> *Ibid*, section 15(1).





**Figure 4.1: %Community responses on main challenges experienced during land acquisition process**

Source: Field data, 2024

Some community members in regions such as Mtwara, Pwani, Iringa, Shinyanga, and Arusha elaborated on the issues identified above. For instance, in Mtwara some investors were accused of not providing accurate information, non-payment of compensation, and fraud.<sup>361</sup> In Shinyanga, *El Hilal Company* was implicated in the non-payment of fair compensation to villagers in Maganzo Ward. Some land brokers in the region were also accused of deceiving villagers into selling land cheaply for their gain. Land brokers in Iringa, especially Mafinga District, were also implicated in buying land below market prices on behalf of some investors.<sup>362</sup> In Arusha, *Hotels and Lodges (T) Ltd* was accused of not fulfilling promises in Chemchem Village, Karatu District, including the promise of constructing laboratory rooms.<sup>363</sup>

Other issues that were raised included allegations of corruption, including bribery and other forms of unethical behavior of local leaders, restricting access to justice. This was particularly mentioned in Mtwara, Pwani, and Iringa Regions, where some investors were accused of corrupt practices. In Bagamoyo District, Pwani Region, the survey found concerns over village leaders engaging in land corruption at the expense of villagers.<sup>364</sup> The leaders were also accused of failing to ensure timely payment of compensation. A lack of awareness about land laws and rights was highlighted as a key challenge in land acquisition in all surveyed regions. Issues of community participation and compensation are further discussed.

<sup>361</sup> Human Rights and Business Survey 2024: Mtwara Field Report.

<sup>362</sup> Interview with an LGA official in Mafinga District.

<sup>363</sup> Human Rights and Business Survey 2024: Arusha Field Report.

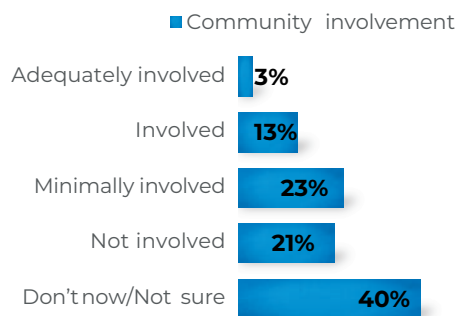
<sup>364</sup> Interview with an LGA official in Bagamoyo District.



### 4.2.3. Community Participation in the Land Acquisition Process

#### Perceptions on community participation

In the surveyed regions, community members were asked about their involvement in the land acquisition process and the social impact assessment. Similar to the 2022 survey, a significant majority (40%) reported being unsure about their involvement in the land acquisition process. This lack of clarity is not surprising, given that knowledge about land laws and rights is generally limited among many Tanzanians. Nearly a quarter of the community members (23%) felt that community members are only minimally involved in the land acquisition process, suggesting a lack of meaningful participation, while only 16% said they are usually involved (13%) and adequately involved (3%). The remaining 21% said the community members are not involved or consulted during the land acquisition process. In the previous (2022) survey, 20% of the community members felt community members were usually involved in the land acquisition process.



**Figure 4.2: %Responses on community involvement in the land acquisition process (N=1,060)**

Source: Field data, 2024

Regarding participation in the social impact assessment (SIA), which is important in determining the implications or social impacts of land acquisition on the people in the community, two thirds of the community members (66%) indicated that the community does not or rarely participates in such assessment. Nearly a quarter of the community members said as a community they usually participate in the SIA during the land acquisition process, while the remaining 10% said they were not sure. Community participation barriers are discussed below, based on both field and document review survey findings.

#### Community participation barriers

As discussed above, lack of meaningful community participation is one of the key challenges in the land acquisition process in Tanzania. A recent (2022) study on community participation in land acquisitions in Mozambique and Tanzania reveals the following key barriers to meaningful participation of community members in the process of land acquisition:<sup>365</sup>



- ✎ **Capacity of local communities to participate meaningfully and effectively in decision-making processes related to land allocation:** Most community members cannot understand land laws and the land acquisition process. Lack of education and knowledge of land laws and rights significantly hinders community members' understanding of technical information. The report shows that society is often unprepared for the consultation process, and government officials rarely provide adequate support to help them prepare. This creates significant barriers to effective participation in decision-making processes.
- ✎ **Reclassification of village land (transfer of village land to general land):** One of the most criticised aspects of the land laws in Tanzania are the provisions on transfer of village land to general or reserved land for purposes of "investments of national interests," powers granted to the President. This has been said to be tantamount to compulsory acquisition with some decision-making yielded to village community. Village communities are not only deprived of decision-making power, but also risk losing larger tracts of village land.
- ✎ **Loopholes in definition of general land:** Under the Land Act, general land includes "unoccupied or unused village land." This legal loophole makes village land susceptible to allocation to outsiders, as village lands not under cultivation or permanent settlement, or set aside for grazing or future use or population expansion may be easily interpreted as "unoccupied" or "unused" and made available to investors.
- ✎ **Little or lack of knowledge about true value of village land:** In many cases, villagers tend not to fully appreciate the economic value of their land that they are ceding.
- ✎ **Lack of awareness of exact size of land to be acquired and compensation to be provided:** Most community members lack this information and can be easily persuaded to consent anyway due to extreme poverty and promises of improved social services.
- ✎ **Verbal pledges by potential/prospective investors, with no written contract:** In practice, most of investors only give verbal pledges to contribute to the realization of socio-economic rights in the community, including health, employment, and education. However, these usually end up as mere rhetoric, with little or no implementation, and the villagers cannot hold the investor accountable.

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<sup>365</sup> See Celine Salcedo-La Viña, *An Assessment of Community Participation in Land Acquisitions in Mozambique and Tanzania*, Land & Resource Rights Initiative, World Resources Institute, at <https://abcr.org/files/documents/H.1%20FY14-15%20WRI%20Participation%20in%20Land%20Acquisition%20Mozambique%20Tanzania%20-2015.03.31.pdf>.



- ✎ **Lack of sufficient information regarding investment project and potential impacts:** Investors usually do this deliberately to take advantage of community members, not providing enough information and in a language easily understood, regarding investment project and its potential impacts, especially negative ones. For instance, they may think they are only leasing land, but later finding out they ceded the land and surrendered their customary rights.
- ✎ **Village leadership dominating community consultation meetings on land acquisition and having a big and usually final say:** The consultation meetings tend to be dominated by village leaders, with only a few people being involved in the decision-making process and women and other vulnerable groups rarely or never participating.
- ✎ **Language barrier:** Communities usually get dumped with a huge amount of information in the first and only meeting, in which the whole project is described often in technical language and containing ideas and activities that are remote and incomprehensible even for local leader.
- ✎ **Laws and practices not adhering to the Free, Prior, Informed Consent (FPIC) standard:** FPIC standard is a key human rights principle under international human rights law and is upheld in the FAO Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, and adopted by the African Commission on Human and People's Rights as a standard for protecting community rights to land and natural resources.

Similar concerns were also expressed by community members during interviews in all surveyed regions, echoing the issues that emerged from the data. For instance, in Pwani, a trade officer in Bagamoyo District revealed that most investors usually use shortcuts in land acquisition by mainly engaging village leadership instead of ensuring community members also meaningfully participate in the process.<sup>366</sup> In Morogoro, a significant number of community members expressed a lack of understanding about the land acquisition process, with some also lamenting a lack of sufficient information provided to them.<sup>367</sup> In Dodoma, while interviews with LGA officials indicated that the community members are always consulted and there are plots designated for investments, some community members lamented the lack of meaningful participation and local leaders had the final say.<sup>368</sup> This was also raised as an issue during interviews with some of the villagers in Mwanza and Mtwara.<sup>369</sup> In Mtwara, one of the community members in Mbuo Village, located in Mtwara DC, said this about a project in the village:

<sup>366</sup> Human Rights and Business Survey 2024: Pwani Field Report.

<sup>367</sup> Human Rights and Business Survey 2024: Morogoro Field Report.

<sup>368</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

<sup>369</sup> Human Rights and Business Survey 2024: Mwanza & Mtwara Field Reports.





*'We were told that the valuation exercise would take two weeks, but to our surprise, the valuation was conducted for only two days. We learned that the Village Chairperson had been told not to involve us in the process, hence very few people participated.'*

Villager, Mtwara DC – Mtwara

Complaints about inadequate community involvement in the land acquisition process were also aired by some interviewed community members and LGA officials in Iringa, especially against Chinese investors.<sup>370</sup> One of the LGA officials in Mafinga District told the survey team that Chinese investors usually do not follow the laid down procedure for land acquisition, especially the requirement of meaningful consultation of community members.

The survey revealed that marginalized groups, including women, youth, and persons with disabilities (PWDs), are disproportionately underrepresented in land acquisition processes. This disparity is largely attributed to discriminatory customary laws and practices that perpetuate male dominance in decision-making over land ownership, acquisition, and use, further exacerbating existing gender and social inequalities.

#### **4.2.4. The EACOP Project and Concerns over Land Rights Violations**

##### **4.2.4.1. Overview**

The East African Crude Oil Pipeline Project (EACOP) is a pipeline that will transport oil produced from Uganda's Lake Albert oilfields to the port of Tanga in Tanzania where the oil will then be sold onwards to world markets.<sup>371</sup> EACOP runs 1,443km from Kabaale, Hoima district in Uganda to the Chongoleani Peninsula near Tanga Port in Tanzania. 80% of the pipeline is in Tanzania. It is a buried thermally insulated 24" pipeline along with six pumping stations (two in Uganda and four in Tanzania) ending at Tanga.<sup>372</sup>

The shareholders in EACOP are affiliates of the three Upstream joint venture partners (the Uganda National Oil Company, TotalEnergies E&P Uganda and CNOOC Uganda) together with the Tanzania Petroleum Development Corporation.<sup>373</sup> Shareholdings are TotalEnergies 62%, UNOC and TPDC 15% each and CNOOC 8%. Two Host Governments Agreements between EACOP and the Governments of Uganda and Tanzania were signed on 11<sup>th</sup> April 2021 and 20<sup>th</sup> May 2021 respectively.<sup>374</sup>

##### **4.2.4.2. EACOP Action to Protect Human Rights**

Review of various documents available on EACOP website shows that the company has taken various measures to protect human rights, including

<sup>370</sup> Human Rights and Business Survey 2024: Iringa Field Report.

<sup>371</sup> See EACOP Overview at <https://www.eacop.com/overview/>.

<sup>372</sup> Ibid.

<sup>373</sup> EACOP Overview at <https://www.eacop.com/overview/>.

<sup>374</sup> Ibid.



conducting environmental impact assessment (EIA), Social Impact Assessment (SIA), and human rights due diligence; providing compensation to Project Affected Persons (PAPs); signing Free Prior and Informed Consent (FPIC) agreements with communities; and developing a plan for the indigenous peoples.<sup>375</sup> The Human Rights Due Diligence Report highlights EACOP's salient human rights issues, namely interactions with public security forces; community safety (road safety); contractor and suppliers' workers' rights; land and resettlement; indigenous peoples (Tanzania); women's rights; marine livelihoods (Tanzania); and the right to information and consultation.<sup>376</sup>

#### 4.2.4.3. Allegations of Land Rights Violations

Despite the various measures reportedly taken by EACOP to protect human rights in the project affected areas, several studies conducted by local and international NGOs have revealed allegations of land rights violations. For instance, a 2022 study conducted by *Friends of the Earth France* and *Survie* reveals allegations of land grabbing, characterized by failure to adequately inform and consult affected communities; PAPs being pressured into giving up land at an unfair price; violations of PAP's right to property; and delayed compensations with dire consequences.<sup>377</sup> According to the report, key irregularities that affected the land rights of communities included failure to consult PAPs prior to project launch; failure to provide adequate information to make an informed choice; undervaluation of land and inadequate compensation; PAPs being forced into signing 'consent forms'; bans on growing crops on farmland; prohibition of other economic activities; and long delays in compensation payments.<sup>378</sup>

A more recent study was conducted by a local NGO called KINNAPA Development Programme, aimed to assess the impact of land acquisition processes for the East African Crude Oil Pipeline project on village communities in Kiteto district, Manyara region.<sup>379</sup> According to the study, land acquisition process followed the legal framework and adhered to the requirements of Tanzanian land laws. However, while the majority of respondents considered compensation to be fair, there were concerns raised regarding the fairness, adequacy, and negotiation opportunities for compensation. Most respondents were unaware of criteria that were used to decide the compensation amount and felt there was no room to verify, confirm or challenge compensation outcomes.<sup>380</sup> Further, the study revealed varied level of awareness and knowledge among project affected people

<sup>375</sup> See EACOP Reports at <https://www.eacop.com/eacop-reports/>.

<sup>376</sup> See EAST AFRICAN CRUDE OIL PIPELINE, *HUMAN RIGHTS DUE DILIGENCE REPORT*, Prepared by LKL International Consulting Inc., December 2022, at <https://www.eacop.com/wp-content/uploads/2023/04/EACOP-HRDD-Report-DISCLOSURE-FEBRUARY-2023.pdf>.

<sup>377</sup> See Les Amis de la Terre France & Survie, *EACOP: A DISASTER IN THE MAKING, Research into Total's mega pipeline project in Tanzania*, OCTOBER 2022, at <https://www.amisdelaterre.org/wp-content/uploads/2022/10/eacop-a-disaster-in-the-making-foe-france-and-survie-oct-2022.pdf>.

<sup>378</sup> Ibid.

<sup>379</sup> KINNAPA Development Programme, 2024. *The Impact of Land Acquisition Processes for the East African Crude Oil Pipeline Project on Communities in Kiteto district, Manyara region*. Voices from Tanzania, IPIS. [<https://ipisresearch.be/publication/voices-from-tanzania-the-impact-of-land-acquisition-processes-for-the-east-african-crude-oil-pipeline-project-on-communities-in-kiteto-district-manyara-region/>]

<sup>380</sup> Ibid.



regarding the EACOP project, suggesting a significant lack of understanding about the project's impacts and mitigation strategies.

#### 4.2.4.4. **Way Forward**

Land is crucial for survival and development of communities. As such, future land acquisition processes must ensure the PAPs meaningfully participate in the land acquisition process and provide Free Prior and Informed Consent (FPIC). For this to happen investors and the Government must ensure there is transparency in the land acquisition process, access to accurate information, and regular communication with wider communities in the project affected areas. Companies like EACOP should also collaborate with key human rights stakeholders such as the Commission for Human Rights and Good Governance (CHRAGG) and human rights NGOs like LHRC to ensure protection of land and other human rights during project implementation. Regulatory authorities like the Energy and Water Utilities Regulatory Authority (EWURA) and National Environment Management Council (NEMC) should also continue to monitor the project implementation to ensure compliance with relevant laws and regulations.

#### 4.2.5. **Compensation for Land Acquisition**

##### **Perception on compensation**

**Less than half of community members are certain that compensation granted following land acquisition is usually fair and timely.**

Community members in the surveyed regions were asked about compensation following land acquisition for investment purposes, and whether it is paid fairly and timely. In a recent survey, 58% of respondents expressed uncertainty about whether compensation is granted fairly and on a timely basis.<sup>381</sup> 16% of the respondents said compensation granted is fair but not timely, while

11% it is unfair but timely. Only 9% of respondents felt that the compensation was both fair and timely, while 6% believed there was no compensation at all.

##### **Complaints and concerns about compensation**

Complaints about compensation were mostly aired in Tanga, Dar es Salaam, Pwani, Dodoma, Geita, Mara, Iringa, and Mtwara. The complaints included non-payment of compensation; delays in payment of compensation; and unfair compensation, mostly due to unfair valuation. In the Pwani region, residents of Mkuranga District have expressed frustration over inadequate compensation and delayed payments, citing that the lack of timely compensation has made it more challenging for them to rebuild their homes. Specifically, the increased prices of building materials and rising cost of living have added to their struggles, making it even more difficult to construct new dwellings.<sup>382</sup> In Dodoma, some of the residents

<sup>381</sup> N=1,031.

<sup>382</sup> Interviews with residents of Vikindu and Mkuranga Wards.



in Msalato area claimed they were still owed 8% of the agreed compensation since 2022.<sup>383</sup>

In Geita, it was reported that some artisanal miners in Geita District from Mtakuja, Katoma, Magoma and Nyanza areas had been removed from their mining areas to accommodate Geita Gold Mine (GGM) without compensation.<sup>384</sup> In Tanga, a villager in Chongoleani Ward, who was affected by the EACOP Project, said:

*'We were first told by the investor that we would be paid Tshs. 10 million per hectare, which is why we agreed to sell, but in the end got paid Tshs. 2 million per hectare.'*

Villager, Chongoleani – Tanga

LHRC is also concerned about gender discrimination in granting compensation following land acquisition for investment. The study learned that compensation is usually granted to the heads of household, usually men, leaving women and children vulnerable in case the man decides to misuse the money at the expense of other family members. LHRC recommends the law considers the welfare of women and children in the process of granting compensation for land acquisition.

Another key concern about compensation following land acquisition for investment is inadequate protection of interests of a third party. The law identifies the land occupier as the person entitled to compensation. While the law also provides for due diligence to be conducted as a way of protecting the rights of the third party, this is easier when land is registered but difficult when it comes to squatter land.

### **Compensation, relocation and resettlement: The case of WDL in Shinyanga**

In Shinyanga, the survey team met with an official from Williamson Diamonds Limited (WDL), who indicated that the mining company had been implementing compensation, relocation, and resettlement measures. For instance, following a tailings dam failure on November 7, 2022, which destroyed over 50 houses in Mwadui Lohumbo and Ng'wanholo villages, both located in Mwadui Lohumbo Ward, Kishapu district, the company was obliged to compensate the affected individuals for their land. Subsequently, they were relocated to new areas and resettled with the construction of new houses away from the mine.

As of the date of this survey, the affected land remains under the company's ownership, despite having compensated, relocated, and resettled the affected individuals. The issue of land ownership rights over these territories remains unresolved. It is noteworthy that WDL has set a precedent by adhering to the Mining Act of 2010 and international standards, specifically the IFC Standards (Performance Standard 5), which prioritize relocation and resettlement.

<sup>383</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

<sup>384</sup> Interview with a local government official in Geita District.



Resettlement is a relatively rare practice in Tanzania's mining sector, as most companies typically opt for compensation rather than relocation. However, WDL's approach in assisting dozens of host communities whose houses were destroyed could serve as a model for similar situations elsewhere, the lesson could be replicated by other mining companies even during normal land acquisition, not necessarily involving the destruction of houses by the tailings.

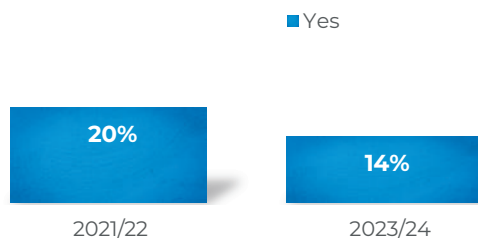
The WDL case study is indicative of gaps in the existing land laws, which appear to focus on the remedy of compensation, while giving little or no attention to equivalent compensation, livelihood improvements, relocation, and resettlement.

### **Compensation through mining shareholding agreements**

In Shinyanga, the survey found that there is a practice of shareholding agreements between landholders and mineral licence holders. In the conversation with a respondent from the mining commission, the survey learned some notable shifts toward shareholding agreements between mineral license holders and land rights holders. These agreements, while innovative, blur the boundaries between land and mineral rights. In this model, where the mineral license holders lack the financial resources to compensate land rights holders and negotiate shareholding agreements instead. Under these arrangements, land rights are quantified as investments in the mining project, with landholders receiving dividends from mineral sales proportionate to their agreed-upon percentage.

## **4.3. Access to Unutilized Land Reserved for Investment**

Tanzanian laws do not require investors to provide access to unutilized land for purposes such as grazing, hunting, farming, and traditional rituals. However, investors can do this in good faith as a way of giving back to the community. In the surveyed areas, community members were asked whether they are allowed access to part of investment land conduct livelihood activities. Like in the 2022 survey, less than a quarter of respondents (14%) said they are allowed access to unutilized land.<sup>385</sup>



**Figure 4.3: %Responses on community members being allowed access to unutilized land acquired by investor - 2021/22 & 2023/24**

Source: Field data 2022 & 2024

<sup>385</sup> N=1,030.





Regions where community members indicated some of the investors allowed them access to unutilized land included Kilimanjaro, Iringa, Pwani, Mbeya, and Tanga. For instance, in Kilimanjaro, this was revealed in Hai District, where *Joshi Feed Meel Ltd* was said to allow villagers in Ngosero Village to access its land for purposes of livestock grazing.<sup>386</sup> In Pwani, it was reported that the owner of *KEDA*, a glass factory, allowed food vendors to access part of their land to conduct business,<sup>387</sup> while in Morogoro *Shambani Milk Ltd* was said to allow surrounding community access to their land for purposes of farming. In Tanga, community members in Kwashemshi Ward, Korogwe District, indicated that *Kwashemshi Sisal Estate* had allowed them access to part of its land to construct houses and carry out economic activities such as farming and grazing.

*'We have a large plot of land currently not in use, where we allow community members, especially our workers and their families, to grow some food and other crops.'*

HR officer at Shambani Milk Ltd – Morogoro



**Picture 4.1: Part of the land owned by Kwashemshi Sisal Estate open to community use**

Source: Field data 2024

When asked why they do not allow community access to unutilized land, some of the investors provided several reasons, the main one being avoiding potential disputes with community members, as some of them reportedly tend to claim part of the land as theirs after some time, as revealed by the Human Resources Manager of *PCT Company* in Mafinga District, Iringa Region.<sup>388</sup> Other investors cited safety concerns and nature of their business as key contributing factors.<sup>389</sup> In Shinyanga, mining companies emphasized the necessity of maintaining a buffer zone between their operations and communities, with unused land forming part of their licensing requirements, considering the hazardous nature of mining activities.

<sup>386</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.

<sup>387</sup> Human Rights and Business Survey 2024: Pwani Field Report.

<sup>388</sup> Human Rights and Business Survey 2024: Iringa Field Report.

<sup>389</sup> Interviews with some of the companies in Arusha.



In Shinyanga, the survey found that sometimes community members in investment areas are forced by circumstances to enter unauthorized land. For residents around the land under the Williamson Diamonds Limited (WDL) were said to often venture into the licensed area, sometimes knowingly or unknowingly, in search of firewood.<sup>390</sup> However, since these entrances are unauthorized, the survey found that community members, both men and women, are treated as intruders suspected of illegal mineral extraction. Consequently, they face the risk of arrest, physical assault, and sometimes severe injuries when found within the licensed area.

The survey further observed that the lack of feasible access to cooking gas in the vicinity compels people to continue entering the licensed area. For many, the prospect of enduring beatings becomes a grim reality before they can cook their meals. Moreover, the survey highlighted cultural norms in the host communities where women are often tasked with gathering firewood. Consequently, they bear the brunt of these arrests and beatings. Reports from recent years have even alleged instances of rape perpetrated by the mine security personnel against women. While vehemently denied by the mine, these allegations led to compensation payouts to victims, and some cases are still being addressed through independent grievance mechanisms.

#### 4.4. Land Acquisition Disputes and Access to Remedy

##### **Causes of land disputes**

One of the major causes of land disputes in Tanzania is land acquisition by investors.<sup>391</sup> This usually occurs when the community members are not involved or are excluded from the land acquisition process. When people are excluded, they do not participate in making key decisions regarding their land, which presents problems later.<sup>392</sup> Land disputes often emerge when community members are not fairly compensated promptly following land acquisition, leading to tensions between community members and both investors and government authorities. This can lead to conflicts and disputes over land ownership, use, and development.<sup>393</sup> Poor governance issues such as corruption, nepotism, and disregard of regulations also contribute to land disputes. Additionally, lack of transparency and the absence of well-defined land use plans, coupled with poor communication or miscommunication may cause land disputes/conflicts.<sup>394</sup>

<sup>390</sup> Human Rights and Business Survey 2024: Kilimanjaro Field Report.

<sup>391</sup> See Peter Elias "Behind land disputes in Tanzania" Land Portal, 26 June 2021, at <https://landportal.org/news/2021/08/behind-land-disputes-tanzania>, accessed 9<sup>th</sup> August 2022.

<sup>392</sup> Ibid.

<sup>393</sup> Willbard Kombe, *LAND ACQUISITION FOR PUBLIC USE: EMERGING CONFLICTS AND THEIR SOCIO-POLITICAL IMPLICATIONS* (supra); Gwaleba, Method & Silayo, Eugene. (2019). *A Review of the Causes of Land Use Conflicts Between Farmers and Pastoralists in Tanzania and a Proposal for Resolutions*. *Journal of Economic Science Research*. 2. 10.30564/jesr.v2i1.389.

<sup>394</sup> Ibid.



Another cause of land disputes in Tanzania is the conflict between surface rights and mining rights, granted by the Land Act and Mining Act respectively. Disputes arise when the mineral rights holder wants to access surface land to undertake open-cast mining or undertakes underground mining but impacts the surface land, hence infringing on the rights of the surface owner.

### **Legal framework for dispute resolution and the challenge of remedy access**

The legal framework governing land dispute settlement mechanisms in Tanzania is primarily established in the Land Act of 1999, the Village Land Act of 1999 and the Courts (Land Disputes Settlement) Act of 2002 (all revised in 2019). These laws establish various bodies vested with a mandate to settle land disputes at different levels. These bodies are the Court of Appeal of Tanzania, the High Court of Tanzania, the District Land and Housing Tribunal, the Ward Tribunal, and the Village Land Council. These land dispute bodies above have distinct mandates for resolving land disputes.

Despite the commendable efforts of Tanzania's land dispute resolution bodies, they still encounter several challenges. These include the use of customs and traditions in resolving disputes; lack of capacity among some of the bodies, such as the Village Land Council and Ward Tribunal; lengthy court proceedings; corruption; costs of legal representation; and budgetary constraints.

Some of the challenges highlighted above were reported in some of the surveyed regions. For instance, in Arusha, capacity of some of the members of land tribunals was said to be a challenge, as was political interference in some cases. In Dodoma, low awareness of land laws and rights was said to be among the barriers of access to justice for community members. In Mtwara, the following statement by one of the interviewed community members attests to the challenge of lengthy court proceedings:

*'Since 2011 we have been filing land compensation cases in courts and won them, but we have been told the case has to go back to the regional court for rehearing.'*

Community member, Hiari Village – Mtwara

Informed by legal aid data and engagement with various justice actors, LHRC has observed that sometimes lawyers also contribute to delays in dispensation of justice in land cases. This happens when they are engaged in multiple land cases in different parts of the country. In light of this and other challenges in accessing remedy, there is need to encourage parties to land disputes to resolve them through alternative dispute resolution (ADR).



### Reported land disputes

Through the survey, LHRC documented reported incidents of land disputes in regions such as Singida, Mwanza, Shinyanga, Mara, Iringa, and Mtwara. For instance, in Singida the survey found a dispute between some residents of Kisaki Village and *Kijiji Cha Nyuki Company Limited*. The issue was land grabbing, and the dispute was reportedly decided by the Deputy Minister of Lands, Housing and Human Settlements Development. However, aggrieved by the decision, one of villagers was reportedly looking to take the matter to court.<sup>395</sup> In Mwanza, a conversation with a land officer in Ilemela District revealed two land disputes between investors and community members, one of which is 13 years old.

Another long-standing dispute between an investor and community members was reported in Shinyanga, involving *El Hilal Mining Ltd*. The cause of the conflict is 10,000 hectares of underutilized, formerly of the *Williamson Diamond Limited* (WDL), which the Government allocated to *El Hilal Mining Ltd*. Upon taking possession of the land, El Hilal encountered existing communities, deemed by the company as intruders on reserved land. The company refused to compensate these communities, arguing that they were unlawfully occupying reserved land. In 2022, a ministerial committee comprising eight ministers resolved the dispute by advising *El Hilal* to allocate **2,618 hectares** of land to the communities and continue using the remaining **7,382 hectares** for diamond mining activities. Explaining the ongoing situation, a land officer from the Kishapu district council stated:

*'Some communities disputed the findings of the ministerial committee and demanded compensation from El Hilal, a demand the company has refused to entertain.'*

Land officer – Shinyanga

Other documented land disputes included a land dispute between community members in Musoma Municipality and *China Civil Engineering Construction and Corporation* in Mara; community members in Kitwiro Ward and *ASAS Company* in Iringa; and some residents of Hiari Village and *Dangote Industries Tanzania Ltd* in Mtwara. All these disputes related to compensation, whereby the aggrieved community members claimed that they were either not compensated or the compensation offered to them was unfair. Additionally, LHRC documented a land dispute between investors and community members (Kagoma Ranch Land Dispute) in Kagera, which is briefly discussed.

<sup>395</sup> Interview with some village leaders.



### Kagoma Ranch Land Dispute in Kagera

In Kagera, there had been a land dispute over the Kagoma Ranch involving community members in Mulemba District and investors. The dispute had reportedly lasted 17 years until it was resolved by an 8-member sectoral ministry committee led by the then Minister of Lands, Housing and Settlements Development, Hon. Angelina Mabula, intervened and resolved the dispute in July 2023. The 50,690 hectares of the ranch were divided between the parties to the dispute, whereby the community members were allocated 18,031 hectares (44.4%) and the investors (NARCO) 32,658 hectares (55.5%). However, another dispute has ensued as it was reported that the investors, who possess 33-year leasehold rights, were not meaningfully involved in the land acquisition and allocation processes. There is now tension between the villagers and investors as they clash over the lands, which each party claiming rights over them.

The survey further found that some community members prefer to pursue justice through political channels rather than established judicial bodies. For instance, in the above-mentioned land dispute between community members and *El Hilal Mining Ltd*, it was reported that they had not pursued legal action in any court, expecting remedies through political channels.<sup>396</sup>

## 4.5. Comparison of Performance Indicators on Adherence of Land Rights Standards

This subchapter provides a summary of key findings for some of the key performance indicators relating to land rights and standards. The key findings on the land rights for the survey covering the period of 2023/24 are compared with those of the year 2021/22.

**Table 3: Comparison of some of the key performance indicators on land rights and standards**

Land Rights Standard	Performance Indicators	
	2021/22	2023/24
Meaningful participation in land acquisition process	<ul style="list-style-type: none"> <li>20% of the community members felt community members were usually involved in the land acquisition process, while 8% said they are sometimes or somewhat involved.</li> </ul>	<ul style="list-style-type: none"> <li>Only 16% said they are usually involved (13%) and adequately involved (3%).</li> </ul>

<sup>396</sup> Interview with a land officer in Kishapu District, Shinyanga.





<p>Compensation</p>	<ul style="list-style-type: none"> <li>Over half of the respondents (54%) said they were not sure whether compensation is granted fairly and timely. Percentage of community members who said compensation granted is fair and timely was 5%. 19% said compensation granted fair but untimely. 16% said compensation granted fair but untimely. 9% said compensation is unfair but timely</li> </ul>	<ul style="list-style-type: none"> <li>Over half of them (58%) indicated that they were not sure if compensation is granted fairly and timely. 16% of the respondents said compensation granted is fair but not timely, while 11% said it is unfair but timely. Only 9% said it is both fair and timely, while the remaining 6% said there was no compensation.</li> </ul>
<p>Access to unutilized land</p>	<ul style="list-style-type: none"> <li>9.8% said they were allowed access. Majority of the community members, over half of them (56.7%) said they are not allowed access to such unutilized land.</li> </ul>	<ul style="list-style-type: none"> <li>Less than a quarter of respondents (14%) said they are allowed access to unutilized land.</li> </ul>

Source: Field data 2022 & 2024



## 5

## CHAPTER FIVE: BUSINESS COMPLIANCE WITH TAX OBLIGATIONS

### 5.1. Introduction: Taxation as a Human Rights Issue

In response to the growing impact of business activities on the enjoyment of economic, social and cultural rights,<sup>397</sup> in June 2017 the UN Committee on Economic, Social and Cultural Rights (CESCR) issued its General Comment No. 24 titled “State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities.”<sup>398</sup> In this Comment the CESCR clearly stated that taxation is a human rights issue and among the concerns raised by the committee are practices and policies that leave loopholes for tax avoidance and corporate tax abuses. According to CESCR, **“lowering the rates of corporate tax solely with a view to attracting investors encourages a race to the bottom that ultimately undermines the ability of all States to mobilize resources domestically to realize Covenant rights.”**<sup>399</sup> It also reminds states of their obligations to respect, protect and fulfil human rights under the International Covenant on Economic, Social and Cultural Rights, **“focusing on their duties to protect, which are the most relevant in the context of business activities.”**<sup>400</sup> CESCR further reminds states that in order to combat corporate tax abuses, they should combat transfer pricing practices and deepen international tax cooperation.<sup>401</sup>

Although the UN Guiding Principles on Business and Human Rights (UNGPR) do not cover taxation, one of the major principles provided for is that of due diligence. UNGPR 15 states that corporate responsibility to respect human rights includes **human rights due diligence process to identify, prevent, mitigate and account for how businesses address their adverse impacts on human rights.** Tax avoidance and evasion cause adverse human rights impact by undermining the

<sup>397</sup> Rights specifically mentioned in this regard in the General Comment are: Right to health, right to housing, right to food, right to water, right to social security, the right to work, the right to just and favourable conditions of work and the right to form and join trade unions.

<sup>398</sup> See Committee on Economic, Social and Cultural Rights, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, available at

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GC/24&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GC/24&Lang=en), accessed 19<sup>th</sup> April 2022.

<sup>399</sup> Ibid, para 37.

<sup>400</sup> Ibid, para 10.

<sup>401</sup> Ibid, para 37.



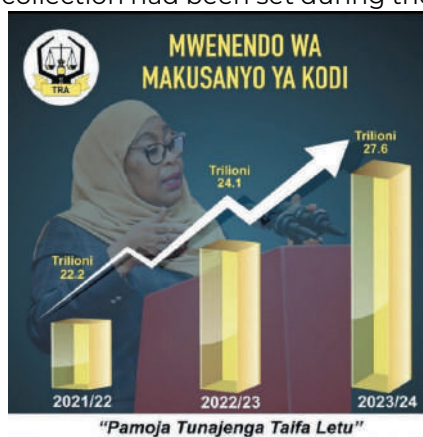
ability of the Government to meet its human rights obligations. Taxation plays a crucial part in realization of human rights,<sup>402</sup> especially economic, social and cultural rights. It is essential for achieving economic growth<sup>403</sup> as one of the major sources of government revenue.

## 5.2. Payment of Taxes by Businesses: Trends and Current Situation

Tax laws in Tanzania require businesses, including companies, to pay corporate tax, which the Tanzania Revenue Authority (TRA) defines as “a tax charged on the taxable incomes (profits) of entities such as limited companies and other organizations including clubs, societies, associations and other unincorporated bodies.”<sup>404</sup> It falls under the category of direct taxes. Other direct taxes include *Pay As You Earn* (P.A.Y.E), individual income tax, withholding tax and gaming tax. The corporate tax rate is 30%. Apart from taxes administered by TRA, there are other taxes which are levied at the Local Government Authorities (LGAs).<sup>405</sup> Businesses are required to estimate taxable income for the year and pay tax on that income in four quarterly installments.

### General tax trends

In 2022, it was reported that a new record in tax collection had been set during the financial year 2021/22 after a total of Tshs. 16.69 trillion had been collected in just nine months, equal to 97.3% of the target.<sup>406</sup> Since 2020 tax collected by the Tanzania Revenue Authority (TRA) has reportedly exceeded Tshs. 16 trillion each year, and this has been factors such as growth of business activities, improved dispute resolution, and enhanced compliance measures. For the financial year 2021/22, TRA reportedly collected over Tshs. 22.28 trillion, while in the financial year 2022/23 it reportedly collected Tshs. 24.11 trillion, equal to 97.4% of the



<sup>402</sup> See Sebastián López Nieto & Beretta Godoy, *Taxation as a human rights issue* at <https://www.ibanet.org/Article/Detail.aspx?ArticleUid=4d8668cb-473a-44ea-b8be-1327d6d9d977>, accessed 19<sup>th</sup> April 2022.

<sup>403</sup> See Actionaid, *Tax responsibility: The business case for making tax a corporate responsibility issue* at

<sup>404</sup> See TRA “What is Corporation Tax?” at <https://www.tra.go.tz/index.php/corporation-tax/108-what-is-a-corporation-tax>, accessed 19<sup>th</sup> April 2022.

<sup>405</sup> Victor Mrema “Taxation System in Tanzania” at <https://beakolaw.co.tz/taxation-system-in-tanzania/>, accessed 8<sup>th</sup> August 2022.

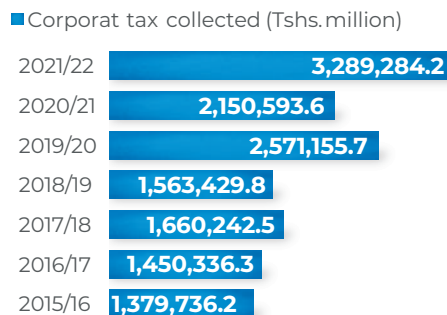
<sup>406</sup> See Josephine Christopher “TRA sets 15-year collection record as target now within reach” The Citizen Newspaper (online), 5 April 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/tra-sets-15-year-collection-record-as-target-now-within-reach-3771118>, accessed 8<sup>th</sup> August 2022.



target.<sup>407</sup> Recently, in 2024, the average monthly collection figure has been said to be Tshs. 2 trillion per month. For the financial year 2023/24, the amount of revenue collected reportedly further increased to 27.6 trillion.

### Corporate tax trends

Regarding corporate tax, statistics show what the amount of revenue increased from Tshs. 1.82 trillion during the financial year 2014/15 to Tshs. 2.5 trillion during the financial year 2019/20.<sup>408</sup> For the financial year 2021/21 the figure stood at Tshs. 2.15 trillion, but significantly increased during the financial year 2021/22, at Tshs. 3.28 trillion.<sup>409</sup>



**Figure 5.1: Amount of corporate taxes collected in Tanzania Mainland from the financial years 2015/16 to 2021/22 (million Tshs.)**

Source: TRA

Figure 5.1 above suggests that there have been improvements in revenue collection from companies, which have been more significant in recent years. However, several barriers to effective taxation persist, as discussed below.

### Opinions of TRA officials

TRA officials interviewed in some of the surveyed regions informed the survey teams that they had been increased compliance with tax obligations among companies and other businesses. This reflects the increased amount of taxes collected nationally, as highlighted above. For instance, in Mtwara, a TRA official revealed that the target of tax collection for the financial year 2023/24 was significantly surpassed by the actual amount of taxes collected, partly contributed by the Government's decision to re-open border with Mozambique.<sup>410</sup>

<sup>407</sup> Josephine Christopher "TRA collects Sh24 trillion in the 2022–23 fiscal year" The Citizen Newspaper (online), 4 Jul 2023, at <https://www.thecitizen.co.tz/tanzania/news/business/tra-collects-sh24-trillion-in-the-2022-23-fiscal-year-4292840>.

<sup>408</sup> See NBS, *TAX STATISTICS REPORT 2020/21 TANZANIA MAINLAND*, at [https://www.nbs.go.tz/uploads/statistics/documents/sw-1705503884-Tax\\_Statistics\\_Report\\_2020\\_2021\\_Tanzania\\_Mainland.pdf](https://www.nbs.go.tz/uploads/statistics/documents/sw-1705503884-Tax_Statistics_Report_2020_2021_Tanzania_Mainland.pdf); TRA, Tax collection statistics, at <https://www.tra.go.tz/index.php/tax-collection-statistics>.

<sup>409</sup> Ibid.

<sup>410</sup> Human Rights and Business Survey 2024: Mtwara Field Report.



One of the companies which was recognized for its outstanding tax compliance is *Amama Farms Limited*.



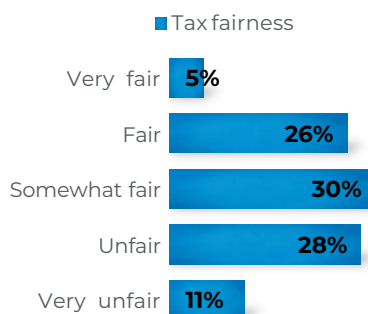
**Picture 5.2: Certificate issued by TRA to Amama Farms Limited by outstanding tax compliance during the financial year 2022/23**

Source: Field data, 2024

### 5.3. Tax Obligations: Perceptions of Companies and Small Business Owners

#### **Perceptions and concerns of corporate officials**

Corporate management officials in the surveyed regions were generally asked about the fairness of taxes imposed by the Government at different levels. As in the previous 2022 survey, majority of corporate management officials (39%) said the taxes imposed were unfair (28%) and very unfair (11%), followed by 30% who considered the taxes fair and affordable. Only 31% felt the taxes were fair (26%) and very fair (5%). In the 2022 survey, only just over a third (35%) of corporates felt the taxes imposed were affordable or fair.



**Figure 5.2: %Responses of corporate officials on tax fairness (N=166)**

Source: Field data, 2024





As in the 2022 survey, apart from complaining about the tax estimates, some of the corporate officials also complained about multiplicity of taxes, including taxes, fees, and levies collected by TRA and the Local Government Authorities (LGAs). Some of them claimed that the tax system is unfair because they are charged taxes during production, after processing, and after making the final product.<sup>411</sup> Such complaints were more common among Small and Medium Enterprises (SMEs) in the surveyed regions. For instance, in Pwani an officer from a SME said:

*'There is plethora of taxes, levies, and rates that we must pay, including from the local government authority (LGA), TRA, OSHA, and NEMC. We urge the Government to reduce these taxes.'*

SME officer – Pwani

Some of the respondents recommended that the Government should introduce a consolidated system of tax collection, including considering establishing a one-stop centre. One of the respondents recommended establishment of an oversight body to monitor the performance of tax collection institutions.

*'It is high time the Government established a one-stop centre for tax collection, to be led by TRA. This will reduce the inconveniences experienced by taxpayers. We are not against tax payment because it is for national development, we just want the tax collection system to be improved.'*

HR manager – Mtwara

Some of the interviewed business owners also accused some TRA officials of setting higher tax estimates and lacking flexibility and friendliness. They noted that factors such as increased costs of production and decreased profits are rarely considered, as the tax estimates remain the same or are increased. This was revealed by business owners in some of the regions, including a restaurant manager in Mbeya, a tea company manager in Tanga, and a pharmacy owner and boat business owner in Mtwara.

In Morogoro, the survey found that sometimes workers are made to pay for company remittance of huge amount of taxes. For instance, some employers were said to resort to paying lower wages, delaying wage payment, and even non-payment of social security (NSSF) and workers' compensation (WCF) contributions.<sup>412</sup>

<sup>411</sup> Interviews with some business owners in Dodoma.

<sup>412</sup> Interview with a WCF official.



A similar situation was reported in Tanga, where a hotel manager said double taxation and huge amount of taxes has contributed to payment of lower wages.<sup>413</sup>

In Dodoma, some corporate officials recommended that the Government reduces the percentages of WCF, NSSF and PAYE contributions.<sup>414</sup> In Mwanza, it was also suggested by an official at *Nyanza Bottling Company Ltd* that PAYE should be reduced as the rate is too high.<sup>415</sup> In Mbeya, it was reported that some SMEs are facing the possibility of being closed down due to over taxation.<sup>416</sup>

In Shinyanga, some hotel owners complained about multiplicity of taxes and flat rate for hotels. They called upon the Government to scrap some of the taxes and reserve others for tourist hotels only in other regions, since they make more profits. In Iringa, some hotel owners also complained about similarity of taxes imposed by TRA and LGA. One of the hotel managers said:

*'We are paying numerous taxes. For instance, we pay bed night levy to TRA and pay the same levy, called hotel levy, to the municipal council. We are therefore paying the same tax to two different authorities, which is unfair.'*

Hotel manager – Iringa

### **Government promise**

Recently, in July 2024, it was reported that the Government was keen on addressing the complaint of lack of a single tax collection system. As part of efforts to improve business environment, the Government was reportedly planning to establish a single system for tax collection in one basket, whereby business operators shall be able to business operators to pay one amount that includes taxes, fees and levies for all the tax institutions.<sup>417</sup>

### **Perceptions and concerns of traders**

Traders, including market traders, doing their business in various parts of the regions that were visited were asked about to their satisfaction with the use of tax money in terms of delivery of essential public services and trade environment. About half of the respondents (53%) expressed dissatisfaction with the use of tax money, suggesting that they were not benefiting as much as they should from paying taxes. About a quarter of the respondents (26%) said they were somewhat satisfied with the benefits of paying taxes.

<sup>413</sup> Interview with the manager at Mtendele Hotel in Tanga City.

<sup>414</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

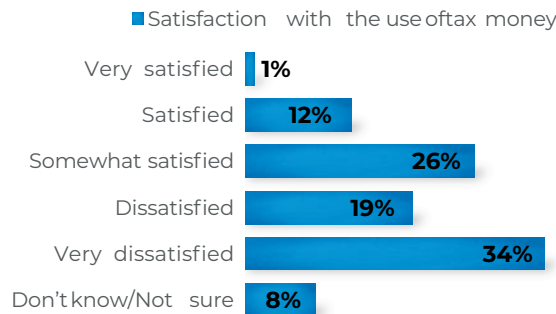
<sup>415</sup> Human Rights and Business Survey 2024: Mwanza Field Report.

<sup>416</sup> Interview with an SME official in Mbeya City.

<sup>417</sup> "From Nairobi to Dar: Tanzania Kariakoo traders borrow a leaf from Kenya in anti-tax strike" THE EXCHANGE, 5 Jul 2024, at <https://theexchange.africa/countries/tra/>.



Only 13% said they were satisfied (12%) and very satisfied (1%) with the use of their tax money. Nevertheless, nearly all interviewed traders acknowledged the importance of taxes in national development.



**Figure 5.3: %Responses of traders on satisfaction with the use of tax money (N=684)**

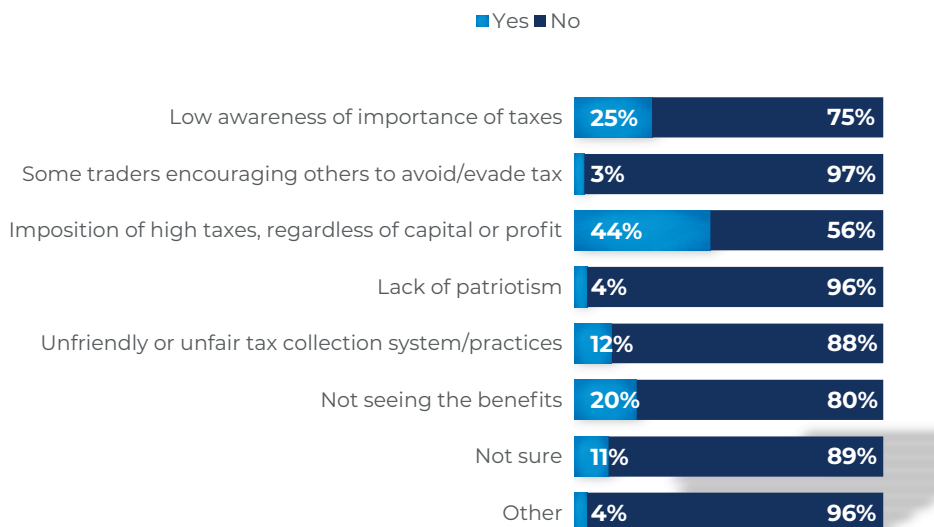
Source: Field data, 2024

Majority of traders said they want to see improvement in delivery of public services and increased transparency. A 2018 study on citizen's satisfaction with public services and willingness to pay taxes in Tanzania concluded that citizens satisfied with the public services are willing to pay more taxes.<sup>418</sup>

Traders in the surveyed regions were also asked about reluctance or unwillingness to pay taxes. They were specifically asked about factors contributing to tax evasion among traders. Imposition of high taxes (44%) was mentioned the most by the respondents, followed by low awareness of importance of taxes (25%), not seeing the benefits (20%), and unfriendly or unfair tax collection practices (12%).

<sup>418</sup> See Mwoya Byaro, *Citizen's satisfaction with public services and willingness to pay taxes in Tanzania*, REPOA, Repoa Brief No. 20/2018, September 2018, at [https://www.repoa.or.tz/wp-content/uploads/2020/07/Citizen\\_satisfaction\\_with\\_public\\_services.pdf](https://www.repoa.or.tz/wp-content/uploads/2020/07/Citizen_satisfaction_with_public_services.pdf).





**Figure 5.4: %Responses on reasons for reluctance to pay taxes among traders**

Source: Field data, 2024

As in the 2022 survey, complaints about tax fairness among traders were widespread in most of the surveyed regions, including among traders at the Kariakoo Market in Dar es Salaam. Traders at the market mainly complained about the multiplicity of taxes, harassment in tax collection, and street vendors, popularly called '*machingas*.'

*'We are paying too many taxes at the Kariakoo Market. For instance, we pay Tshs. 20,000 as waste disposal levy, at least Tshs. 200,000 for frame rent, e.t.c. The Prime Minister visited and promised us the matter would be addressed after we complained to the Government, but nothing has been done so far.'*

A trader at the Kariakoo Market – Dar es Salaam

In June 2024, market traders at the Kariakoo Market and other markets across Mainland Tanzania organised and implemented a strike in protest of the various tax-related challenges they were facing that remained unresolved.<sup>419</sup> High on their list of grievances was multiplicity of taxes, but they also mentioned collection methods by TRA, characterized by harassment, and seizure of goods by a task force

<sup>419</sup> "Kinachoendelea mgomo wa wafanyabiashara Dar, mikoani" Mwananchi Newspaper (online), 27 Jun 2024, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/kinachoendelea-mgomo-wa-wafanyabiashara-dar-mikoani-4671334>; Jacob Mosenda "Kariakoo shutdown: Tanzania's major traders on indefinite strike" The Citizen Newspaper (online), 25 Jun 2024, at <https://www.thecitizen.co.tz/tanzania/news/national/kariakoo-shutdown-tanzania-s-major-traders-on-indefinite-strike-4666290>.





under the pretext of verifying their value.<sup>420</sup> Other regions where traders went on strike included Mbeya, Mwanza, and Morogoro. This is the second strike in the past two years, following a similar strike in May 2023.



**Picture 5.2: Some of the traders at the Kariakoo Market holding banners during the strike**

Picture credit: VOA<sup>421</sup>

In Dodoma and Mwanza, concerns about tax fairness and affordability were also expressed at the *Kibaigwa Cereal International Market* and *Mwaloni Kirumba Market* respectively. In Morogoro, some of the small business owners lamented being subjected to tax by TRA despite having a low capital being unable to pay and keep their businesses afloat.<sup>422</sup> A similar issue was raised by mill business owners in Geita, where there were also complaints about 'huge' fees and inspection costs imposed by Fire and Rescue and the Weights and Measures Bureau respectively.<sup>423</sup>

In Shinyanga, some of the respondents shared concerns about the mismanagement of public funds by public institutions. However, most of the respondents credited the previous Regional Commissioner (RC) and DEDs for their pure commitment to improving the Shinyanga region using internal revenues.<sup>424</sup>

At some of the visited markets, traders decried the poor state of market infrastructure and unwillingness of the local authorities to improve the situation.

<sup>420</sup> James Butty "Tanzania traders protest new taxes, collection methods" VOA, 27 Jun 2024, at <https://www.voaafrica.com/a/tanzania-traders-protest-new-taxes-collection-methods/7675373.html>.

<sup>421</sup> <https://www.voaswahili.com/a/wafanyabiashara-wa-kariakoo-wagoma-kwa-wafunga-maduka/7668072.html>.

<sup>422</sup> Human Rights and Business Survey 2024: Morogoro Field Report.

<sup>423</sup> Human Rights and Business Survey 2024: Geita Field Report.

<sup>424</sup> Interviews with community members and traders in Shinyanga MC.





Such complaints were made by some of the market traders in regions such as Dar es Salaam, Iringa, Geita, Arusha, Mara, and Mtwara. The markets include the *Kilombero Market* in Arusha and *Misuna Onion Market* in Singida.

*'We pay the numerous taxes to the Government, but we don't see any improvement of the market infrastructure. We therefore don't see the benefits of paying the taxes, while the infrastructure is dilapidated, and we really suffer during the rainy season.'*

A trader at Misuna Onion Market – Singida

At the Kariakoo Market in Dar es Salaam one trader revealed during an interview that due to tax-related challenges such as huge amount of taxes some traders have resorted to selling fake or substandard products to be able to afford the taxes and rent, as well as make profit. Some of the traders at the market also lamented imposition of flat tax by some TRA officials, regardless of capital.

### **Complaints by small-scale miners in Geita**

In Geita, interviewed small-scale miners also complained about multiplicity of taxes, including double taxation. The survey conducted in the region found that a miner owns a mine pays: royalty 6% to the Tanzania Mining Commission; inspection fee of 1%; TRA 2%; and social services fee (service levy) of 0.3%, totaling to 9.3% per one bag of stones from a mine, and they still get taxed again when they sell gold at the market. The situation was said to be exacerbated by tax by-laws that the miners deemed oppressive and inconsiderate of the voices and concerns of small-scale miners. Some of the miners recommended reduction of royalty rate from 6% to 2%.

*'We are engaged in the informal mining business and unfortunately, we are subjected taxes regardless of the costs we incur. Consequently, artisanal miners continue to find it difficult to escape poverty.'*

A small-scale miner – Geita

## **5.4. Key Issues and Challenges in Revenue Collection**

### **Tax evasion and avoidance**

Tax avoidance is when an individual or a company takes advantage of loopholes in the law to reduce taxable income or amount of tax paid and is not illegal; whereas tax evasion is illegal and occurs when one lies about their income so that they pay less tax.



Different methods are used to avoid tax, including non-payment of taxes through agreements with governments, subsidies, loopholes, tax havens, creative accounting practices, “transfer-pricing”<sup>425</sup>, and others.<sup>426</sup>

Tax evasion and avoidance continue to be key concerns in revenue collection in Tanzania, despite efforts of increasing tax compliance and corresponding increase in revenue collected in recent years. The *State of Tax Justice 2023 Report*, published by the Tax Justice Network<sup>427</sup> in August 2023, shows that Tanzania lost 124.7 million dollars to global tax abuse, of which 106.5 million was lost to corporate tax abuse by multinational companies.<sup>428</sup> The report shows that the amount of taxes lost is equivalent to 14.03% of health expenditures.<sup>429</sup> The 2021 edition of the report indicates that Tanzania lost 212.8 million dollars to global tax abuse.<sup>430</sup> Corporate tax abuse by these corporations serves to encourage tax evasion among local businesses as they wonder why they should fully meet their tax obligations while the larger ones benefit from tax abuse, including cross-border tax abuse.

In the surveyed regions, some respondents also acknowledged practices of tax evasion and avoidance among traders. Methods used to evade tax include non-provision of receipt, as observed in Singida, where the survey team met and engaged in a conversation with a Chinese businesswoman selling smart phones without a licence and providing receipt.<sup>431</sup>

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<sup>425</sup> A good example is when Company A sells equipment to Company B, the latter being a subsidiary company (affiliated to Company A).

<sup>426</sup> See Mauricio Lazala “Tax avoidance: the missing link in business & human rights?” at <https://www.business-humanrights.org/en/tax-avoidance-the-missing-link-in-business-human-rights>, accessed 20<sup>th</sup> August 2022.

<sup>427</sup> An advocacy group and network of individuals and organisations calling for fairer tax systems, consisting of a researchers and activists with a shared concern over tax avoidance, tax competition, and tax havens.

<sup>428</sup> See Tax Justice Network, *State of Tax Justice 2023*, at <https://taxjustice.net/wp-content/uploads/SOTJ/SOTJ23/English/State%20of%20Tax%20Justice%202023%20-%20Tax%20Justice%20Network%20-%20English.pdf>.

<sup>429</sup> Ibid.

<sup>430</sup> See Global Alliance for Tax Justice, Public Services International and Tax Justice Network, *The State of Tax Justice 2021*, November 2021, at [https://taxjustice.net/wp-content/uploads/2021/11/State\\_of\\_Tax\\_Justice\\_Report\\_2021\\_ENGLISH.pdf](https://taxjustice.net/wp-content/uploads/2021/11/State_of_Tax_Justice_Report_2021_ENGLISH.pdf)

<sup>431</sup> Human Rights and Business Survey 2024: Singida Field Report.





**Picture 5.3: A Chinese businesswoman found selling smart phones without providing receipt in Singida**

Source: Field data, 2024

In Iringa, an officer from the Tanzania Revenue Authority (TRA) told the survey team that low awareness of taxes, including VAT (18%), contributes to tax evasion and avoidance. He added that some traders do not like using EFD machines, which increases the risk of tax evasion. In Arusha a TRA officer in Karatu District said there was an investor who was using provision of corporate social responsibility (CSR) activities as excuse not to pay taxes. An LGA official in the district also had to say about tax evasion in the district:

*'It is very difficult to collect taxes from the locals as they are unwilling to pay them. Business owners in the streets tend to close their shops when they hear a tax collector is coming, and even when you decide to put a padlock on the gate, they find a way to continue selling items. So, we continue to deal with them the best way we can.'*

LGA official (trade officer)– Karatu, Arusha

Another common method of evading taxes, reported in regions such as Dar es Salaam, Tanga, and Mtwara, is underreporting profits to reduce tax estimates. This was said to be common traders, especially those engaging in electronics business. Some of the traders also mentioned that they pay bribes to TRA officials 'to be left off the hook' or prolong their payment timeframe.<sup>432</sup> In Mtwara, the TRA Regional

<sup>432</sup> Interviews with some traders in Dar es Salaam and Tanga.



Manager expressed concerns over smuggling and selling of products that are not electronically stamped.

### **Tax haven and incentives**

Tanzania continues to be a tax haven and providing generous tax incentives.<sup>433</sup> The 2023 report the *Tax Justice Network Africa* and *Policy Forum* acknowledges this problem and calls for the Government to **stop awarding harmful tax incentives to the extractive sector**.<sup>434</sup> Other reports, including reports by the Controller and Editor General (CAG), have also reported concerns over 'generous' tax incentives.<sup>435</sup>

Some of the interviewed officials in surveyed regions, including NGO officials, also pointed out that tax haven and incentives, which are provided in the name of foreign direct investment (FDI), are a challenge and contribute to narrowing the tax base.

The Government needs to reduce tax incentives, especially in the extractives sector. Studies have established that such incentives do not generally rank high as determinants of investment.<sup>436</sup>

### **Illicit financial flows**

Illicit financial flows (IFFs) is simply defined as money that is illegally earned, transferred or utilized.<sup>437</sup> The funds mainly originate from commercial tax evasion, trade mis invoicing and abusive transfer pricing; criminal activities, such as drug trade, human trafficking, illegal arms dealing, and smuggling of contraband; and bribery and theft by corrupt government officials.<sup>438</sup> IFFs, which involve both national and cross-border financing of illicit activities, hinders the ability of governments to provide public services by reducing resources and tax revenue.<sup>439</sup>

<sup>433</sup> Tax incentives take the form of tax exemptions, deductions, or credits.

<sup>434</sup> Tax Justice Africa Network & Policy Forum, *Domestic Resource Mobilization in Tanzania's Extractive Sector for Climate Financing*, October 2023, at <https://taxjusticeafrica.net/resources/blog/new-report-calls-tanzanian-government-heighten-efforts-address-tax-revenue-leakage>.

<sup>435</sup> Tax Justice Africa Network & Policy Forum, *Tanzania and The Burden of Tax Incentives*, at <https://www.policyforum-tz.org/sites/default/files/2024-01/Tanzania%20and%20the%20Burden%20of%20Tax%20Incentives.pdf>; ActionAid, *Sealing the Gaps: An analysis of revenue forgone within the Tanzania tax system and how it could be used to fund public education*, November 2021, at [https://tanzania.actionaid.org/sites/tanzania/files/publications/Sealing\\_the\\_gaps%20report.pdf](https://tanzania.actionaid.org/sites/tanzania/files/publications/Sealing_the_gaps%20report.pdf).

<sup>436</sup> Ibid.

<sup>437</sup> See AU/ECA, *Illicit Financial Flows*, Report of the High Level Panel on Illicit Financial Flows from Africa, Commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development, at [https://www.unodc.org/documents/NGO/AU\\_ECA\\_Illicit\\_Financial\\_Flows\\_report\\_EN.pdf](https://www.unodc.org/documents/NGO/AU_ECA_Illicit_Financial_Flows_report_EN.pdf).

<sup>438</sup> Ibid.

<sup>439</sup> See World Bank Group, *Illicit Financial Flows (IFFs)*, 7 July 2017, at <https://www.worldbank.org/en/topic/financialsector/brief/illicit-financial-flows-iffs>.





Tanzania has reportedly made strides in combating the problem of IFFs, including by taking measures such as introducing transfer pricing guidelines and enacting anti-money laundering laws.<sup>440</sup>

However, the country remains vulnerable to IFFs, approximately \$1.5 billion annually due to trade-based money laundering and IFFs. Among the key sectors implicated in IFFs in Tanzania is the extractives sector, in which majority of IFFs are said to take place.<sup>441</sup> According to a 2023 report on domestic resource mobilization in the extractive sector by the *Tax Justice Africa Network and Policy Forum*, Tanzania's ability to mobilize resources from its extractive sector has been undermined by illicit financial flows and revenue leakages.<sup>442</sup>

### **Narrow tax base**

Tanzania's pool of taxpayers is considered to be small, thus leaving the burden of paying taxes to only a small percentage of the population,<sup>443</sup> especially in the formal sector. The informal sector is said to remain largely untaxed, despite recent efforts by the Government to expand the tax base. In 2021, it was reported that loss from failure to tax the informal sector amounted to 45% of total tax revenue.<sup>444</sup> It is therefore essential for the Government to expand the tax base by utilizing the human rights-based approach (HRBA) to improve tax morale. This includes expanding the base in a fair and progressive manner.

### **Mismanagement of tax revenues**

Mismanagement of tax revenues remains a key concern in Tanzania, as revealed in successive CAG reports. Several GAG reports released in 2023<sup>445</sup> revealed **red flags of corruption and serious mismanagement, misuse, and embezzlement of public funds**. For instance, in one of the reports, the CAG found that 71 LGAs paid Tshs. 10.08 billion without demanding EFD receipts.<sup>446</sup>

<sup>440</sup> See Policy Forum, *Illicit Financial Flows Threaten Africa's Resource-Rich Potential*, 2 October 2023, at <https://www.policyforum-tz.org/news/2023-10-02/illicit-financial-flows-threaten-africas-resource-rich-potential/>; Semkai Kilonzo "Stopping the Money Drain: Tackling Illicit Financial Flows in Tanzania" Tanzania Digest, 2 Dec 2023, at <https://www.digest.tz/stopping-the-money-drain-tackling-illicit-financial-flows-in-tanzania/>.

<sup>441</sup> Sealing the Gaps: An analysis of revenue forgone within the Tanzania tax system and how it could be used to fund public education (*supra*).

<sup>442</sup> Domestic Resource Mobilization in Tanzania's Extractive Sector for Climate Financing Report (*supra*).

<sup>443</sup> See Victor Mrema, *Taxation System in Tanzania*, at <https://beakolaw.co.tz/taxation-system-in-tanzania/>, accessed 8<sup>th</sup> August 2022.

<sup>444</sup> Sealing the Gaps: An analysis of revenue forgone within the Tanzania tax system and how it could be used to fund public education (*supra*).

<sup>445</sup> The United Republic of Tanzania, National Audit Office, *Annual General Report of The Controller and Auditor General for The Financial Year 2021/22: Regional Administration and Local Government*, March 2023; The United Republic of Tanzania, National Audit Office, *Annual General Report of the Controller and Auditor General for the Financial Year 2021/22: Central Government*, March 2023; the United Republic of Tanzania, National Audit Office, *Annual General Report of the Controller and Auditor General for the Financial Year 2021/22: Public Authorities*, March 2023; The United Republic Of Tanzania, National Audit Office, *The Controller and Auditor General Annual General Report for Projects for Financial Year 2021/22*, March 2023.

<sup>446</sup> Annual GAG Report for the FY 2021/22: Regional Administration and Local Government.





Some of the traders at the Kariakoo Market in Dar es Salaam told said they were **disheartened by mismanagement of tax revenues**, as reported in CAG in reports and claimed that fellow traders are prompted to evade taxes due to belief that only leaders truly benefit from the taxes.<sup>447</sup>

### **Participation and transparency**

Tanzanians have a right to participation (freedom to participate in public affairs), which guaranteed under international human rights instruments<sup>448</sup> and the Constitution of the United Republic of Tanzania of 1977.<sup>449</sup> Based on this fundamental human right, Tanzania is required to ensure that the fundamental principles of participation and transparency are adhered to throughout the taxation process.

Some of the interviewed corporate officials and traders felt that they are often not adequately consulted in making of laws relating to taxation, even though they are directly affected. In Mbeya, a director at one of the companies that was visited in Mbeya City lamented oppressive tax by-laws and lack of meaningful participation in the process of enacting and amending tax laws.<sup>450</sup> In Dar es Salaam, some of the traders who participated in the strike in 2023 complained about their recommendations not being considered despite being occasionally invited to provide inputs in the law-making process.

### **Tax dispute resolution**

Tax laws in Tanzania establish various tax dispute resolution mechanisms, including at the TRA level, where there is the Revenue Appeals Board (TRAB) and Tax Revenue Appeals Tribunal (TRAT). However, concerns have been expressed over some disputes taking too long to be resolved, which is detrimental not only to taxpayers, but also the Government in terms of amounts of taxes withheld.<sup>451</sup> Delays in dispute resolution, contributed by financial constraints and inadequate use alternative dispute resolution (ADR), which is less formal, more friendly, takes less time, and less costly.<sup>452</sup>

## **5.5. Human Rights Violations Resulting from Non-Compliance with Tax Obligations**

Taxes are the bedrock or foundation for realization of economic and social rights among States, including Tanzania.<sup>453</sup> To achieve this, the Government needs to mobilize its resources, taxation being one of the major sources of revenue. To this

<sup>447</sup> Interview with some traders at the Kariakoo Market in Dar es Salaam.

<sup>448</sup> See for example Article 25 of the International Covenant on Civil and Political Rights (ICCPR), 1966.

<sup>449</sup> Article 21.

<sup>450</sup> Interview with the Managing Director at Marmo E. Granito Mines Ltd.

<sup>451</sup> Sealing the Gaps: An analysis of revenue forgone within the Tanzania tax system and how it could be used to fund public education (*supra*).

<sup>452</sup> Ibid.

<sup>453</sup> Article 2(1) of the International Covenant on Economic, Social and Cultural Rights, 1966.



end, business tax avoidance and evasion cripple the ability of the Government to ensure progressive realization of the rights under the convention, including right to health, right to adequate standard of living, right to education and right to water. Provided there is adverse human rights impact, business practices that lead to tax avoidance and evasion means failure on the part of businesses, including companies, to adhere to their responsibility to respect human rights. To guarantee effective mobilization of these resources the Government has a duty to ensure there are no loopholes in taxation laws.

The poorest section of the society and marginalized groups such as women, persons with disabilities (PWDs), the elderly, and children, pay the most for tax revenue loss, which if prevented or did not occur, there would be better or quality social services such as education, health and water. There would also be reduced dependency on foreign aid to support our national budget.

## 5.6. Comparison of Performance Indicators on Taxation

This subchapter provides a summary of key findings for some of the key performance indicators relating to taxation. The key findings on the taxation for the survey covering the period of 2023/24 are compared with those of the year 2021/22.

**Table 5.1: Comparison of some of the key performance indicators on taxation**

Taxation issue	Performance Indicators	
	2021/22	2023/24
Revenue collection	<ul style="list-style-type: none"> <li>For the financial year 2021/22, it was reported that TRA set 15-year collection record, after collecting Tshs. 16.69 trillion in just nine months, equal to 97.3% of the target.</li> <li>In March 2022, it was reported that Tshs. 2.06 trillion had been collected, above the Tshs. 1.98 trillion target that was set.</li> <li>A slight decrease in corporate taxes collected in the financial year 2020/21, whereby a total of taxes worth Tshs. 2.15 trillion was collected, but still above the Tshs. 2 trillion mark.</li> </ul>	<ul style="list-style-type: none"> <li>For the financial year 2021/22, TRA reportedly collected over Tshs. 22.28 trillion, while in the financial year 2022/23 it reportedly collected Tshs. 24.11 trillion, equal to 97.4% of the target.</li> <li>For the financial year 2023/24, it was reported that the amount of revenue collected stood at Tshs. 27.6 trillion.</li> <li>Regarding corporate taxes, they significantly increased during the financial year 2021/22, at Tshs. 3.28 trillion.</li> </ul>



Tax abuse loss	<ul style="list-style-type: none"> <li>Tanzania losing \$212,803,177 in tax to global tax abuse in 2021, which is equal to 3.7% of tax revenue and equivalent to \$4 per member of population.</li> <li>Tanzania lost \$193 million to global tax abuse committed by multinational corporations and \$20million to tax evasion committed by private individuals.</li> <li>Tax loss enough to fully vaccinate 12,372,278 people (23.26%) against Covid-19 and equivalent to 30.06% of the health budget</li> </ul>	<ul style="list-style-type: none"> <li>Tanzania lost 124.7 million dollars to global tax abuse in 2023, of which 106.5 million was lost to corporate tax abuse by multinational companies.</li> <li>The amount of taxes lost is equivalent to 14.03% of health expenditures.</li> </ul>
Fairness/affordability of taxes	<ul style="list-style-type: none"> <li>Only just a third of the respondents (34.7%) said the taxes are affordable/fair, while the majority, almost nearly half of them (49.5%), were of the view that taxes imposed were unfair. The remaining 15.8% were neutral/not sure.</li> </ul>	<ul style="list-style-type: none"> <li>Majority of corporate management officials (39%) said the taxes imposed were unfair (28%) and very unfair (11%), followed by 30% who considered the taxes fair and affordable. Only 31% felt the taxes were fair (26%) and very fair (5%).</li> </ul>

Source: Field data & other data, 2022 & 2024



## 6

## CHAPTER SIX: CORPORATE SOCIAL RESPONSIBILITY, LOCAL CONTENT REQUIREMENTS AND CONSUMER PROTECTION

This chapter discusses key issues around the principles of corporate social responsibility, local content requirements, and consumer protection which seek to ensure protection of community rights by businesses.

### 6.1. Corporate Social Responsibility

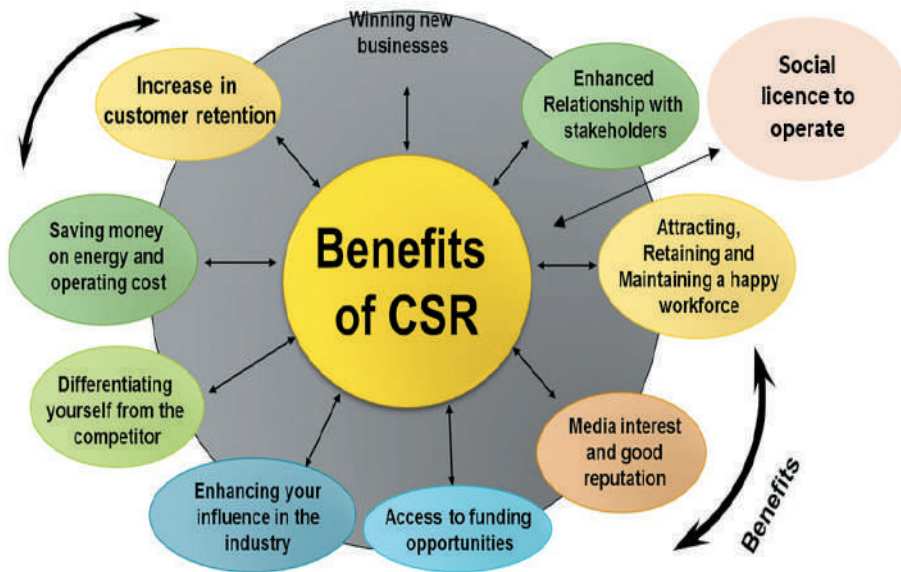
#### 6.1.1. Overview

According to the United Nations Industrial Development Organization (UNIDO), corporate social responsibility (CSR) is when companies integrate social and environmental concerns in their business operations and interactions with their stakeholders.<sup>454</sup> It is generally about *'the responsibility of enterprises for their impacts on society'*, and to fully meet their CSR, enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders, with the aim of (i) maximizing the creation of shared value for their shareholders and for their other stakeholders and society at large; and, (ii) identifying, preventing and mitigating their possible adverse impacts.<sup>455</sup> While CSR is not specifically provided for in the UN Guiding Principles on Business and Human Rights of 2011 (UNGPRBHR), it is implied in most of its provisions and has been adopted as a policy by many States around the world, Tanzania inclusive. It is also worth noting that CSR has been defined differently, but LHRC adopts a wide interpretation, incorporating key aspects highlighted in the definitions above.

<sup>454</sup> See UNIDO "What is CSR?" at <https://www.unido.org/our-focus/advancing-economic-competitiveness/competitive-trade-capacities-and-corporate-responsibility/corporate-social-responsibility-market-integration/what-csr>, accessed 10<sup>th</sup> July 2022.

<sup>455</sup> See EU Strategy of 2011-2014 for Corporate Social Responsibility at <http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-socialresponsibility/>.





**Picture 6.1: The power of giving back to the community**

Source: Medium<sup>456</sup> & writer<sup>457</sup>

Under the laws of Tanzania, CSR is voluntary, except for a few sectors namely mining, petroleum and forestry, the mining and petroleum sectors are generally referred to as the extractive sector. In the year 2017 Tanzania undertook legal reforms that enhanced nationalism in natural resources governance. These reforms made CSR a legal obligation in the extractive sector. Thus, the Mining Act, 2010<sup>458</sup> and Petroleum Act, 2015 were amended accordingly. In 2022 Tanzania introduced the Environmental Management (Carbon Trading) Regulations, 2022, which oblige proponents of carbon trading projects to implement CSR projects from their carbon earnings. Considering that Tanzania is a new entrant in the carbon trading, this study does not cover CSR under the forestry sectors. Everyone, including companies, mandated to implement CSR projects, do so under the guidance of the specific sectorial laws. The environmental aspect of CSR (corporate environmental responsibility) is discussed separately in Chapter Seven below.

<sup>456</sup> <https://jaykermisch.medium.com/corporate-social-responsibility-a509bd0c87fd>.

<sup>457</sup> Modified by writer to add Social licence to operate.

<sup>458</sup> CAP 123, RE 2019.





### Planning and Execution of CSR in the Mining Sector

Under the comprehensive legal framework, The Mining Act, 2010 and its Corporate Social Responsibility (CSR) Regulations of 2023 obliges mineral rights holders to prepare CSR annual plans. The phrase minerals rights holders include both individuals or companies licensed to prospect, mine, smelt, refine and sale minerals, Deliberations on CSR plans take place at local decision-making levels such as the Ward Development Committee (WDC), with the presence of the mineral right holder.<sup>459</sup> Additionally, the law establishes CSR expert committees at district, town, municipal, or city council levels,<sup>460</sup> tasked with reviewing and submitting CSR plans to the respective councils, these councils review and submit CSR plans to the Ministry for Finance and the Ministry for Local Government Authorities (LGAs).<sup>461</sup> Following approvals of the ministries, CSR plan execution commences.<sup>462</sup>

The legislation specifies that CSR plans must focus on social, cultural, economic, and environmental projects aligning with host communities' priorities.<sup>463</sup> The law obliges mineral rights holders to implement CSR projects and the councils to oversee such implementations. These implementations begin after a mineral right holder identifies and engage contractors for CSR projects execution. Thereafter, local authorities, particularly councils, oversees implementation to monitor executions against plans and assess the value for money.<sup>464</sup> The law cements that Beyond meeting regulatory mandates, CSR initiatives foster community integration, granting companies a social license to operate (SOL), nurturing mutual trust and collaboration between mining companies and host communities. Thus, CSR has potentials to make mining companies an integral component of the local community.

Besides the extractive and forestry industries, the law does not impose a duty to other businesses to implement CSR projects. However, some of these businesses, seeking to earn communities' acceptability and the social license to operate, undertake some community support initiatives such as support development projects like construction of schools, health facilities, facilitating infrastructure connectivity like constructing roads, and linking communities with electricity and water services. These initiatives are not sanctioned by laws, they are done on voluntary basis as part of giving back to the community. This report highlights pressing issues around CSR initiatives, covering both legally sanctioned and voluntary CSR initiatives.

<sup>459</sup> Regulation 4(3) of the Mining (Corporate Social Responsibility) Regulations, (GN No. 409) of 2023.

<sup>460</sup> Regulation 5 of the CSR Regulations, *supra*.

<sup>461</sup> Regulation 7 of the CSR Regulations, *loc cit*.

<sup>462</sup> Regulation 9, *supra*.

<sup>463</sup> Regulation 10, *supra*.

<sup>464</sup> Regulation 11, *supra*.

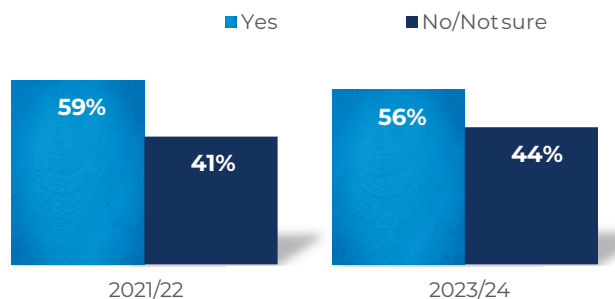


## 6.1.2. Community Perceptions

### Benefiting from CSR

Community members in surveyed regions were asked whether they see any benefits from the CSR activities carried out by the companies in their community. Like in the 2022 survey, over half of the respondents (56%) said they benefit from CSR, while just over a third (37%) said they did not find the activities to be beneficial.<sup>465</sup>The remaining 7% said they were not sure whether CSR performed by companies had helped the community in any major way.

**5 out of 10 community members feel that their community benefits from CSR activities.**



**Figure 6.1: %Community responses on whether they benefit from operations of businesses through CSR activities**

Source: Field data 2022 & 2024

Among the community members who reported benefiting from CSR conducted by businesses, the percentage was equal among both female and male members, at 55%. Regionally, the highest percentage of community members who believed they benefited from CSR as a community was in Dar es Salaam (81%), followed by Geita (80%), Iringa (74%), Dodoma (72%), Mtwara (72%), Mwanza (71%), and Mara (71%). The lowest percentages were recorded in Singida (18%), Morogoro (30%), and Kilimanjaro (37%). The only other region with the score of below 50% was Pwani.

In Geita, an interview with the Planning Officer at Geita Town Council revealed that companies, especially the *Geita Gold Mine Limited (GGML)*, have generally done well to perform CSR activities in line with the requirements of the mining law and regulations. The Planning Officer in Nyang'wale District made similar remarks when interviewed about CSR, particularly acknowledging the role of *Bulyan'hulu Gold Mine Limited* in supporting health, education, and environmental initiatives. She also recognized the contribution of small-scale miners in CSR in the district.

<sup>465</sup> N=1,045.



**VIPAUMBELE VYA MIRADI YA CSR**  
**KATA YA KALANGALALA**

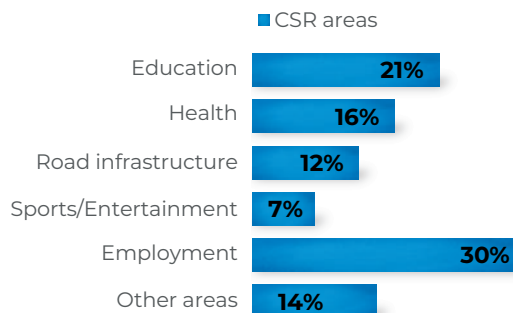
S/N	Jina la Halmashauri	Jina la mtaa/Kijiji	Vipaumbele vilivyopendekezwa na Jamii.	Miradi iliyochaguliwa na wajumbe kutoka GGM baada ya mapitio ya vipaumbele vya jamii.	Bajeti
01	Halmashauri ya mji Geita	Nyanza	Ujenzi wa barabara 20 za mitaa ya Kasebele, Majige, tank la maji, mkoani, Transforma tanki la maji, mkoani, Nyerere, Ikangala, Masele, Ikulu, Mazula, Maduka, Nyerere, Dhahabu, Ikulu, Maisha, Shelulete, Kasaba, James, Sudi, Mahakama, Alfendo.	Ujenzi wa mitaro ya barabara na km kadhaa za barabara kulingana na bajeti iliyotengwa.	204,444,444/=
02	Halmashauri ya mji Geita	Mkolani	1. Ujenzi wa barabara kwi; kiwango cha moramu na mitalo za Kazoya 1.2km, Mkoani 0.6km, Donard 0.7km and Salvatory 0.5km. 2. Ukamilishaji wa madarasa mabwa na nyumba za mwalimu 3. Ujenzi wa nyumba ya mwalimu 4. Ukarabati wa nyumba za mwalimu 5. Ukarabati wa uwanja wa mpira	Ujenzi wa mitaro na ujenzi wa barabara kiwango cha moramu kulingana na bajeti iliyotengwa. Ukamilishaji wa darasa 2 na ofisi ya mwalimu Shue ya Maingi Mkoani.	160,000,000/= 54,360,300/=
03	Halmashauri ya mji Geita	Katoma	1. Ujenzi wa barabara 2. Ununuzi wa ardhi kwa ajili ya ujenzi wa Shule. 3. Ununuzi wa ardhi kwa ajili ya ujezi wa soko. 4. Ukarabati wa Shule ya Maingi Geita.	Ujenzi wa madarasa 5 Shule ya Maingi Geita	204,444,444/=

Angalizo: Kila Mtaa/Kijiji kina gawio la bajeti ya kiasi cha shilingi Tsh 204,444,444 kwa ajili ya kutekeleza miradi ya CSR

**Picture 6.2: CSR priorities in Kalangalala Ward in Geita**  
Source: Field data, 2024

**Focus of CSR activities**

Community members engaged by the survey were also asked about the focus of most CSR activities. Like it was observed in the previous surveys, including the last one in 2022, half of the CSR activities (51%) were performed in employment (30%) and education sectors (21%). Field observations and interviews with other stakeholders also confirmed that most of the CSR activities were concentrated on employment and education, followed by health, as further discussed below.



**Figure 6.2: %Community responses on CSR activities mostly performed by corporates (N=585)**  
Source: Field data, 2024

Community members who reported insignificant benefits from CSR activities mentioned several reasons. They cited the inadequacy of CSR activities and their misalignment with community needs, resulting in negligible changes. Additionally, some companies acknowledged that they had omitted implementing CSR projects altogether.

Long-lasting projects like economic empowerment, which could significantly improve people's lives, are less prioritized because they lack immediate visible



results and do not offer political benefits. Field results reveal that ward councillors in regions such as Shinyanga and Geita prefer CSR funds to be divided such that each ward gets a project. This approach results in small-scale implementations, such as constructing two classrooms per ward, leading to minimal impacts on community socio-economic development.

Document review findings, mainly from the Tanzania Extractive Industries Transparency Initiative (TEITI) report covering the period of 2021/22,<sup>466</sup> show that the focus of most CSR projects in the extractives sector is education, infrastructure, and health. The report, published in June 2024, reveals the distribution of CSR projects by sector as follows: education projects accounted for 34% of CSR projects, representing the most expenditure; infrastructure projects 20%; health projects 14%; water and sanitation 5%; sports and entertainment 11%; economic empowerment 5%; humanitarian aid 3%; environmental conservation projects 1%; and other contributions 8%. These figures pertain to legally sanctioned CSR activities implemented in the mining, oil, and gas sectors. They suggest that CSR priorities favor tangible projects like education, infrastructure, and health services, which account for 68% of all CSR expenditures. The data indicates a preference for visible projects by local authorities, including politicians such as ward councillors who vote to approve the plans. However, LHRC believes that companies should allocate more CSR budget for environmental conservation since they significantly contribute to environmental pollution and degradation.

The findings of the TEITI report align with the LHRC business and human rights survey, highlighting those tangible projects like school buildings, health service facilities, and roads receive the most funding. In contrast, environmental conservation, crucial in mineral-rich areas, is less prioritized, raising concerns about the sustainability of these projects and ecosystems.

Furthermore, the lack of emphasis on economic empowerment projects, which could create long-lasting jobs and enhance communities' socio-economic independence, is a significant concern. Communities supported with minor projects, such as building two or three classrooms per ward, donating desks, or constructing a ward in a health center, will continue to depend on mineral revenue. As mineral resources are non-renewable, the eventual phasing out of mining activities will leave these communities vulnerable to the negative impacts of over-dependence on mineral wealth.

### 6.1.3. Positive CSR Trends

As was the case in the 2022 survey, CSR activities that were said to bring significant changes in the community were mostly performed by large-scale companies, especially multinational corporations and banks. The CSR activities performed by businesses in surveyed regions can be categorized into groups of education, water, health, employment, contributions to LGAs to support development initiatives and

<sup>466</sup> See TANZANIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (TEITI), *14<sup>TH</sup> REPORT FOR THE FISCAL YEAR 2021/2022*, JUNE 2024, at <https://www.teiti.go.tz/storage/app/uploads/public/668/064/9a9/6680649a98f4c180152519.pdf>.



other CSR activities. CSR activities performed included construction of classrooms and hospital buildings, renovation of school and hospital buildings, provision of desks other furniture at schools, donation of food at schools, facilitating free electricity supply, facilitating free land survey, and donation of school uniforms. Big CSR implementers included *Geita Gold Mine Limited (GGML)* in Geita, *Barrick's North Mara Gold Mine (Barrick Gold Mining Limited)* in Mara, CRDB Bank, *Dangote Cement PLC* in Mtwara, ASAS Company in Iringa, *Kijiji cha Nyuki Company Limited* in Singida, *Bulyan'hulu Gold Mine Limited* and *Williamson Diamonds Limited (WDL)* in Shinyanga.

### **CSR in education**

Education-related CSR activities were mostly observed and reported in regions such as Dar es Salaam, Pwani, Morogoro, Dodoma, Shinyanga, Geita, Tanga, Mara, Kilimanjaro, and Mtwara. The activities included construction and renovation of classrooms, donation of desks and chairs, and provision of free food to pupils.

In Dar es Salaam, NMB and CRDB Banks stood out education CSR, donating desks, chairs, and unions, while in Pwani *Xinghao Group Co. Ltd (Lulu Cement)* was credited with contributing to the construction of Karabaka Primary School in Kibaha District. Other companies in Pwani Region, namely *H.J Stanley & Sons Limited* and *Samaki Investment Limited* were appreciated for supporting construction and renovation of classrooms at Kitame Primary School and Zinga Primary School respectively, both located in Bagamoyo District. In Dodoma, CSR implementers included *Swahili Honey*, which reportedly contributed a total of Tshs. 5 million to two primary schools, and *Dangote Mattress Co. Ltd*, which donated desks to two primary schools.

In Shinyanga, it was reported that *Bulyan'hulu Gold Mine Limited* had set aside a significant amount to facilitate construction of schools in the region and beyond,<sup>467</sup> while in the neighbouring Geita, *Geita Gold Mine Limited (GGML)* was also lauded for its significant contribution in promoting the right to education, through implementing primary and second school projects. *Blue Coast Company*, GGML subcontractor, reportedly renovated buildings at Nyamarembo Primary School in Geita TC. In Geita TC, GGML also reportedly built a teacher house at Nyanguku Secondary School and two new secondary schools of Ikulwa and Nyampa, as well as donated 2,353 desks in schools. Similar projects were also implemented by GGML and *Bulyan'hulu Gold Mine Limited* in Geita DC and Nyang'wale DC respectively, including construction of a school laboratory.

<sup>467</sup> Human Rights and Business Survey 2024: Shinyanga Field Report.







**Picture 6.3: Nkome Secondary School laboratory build by GGML in Geita DC (left) and an English Medium School built with the support of Bulyan'hulu Gold Mine Limited in Nyang'wale DC (left)**

Source: Field data, 2024

In Geita, *Busolwa Mining Limited*, reportedly helped build three classrooms at Busolwa P Primary School in Nyarugusu Ward, Geita DC. *CRDB Bank's* Geita Branch reportedly donated 50 desks to Geita Secondary School. *Vodacom* and *Tigo* telecommunication companies were also lauded for supporting education in Geita TC, including through construction of classrooms.<sup>468</sup>

Further, the study noted that in Mara, *Barrick's North Mara Gold Mine* facilitated construction of classrooms, renovation of school buildings, provision of desks and chairs, and construction of teachers' offices at schools surrounding the mine. Other companies, including *Multivilla Beach Resort* in Musoma District, also supported schools with construction and learning materials.



**Picture 6.4: A teacher house (right) constructed in Nyamongo Tarime DC (left) and an ongoing construction of a classroom in the district(right), both supported by North Mara Gold Mining Limited**

Source: Field data, 2024

To address the challenge of children walking long distances to school, *Kapunga Rice Project Limited* constructed a modern school worth Tsh 550 million in Mbarali District. This initiative aims to reduce the distance children must travel to access education. Similarly, in Kilimanjaro, TPC Sugar Ltd, operating in Moshi DC, donated 50 desks to Mikocheni Primary School in Arusha Chini Ward and 25 desks to

<sup>468</sup> Interview with the Mkoani Street Chairperson in Geita TC.



Mawala Primary School in Kahe Magharibi as part of its CSR initiatives. The company also renovated classrooms at Kiyungi and Arusha Chini Primary Schools.<sup>469</sup>

Furthermore, *Dangote Cement PLC* continued its support for education initiatives by constructing four classrooms, six toilets, and a teacher's house for Kyobya Primary School in Mtwara. These efforts collectively demonstrate the commitment of various companies to improving educational infrastructure and accessibility. By addressing the critical challenge of children walking long distances to school, these initiatives significantly enhance the overall quality of education in these regions.



**Picture 6.5: Classrooms and toilets constructed by Dangote Cement PLC in Hiari Village**

Source: Field data, 2024

### **CSR in water services**

The 2021/2022 TEITI report highlighted that water and sanitation accounted for 5% of total CSR funding by extractive companies. The LHRC human rights and business survey corroborated this, noting widespread implementation of CSR projects in water and sanitation across multiple regions: Pwani, Morogoro, Singida, Shinyanga, Geita, Mara, Iringa, Kilimanjaro, Arusha, Tanga, and Mtwara. The LHRC study's broader scope includes CSR initiatives funded not only by extractive companies mandated by law but also by other businesses contributing to community development voluntarily.

For instance, *Kijiji cha Nyuki Company Limited* installed 113 water supply pipes and taps in Kisasi Ward, Singida MC, since 2020. Similarly, in Kilimanjaro, *China Paper Co Ltd*, located in Moshi Municipal's Korongoni Ward, provided free community access to water taps. In Arusha, both *A-to-Z Company* and *Sun Flag Company* undertook initiatives to supply water to local communities. This voluntary

<sup>469</sup> Interview with a trade officer in Moshi.



participation underscores the significant role of non-extractive businesses in addressing community water and sanitation needs.



**Picture 6.6: A water pipe installed by Kijiji cha Nyuki Company Ltd in Singida (left) and a water tank constructed by North Mara Gold Mine in Nyamongo Town, Tarime DC in Mara (right)**

Source: Field data, 2024

Moreover, the survey reveals a notable emphasis on water and sanitation CSR projects compared to the TEITI report due to its inclusive approach. While extractive companies are legally mandated to implement CSR, sectors not bound by such regulations may overlook or prioritize other areas without clear policy guidance. This policy gap can lead to inconsistencies in CSR practices and potential misuse of projects for tax benefits rather than genuine community development. Policy guidelines should aim not to mandate CSR implementation but to ensure that when companies choose to engage, their initiatives align with community needs and priorities, fostering sustainable development.

In Tanga, the survey found that the East African Crude Oil Pipeline (EACOP) had played a key role in improving access to clean and safe water in project areas, including Kitisa in Muheza District. In Mtwara, some of the interviewed community members in Masasi DC said *Ndanda Spring Water Company* had facilitated supply of clean and safe water, provided three of charge.

In conclusion, addressing policy and legal gaps in guiding CSR across all sectors, not just extractives, is crucial for ensuring certainty, preventing misuse, and aligning CSR efforts with genuine community needs. Effective policy frameworks would facilitate responsible corporate behavior while safeguarding against unintended consequences of CSR initiatives.

### **CSR support in health services**

The TEITI report highlighted that 14% of CSR funding in the extractive sector in 2021/2022 was allocated to health-focused projects. Concurrently, the LHRC survey





documented extensive implementation of CSR initiatives in the health sector across Geita, Mara, Pwani, Iringa, Mbeya, Mtwara, and Kilimanjaro Regions.

*Geita Gold Mine Limited (GGML)* has been instrumental in supporting 150 health projects in Geita District in recent years. Noteworthy contributions include the construction of Nkome Health Centre in Nkome Ward and similar projects in Nyarugusu Ward within Geita DC.



**Picture 6.7: Ongoing construction of Nkome Health Centre (left) in Nkome Ward, Geita DC, supported by GGML and a dispensary in Nyamongo, Tarime DC (left) constructed with the support of North Mara Gold Mine Ltd**

Source: Field data, 2024

In Mara, *North Mara Gold Mine* funded the construction of a dispensary in Nyamongo, Tarime DC. Meanwhile, in Pwani, *Samaki Investment Limited* renovated Kerege Health Centre in Bagamoyo District. *ASAS Company* in Iringa undertook significant construction and renovation of health facilities. In Mbeya, *Kapunga Rice Project Limited* invested Tshs. 750 million in a modern dispensary in Mapogoro, Mbarali District.



**Picture 6.8: A VIP ward constructed by ASAS Company at the Iringa Regional Hospital**

Source: Field data, 2024



*TPC Sugar Ltd* in Kilimanjaro is recognized for constructing three health centres in Kahe and Arusha Chini Wards, Moshi DC. In Mtwara, *Dangote Cement PLC* is currently in the process of constructing a dispensary in Hiari Village, while *Amama Farms Ltd* has provided health insurance coverage to 15 children from impoverished households in the same region as part of its CSR initiatives.



**Picture 6.9: Ongoing construction of a dispensary in Hiari Village, funded by Dangote Cement PLC**

Source: Field data, 2024

### **CSR support in employment creation**

The majority of interviewed community members acknowledged that introduction of projects in their communities by investors had helped to create employment for the local communities, whether directly or indirectly. In Singida, *Kijiji cha Nyuki Company Limited* was credited with employment of 167 locals, including 54 women. Creation of employment was also mentioned as a key CSR contribution in nearly all other surveyed regions, including in the mining sector. Most of the unskilled jobs were said to be reserved for the locals, while some local businesses thrived due to presence of investors and were in turn able to hire more locals.

### **General support in developmental activities and other CSR activities**

In various regions, particularly the Lake Zone, several corporations have asserted their commitment to supporting developmental activities, often through monetary contributions.

**Singida:** In Singida, *Kijiji cha Nyuki Company Limited* has made notable contributions, including connecting electricity to Mfumbu Secondary School, providing beekeeping training to over 800 villagers, supplying capital for beekeeping, and establishing IFONEO University for Agriculture. The company also covered land survey costs for villagers in Kisaki B, Kisaki Ward. Other companies like *Mount Meru Millers Ltd*, *Singida Fresh Oil Mill*, and *Kagwa General Supplies Ltd* have also supported developmental activities through monetary contributions to government institutions.







**Picture 6.10: IFONEO University for Agriculture located at Kisaki Ward in Singida, established by Kijiji cha Nyuki Company Limited**

Source: Field data, 2024

**Shinyanga and Geita:** *Bulyanhulu Gold Mine Limited* in Shinyanga contributes to an approximately USD 1.2 million annually to support various developmental activities. Additionally, the mine provided Tshs. 101.2 billion for the construction of a 73km tarmac road between Kahama and Kakola. In neighboring Geita, *Geita Gold Mine Limited (GGML)* has allocated and disbursed Tshs. 3.6 billion for football stadium and collaborating with the Geita District Council to build a marketplace in Katoro Ward. The company also supported local farmers in Saragulwa with rice seeds and established a sunflower oil plant. *GGML* has a robust internship program, sponsoring 40 university graduates for 2024/2025 and benefiting 258 graduates since 2009. Additionally, *GGML* initiated a tree planting project at Rubanga S, Evarist Nyalugusu, and Butunde Secondary Schools in Geita DC.

**Nyang'wale DC, Geita Region:** *Shibanga Gold Mine Company* contributed Tshs. 8 million for the 2024 CSR Plan, while *Bulyanhulu Gold Mine Limited* contributed Tshs. 989 million in 2023 and plans to exceed Tshs. 1 billion in 2024. Vodacom and Tigo companies also contributed Tshs. 6 million and 4.2 million respectively to Geita Town Council.

**Mara:** *North Mara Gold Mine* significantly supported the construction and maintenance of roads in Nyamongo, Tarime District.





**Picture 6.11: Contract signing for construction of Kahama JCT to Kakola Road between the Government, sponsor, and contractor in March 2024, Shinyanga (left) and Katoro Market constructed with the support of CGML in Geita DC (right)**

Source: Shinyanga website<sup>470</sup> & Field data 2022

**Pwani:** In Pwani, *Samaki Investment Limited* renovated the Kerege Health Centre in Bagamoyo District.

**Iringa:** *ASAS Company* led CSR efforts by constructing and renovating health facilities. Other companies, including *AK Co. Ltd*, contributed to orphanages and made donations to local councils.

**Mbeya:** In Mbeya, *Kapunga Rice Project Limited* renovated the Chimala Police Station and supported the construction of a village leadership office in Kapunga Village. *Highlands Estate Limited* provided Mbarali Primary School with electricity and food during examinations. *Mbeya Food Pack* offered entrepreneurship training as part of their CSR activities.

**Kilimanjaro:** *TPC Sugar Ltd* implemented a school feeding program, providing 600 kg of maize and 800 kg of beans to Mawala Primary School in Moshi District.

**Mtwara:** *Ruvuma Coal Ltd* built a mosque for Muslim residents in Magodani, Likombe Ward, Mtwara Municipality. Additionally, *Dangote Cement PLC* is constructing a dispensary in Hiari Village, and *Amama Farms Ltd* provided health insurance coverage to 15 children from poor households. These comprehensive CSR initiatives across various regions highlight the significant contributions of corporations to community development, enhancing infrastructure, health, education, and social welfare.

<sup>470</sup> <https://shinyanga.go.tz/new/zaidi-ya-bil-101-kujenga-barabara-km-73-kahama-kakola-kwa-kiwango-cha-lami>.





**Picture 6.12: A mosque built by Ruvuma Coal in Likombe Ward, Mtwara MC**

Source: Field data, 2024

## 6.1.4. Issues of Concern Regarding CSR Activities

### Summary of key CSR issues and concerns

The survey found that CSR implementation is faced with various key issues and challenges, which are summarized in the table below.

#### Delays in implementation of CSR projects

- ✎ The survey found that some of the CSR projects in the surveyed regions had taken longer than anticipated to be completed while others were yet to be completed, including in Geita.
- ✎ Delays in implementation of projects is contributed by mining companies delaying in remitting funds, as revealed in recent CAG LGA audit report, released in March 2024.<sup>471</sup> For instance, in Msalala DC, the CAG found that a mining company did not remit CSR funds for project implementation worth Tshs. 1.17 billion.

#### Political interference

- ✎ Political interference curtails the independence of companies to effectively implement CSR projects.
- ✎ In Geita, some of the interviewed mining company officials and community members in Geita revealed that some of the CSR projects were hampered by political directives to implement or finalize alternative, usually smaller, government projects. Among those implicated in this allegation were ward councilors, who were implicated in demanding CSR funds to be divided and facilitate implementation of 'smaller' projects in each council, and sometimes using CSR for their personal and political gain. It was also reported that GGML was sometimes required to implement multiple projects.

<sup>471</sup> See United Republic of Tanzania, National Audit Office, *General Report on Local Government Audit for the Financial Year 2022/23*, March 2024, at [https://www.nao.go.tz/uploads/Annual\\_General\\_Report\\_on\\_Audit\\_of\\_Local\\_Government\\_Authorities\\_FY\\_2022-23.pdf](https://www.nao.go.tz/uploads/Annual_General_Report_on_Audit_of_Local_Government_Authorities_FY_2022-23.pdf).



### Mismanagement, misuse and misappropriation of CSR funds

- ✎ Like In the previous survey, some LGA officials were implicated in mismanagement, misuse, and misappropriation of CSR funds.

*'We do provide CSR funds to the council, but our concern is that the funds are used for other purposes, instead of benefiting the community surrounding the mine.'*

Company officer – Mara

- ✎ Some of the interviewed mining company officials in the Lake Zone asserted that the introduction of CSR Regulations of 2023 which vest the duty to implement CSR projects to mining companies have addressed implementation challenges that were formerly common when CSR projects were implemented by LGAs.
- ✎ In Shinyanga, the survey observed that LGAs often face pressure to meet these targets, leading them to seek CSR funding to cover such development goals when alternative funding sources are unavailable.
- ✎ Misuse and misappropriation of CSR funds also occurs in the form of exaggeration of the actual costs of CSR projects and materials, as reported in Geita and Mara. A key informant in Geita said that sometimes costs or prices might be exaggerated by 25 to 30%.

### Overreliance on CSR funds to implement government projects

- ✎ In some regions, especially where there is large-scale mining, community members expressed that there was overreliance on CSR funds to implement government projects.
- ✎ In Shinyanga, the survey found that mines had been tasked with huge developmental responsibilities, creating complacency among local leaders.

*'Most of the development projects in our community are undertaken or financed by the mining company. The Government's contribution is little.'*

Community member – Bulyan'hulu, Shinyanga

### Lack of transparency and accountability

- ✎ As was the case in the previous 2022 survey, some of the corporate management officials expressed concerns over transparency and accountability for CSR funds. They noted they were worried about damage to their social license to operate if the CSR funds are not put to proper use.





### Gaps in legal and policy frameworks

- ✎ CSR remains voluntary for most businesses as there is still no law to regulate CSR practices, save for companies operating in the extractives sector.
- ✎ LHRC recommends the Government to learn from countries such as India and Mauritius which have made CSR mandatory for all business enterprises, not just those in the extractives or mining sector, and see how we adopt similar measures in consideration of the local context, to make the CSR practice widespread.

### CSR being regarded as for big companies only

- ✎ Like in the previous survey, majority of SMEs claimed they were not ready to give back to the community 'because they are still growing.'
- ✎ In Shinyanga, it was reported that small-scale miners in Shinyanga DC only occasionally contribute to community development, such as building classrooms, typically in response to requests from village authorities. However, these contributions do not fully align with CSR standards, as established procedures are not consistently followed.
- ✎ In Geita it was reported that some of the medium-scale mining companies reportedly omitted their legal duty to implement CSR initiatives and authorities did little to ensure they comply.

### Conflicting priorities between investors and LGAs

- ✎ Conflicting priorities between companies and LGAs was mentioned as a concern by some of the corporate officials, especially in Shinyanga, Geita, and Mara.
- ✎ In Shinyanga, a respondent from a mining company highlighted that while the company prefers impactful projects that enhance livelihoods and foster community acceptance and social license to operate (SLO), LGAs are compelled by the central government targets. This underscore that LGAs often view CSR as their prerogative for public service financing, disregarding the interests of mining companies and communities and impeding their fundamental right to development.

### CSR being used as advertisement tool

- ✎ Like in 2022, the survey observed that some businesses were using CSR to advertise themselves, making sure their names and labels are clearly visible on products and facilities.
- ✎ In Shinyanga, the survey found that *Jambo Industries*, a prominent soft drink manufacturer, funded the construction of a municipal hospital in Shinyanga and prominently displayed its advertisements on the hospital's walls. However, the excessive advertising drew criticism, prompting intervention from higher authorities to maintain the hospital's public character. Despite adjustments, Jambo's advertisements remain conspicuous.







**Picture 6.13: 'ASAS ICU' observed at a public health facility in Iringa**

Source: Field data, 2024

### Misrepresentation of the nature and impact of CSR activities

- 🗨 In some regions, including Kilimanjaro, Mara, Mbeya, and Pwani, some LGA officials and community members suggested that some companies misrepresent the nature and impact of their CSR activities.

*'In my opinion, these companies are giving back very little to the community, considering their size and profits they potentially make.'*

Community member – Kilimanjaro

### Inadequate monitoring of compliance with mandatory CSR in the mining sector

- 🗨 In recent years, CAG reports have indicated inadequate monitoring of compliance with mandatory CSR in the mining sector.<sup>472</sup> The most recent report on Local Government audit, released in March 2024, found anomalies in implementation of CSR projects and non-submission of CSR plans and under-release of funds.<sup>473</sup> For instance, the CAG found that mining companies failed to disburse a sum of Tshs. 1.72 billion out of the allocated Tshs. 2.82 billion designated for CSR projects across two LGAs, namely Msalala DC and Kishapu DC.<sup>474</sup>

<sup>472</sup> United Republic of Tanzania, National Audit Office, *Annual General Report of the Controller and Auditor General for the Local Government Authorities*, March 2022, at [https://www.nao.go.tz/uploads/reports/ANNUAL\\_GENERAL\\_REPORT\\_FOR\\_LOCAL\\_GOVERNMENT\\_AUTHORITIES\\_FY\\_2020\\_21.pdf](https://www.nao.go.tz/uploads/reports/ANNUAL_GENERAL_REPORT_FOR_LOCAL_GOVERNMENT_AUTHORITIES_FY_2020_21.pdf), accessed 9<sup>th</sup> August 2022.

<sup>473</sup> General Report on Local Government Audit for the Financial Year 2022/23 (*supra*).

<sup>474</sup> Ibid.



	<ul style="list-style-type: none"> <li>✎ The 2022/23 CAG LGA audit report also shows that projects worth Tshs. 360 million were not implemented by one mining company in Kishapu DC due to a reduction in the CSR budget for the financial year 2022/23. However, the reduced budget was not reflected in the CSR budget for the financial years 2023/24, as required by the MoU signed between the company and the LGA in September 2022. Additionally, the CAG observed that four LGAs did not provide CSR guidelines to mining companies, hence the companies neither prepared CSR plans nor allocated for CSR initiatives.</li> <li>✎ Companies that did not submit CSR plans in the audited LGAs were <i>CATA Mining Company</i> in Butiama DC; Building Extraction Companies in Kibaha DC; <i>Ludewa Maxcoal, Shamcoal companies</i>, and <i>Blue-Sky International Exploration Ltd</i> in Ludewa DC; and <i>Nyanza Mines (T)</i> in Uvinza DC.<sup>475</sup></li> <li>✎ The CAG noted that failure to implement CSR projects and non-utilization of the completed projects was hindering Government's efforts of ensuring communities in mining areas benefit from extraction of minerals,<sup>476</sup> which is essentially realizing their right to enjoy and benefit from natural resources.</li> </ul>
<p><b>Harassment of companies in the name of CSR</b></p>	<ul style="list-style-type: none"> <li>✎ Like in the previous survey, some of the corporate management officials who responded to the survey indicated that they are sometimes regularly harassed by LGA officials to provide 'CSR funds.'</li> <li>✎ In Arusha some human resources managers claimed that their companies are often made to make contributions to LGAs in the name of CSR but are not even provided with receipts.</li> </ul>
<p><b>Quality and sustainability of some of the CSR projects</b></p>	<ul style="list-style-type: none"> <li>✎ Like in the previous survey, some of the community members also questioned the quality and sustainability of the CSR projects, including water projects.</li> <li>✎ In Geita, the survey found that quality and sustainability of CSR projects is also affected by political interference, which was said to be serious.</li> <li>✎ In Kalangalala Ward, Geita, there were complaints about inadequate implementation of CSR projects by GGML, mainly levelled against the District Executive Director.<sup>477</sup> In Mtakuja Ward, a local leader lamented remote villages benefiting more from CSR compared to villages closer to the GGM Mine.</li> </ul>
<p><b>Understanding of CSR Regulations</b></p>	<ul style="list-style-type: none"> <li>✎ In Shinyanga, the survey found that some LGA officials had yet to fully grasp the provisions of newly issued CSR</li> </ul>

<sup>475</sup> Ibid.

<sup>476</sup> General Report on Local Government Audit for the Financial Year 2022/23 (*supra*).

<sup>477</sup> Interview with a local leader.



### Focus on social projects and inadequate stakeholder involvement

Regulations, exhibiting inadequate understanding of the regulations

- 🔍 The survey generally found that while mining laws identify environmental rehabilitation as a CSR priority, observations reveal a disproportionate focus on social projects, neglecting environmental and cultural initiatives crucial for sustainable development. LHRC believes that business enterprises should invest more in the environment because they significantly contribute to environmental pollution and degradation.
- 🔍 In Iringa, some community members lamented inadequate community consultation before and during implementation of CSR projects.
- 🔍 In Geita TC, an LGA audit report by the Controller and Auditor General (CAG) for the financial year 2022/23 found that in Geita TC there was a completed CSR project of constructing a training centre for SMEs, worth Tshs. 2.4 billion, that had not been in use for five years.<sup>478</sup>

### Impact of CSR malpractices and way forward

As discussed above, malpractices in CSR implementation may hinder the ability of companies to earn the social licence to operate from communities. Other effects may include preferential treatment in selection of and implementation of CSR projects; undermining the spirit and core purpose of CSR; damaging the reputation of companies and LGAs; and hampering community development. More importantly, the malpractices in CSR implementation deny community members their rightful benefits from CSR projects, and by extension their right to enjoy and benefit from natural resources.

Moving forward, LHRC recommends that the Government makes necessary legal and policy reforms strengthen the framework, including developing a comprehensive and proper CSR policy that targets all companies. LGAs and relevant ministries, including the President's Office – Regional Administration and Local Government (PO-RALG) and the Ministry of Minerals, should also ensure adequate monitoring of compliance with CSR law and plans, as well as promoting meaningful community participation in CSR initiatives. The national human rights institution, the Commission for Human Rights and Good Governance (CHRAGG), and NGOs like LHRC should continue to raise public awareness on CSR and conduct capacity-building sessions to relevant stakeholders.

#### 6.1.5. Performance Indicators on CSR

Basing on three main indicators of assessing the trends of CSR that LHRC has devised over period of time, it is evident that, this practice gains ground, as more business enterprises engage in CSR, some institutionalized with specific budget,

<sup>478</sup> General Report on Local Government Audit for the Financial Year 2022/23 (*supra*).



and that, communities hosting the businesses are increasingly following up the same. Table 6.1 below shows more updates comparing with the trend of previous survey.

**Table 6.1: Performance indicators on CSR**

CSR Issue	Performance Indicators	
	2021/22	2023/24
Laws/ Regulations.	<ul style="list-style-type: none"> <li>No law or regulations to regulate CSR in Tanzania, save for the extractives/mining sector.</li> <li>CSR promises still usually not documented.</li> </ul>	<ul style="list-style-type: none"> <li>Still nor law or regulations, save for extractives/mining sector.</li> </ul>
Satisfaction with CSR.	<ul style="list-style-type: none"> <li>Over a-half of community members (59%) said they do see the benefit of CSR performed by companies in their community, increasing from 54% in the previous survey.</li> </ul>	<ul style="list-style-type: none"> <li>Over half of respondents (56%) say they benefit from CSR, a slight decrease compared to the previous survey.</li> </ul>
Engagement in CSR activities.	<ul style="list-style-type: none"> <li>Slight improvement, but majority of companies still not engaging in CSR.</li> <li>Most CSR activities in employment, education and health sectors.</li> </ul>	<ul style="list-style-type: none"> <li>More companies engaging in CSR, outside the extractives/mining sector, but not many.</li> <li>Employment, education, and health dominating CSR.</li> </ul>

Source: Field data & other data, 2022 & 2024

## 6.2. Corporate Local Content Requirements

### 6.2.1. Overview

Local content requirements (LCR) are rules or specifications for local labour involvement, purchases of local inputs and services, and local ownership of firms.<sup>479</sup> Under LCR, companies are required to use domestically manufactured goods or domestically supplied services in order to operate in an economy.<sup>480</sup> In Tanzanian context, particularly in the mining sector, local content is defined as ‘quantum or percentage of locally produced materials, personnel, financing, goods and services rendered in the mining industry value chain, and which can be measured in monetary terms.’<sup>481</sup> A similar definition has been adopted for local content in petroleum sector, in which local content refers to ‘the quantum of composite value

<sup>479</sup> Ellis, Mia, and Margaret McMillan, ‘Local Content: Are There Benefits for Tanzania?’, in John Page, and Finn Tarp (eds), *Mining for Change: Natural Resources and Industry in Africa* (Oxford, 2020; online edn, Oxford Academic, 19 Mar. 2020), <https://doi.org/10.1093/oso/9780198851172.003.0013>.

<sup>480</sup> OECD “Local content requirements” at <https://www.oecd.org/trade/topics/local-content-requirements/>, accessed 9<sup>th</sup> August 2022.

<sup>481</sup> Regulation 3 of the Mining (Local Content) Regulations, 2018.



added to or created in the economy of Tanzania through deliberate utilization of Tanzanian human and material resources and services in the petroleum operations in order to stimulate the development of capabilities of Tanzanians and to encourage local investment and participation.<sup>482</sup>

### 6.2.2. Situation of Compliance with Local Content Regulations

The survey on business and human also sought to assess compliance with the LCR in the mining sector, especially in Shinyanga, Mara, and Geita Regions, the bulk of the mining activities takes place. Other regions visited for purposes of assessing LCR compliance were Mbeya, Arusha, Tanga, and Mtwara. In these regions, it was found that companies complied with LCR in various ways, mainly through development and submission of a local content plan; procurement of locally produced goods and services; creation of employment for citizens; and conducting trainings.

#### **Development and submission of a local content plan**

To comply with local content requirements, mining companies must draft comprehensive five-year procurement plans outlining their strategies for procuring various goods and services. They are also obligated to submit annual reports to the Mining Commission, detailing the utilization of locally sourced goods and services. Additionally, companies must contribute to building the capacity of local suppliers to meet quality and quantity standards.

In his budget for the Ministry of Minerals for the financial year 2024/2025, the Minister of Minerals, Anthony Peter Mavunde (MP), revealed that the Mining Commission received and reviewed a total of 801 LCR plans from mining companies in the period of July 2023 and March 2024.<sup>483</sup> He added that the commission approved 797 out of the 801 plans.

#### **Procurement of locally produced goods and services**

Mining companies in Shinyanga, Mara, and Geita Regions indicated that they were prioritizing procurement of goods and services produced and provided locally. This was confirmed by some of the community members, local leaders, and local suppliers of goods and services. For instance, in Shinyanga *Barrick's Bulyan'hulu Gold Mine*, operating in Msalala, Kahama, was said to procure food produce in large quantities from local suppliers, primarily, host communities. The local food supplier was said to be *AKO Catering Group*.

<sup>482</sup> Regulation 3 of the Petroleum (Local Content) Regulations, 2017.

<sup>483</sup> See HOTUBA YA WAZIRI WA MADINI, MHESHIMIWA ANTHONY PETER MAVUNDE (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2024/2025, at [https://www.madini.go.tz/media/HOTUBA\\_YA\\_WIZARA\\_YA\\_MADINI\\_MAKADIRIO\\_YA\\_MAPATO\\_NA\\_MATUMIZI\\_KWA\\_MWAKA\\_WA\\_FEDHA\\_2024-2025.pdf](https://www.madini.go.tz/media/HOTUBA_YA_WIZARA_YA_MADINI_MAKADIRIO_YA_MAPATO_NA_MATUMIZI_KWA_MWAKA_WA_FEDHA_2024-2025.pdf).





*'There has been progress in the past two years, as more villagers are benefiting from the presence of the investor. For instance, there is a woman who is allowed to enter the mine to sell eggs, there are some locals who supply meat to the mine, most of the beverages are also locally supplied. Additionally, the company has employed many locals, especially for unskilled jobs.'*

WEO – Kakola, Bulyan'hulu, Shinyanga

Conversely, another big mining company operating in Shinyanga, the *Williamson Diamonds Limited (WDL)* was said to rarely procure locally produced food because it does not offer meals to its employees, who are forced to go back home to eat. However, some local traders have resorted to selling food items and other products to WDL workers individually, sometimes within the company premises. WDL also supports local motorcycle transportation services by providing space for *bodaboda* drivers to operate and allows fruit vendors to sell fruits to its workers outside the company premises.<sup>484</sup>

*'When we hold parties or workshops we buy food from local vendors, although these events do not happen so often whenever they happen, we buy food and drinks from local catering companies.'*

WDL Officer – Shinyanga

In Geita, the survey learned that the *Blue Coast Company*, a locally owned company, had been sub-contracted by the *Geita Gold Mine Limited (GGML)* to provide transportation services to the mine workers and supply fuel. Moreover, GGML reportedly procured some of the other locally produced goods and services.

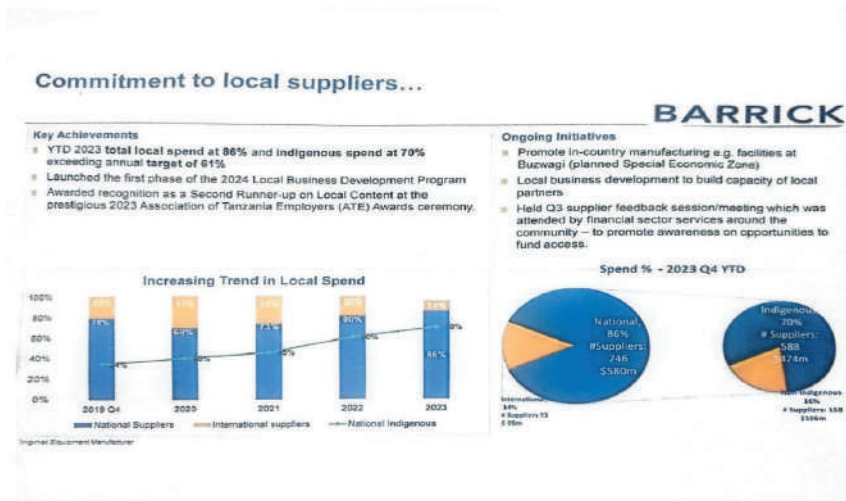
In Mara, the *North Mara Gold Mine* was also found to be compliant with the requirement of procuring locally produced and provided goods and services, culminating into receiving an award of recognition as the second runner-up on local content at the 2023 Association of Tanzania Employers (ATE) Awards. The total local spend at the mine increased from 80% in 2022 to 86% in 2023. For the year 2023, indigenous spend stood at 70%, exceeding the annual target of 61%.

<sup>484</sup> Interview with WEO in Msalala, Shinyanga.



'When we want to procure goods and services, we start looking for service providers at village level, if not available then we move to ward level, district level, up to national level.'

Community Relations Officer at NMGM –Mara



**Picture 6.14: An extract from Barrick's North Mara Gold Mine LCR report, showing committed to local suppliers**

Source: Field data, 2024

In Mbeya, a trade officer in Chunya District, said most mining companies procure goods and services locally. He noted that the companies only seek such goods and services at other levels when their demands and requirements are not met.

In his budget for the Ministry of Minerals for the financial year 2023/2024, the Minister of Minerals, Anthony Peter Mavunde (MP), revealed that his ministry, through the Mining Commission, received, reviewed, and approved 447 requests for procurement of locally produces goods and services.<sup>485</sup>

## Employment

In his budget for the Ministry of Minerals for the financial year 2023/2024, the then Minister of Minerals, Hon. Dr. Doto Mashaka Biteko (MP), revealed that in 2021 14,308 Tanzanians had been employed at major mines, constituting 97% of the workforce.<sup>486</sup>

<sup>485</sup> HOTUBA YA WAZIRI WA MADINI, MHESHIMIWA ANTHONY PETER MAVUNDE (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2024/2025 (*supra*).

<sup>486</sup> See HOTUBA YA WAZIRI WA MADINI, MHESHIMIWA DKT. DOTO MASHAKA BITEKO (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA



In the surveyed regions it was found that semi-skilled and unskilled jobs were mainly reserved for the local citizens, as required by the LCR law. For instance, in Shinyanga, *Bulyan'hulu Gold Mine Limited* said it had reserved and provided all unskilled jobs, such as cleaning and gardening, to the villagers surrounding the mine.<sup>487</sup> At the *Williamson Diamonds Limited (WDL)* the survey found that the company currently employs 525 individuals (420 male, 105 female). Notably, the company complies with local employment requirements, with only 9 foreigners, constituting 1.7% of the total workforce, employed. Moreover, the survey learned that 80% of the company's top management are Tanzanian nationals led by the acting General Manager, who is also a Tanzanian.

In Geita, the survey learned that the impact of the *Geita Gold Mine Limited (GGML)* in job creation is huge, with the company playing an instrumental role in facilitating direct and indirect employment for the locals. Indirectly, some locals got jobs in private security firms, hotels, and bars, which increased in *number* due to mining activities. The *Blue Coast Investment Company*, a sub-contractor to *GGML*, has employed a total of 580 citizens, including locals, tasked with transporting *GGML* staff and supplying fuel to the mine. Locals constitute 60% of the management at the company.<sup>488</sup>

In Mara, *Barrick's North Mara Gold Mine* was found to be the biggest employer of the locals. A total of 6,152 Tanzanians has been employed by the mine, constituting 96% of the workforce. 57.7% of the Tanzanians employed by the mine are from the communities surrounding the mines and 54% of the senior management are nationals. Among the 96% of Tanzanians employed by the mine, 55% are national contractors while 41% are national employees.<sup>489</sup>

## Training

Mining companies in the Lake Zone reportedly conducted trainings to locals and other Tanzanian citizens employed by them, as required by the LCR law. In Shinyanga, some community members and workers expressed hope that within seven years, the expertise brought by foreign employees would be successfully transferred to locals, resulting in a workforce composed entirely of locals. In Geita, it was reported that *GGML* conducts training to companies contracted to the mining company.

2023/2024, at [https://www.madini.go.tz/media/HOTUBA\\_WIZARA\\_YA\\_MADINI\\_2023-24\\_PchUQkO.pdf](https://www.madini.go.tz/media/HOTUBA_WIZARA_YA_MADINI_2023-24_PchUQkO.pdf).

<sup>487</sup> Interview with the Social and Environmental Manager at Bulyan'hulu Gold Mine Limited.

<sup>488</sup> See Prof. Abel Alfred Kinyondo, 'Local Content in Tanzania: Is It Well Managed and Delivering?' Policy Forum, December 2022, at <https://www.policyforum-tz.org/sites/default/files/2023-05/Local%20Content%20in%20Tanzania.%20Is%20It%20Well%20Managed%20and%20Delivering.pdf>

<sup>489</sup> NRCM LCR report.



### Challenges in implementation of LCR

Despite the positive trends in implementation of LCR, several challenges persist. One of the key challenges is the capacity gap in employment and provision of goods and services. At all the big mining companies in Shinyanga, Geita, and Mara, officials maintained that it was difficult to provide skilled jobs to residents of villages in the mining areas due to low level of education and limited capacity to perform the relevant tasks.

*'The company has done its best to create opportunities across all the 14 villages surrounding the mine. The main challenge is low awareness and education among the locals, hence more time is needed to ensure we are all on the same page.'*

WEO – Kakola, Bulyan'hulu, Shinyanga

In terms of supply of goods and services, it was reported that most of the local suppliers could not meet the demands for such goods and services. For instance, at WDL, it was revealed that suppliers in Kishapu District and Shinyanga Region at large were incapable of meeting the demands of certain goods, including equipment and Personal Protective Equipment (PPE). Consequently, the company is forced to seek such goods or products outside the region, especially in Dar es Salaam.

In Shinyanga, the survey found that once companies submit their LCR plans and report to the Mining Commission Office in Dodoma, the regional minerals offices on the ground, responsible for implementing the commission's mandate in areas close to the mines, are not fully engaged in the local content process, suggesting lack of decentralization.<sup>490</sup> Instead, it was observed that the regional offices were preoccupied with granting licenses to small-scale miners, resolving disputes among them, inspecting mining sites for safety and environmental compliance, and collecting non-taxed government revenues such as inspection fees.

#### Local Content: How local is local?

Another key challenge in LCR implementation is the definition of the concept itself 'local content.' A 2022 study on local content in Tanzania commissioned by Policy Forum shows that there are three most popular dimensions of the word 'local' namely geography, ownership, and value addition (wealth retention).<sup>491</sup> However, there is a broad definition of geographical location, apart from that which encompasses fully locally based suppliers and citizens. According to the study, some companies in other countries, such as Ghana, provide opportunities to both 'local' suppliers (businesses registered in the country) and 'local-local' suppliers (businesses operating in the vicinity of the mines).<sup>492</sup> The study concludes by noting

<sup>490</sup> Interview with an LGA official in Shinyanga.

<sup>491</sup> Prof. Abel Alfred Kinyondo, 'Local Content in Tanzania: Is It Well Managed and Delivering?' Policy Forum (*supra*).

<sup>492</sup> *Ibid.*





the need to do more to improve management and delivery of LC in Tanzania and makes several recommendations, including review of the existing LC legal framework to give priority to the communities in the vicinity of the extractive operations. To better protect the interests of local community and create a multiplier effect in project surrounding areas, LHRC recommends at least 40% of the opportunities to be reserved for the local-local suppliers, as it is the case in CSR.

## 6.3. Consumer Protection

### 6.3.1. Overview

Consumer protection is a human rights issue, essential in safeguarding fundamental human rights such as the right to health, right to adequate standard of living, right to safety, and right to information. These rights are protected under international, regional, and domestic human rights instruments.

Despite lack of a comprehensive law on consumer protection, the rights of consumers are protected domestically in Tanzania, albeit partially. Key legislation in this regard is the Fair Competition Act of 2003, which seeks *'to promote and protect effective competition in trade and commerce, to protect consumers from unfair and misleading market conduct and to provide for other related matters.'*<sup>493</sup> The law prohibits any persons in trade from engaging in conduct that is misleading or deceptive or is likely to mislead or deceive.<sup>494</sup> There are also other laws that ensure consumer protection, including those which establish regulatory authorities such as the Fair Competition Commission (FCC), Land Transport Regulatory Authority (LATRA), the Tanzania Medicines and Medical Devices Authority (TMDA), and the Tanzania Bureau of Standards (TBS). Among other things, these regulatory authorities are tasked with consumer protection.

### 6.3.2. Existence and Impact of Counterfeit and Substandard Products

#### **Community experiences and perceptions**

To determine the existence and impact of counterfeit and substandard products in the surveyed regions, community members were asked several questions around their experiences with products. The first question they were asked is whether they have a culture of inspection goods before buying them. Like in the previous 2022 survey, about half of them (54%) said they make effort to inspect the good before buying them,<sup>495</sup> representing a slight increase of 4%.

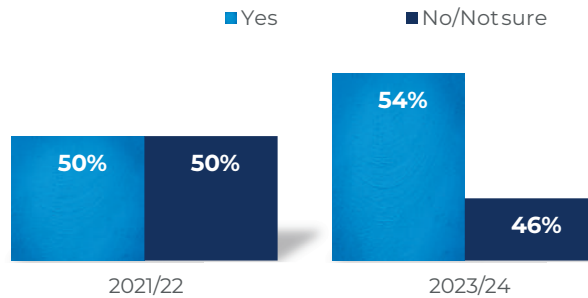
<sup>493</sup> Fair Competition Act, 2003.

<sup>494</sup> Section 15(1) of the Fair Competition Act, 2003.

<sup>495</sup> N=1,026.







**Figure 6.3: %Community responses on inspecting products before buying them**

Source: Field data, 2022 & 2024

Qualitative findings of the survey suggested that women were more likely to inspect their goods, especially cosmetics, than men. Further analysis of field data showed that community members in urban areas (55%) were more likely to inspect goods than their counterparts in rural areas (47%).

*'I always check the expiry date when I buy a cream to protect my face from burns and infections.'*

A woman – Tanga

One of the reasons for not inspecting goods or products is consumers not knowing how to inspect such products, as revealed in nearly half of the surveyed regions. Like in the previous survey, some community members also mentioned 'being in a hurry' as a contributing factor, including regional bus passengers who buy products from itinerant vendors at bus stops and stations, sometimes when the bus is already on the move. Other reasons include the culture of not reading documents and information, some of the labels on products not being visible and some people not being able to read and write, especially in rural areas. In Shinyanga MC, one community member asserted that sometimes people do not bother to inspect products because they are not able to tell difference between counterfeit and genuine products. In Mamboleo Village in Muheza District, Tanga, a villager implied during an interview that community members in rural areas were more likely to be deceived into buying counterfeit products, especially pharmaceuticals (drugs), and being discouraged to inspect products. She also noted that sometimes expired products are mixed with quality products, hence making it difficult to detect them.



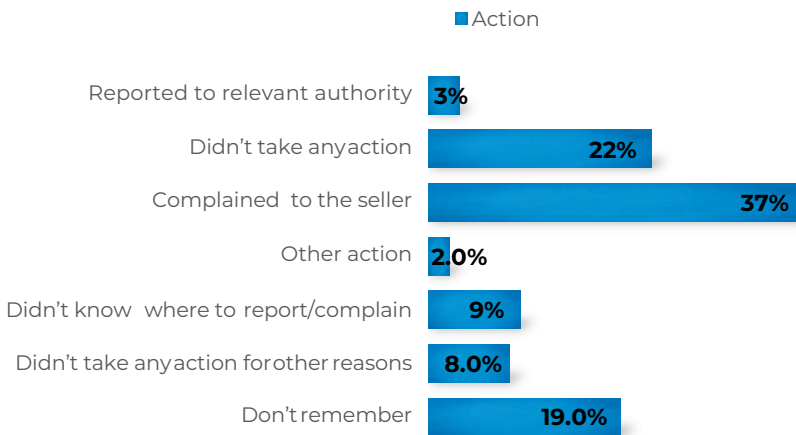
The next question community members were asked was whether had ever bought or encountered a fake or sub-standard product. About a third of the respondents (35%) indicated that they had ever encountered such products,<sup>496</sup> increasing from 27% in the previous survey. Over half of them (55%) said they had not encountered fake or sub-standard products. However, this could be attributed to low awareness of product quality and consumer protection among community members, suggesting the need for regulatory authorities such as the Tanzania Bureau of Standards (TBS) and the Tanzania Medicine and Medical Devices Authority (TMDA) to increase efforts of public awareness-raising.

**3 out of 10 community members have ever purchased a counterfeit or sub-standard product.**

*'There are all sorts of businesses in Dar es Salaam, as well as production and distribution of many fake and substandard products.'*

Community member – Dar es Salaam

The third question that was asked was about action taken by community members or consumers when faced with a fake or sub-standard product. Unlike in the previous (2022) survey, in which about half of the respondents said they did not take any action, the current survey findings show that over a third of the respondents (37%) complained to the seller, followed by 22% who said they did not take any action. Only 3% said they reported the matter to a relevant authority.



**Figure 6.4: %Community responses on action taken after buying fake or sub-standard product (N=359)**

Source: Field data, 2024

<sup>496</sup> N=1,026.



*'I once bought some body oil and discovered it had changed colour to black. Fortunately, the seller agreed to replace it with a genuine product.'*

Community member – Mtwara DC

The survey found that some people did not take any action because they bought the products from itinerant vendors, who do not have a specific place of business.<sup>497</sup> This was found to be more common in Dar es Salaam and other cities. In Dar es Salaam and Mbeya, some of the respondents complained about the sellers refusing to remedy them upon returning fake or sub-standard products. The survey also found that majority of the community members do not demand receipts when purchasing products, which makes it difficult to return fake or sub-standard products and claim a refund or a substitute product.<sup>498</sup> Further, the survey found that some community members knowingly purchase fake or sub-standard products because they are cheap (attracted by lower cost and saving money), as attested by a community member in Morogoro, who said:

*'We prefer counterfeit and substandard products because they are cheap. Considering our low socio-economic status, we are relieved there are such products in the market, because they are ones we can afford.'*

Community member – Morogoro DC

Lastly, community members were asked whether they had suffered any harm due to counterfeit or sub-standard products. Only 11% of the respondents confirmed that they had suffered harm after consuming a fake or sub-standard product.<sup>499</sup> Majority of them were women, who suffered due to fake or sub-standard cosmetics. In Dar es Salaam, a garage worker said they once bought fake gear box oil which damaged a client's car. Some of the community members in the city also lamented proliferation of fake and sub-standard electronics, especially mobile phones, causing them monetary damage and endangering their health and safety.

<sup>497</sup> Interviews with some community members in Dar es Salaam and a trade officer at Mbeya City Council in Mbeya.

<sup>498</sup> Ibid.

<sup>499</sup> N=1,025.



*'My sister, as you can see my face looks like that of an old woman, but I am not old, it's just that I used a counterfeit beauty product which ruined my face. This is something I will never forget, as it has cost me a lot to do some damage control. I have learned my lesson and will not use any product before inspecting it.'*

A female community member – Pwani

In some regions, such as Dar es Salaam, Shinyanga, Geita, and Mbeya, some community members indicated that they were likely to suffer harm because of unhygienic food practices of food vendors, especially female ones, popularly known as *'mama ntilie'*. They expressed concerns over food safety because of consuming food prepared in unsanitary conditions and buying food items sold in unclean environment, including those placed on the ground or surface, which are vulnerable to contamination. In Tanga, the survey found that the practice of purchasing goods in small quantities limits the consumer's ability to inspect products for quality and expiry.

According to the Energy and Water Utilities Regulatory Authority (EWURA), sale of petroleum products in plastic bottles and drums is detrimental to health, safety, and environment (HSE).<sup>500</sup> The survey found this to be a growing practice, especially in rural areas, where there are fewer petrol stations. For instance, in Geita DC, some vendors were observed selling petrol in water bottles, putting themselves and consumers at risk. Another bottle practice was observed in Mbeya, where cooking oil was observed packed in water and alcohol bottles, which might not be properly cleaned.



**Picture 6.15: Petrol fuel found sold in water bottles in Geita DC, Geita (left) and cooking oil found sold in water and alcohol bottles in Mbeya City, Mbeya**

Source: Field data, 2024

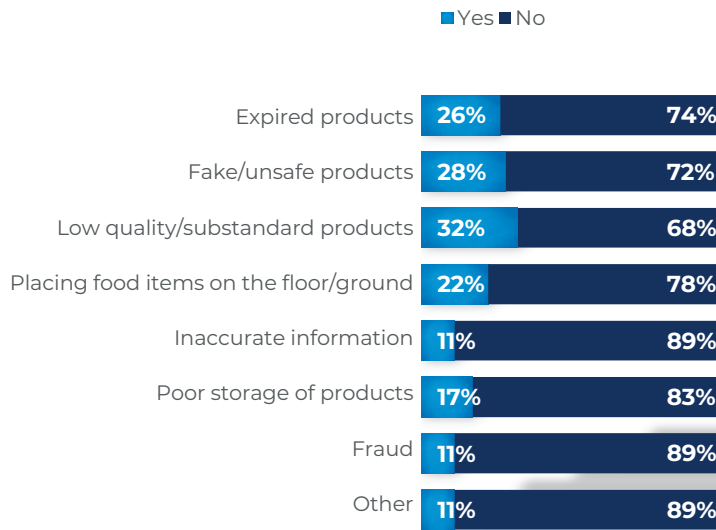
<sup>500</sup> See The United Republic of Tanzania Ministry of Energy, Energy and Water Utilities Regulatory Authority (EWURA), *2021-2022 Annual Report*, at <https://www.ewura.go.tz/wp-content/uploads/2023/08/Annual-Report-For-the-Year-Ended-30th-June-2022.pdf>.





### Perceptions of traders

Traders in surveyed regions were also asked about consumer protection, specifically challenges related to quality of products. Among the challenges that were identified, low quality or sub-standard products was mentioned the most (32%), followed by fake or unsafe products (28%), expired products (26%), and placing food items on the floor or ground (22%).



**Figure 6.5: Traders' perception on challenges related to quality of products and consumer protection**

Source: Field data, 2024

The traders also mentioned various factors that they believed contribute to existence of fake and sub-standard products, mainly:

- ✎ Tendency of community members, especially from poor and middle-income households, preferring cheap products, sold at a fraction of a price of genuine product;
- ✎ Greed on the part of traders, due to easy profits;
- ✎ Corruption, including bribery of inspection officers;
- ✎ Inadequate regulation to ensure consumer safety;
- ✎ Inadequate inspection of products;
- ✎ Community members finding it hard to tell the difference between counterfeit and genuine product;
- ✎ Poor enforcement of consumer protection laws;
- ✎ Fake and sub-standards being easily accessible, including in rural areas;
- ✎ There is market for certain counterfeit products, such as women's fake bags and shoes, for people who want to mimic certain lifestyles;
- ✎ Porous borders used to smuggle counterfeit products;
- ✎ Increasing costs of living and low purchasing power; and
- ✎ Low awareness of consumer protection.





### Inspection and Seizure of Counterfeit Products

In Tanzania, regulator authorities such as the Tanzania Bureau of Statistics (TBS) and the Fair Competition Commission (FCC) have been conducting inspections and seizing products found to be counterfeit.



**Picture 6.16: An official from the Fair Competition Commission (FCC)- Southern Highlands Office inspecting a product at a market in Songea, Ruvuma Region in 2023**

Source: Fullshangwe Blog<sup>501</sup>

In January 2023, it was reported that TBS seized and burned at least 20 tonnes of substandard goods, including food items, worth Tshs. 400,000,000 Dar es Salaam, Pwani, and Morogoro Regions.<sup>502</sup> In April 2023, it was reported that FCC had seized counterfeit products worth Tshs. 15 billion during the financial year 2022/2023.<sup>503</sup>

In January 2024, it was reported that TBS had seized and destroyed 837,075.07 tonnes of substandard goods worth Tshs. 21.8 million from various warehouses, hotels, and shops in the districts of Dodoma and Singida.<sup>504</sup> In May 2024, it was further reported that TBS through their Lake Zone Office in Mwanza had destroyed over seven tonnes of substandard products.<sup>505</sup>

<sup>501</sup> <https://fullshangweblog.co.tz/2024/01/31/fcc-yakamata-bidhaa-bandia-songea/>.

<sup>502</sup> "Tanzania Bureau of Standards discards substandard goods worth US\$171 thousand" Food Safety Africa, 22 Jan 2023, at <https://www.foodsafetyafrica.net/tanzania-bureau-of-standards-discards-substandard-goods-worth-us171-thousand/>.

<sup>503</sup> Nelson Malanga "Tanzania and Kenya agree to jointly fight counterfeit products" THE CITIZEN Newspaper (Online), 12 Apr 2023, at <https://www.thecitizen.co.tz/tanzania/news/business/tanzania-and-kenya-agree-to-jointly-fight-counterfeit-products--4196302>.

<sup>504</sup> "Tanzania strengthens quality assurance measures in trade collaboration" Food Safety Africa, 22 Jan 2024, at <https://www.foodsafetyafrica.net/tanzania-strengthens-quality-assurance-measures-in-trade-collaboration/>.

<sup>505</sup> "TBS destroys seven tonnes of unfit products in Mwanza" TBS, 31 May 2024, at <https://www.tbs.go.tz/news/tbs-destroys-seven-tonnes-of-unfit-products-in-mwanza>.



***Impact of counterfeit and sub-standard products***

As discussed above, counterfeit and substandard products seriously affect consumers, especially by risking their health and safety. However, the impact of such products goes beyond an individual. The survey learned that at national level, the Government is losing a significant tax revenue to counterfeit and substandard products. Businesses selling genuine products also suffer in terms of profit loss and damage of brand and reputation. Moving forward, authorities tasked with consumer protection must increase efforts to address the challenge of counterfeit and substandard products, including by conducting regular inspections.



## CHAPTER SEVEN: CORPORATE ENVIRONMENTAL RESPONSIBILITY AND RESPECT FOR HUMAN RIGHTS

### 7.1. Corporate Environmental Responsibility

#### 7.1.1. Overview

Corporate Environmental Responsibility (CER) is part of CSR. It has been defined as “the duty to cover the environmental implications of the company’s operations, products and facilities; eliminate waste and emissions; maximize the efficiency and productivity of its resources; and minimize practices that might adversely affect the enjoyment of the country’s resources by future generations.”<sup>506</sup> Businesses, especially companies, now have a duty to improve their environmental performance and protect the environment.<sup>507</sup> CER stems from the Ten Principles of the UN Global Compact and the UN Guiding Principles on Business and Human Rights. Principle 8 of the Ten Principles of the UN Global Compact requires businesses to “*undertake initiatives to promote greater environmental responsibility.*” In Tanzania, this obligation is codified under various laws, regulations, rules, and policies, the most important being the Environmental Management Act of 2004, which provides for the right to clean, safe and healthy environment.<sup>508</sup> This right is now officially recognized as a human right, thanks to a 2021 UN Human Rights Council Resolution.<sup>509</sup>

#### 7.1.2. Compliance with Environmental Obligations

To assess compliance with environmental obligations, business enterprises and other respondents were asked questions around adoption of environmental management policies, conducting environmental impact assessments (EIA), and measures taken to protect and preserve the environment. These are the requirements under the Environmental Management Act of 2004, the National Environmental Policy of 2021<sup>510</sup> and various environmental management and

<sup>506</sup> See Mazurkiewicz, Piotr. 2004. *Corporate environmental responsibility: Is a common CSR framework possible? (English)*. Washington, DC: World Bank. <http://documents.worldbank.org/curated/en/577051468339093024/Corporate-environmental-responsibility-is-a-common-CSR-framework-possible>

<sup>507</sup> See UN website at <https://news.un.org/en/story/2022/07/1123482>.

<sup>508</sup> Section 4(1) of the Environmental Management Act 2004.

<sup>509</sup> See “Access to a healthy environment, declared a human right by UN rights council” UN News, 8 October 2021, at <https://news.un.org/en/story/2021/10/1102582>.

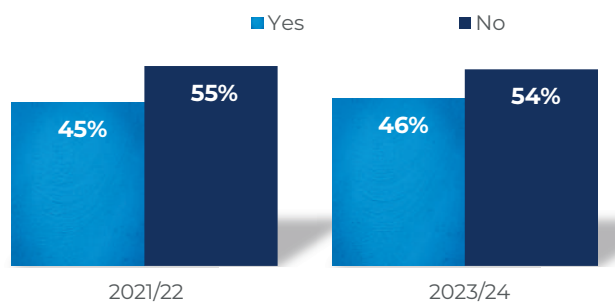
<sup>510</sup> The United Republic of Tanzania, Vice President’s Office, *National Environmental Policy 2021*, October 2021, at <https://www.nemc.or.tz/uploads/publications/en-1656409821-NATIONAL%20ENVIRONMENTAL%20POLICY%202021%20new.pdf>.



assessment regulations.<sup>511</sup> For instance, the Environmental Management Act, 2004 recognizes the right to clean, safe and healthy environment, the right to bring an action on environment, and the duty to protect the environment,<sup>512</sup> all of which create corresponding obligations to business enterprises.

### Adoption of environmental management policies

A total of 166 corporate officials at the visited business enterprises were asked whether they have in place a policy on environmental management and protection. Nearly half of them (46%) said they do have such policy, slightly increasing from 45% in the previous survey. This suggests that **6 out of 10 business enterprises do not have a clear policy on environmental management and protection.**



**Figure 7.1: %Corporate response on having environmental management and protection policy (N=166)**

Source: Field data, 2024

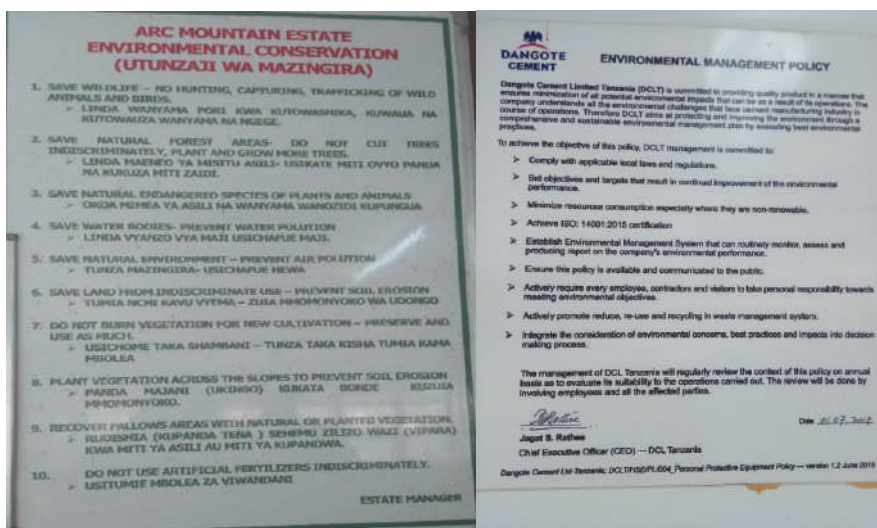
The survey found that large business enterprises are more likely to have in place environmental management and protection policies and make effort to comply with them as well as environmental laws than small and medium-sized enterprises (SMEs). This was evidenced by the fact that most enterprises which claimed to lack such policies were SMEs. On the other hand, like it was the case in the previous survey, only a few of business enterprises that claimed to have the policies in place produced such copies to the survey teams.

In Tanga, the survey found that most of the visited companies lacked comprehensive policies and guidelines for sustainable environmental protection. Only three companies had environmental conservation policies, namely *East Usambara Tea Company Limited* in Muheza DC, *ARC Mountain Tea Estate* in Korogwe DC, and *Trianon Investment Limited* in Muheza DC.

<sup>511</sup> Such as the Strategic Environmental Assessment Regulations 4GN 153 & 154 2008; the Environmental Management (Water quality standards) Regulations 2007; the Environmental Management (Soil Quality Standards) Regulations 2007; and the Environmental Impact Assessment and Audit Regulations 2005. [<https://www.nemc.or.tz/publications/1>]

<sup>512</sup> Sections 4,5, & 6 of the Environmental Management Act, 2004.





**Picture 7.1: Environmental conservation policies observed at ARC Mountain Estate in Tanga (left) and Dangote Cement PLC in Mtwara (left)**

Source: Field data, 2024

### Conducting environmental impact assessments (EIA)

Environmental impact assessment (EIA) is defined as 'a systematic examination conducted to determine whether or not a programme, activity, or project will have any adverse impacts on the environment.'<sup>513</sup> Conducting EIA is a legal requirement under the Environmental Management Act, 2004.<sup>514</sup> Business enterprises are required to conduct EIA prior to the commencement or financing of a project or undertaking,<sup>515</sup> even when they already have a permit or licence for carrying out the project.<sup>516</sup> The EIA must be conducted by experts recognized and approved by NEMC and then an Environmental Impact Statement must be prepared and submitted to the Council for approval.<sup>517</sup>

Nearly all business enterprises that were visited claimed that they had conducted EIA prior to commencement of projects or business operations. However, the survey learned that instances of non-compliance with this obligation continue to occur among business enterprises. In the audit report on the Central Government, released in March 2023, the Controller and Auditor General (CAG) revealed that eight entities commenced projects worth Tshs. 547.02 billion before obtaining the Environmental and Social Impact Assessment Certificate from NEMC, contrary to section 81(3) of the Environmental Management Act 2004.<sup>518</sup>

<sup>513</sup> Section 3 of the Environmental Management Act, 2004.

<sup>514</sup> Ibid, Section 81(1); Also Regulation 4(1) of the Environmental Impact Assessment and Audit Regulations 2005.

<sup>515</sup> Section 81(2) of the Environmental Management Act, 2004.

<sup>516</sup> Ibid, Section 81(3).

<sup>517</sup> Sections 83 & 86 of the Environmental Management Act, 2004.

<sup>518</sup> See THE UNITED REPUBLIC OF TANZANIA, NATIOAL AUDITO OFFICE, ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22:





### Measures taken to protect the environment

When asked about their environmental protection efforts, the majority of businesses reported taking several proactive measures. They conduct due diligence before beginning operations and perform assessments to anticipate potential impacts. Furthermore, they comply with environmental laws and adhere to guidelines set by the National Environmental Management Council (NEMC); and creating proper waste disposal and sewage systems. A few others also mentioned use of environmentally friendly machines and equipment (operating environmentally friendly business). The survey also found that some large enterprises, such as *CGML* in Geita, also contribute funds or support environmental management and protection initiatives.

In Kilimanjaro, the survey learned that *TPC Sugar Ltd* had taken some measures to protect the environment and reduce pollution. The company had constructed a wastewater treatment plant to ensure impurities are removed from the water before being discharged into the environment, the goal being to limit pollution.



**Picture 7.2: A wastewater treatment plan constructed by TPC Sugar Ltd in Kilimanjaro**

Source: Field data, 2024

In Arusha, the survey was informed that out of the 12 visited companies namely, *A to Z group of companies*, *Sunflag*, and *Hannspaul*, has taken proactive measures to protect the environment, through conduct environmental audits on annual basis. A staff member at *A to Z Company* said internal policies compelled EIAs and social impact assessments (SIAs) to be conducted regularly.

In Mtwara, the survey found that *Amama Farms Ltd*, a cashew nut processing company, was taking measures to protect the environment by facilitating access to alternative cooking fuel to reduce cutting down of trees for making firewood and charcoal. The Human Resources Manager at the company said that instead of poorly disposing of cashew nut shells as waste, the company had resorted to

transforming the shells into biomass briquettes, used for household cooking. The briquettes were sold to community members and provided to workers at the company. At *BECCO Coal Ltd* and *Ruvuma Coal Ltd*, officials claimed that the companies had sprinkled water on the roads to reduce dust during dry season to reduce pollution.

### 7.1.3. Status and Reported Incidents of Environmental Pollution Caused by Business Enterprises

Environmental pollution can be defined as “the contamination of the physical and biological components of the earth/atmosphere system to such an extent that normal environmental processes are adversely affected.”<sup>519</sup> It also refers to “the presence in the environment of an agent which is potentially damaging to either the environment or human health.”<sup>520</sup> Traditional types of environmental pollution are water pollution, land pollution and air pollution, but other forms of pollution, especially noise pollution, have also become common and consequently added to the mix.

In Tanzanian context, pollution is defined as ‘direct or indirect alteration of the physical, thermal, chemical, biological, or radioactive properties of any part of the environment by discharging, emitting, or depositing of wastes so as to adversely affect any beneficial use, to cause a condition which is hazardous to public health, safety or welfare, or to domestic animals, birds, wildlife, fish or aquatic life, or to plants.’<sup>521</sup> Pollution is prohibited by the main environmental law in Tanzania, the Environmental Management Act, 2004.<sup>522</sup>

#### Community perceptions on environmental pollution

Community members who responded to the survey were asked about different forms of environmental pollution experienced in their areas of residence. Qualitative findings of the survey suggest that majority of the community complaints were about air pollution and land pollution.

##### 7.1.3.1. Air pollution

Complaints about air pollution were aired by community members in over half of the surveyed regions, including Pwani, Mbeya, Mara, Shinyanga, Iringa, Arusha, Tanga, and Mtwara. For instance, in Pwani, complaints about air pollution were levelled against companies such as *DOLIN Company* and *Diamond Cement Company* in Mkuranga District and *LULU Cement Company* in Kibaha District.

<sup>519</sup> ScienceDirect “Environmental Pollution” at <https://www.sciencedirect.com/topics/earth-and-planetary-sciences/environmental-pollution#:~:text=Environmental%20pollution%20is%20defined%20as,environmental%20processes%20are%20adversely%20affected..>

<sup>520</sup> David Briggs, Environmental pollution and the global burden of disease, *British Medical Bulletin*, Volume 68, Issue 1, December 2003, Pages 1–24, <https://doi.org/10.1093/bmb/ldg019>.

<sup>521</sup> See Section 3 of the Environmental Management Act, 2004; The United Republic of Tanzania, Vice President’s Office, National Environmental Policy 2021, October 2021.

<sup>522</sup> See for example sections 106(1), 109 (1), and 110(1) of the Environmental Management Act, 2004.



In Iringa, air pollution complaints were made by residents of Kitwiru Ward against *Ivory Industries*, which is located near Kibwabwa Primary School. In neighbouring Mbeya, most of the complaints about air pollution were levelled against rice mills, while in Tanga, they were mostly against *Neelkanth Chemical Industry* in Tanga CC, *Kitwule Company LTD* in Muheza DC and *Maweni Limistone Limited*, accused of emitting substantial amounts of dust and particulate matter into the atmosphere.

*'The operations of Maweni Company have a huge environmental impact on the residential areas. If I only recently installed metal roofing sheets, which are now fully covered with dust, what happens to the community in the next six years?'*

Community member – Pogwe, Tanga

In Mara, there were complaints of smoke emissions from business enterprises such as *Musoma Bakery Factory* and *Butiama Milk Industry*, mainly caused by use of firewood. Dust pollution complaints were also aired by some residents in Tarime District and a Ward Executive Officer in Musoma District against *Barrick's North Mara Gold Mine* and the *China Civil Engineering Construction and Corporation* respectively. The best practice of minimizing air pollution was seen at *Wakulima wa Mara Ujamaa Cooperative Union Company*, where there was a pipe which was transporting dust from the production area to the storage area.

*'Vehicles belonging to the Chinese investors are responsible for spreading dust in the are. We usually tell them to sprinkle water on the roads to minimize airborne dust.'*

WEO – Musoma, Mara

In Shinyanga, the survey observed extensive use of mercury in small-scale gold processing, particularly in the districts of Shinyanga and Kahama, which are rich in gold minerals. This unlawful emission of mercury has caused environmental pollution, including air pollution. In Arusha, complaints about air pollution were mostly aired in Themis Ward, Arusha City, where most of the factories in the city are located.

In Mtwara, some industries reportedly emitted coal dust particles which were harmful to the environment and the people. The survey documented various health-related impacts of coal dust pollution in the district, including diseases such as tuberculosis (TB), coal worker's pneumoconiosis (black lung disease), and influenza; limited access to clean and safe water; discomfort among residents and



workers; and food contamination. In one incident, it was reported that a priest at Likombe Catholic Church had to be rushed to Mtwara Referral Hospital after experiencing breathing difficulties due to coal dust pollution while leading a prayer. Some of the workers at **BECCO Coal Limited** also said in the past it was difficult for them to stay in their offices all the time due to coal dust. Confirming the health impacts of coal dust pollution, the OSHA Regional Manager said:

*'The issue of coal dust pollution has been brought to our attention by workers from the electric company, TANESCO. They complained about a large amount of coal dust particles emanating from industrial operations, which was putting the health of TANESCO workers and other people at risk and urged us to take appropriate action.'*

OSHA Zonal Manger – Mtwara

In May 2023, it was reported that some residents in Mtwara District had fled their homes due to coal dust pollution around the Mtwara Port.<sup>523</sup> Some of the residents claimed that their homes had turned black, while others complained about chest pains caused by coal dust and their businesses being disrupted because of people fleeing the affected areas. The NEMC zonal manager acknowledged the problem and said the regulatory authority had directed companies storing and transporting coal to use nets and sprinkle water to reduce the pollution. He also confirmed that the situation is worse during the dry season as the rain helps to reduce the spread of dust during rainy seasons.

In Mtwara, complaints about dust pollution were also made against **Dangote Cement Plc** by residents of Hiari Village in Mtwara DC. The residents lamented suffering adverse health effects and discomfort from pollution produced during cement production. The widespread complaints against the company prompted NEMC to take action and order the company to stop of cement production until proper measures had been taken to reduce the pollution.<sup>524</sup>

### **7.1.3.2. Land pollution**

Land and soil pollution was also reported as a concern in most regions, including Pwani, Shinyanga, Geita, Kilimanjaro, Arusha, Tanga, and Mtwara. For instance, in Shinyanga, use of mercury by small-scale gold miners was said to contribute environmental pollution, including soil pollution. Land pollution complaints were also reported in the other regions.

<sup>523</sup> "Mtwara port acts on concerns of residents' coal dust pollution" The Guardian Newspaper, 20 May 2023, at <https://legacy.ippmedia.com/en/news/mtwara-port-acts-concerns-residents%E2%80%99-coal-dust-pollution>.

<sup>524</sup> Interview with NEMC Eastern Zone Manager.





### 7.1.3.3. Water pollution

Water pollution was mainly identified as a challenge in 9 out of the 15 regions that were surveyed (60%), namely Pwani, Shinyanga, Geita, Mara, Iringa, Kilimanjaro, Arusha, Tanga, and Mtwara. For instance, in Mara, some residents of Nkirira Village in Musoma DC alleged that activities of *Expance Construction Company Limited* had polluted their well water. In Shinyanga, there were complaints about use mercury in small-scale gold mining by artisanal and small-scale miners causing water pollution. Similar complaints were aired by some community members against artisanal miners in Geita and Mbuyuni Ward in Masasi District, Mtwara Region.

In Arusha, some residents of Kisongo Ward in Arusha DC complained about wastewater from *A to Z Company* polluting water and soil, affecting community livelihoods. However, the company officials dismissed the claims, noting that the company had installed a modern wastewater treatment plant (ETP) designed to process effluent generated by the factory before discharge. Regarding the issue of water contamination from multiple investors, not just A to Z, the company clarified that a pipeline connecting various industrial establishments was initiated during the late Dr. John Pombe Magufuli's administration.

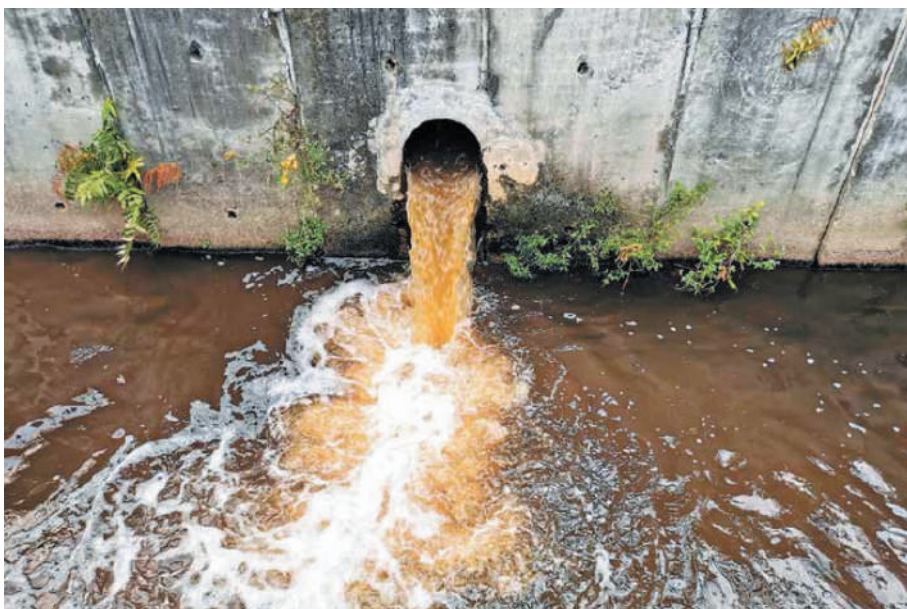
In April 2023, NEMC reported that it had suspended the operations of the *A to Z Company* that were producing wastewater in Arusha.<sup>525</sup> The move came after the company's waste management system had failed to prevent the wastewater from pouring into residential areas, contrary to environmental laws. Redempta Samwel, the NEMC Director of Environmental Compliance and Enforcement, revealed that there had been several complaints about the wastewater containing chemicals filed by residents of Olmot Ward in Arusha City.<sup>526</sup>

<sup>525</sup> See "NEMC YACHOSHA NA UCHAFUZI WA MAZINGIRA KIWANDA CHA A to Z ARUSHA" Jarida la NEMC, TOLEO NA. 011, APRILI – JUNI, 2023, at <https://www.nemc.or.tz/uploads/publications/sw-1689170299-4.%20NEMC%20NEWSLETTER%20JUNE%202023%20ISSUE%20edited%20draft%202.pdf>.

<sup>526</sup> Ibid.







**Picture 7.3: Wastewater reportedly discharged by the A to Z Company in Arusha**

Source: NEMC

In Mtwara, incidents of water pollution were mainly reported in area of Magodani industrial area, attributed to coal dust. Residents around the area lamented their water ‘turning black’ due to contamination of coal particles. Some of the residents added that they were not able to harvest the rain due to presence of coal particles.

#### **7.1.3.4. Noise pollution**

The Environmental Management (Standards for the Control of Noise and Vibrations Pollution) of 2015 prohibit making or causing to be made any loud, unreasonable, unnecessary or unusual noise that annoys, disturbs, injures or endangers the comfort, repose, health or safety of others and that of the environment.<sup>527</sup> It also sets out maximum permissible noise levels.<sup>528</sup> However, compliance with the regulations, including by businesses, remains a challenge.

Complaints about noise pollution were aired in regions such as Pwani, Dar es Salaam, Mwanza, Arusha, and Tanga. For instance, in Pwani, some residents of Kibaha and Bagamoyo Districts complained about noise emanating from *Prime KED Company* and *Coast Concrete Poles Limited* respectively.

In Tanga, there were also complaints about **noise emanating from industrial machines** (industrial noise pollution). In Muheza District, such complaints were levelled against *Kitwule Company LTD*, whereby residents of Misongeni Village complained about the noise caused by blasting operations of the company.

<sup>527</sup> Regulations 7(1) of the Environmental Management (Standards for the Control of Noise and Vibrations Pollution), GN No. 32 of 2015.

<sup>528</sup> Ibid, First Schedule.



In March 2023, NEMC reported a 65% increase in noise pollution and vibration complaints.<sup>529</sup> In April, **noise pollution was reported to cause serious health problems, including cardiovascular problems, cognitive impairment, sleep disturbances, and hearing impairment**, as noise pollution from open-air bars, open-air brickmaking factories and industries, car garages, and prayer houses in residential areas was said to increase.<sup>530</sup> It was also reported that **noise polluters largely continued to ignore noise pollution laws** despite the enforcement measures undertaken by NEMC.<sup>531</sup> In May, it was reported that NEMC had **penalised 89 businesses (places or establishments of entertainment) in Dodoma, Dar es Salaam, and Mwanza for causing noise pollution, suspending their operations for defying orders of compliance with the permissible noise levels.**<sup>532</sup> NEMC said among the businesses that were penalised were **bars and entertainment centres**, following a one-week operation conducted across Mainland Tanzania.<sup>533</sup>

#### 7.1.3.5. Odour pollution

Another type of pollution that was reported is odour pollution, defined as unwanted or offensive smells deemed objectionable by individuals, often stemming from industrial processes, sewage treatment, landfills, and other sources.<sup>534</sup> While often perceived less serious and hardly harmful, this type of pollution is known to cause impact to human health.<sup>535</sup>

Odour pollution was reported in surveyed regions such as Shinyanga, Dar es Salaam, and Kilimanjaro. For instance, in Shinyanga MC, Shinyanga, the survey found that there was industrial odour emitted from a leather processing industry that is located close to a primary school and residential areas, forcing residents to regularly endure unpleasant smells. Some of the interviewed residents in the area suggested that action to address the problem was difficult because the industry is located on land owned by the ruling party, CCM. These statements suggest that addressing pollution caused by businesses becomes challenging when politics are involved, as issues are not viewed objectively through the lens of law enforcement.

<sup>529</sup> “Noise pollution: Is it mere ignorance or arrogance?” THE CITIZEN Newspaper (online), 5 Mar 2023, at <https://www.thecitizen.co.tz/tanzania/news/national/noise-pollution-is-it-mere-ignorance-or-arrogance--4146652>.

<sup>530</sup> Epiphania Ngowi “Noise Pollution Is Affecting Our Health. Here’s How We Can Fix It” The Chanzo, 25 Apr 2023, at <https://thechanzo.com/2023/04/25/noise-pollution-is-affecting-our-health-heres-how-we-can-fix-it/>.

<sup>531</sup> Ibid.

<sup>532</sup> See “NEMC YAFUNGIA KUMBI ZA SHAREHE ZA MIKOA KATIKA MIKOA YA DODOMA, DSM NA MWANZA” Jarida la NEMC, TOLEO NA. 011, APRILI – JUNI, 2023, at <https://www.nemc.or.tz/uploads/publications/sw-1689170299-4.%20NEMC%20NEWSLETTER%20JUNE%202023%20ISSUE%20edited%20draft%20.pdf>; “Tanzania’s environment regulator closes down 89 businesses over noise pollution” Xinhua, 9 May 2023, at <https://english.news.cn/africa/20230509/ab56e3e42e3a449089a71910a93ee7cb/c.html>.

<sup>533</sup> Ibid.

<sup>534</sup> Kruti Davda “What is Odour Pollution: Causes, Effects, and Solutions” OIZOM, 6 Oct 2023, at <https://oizom.com/odour-pollution/#:~:text=At%20its%20core%2C%20odour%20pollution,sewage%20treatment%2C%20landfill%20etc..>

<sup>535</sup> Ibid.



In Kilimanjaro, complaints about odour pollution were aired by some residents and food vendors in Njoro Ward, Moshi MC, implicating *Joshi Feed Meel Ltd*. They claimed that wastewater from the industry flowing in streams along the streets was emitting unpleasant smells. A female food vendor said the bad odour had affected her business by losing some of the customers who found the odour unbearable.

#### 7.1.4. Other Environmental Management Concerns

##### **Incidents of environmental degradation and deforestation**

Other environmental issues and concerns that were identified in some of the surveyed regions, especially in mining areas, included land degradation and deforestation. For instance, in Geita, the survey found that artisanal miners were using many tree logs to reinforce their entry pits to the mines (*maduara*), instead of using steel and concrete, as recommended by environmental experts in the region.



**Picture 7.4: Tree logs to be used in reinforcing pits (left) and a mine pit reinforced with logs (right) observed in Geita**

Source: Field data, 2024

In Shinyanga, the survey noted that large-scale miners, such as the *Williamson Diamonds Limited (WDL)*, due to their permanent presence and the technical nature of their operations, do not engage in unsustainable tree cutting. These companies often preserve existing trees and support tree seedling and nursing initiatives. The survey witnessed this environmentally conscious practice with WDL. However, the challenge lies with small-scale miners, as seen in Itilima, the miners work underground following the gold vein with no regard for the aftermath, and then one day one of the closed pits falls in after heavy rains. In discussions with the mining commission, it was noted that a significant number of small-scale miners operate without licenses. Consequently, they lack the formal terms and conditions that would outline their environmental responsibilities. An officer highlighted that while diamond mining does not involve hazardous chemicals in mineral processing, small-scale diamond mining is associated with deforestation and the abandonment of unfilled pits when miners leave in search of more lucrative areas. In Geita, artisanal miners were also implicated in





environmental degradation due to their practice of moving from one area to another in search of gold, with little regard for environment.



**Picture 7.5: The aftermath of underground mining (left) and a closed pit (right), in Itilima, Kishapu**

Source: Field data, 2024

In April 2023, the Minister of State (Union and Environment), Hon. Dr. Selemani Jafo (MP), disclosed in the ministry budget speech that in the financial year 2022/23, NEMC received a total of **317 environmental pollution and degradation complaints**, including noise and vibration, air pollution, land pollution, and water pollution.<sup>536</sup>

### ***Inadequate management of environment***

The National Environmental Policy of 2021 highlights various constraints in effectively managing the environment in Tanzania. These include inadequate coordination among sectors in managing environment; low public awareness and knowledge on environmental management; inadequate municipal waste management; ineffective environmental management of oil and gas; climate change; inadequate environmental good governance at all levels; inadequate financial resources for environmental management; and inadequate gender consideration in environmental management.<sup>537</sup> The various reported incidents of environmental pollution documented by this study suggest that most of these challenges remain valid. Women and other vulnerable groups remain more likely to suffer from the adverse effects of environmental pollution and degradation.

<sup>536</sup> See HOTUBA YA WAZIRI WA NCHI, OFISI YA MAKAMU WA RAIS (MUUNGANO NA MAZINGIRA), MHE. DKT. SELEMANI SAIDI JAFFO (MB), KUHUSU MAPITIO YA UTEKELEZAJI WA MPANGO WA BAJETI KWA MWAKA 2022/23 NA MAKADIRIO YA MAPATO NA MATUMIZI KW AMWAKA 2022/24, 24 APRILI 2023 DODOMA, at <https://www.vpo.go.tz/uploads/speeches/docs/sw-1682403076-Hotuba%20ya%20Bajeti%202023:24.pdf>.

<sup>537</sup> The United Republic of Tanzania, Vice President's Office, National Environmental Policy 2021, October 2021.



### **Impact of land degradation and deforestation**

Generally, the survey found that deforestation practices have severe environmental consequences, causing soil erosion, land degradation, and drought. Such impacts reduce agricultural productivity, exacerbating poverty and gender inequalities within affected communities. Furthermore, deforestation contributed to climate change occurrence, which has negatively impacted livelihoods of communities in many parts of Mainland Tanzania.

### **Use of mercury in artisanal and small-scale gold mining**

Mercury, a naturally occurring element, is extracted and processed overseas before being imported into Tanzania for various uses, primarily in small-scale gold production and medical applications, such as dentistry and the manufacture of thermometers. According to the World Health Organization (WHO), mercury ranks among the top ten chemicals of major public health concern, with potential toxic effects on the nervous, digestive, and immune systems, as well as the lungs, kidneys, skin, and eyes.<sup>538</sup>

Globally, artisanal and small-scale gold mining (ASGM) is the largest source of mercury emissions, contributing 37.7%, followed by stationary combustion of coal at 21%.<sup>539</sup> Tanzania's National Action Plan on Artisanal and Small-Scale Gold Mining (NAP-ASGM 2020-2025) indicates that 95% of imported mercury is used in small-scale gold processing. Due to its unique metallic properties, mercury is employed in gold processing through a method called amalgamation. This process involves adding mercury to water to bind with small gold particles, effectively separating them from gold dust.

Mercury is a non-biodegradable material and hazardous, whose vapor can contaminate water sources, aquatic species, and biodiversity. This vaporized mercury can also degrade soil quality and accumulate in plants and fish, posing health risks to humans who consume these contaminated sources.

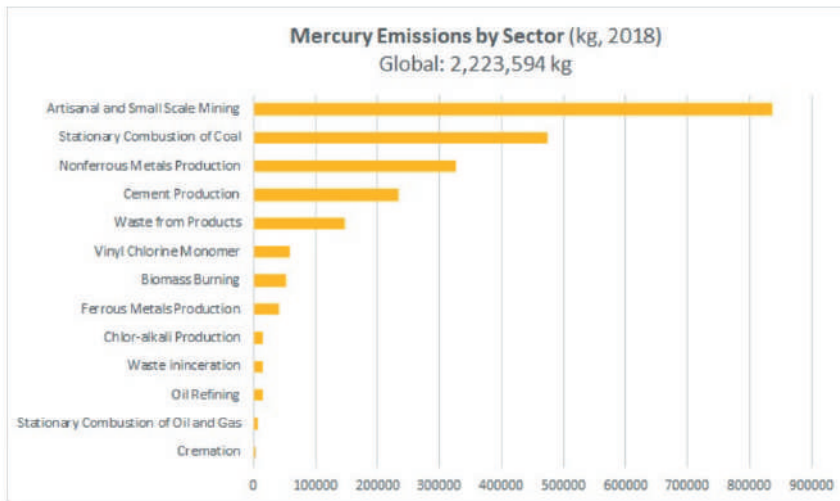
The Environmental Management Act of 2004 and the Water Resources Management Act of 2009 prohibit human activities within 60 meters of water sources and the discharge of wastewater into water bodies without approval from the respective water basin board authority. Despite these laws, small-scale mining often occurs within prohibited zones and discharges mercury-contaminated wastewater into rivers. This not only pollutes water sources but also exacerbates the environmental and health impacts of small-scale gold mining on local communities.

<sup>538</sup> See World Health Organization (WHO), *Mercury and health*, at <https://www.who.int/news-room/fact-sheets/detail/mercury-and-health#:~:text=Human%20activity%20is%20the%20main,mercury%2C%20gold%20and%20other%20metals>.

<sup>539</sup> United States Environmental Protection Agency, *Mercury Emissions: The Global Context* (supra).







**Figure 7.2: Global sources of mercury**

Source: United States Environmental Protection Agency<sup>540</sup>

In Tanzania, National Action Plan on Artisanal and Small-Scale Gold Mining (2020-2025) (NAP on ASGM), highlights the extensive use of mercury in artisanal and small-scale gold mining, estimated at 24 tons per annum. However, most mercury imports go undocumented.

As reported above, in some regions such as Shinyanga and Geita, there were complaints about mercury use causing air, water, and soil pollution. In Shinyanga, use mercury was reported to be prevalent in small-scale gold processing, particularly in the districts of Shinyanga and Kahama, which are rich in gold minerals, leading to contamination of water, air, and soil. Discussions with the mining commission revealed that small-scale gold miners often lack awareness of the hazardous nature of their activities and sometimes show a reluctance to enforce laws, particularly those related to mercury handling and the use of retorts during gold burning. This negligence endangers both their health and the well-being of the surrounding community.

The survey suggests that enhancing the capacity of government agencies in mercury governance—from importation to retail sales to small-scale miners and mercury disposal—is crucial. Additionally, the Ministry of Minerals needs to adequately share information regarding mercury governance with stakeholders or the public. Addressing and mitigating the mercury problem requires collective action, enhanced collaboration, and transparency. Nevertheless, it is worth noting that that Tanzania ratified the Minamata Convention on Mercury o 2013 in 2020.

<sup>540</sup> <https://www.epa.gov/international-cooperation/mercury-emissions-global-context#:~:text=Mercury%20occurs%20naturally%20in%20the,can%20be%20washed%20into%20water.>



The study has also learned that Government has adopted specific regulations on mercury, requiring reduction in use of mercury, and is targeting non-use of the chemical element by 2030.<sup>541</sup>

### **Strengthening Environmental Governance in Large-Scale Mining: Lessons from Tailings Dam Failure at the Williamson Diamonds Mine**

In November 2022, it was reported that the Tailings Storage Facility (TSF) at the Williamson Diamond Mine had failed, halting production and triggering nearby flooding in local communities.<sup>542</sup> The failure resulted in an eight-month shutdown of the mine, significantly impacting both the company and the local communities. For instance, the Kishapu District Council lost approximately 600 million shillings in Corporate Social Responsibility (CSR) funds due to the decline in production and revenue following the shutdown. The tailings dam failure also affected community economic activities and a dozen houses and about 50 people in two villages.

In response to the incident, NEMC invoked the polluter pays principle and fined WDL 1 billion shillings. Additionally, NEMC issued a restoration order requiring the company to compensate affected residents for their losses. The people were relocated, resettled in new houses, and compensated for lost property and the disturbance caused. LHRC commends NEMC for ensuring compensation for the people of Mwadui Lohumbo but calls for greater consistency in protecting community rights. LHRC also underscores the critical need for robust environmental governance in Tanzania, spanning various sectors including large-scale mining, mercury usage, waste management, and deforestation. However, there is need to adopt and enforce global best practices such as the Global Industry Standard on Tailings Management (GISTM), launched in August 2020, which sets out international specified standards for industry to meet in managing mine tailings.<sup>543</sup>

GISTM aims to strengthen the current tailings management practices with ultimate goal of 'zero harm' and recommends forming an Independent Tailings Review Board (ITRB) to regularly review tailings dams from construction to daily management.<sup>544</sup> Ultimately, addressing these recommendations will require concerted efforts from the government, businesses, civil society, and communities.

<sup>541</sup> Contributions by Government officials during the report validation session – July 2024.

<sup>542</sup> See "Williamson Diamond Mine Tailings Dam Failure" MINETEK, at <https://minetek.com/williamson-diamond-mine-tsf-failure/>; Dickson Ng'hily "Experts on flooding at Williamson mine" THE CITIZEN Newspaper (online), 22 Nov 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/experts-on-flooding-at-williamson-mine--4030578>.

<sup>543</sup> Hannah Lily, Chilenye Nwapi, and Charlotte Ndakorerwa, *Mine Tailings Management and Regulation: An Overview*, Natural Resource Insights, The Commonwealth, at <https://www.thecommonwealth-ilibrary.org/index.php/comsec/catalog/download/1089/1088/9613?inline=1>.

<sup>544</sup> Ibid.



Since dams are also covered by the Environmental Management Act, 2004, ensuring compliance with the provisions on conducting environmental impact assessment (EIA) and annual environmental audits is crucial.

### **The EACOP Project: Environmental Concerns**

The East African Crude Oil Pipeline Project (EACOP) is a pipeline that will transport oil produced from Uganda's Lake Albert oilfields to the port of Tanga in Tanzania where the oil will then be sold onwards to world markets.<sup>545</sup> EACOP runs 1,443km from Kabaale, Hoima district in Uganda to the Chongoleani Peninsula near Tanga Port in Tanzania. 80% of the pipeline is in Tanzania. It is a buried thermally insulated 24" pipeline along with six pumping stations (two in Uganda and four in Tanzania) ending at Tanga.<sup>546</sup> The shareholders in EACOP are affiliates of the three Upstream joint venture partners (the Uganda National Oil Company, TotalEnergies E&P Uganda and CNOOC Uganda) together with the Tanzania Petroleum Development Corporation.<sup>547</sup>

Prior and after the introduction of the project, environmental stakeholders within and outside Tanzania have expressed concerns over the potential impacts of the project on the environment, despite EACOP claiming to have conducted environmental impact assessment (EIA), Social Impact Assessment (SIA), and human rights due diligence.<sup>548</sup> Indeed, several civil society groups filed a case before the East African Court of Justice (EACJ) in 2020, but in November 2023 the Court ruled that it could not adjudicate on the case because it had been filed outside the time period prescribed.<sup>549</sup>

A 2022 study conducted by *Friends of the Earth France* and *Survie* reveals risks of irreversible harm to the environment and the climate, noting that the project 'will have disastrous environmental impacts on fauna and flora.'<sup>550</sup> The report further notes that there is an elevated risk of oil spills and leakage, which could be exacerbated by high seismic activity. It also expresses concerns over the conflict between the water needs of the project and those of the local population and wildlife, as well as the greenhouse gas emissions over the project's lifetime (climate change), projected at over 30 million tonnes as opposed to 13.5 million tonnes estimated by EACOP.<sup>551</sup> Explaining this difference, the report claims that Total's estimates differ from those of various consultancy agencies because the company did not include the majority of operation phases in its calculations, and excluded emissions generated by crude oil shipping, refining and, most importantly, end

<sup>545</sup> See EACOP Overview at <https://www.eacop.com/overview/>.

<sup>546</sup> Ibid.

<sup>547</sup> EACOP Overview at <https://www.eacop.com/overview/>.

<sup>548</sup> See EACOP Reports at <https://www.eacop.com/eacop-reports/>.

<sup>549</sup> See "EAC Court throws out Eacop challenge" AFP, 30 Nov 2023, at <https://www.theeastafrican.co.ke/tea/news/east-africa/eac-court-throws-out-eacop-challenge-4449512>.

<sup>550</sup> See Les Amis de la Terre France & Survie, *EACOP: A DISASTER IN THE MAKING, Research into Total's mega pipeline project in Tanzania*, OCTOBER 2022, at <https://www.amisdelaterre.org/wp-content/uploads/2022/10/eacop-a-disaster-in-the-making-foe-france-and-survie-oct-2022.pdf>.

<sup>551</sup> Ibid.



use.<sup>552</sup> Environmental concerns regarding the project have also been raised in a more recent study by a local NGO called KINNAPA Development Programme.<sup>553</sup> According to the study, conducted in Manyara Region, some respondents indicated that they ‘would love to know more about project impacts and how they will be mitigated, to ensure minimal negative effects on the project’s host communities.’ It recommends that EACOP enhances transparency, strengthens compensation negotiation, and improves communication.<sup>554</sup>

LHRC urges the Government to give due consideration to the raised environmental concerns regarding the EACOP Project. Regulatory authorities like the Energy and Water Utilities Regulatory Authority (EWURA) and National Environment Management Council (NEMC) should also continue to monitor the project implementation to ensure compliance with relevant laws and regulations.

## 7.2. Corporate Respect for Human Rights

### 7.2.1. Overview: Corporate Responsibility to Respect Human Rights

According to the UN Guiding Principles on Business and Human Rights of 2011, business enterprises have an obligation to respect human rights<sup>555</sup> as provided for under various international human rights instruments.<sup>556</sup> This responsibility must be fulfilled regardless of the size of the enterprise and entails avoiding causing or contributing to adverse human rights impacts and seeking to prevent or mitigate such impacts directly or indirectly linked to their operations.<sup>557</sup> To effectively meet this demand, they are required to have in place policies and processes such as policy commitment to respect human rights, a human rights due diligence process, and remediation process.<sup>558</sup> The policy commitment must be commutated internally and externally, while the human rights due diligence includes assessing actual and potential human rights impacts and taking appropriate action to prevent or mitigate them. Meaningful consultation of affected groups and independent external human rights experts is essential while performing the due diligence. The remediation aspect calls for business enterprises to provide for or cooperation in remediation where they have caused or contributed to adverse impacts.<sup>559</sup>

This sub-chapter briefly discusses human rights issues and violations arising out of the operations of businesses in surveyed regions.

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<sup>552</sup> Ibid.

<sup>553</sup> KINNAPA Development Programme, 2024. *The Impact of Land Acquisition Processes for the East African Crude Oil Pipeline Project on Communities in Kiteto district, Manyara region*. Voices from Tanzania, IPIS.

<sup>554</sup> Ibid.

<sup>555</sup> Principle 12 of the UN Guiding Principles on Business and Human Rights.

<sup>556</sup> Including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the ILO Declaration on Fundamental Principles and Rights at Work.

<sup>557</sup> Ibid, Principles 13.

<sup>558</sup> Ibid, Principle 15.

<sup>559</sup> Principle 22 of the UNGPBHRs.



## 7.2.2. Reported Human Rights Abuses and Concerns: Survey Findings

**Community members perceive labour rights violations to be the biggest corporate human rights violation.**

Community members in the surveyed regions were asked about common incidents of human rights violations caused or contributed by business enterprises and human rights that they perceive to be most violated by the enterprises. Analysis of the responses to the first question

shows that labour rights violations are most violated human rights, as attested by nearly a half of the respondents (46%). Environmental pollution was identified as the second biggest human rights violation (39%), closely followed by lack of sufficient information about impact of business operations (38%). Other violations such as torture and land grabbing were also mentioned by over a quarter of the respondents, while killing by security officers was mentioned the least, at 9%.



**Figure 7.3: Community responses on common corporate human rights violations**

Source: Field data, 2024

Interviews with some NGO officials in the surveyed regions and analysis LHRC's internal legal aid and human rights data confirmed that business enterprises are mostly implicated labour rights violations, followed by environmental and land rights violations.

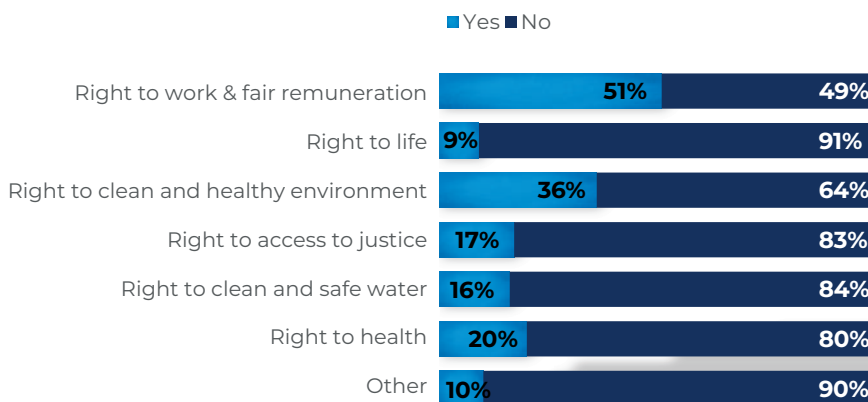
In some regions, such as Iringa, Mara, and Geita, several incidents of corporate human rights violations were reported, including unlawful detention, violence, torture, and property rights violations. For instance, in Iringa it was alleged by some community members that a former employee of *ASAS Company* had been killed by the company security guard and the incident was 'kept under wraps.' Some of the companies in region, especially a Chinese-owned industry called *Yisen International*, were accused of unlawful detention of workers and acts of physical





violence.<sup>560</sup> In Mara, some residents of Musoma Municipality were aggrieved by operations of *China Civil Engineering Construction and Corporation* blocking the water passage and causing their properties, including houses, to be surrounded with water. In Geita, women entering unutilized land acquired by the Geita Gold Mine for purposes of collecting firewood were reportedly beaten by the mine security guards.

Regarding the most violated human rights, right to work and fair remuneration was mentioned the most (51%), followed by the right to clean and healthy environment (36%), and the right to health (20%).



**Figure 7.4: %Community responses on rights mostly violated by business enterprises, directly or indirectly**

Source: Field data, 2024

Other rights that were mentioned or implied by some of the respondents during interviews included the right to adequate standard of living, freedom of expression (freedom of opinion and access to information), freedom of association for workers (right to join trade union), right to family, and right to property.

In Iringa, the survey found that corruption is a key driver of corporate human rights violations. Some corporate officials, including of *YISEN* companies in Mafinga District, were accused of bribing their way out of trouble when they have violated workers' rights, including by beating them.<sup>561</sup>

In Manyara, it was reported in March 2023, that there had been some arbitrary arrests and intimidation aimed at individuals who express criticism of the EACOP project in Hanang District.<sup>562</sup> It was further reported that nine project-affected people (PAPs) from Golimba and Diloda Villages located in the district had been

<sup>560</sup> Interview with WEOs in Mafinga District. Attempts by the survey team to interview the interview the Manager of YISEN International were unsuccessful.

<sup>561</sup> Interviews with local residents and leaders in Mafinga District.

<sup>562</sup> See Inclusive Development International, *Civic Groups Sound Alarm Over Tanzania's Crackdown on EACOP Dissenters*, March 21, 2024, at <https://www.inclusivedevelopment.net/human-rights-defenders/civic-groups-sound-alarm-over-tanzanias-crackdown-on-eacop-dissenters/>.



interrogated by police for several hours over their reasons for ‘opposing’ the project and who they are working with.<sup>563</sup>

In Dar es Salaam, some trade union officials claimed that some companies interfere with workers’ right to freedom of religion, guaranteed under the Constitution of Tanzania, 1977.<sup>564</sup> They gave an example of a former worker of NMB Bank, a Seventh Adventist Church member, whom they helped to get her benefits after she was dismissed from work for refusing to work on Saturday, which is the church day.

### 7.2.3. Access to Remedy and Satisfaction with Grievance Mechanisms

The UN Guiding Principles on Business and Human Rights (UNGPHRs) require States, including Tanzania, and business enterprises to facilitate access to remedy in case of corporate human rights violation disputes. as part of their duty to protect States are specifically required to protect against business-related human rights abuse by taking steps to ensure people affected have access to effective remedy.<sup>565</sup> The steps by States include ensure **availability and accessibility of effective state-based judicial and non-judicial grievance mechanisms**. States are also encouraged to facilitate access to effective non-state-based grievance mechanisms dealing with business-related human rights harms, while **business enterprises are required to establish or participate in effective operational-level grievance mechanisms (OGMs)** for individuals and communities who be adversely affected impacted.<sup>566</sup>

#### Effectiveness criteria for non-judicial grievance mechanisms

- a. Legitimate
- b. Accessible
- c. Predictable
- d. Equitable
- e. Transparent
- f. Rights-compatible
- g. Continuous learning
- h. Engagement & dialogue (OGMs)

#### 7.2.3.1. Availability and Accessibility of Grievance Mechanisms

Community members in the surveyed regions were asked whether they were informed about available grievance mechanism to address disputes community members and business enterprises. Less than a quarter of the respondents (23%) said they were aware of such mechanisms, both state and non-state, judicial or non-judicial, decreasing from 37% in the previous survey. This means that only 2 out of 10 people feel well informed about different grievance mechanisms available in the community that can be accessed to resolved disputes with business enterprises.

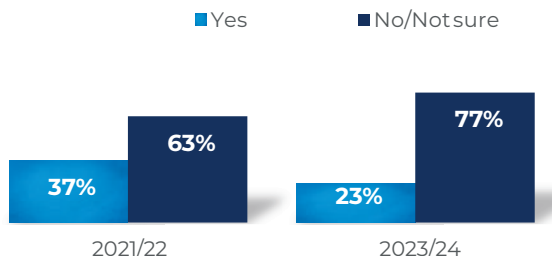
<sup>563</sup> Ibid.

<sup>564</sup> Interview with TUCTA, TUICO, and TPAWU officials.

<sup>565</sup> Principle 25 of the UNPHBHRs.

<sup>566</sup> Ibid, Principles 28 & 29.





**Figure 7.4: %Community responses on being informed about available grievance mechanisms**

Source: Field data, 2022 & 2024

When asked specifically, whether they were aware of operational-level grievance mechanisms (OGMs) that business enterprises have established or participate in, **only a quarter (25%)** said they were aware of the existence of such mechanisms in their respective communities.<sup>567</sup>

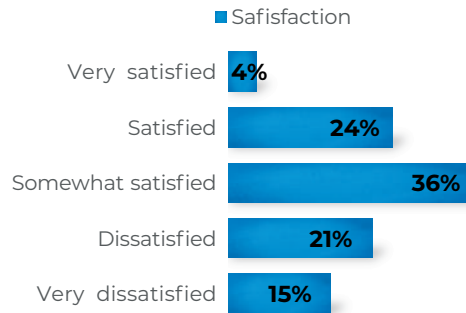
The survey discovered that most community members who said they were aware of OGMs were residents of areas in which there are large-scale and usually multinational corporations, especially in the mining sector. Indeed, large-scale mining companies such as *Williamson Diamonds Limited (WDL)*, *Barrick's North Mara Gold Mine*, and *Anglo Ashanti Geita Gold Mine*, have established their own OGMs to address disputes with community members. However, the survey found a general concern over lack of adequate consultation in the design of mechanisms, lack of timely and regular feedback, and community dissatisfaction with the speed of resolving disputes.

#### **7.2.3.2. Effectiveness of Available Grievance Mechanisms**

To determine their perception of effectiveness of available grievance mechanisms, community members who claimed to be aware of grievance mechanisms were asked the extent to which they were satisfied with the mechanisms in terms of remediation. Majority of them (36%) said they were only somewhat satisfied with the mechanisms, while only just above a quarter (28%) said they were satisfied (24%) and very satisfied (4%). The remaining 36% said they were dissatisfied (21%) and very dissatisfied (15%) with the existing grievance mechanisms.

<sup>567</sup> N=1,035.





**Figure 7.5: %Community responses on satisfaction with grievance mechanisms(N=238)**

Source: Field data, 2204

Community members who indicated dissatisfaction with the grievance mechanisms were also asked to provide the biggest reason for dissatisfaction, whereby majority of them (37%) mentioned **delays in proceedings**, followed by lack of effective remedy (28%), and corruption (27%).<sup>568</sup> Additionally, nearly half of the respondents (45%) expressed concerns over the gender-sensitivity of the remedy mechanisms, when asked whether such mechanisms were gender-sensitive.<sup>569</sup> Majority of the remaining half indicated that they were not sure whether the mechanisms were gender-sensitive or not. All these were found to be key barriers to access to remedy for community members.

Qualitative survey findings also revealed **other barriers to access to remedy** in the area of business and human rights. These include challenges and delays in enforcing judgements, influence of some investors, tendency of the Government and local authorities to often side with investors, political interference with administration of justice in courts of law, and lack of political will. For instance, in Tanga, some community members lamented lack of Government action against *Neelkant Chemical Ltd*, despite repeated air pollution complaints aired by them to government leaders. An LGA official in the region pointed out that they had been instructed by their supervisors 'not to bother' investors, making it difficult for them to hold them accountable when they have violated human rights.<sup>570</sup>

Most of these barriers are echoed in a recent study conducted by *Avocats Sans Frontières (ASF)* on access to remedy for Tanzania's extractives sector.<sup>571</sup> The study, conducted in Manyara, Mara, Shinyanga and Tanga, focused on the mandate of state and non-state-based remedy mechanisms and explore the experiences of legal aid providers (LAPs) and communities in engaging with them. Key study findings are summarized in Table 7.1 below.

<sup>568</sup> N=238.

<sup>569</sup> N=238.

<sup>570</sup> Interview with an LGA official who wished to remain anonymous.

<sup>571</sup> See ASF, *Improving Access to Remedy for Tanzania's Extractives Sector*, 15 March 2024, at <https://asf.be/improving-access-to-remedy-for-tanzanias-extractives-sector/>.



**Table 7.1: Key findings of ASF's access to remedy for Tanzania's extractives sector study**

State-based judicial mechanisms	Key Issues & Findings
<p>Courts &amp; tribunals  <i>[Primary courts; District Courts; Resident Magistrate's Court; High Court; Court of Appeal; Village Land Council; Ward tribunals; &amp; District Land and Housing Tribunal]</i></p>	<ul style="list-style-type: none"> <li>✘ General lack of awareness among communities and LAPs about most state-based non-judicial mechanisms.</li> <li>✘ Limited to access courts, considered to be evenly situated across the country, mostly due to lack of finances.</li> <li>✘ Delays in proceedings discouraging use of courts to access remedy.</li> <li>✘ Limited legal knowledge and access to legal aid are also key barriers to access to remedy.</li> <li>✘ Some community members prefer foreign courts, question independence of domestic courts, and are concerned with political interference.</li> <li>✘ Concerns over the ability of domestic courts to act against mining companies, considering the Government has shares in them.</li> <li>✘ Companies often tend to interfere with trials and persuade parties to settle out of court, resulting in much lower compensation.</li> <li>✘ Corruption in the formal justice system.</li> </ul>
State-based non-judicial mechanisms	Key Issues & Findings
<p><i>[LGAs; Mining Commission; Chief Government Valuer; Commission for Human Rights and Good Governance (CHRAGG); National Environment Management Council (NEMC); Energy and Water Utilities Regulatory Authority (EWURA); &amp; Commission for Mediation and Arbitration (CMA)]</i></p>	<ul style="list-style-type: none"> <li>✘ General lack of awareness on how they function, how to access them and what kind of remedies they provide.</li> <li>✘ Preference of engaging LGAs before other mechanisms because of easier accessibility, at low cost.</li> <li>✘ However, there is low confidence in the ability of LGAs to provide remedy due to limited leverage and bias concerns.</li> <li>✘ LGAs are considered a better fit when it comes to mediation.</li> <li>✘ Community perception that LGAs often side with companies over communities and sometimes lack political will.</li> <li>✘ Little awareness of remedy provided by the Mining Commission, EWURA, and Chief Government Valuer and concerns over technical barriers in accessing them.</li> <li>✘ Limited engagement with CHRAGG and CMA and technical barriers concerns, partly contributed by lack of regional offices for the case of CHRAGG.</li> <li>✘ General awareness of CHRAGG and NEMC but perceived to have insufficient financial resources and lacking enforcement powers, hence often concerns over effectiveness and credibility.</li> <li>✘ Concerns over NEMC's decision to ignore certain complaints.</li> <li>✘ CMA is deemed the more viable option for labour disputes, but distant from people living in rural areas and demanding sufficient financial resources.</li> </ul>
Non-state-based mechanisms	Key Issues & Findings
<p>Operational-level grievance mechanisms (OGMs)</p>	<ul style="list-style-type: none"> <li>✘ Companies are not doing enough to raise community awareness of OGMs.</li> </ul>





[EACOP; Williamson Diamond Mine; & Barrick's North Mara Gold Mine]

- ✘ General lack of awareness of OGMs and how to access them among community members.
- ✘ Little consultation of LAPs in designing OGMs.
- ✘ General lack of responsiveness by OGM officers about community complaints and concerns over transparency.
- ✘ EACOP has established a complaints desk at Kiteto District Council in Manyara, but respondents asserted little community awareness of the desk.
- ✘ Most complaints received by EACOP (82%) concerned land and resettlement grievances.
- ✘ Two OGMs found operating at Williamson Diamond Mine, namely community grievance mechanism (CGM), which handles day-to-day mine operations, and independent grievance mechanisms (IGM), established as a follow-up measure. Considerable efforts were said to be made to raise awareness of the IGM.
- ✘ Respondents expressed lack of confidence in Barrick's commitment to handle complaints, lamenting lack of regular and timely feedback and delays in resolving disputes and providing remedy.

### 7.2.3.3. **Judicial Action: The Case of Chacha Kiguha vs African Barrick Gold Mine Ltd**

In June 2024, the Court of Appeal of Tanzania issued its judgement in the 2013 case of Chacha Kiguha against African Barrick Gold Mine Ltd.<sup>572</sup> The appeal was against the 2016 judgement issued by the High Court in Mwanza in favour of the appeal case respondent. The respondents, Chacha Kiguha, his wife Imeema Chacha, and their children, Bhoke, Kiguha, Montogori, and Surati Chacha, had sued the appellant, the general manager of African Barrick Gold Mine Ltd, for general damages to the tune of TZS 600 million.<sup>573</sup> They claimed that the appellant had breached a duty of care and by causing them to contract diseases resulting from mining activities conducted in close proximity to their house situated on a piece of land owned by them and claimed that they had not vacated because the appellant had failed to pay them fair compensation for the affected land.<sup>574</sup>

The Court of Appeal confirmed the decision of the High Court in finding that the appellant had indeed breached duty of care and caused harm to the respondents. It found that while the respondents had failed to sufficiently prove that they contracted respiratory and ear diseases as well as a skin disease due to the mining activities by the appellant, they had been affected by the noise from the mining operations and suffered discomfort. Consequently, the court awarded a total of Tshs. 150 million in general damages, Tshs. 25 million for each respondent. The

<sup>572</sup> *General Manager African Barrick Gold Mine Ltd. vs Chacha Kiguha and 5 Others* (Civil Appeal No. 99 of 2019) [2024] TZCA 469 (14 June 2024), at <https://tanzlii.org/akn/tz/judgment/tzca/2024/469/eng@2024-06-14>.

<sup>573</sup> Ibid; Bowmans, *Tanzania: Duty of care to 'project affected persons' by holders of mining licences*, 24 June 2024, at <https://bowmanslaw.com/insights/tanzania-duty-of-care-to-project-affected-persons-by-holders-of-mining-licences/>.

<sup>574</sup> Ibid.



damages amount is half of what was provided by the trial court, in consideration of the respondents' contribution to the harm suffered (contributory negligence).<sup>575</sup>

One of the key takeaways from this court decision is that it is not necessary for project affected persons (PAPs) to vacate land because a company has obtained a mining licence over the area (the case of mineral rights versus surface rights). Additionally, the duty of care remains regardless, and the mineral licence holder needs to pay compensation to secure surface rights.<sup>576</sup>

## 7.2.4. Human Rights, Climate, and Business

### 7.2.4.1. Overview

Due to the enormous threat of climate change<sup>577</sup> to human rights, the international community adopted the United Nations Framework Convention on Climate Change (UNFCCC) in 1992. Fossil fuels – coal, oil and gas – are by far the largest contributor to global climate change, accounting for over 75 per cent of global greenhouse gas emissions and nearly 90 per cent of all carbon dioxide emissions.<sup>578</sup> Tanzania has also committed to address the problem of climate, and has taken various legal, policy, and institutional measures to this effect. Key legal and policy documents include the Environmental Management Act, 2004; the Environmental Policy, 1997; and the National Climate Change Response Strategy 2021-2026. Tanzania has been facing several challenges related to climate change that threaten livelihoods of its citizens and socio-economic development at large.<sup>579</sup>

In recent years, climate change in Tanzania has caused impacts such as floods, house and infrastructure destruction, drought, and decreased production.<sup>580</sup> Directly and indirectly affected fundamental rights include right to life, right to adequate standard of living (food and shelter), right to health, right to clean and safe water, right to clean and healthy environment, and right to development.<sup>581</sup> It has exacerbated social and economic inequalities and disproportionately affected marginalized groups such as women, the elderly, and persons with disabilities (PWDs).

### 7.2.4.2. Climate Change and the Guiding Principles on Business and Human Rights 2011

The UN Guiding Principles on Business and Human Rights (UNGPs) do not explicitly address and mention climate.<sup>582</sup> However, the UN Working Group on

<sup>575</sup> Ibid.

<sup>576</sup> Bowmans, Tanzania: Duty of care to 'project affected persons' by holders of mining licences (*supra*).

<sup>577</sup> Defined as long-term shifts in temperatures and weather patterns mainly caused by human activities. [See United Nations, "What Is Climate Change?" at <https://www.un.org/en/climatechange/what-is-climate-change>.]

<sup>578</sup> See United Nations Climate Action, *Causes and Effects of Climate Change*, at <https://www.un.org/en/climatechange/science/causes-effects-climate-change>.

<sup>579</sup> United Republic of Tanzania, Vice President's Office, *National Climate Change Response Strategy 2021-2026*, 2021, at [https://www.taees.org/wp-content/uploads/2021/09/NCCRS-2021-2026\\_-\\_Final\\_PK.pdf](https://www.taees.org/wp-content/uploads/2021/09/NCCRS-2021-2026_-_Final_PK.pdf).

<sup>580</sup> LHRC & ZAFAYCO (2024), Tanzania Human Rights Report 2023 (*supra*).

<sup>581</sup> Ibid.

<sup>582</sup> See UN Officer of the High Commissioner for Human Rights, Working Group on Business and Human Rights, *Climate change and the UNGPs*, at <https://www.ohchr.org/en/special-procedures/wg-business/climate-change-and-ungps>; UN Human Rights Special Procedures,



Business and Human Rights has concluded that UNGPs impliedly create climate change-related obligations for business enterprises, owing to the main human rights conventions referred to in the UNGPs namely, International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of 1966.<sup>583</sup> The Working Group has produced an Information Note on Climate Change and the UNGPs, which explains how the UNGPs can assist States, business enterprises and other actors to integrate the actual and potential impacts of climate change with other human rights related impacts caused by, contributed to or linked with business activities.<sup>584</sup>

#### **7.2.4.3. Climate Change and the State Duty to Protect Human Rights**

The first pillar of the UNGPs is the state duty to protect human rights. States, including Tanzania, are required to protect against climate change-related human rights abuse by business.<sup>585</sup> Domestic laws, regulations, and policies should set out clearly the expectation that all business enterprises respect human rights throughout their operations and prevent and mitigate adverse impacts related to climate change and set out their role in this regard.<sup>586</sup> Businesses should also be required to disclose in an accessible way the greenhouse gas emissions of their value chain, measures to reduce such emissions, and to address their contribution to climate and climate mitigation targets, throughout their operations.<sup>587</sup>

While the domestic legal and policy documents such as the Environmental Management Act, 2004 and the National Environmental Policy, 2021 provide for measures on climate change<sup>588</sup> and policy statements on addressing climate change, the role of business enterprises is not clearly set out.

#### **7.2.4.4. Climate Change and Corporate Responsibility to Respect Human Rights**

Business enterprises in Tanzania are also expected and required to respect all internationally recognized human rights, including in the context of climate change. This responsibility includes conducting human rights due diligence to identify, prevent and mitigate climate-related human rights impacts and including climate change provisions in internal policies.<sup>589</sup> Businesses are expected to take

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Working Group on the issue of human rights and transnational corporations and other business enterprises, Information Note on Climate Change and the Guiding Principles on Business and Human Rights, at <https://www.ohchr.org/sites/default/files/documents/issues/business/workinggroupbusiness/Information-Note-Climate-Change-and-UNGPs.pdf>.

<sup>583</sup> Ibid.

<sup>584</sup> Working Group on Business and Human Rights, *Climate change and the UNGPs (supra)*.

<sup>585</sup> See Office of the UN High Commissioner for Human Rights, *Human Rights, Climate Change and Business: Key Messages*, at <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/materials/KMBusiness.pdf>.

<sup>586</sup> Ibid.

<sup>587</sup> Working Group on the issue of human rights and transnational corporations and other business enterprises, Information Note on Climate Change and the Guiding Principles on Business and Human Rights (*supra*).

<sup>588</sup> Section 75 of the Environmental Management Act, 2004.

<sup>589</sup> The National Environmental Policy, 2021 (*supra*).



measures such as integrating climate change considerations into their policies, processes, governance structures and decisions; developing and publishing policies and action plans in relation to all their actual and potential climate change-related impacts on human rights and the environment; conducting effective and meaningful consultation with all relevant stakeholders on their actual and potential climate change-related impacts on human rights and the environment; and taking urgent remedial action, including ceasing any climate change-related human rights impacts that they cause or contribute to.<sup>590</sup>

The survey on business and human rights, conducted in 15 regions of Mainland Tanzania, observed that most business enterprises had not integrated climate change mitigation and adaptation in their internal policies. This is evidenced by the fact that out of 166 business enterprises that were visited, only 46% said they had in place a policy on environmental management and protection, suggesting that 6 out of 10 business enterprises did not have such policies, which are expected to include provisions or clauses on climate change. The survey also generally found that most business enterprises do not adequately consult stakeholders, including affected communities and environmental human rights defenders, regarding impacts of their operations on the environment and human rights, including climate change-related impacts.

#### **7.2.4.5. Climate Change and Access to Remedy**

As is the case in other contexts, when climate change-related human rights harms occur, all those affected must have access to effective remedies<sup>591</sup>. States must take appropriate steps to ensure access to effective remedies, while businesses must address the climate-related human rights harms with which they are involved.<sup>592</sup> Business enterprises must develop appropriate and effective remediation for human rights impacts of climate change<sup>593</sup> and ensure all forms of access to remedies are responsive to multiple vulnerabilities, intersectional discriminations and marginalization experienced by individuals and communities such as children, women, Indigenous Peoples, and persons with disabilities.<sup>594</sup> As discussed above, less than half of community members (28%) are satisfied with access to remedy provided by existing grievance mechanisms, while awareness of such mechanisms is also relatively low, as only 2 out of 10 people feel well informed about different grievance mechanisms available in the community that can be accessed to resolve disputes with business enterprises, including those related to climate change harms contributed by the businesses.

<sup>590</sup> Working Group on the issue of human rights and transnational corporations and other business enterprises, Information Note on Climate Change and the Guiding Principles on Business and Human Rights (*supra*).

<sup>591</sup> Office of the UN High Commissioner for Human Rights, *Human Rights, Climate Change and Business* (*supra*).

<sup>592</sup> *Ibid.*

<sup>593</sup> Including through operational grievance mechanisms.

<sup>594</sup> Working Group on the issue of human rights and transnational corporations and other business enterprises, Information Note on Climate Change and the Guiding Principles on Business and Human Rights (*supra*).



## 8

## CHAPTER EIGHT: GENDER AND OTHER FORMS OF DISCRIMINATION IN THE BUSINESS SECTOR

### 8.1. Overview

The UN Guiding Principles on Business and Human Rights (UNGPHRs) of 2011 impose a duty upon States, including Tanzania, to protect human rights and a responsibility upon business enterprises to respect such rights. The duty and responsibility arise from various international human rights instruments which prohibit any form of discrimination. Right to non-discrimination is closely linked to the right to equality, as there can be no equality where there is discrimination.

Globally, discrimination remains a key human rights concern, including in the areas of business and human rights, in which different forms of discrimination occur. Certain groups, such as women and persons with disabilities (PWDs), are disproportionately impacted by discriminatory practices in this area.

In Tanzania the rights to equality and non-discrimination are protected under the Constitution of the United Republic of Tanzania of 1977<sup>595</sup> and the Government has taken various other steps to protect rights in the business sector, including establishment of various regulatory authorities to check compliance with laws and standards, including labour standards. Despite this progress, discrimination remains a key challenge, especially discrimination based on gender and discrimination based on disability.

### 8.2. Gender Discrimination

#### Overview

Under the UNGPHRs, the importance of gender is acknowledged in Principles 3, 7, 12, and 20.<sup>596</sup> The gender references can be divided into three 'gender windows'.<sup>597</sup> The first gender window is framed by the general principle of **non-discrimination**, while the second window is shaped by provisions explicitly highlighting the need to **integrate a gender perspective** at certain places.<sup>598</sup>

<sup>595</sup> Articles 12(1) & 13(1) of the Constitution of the United Republic of Tanzania, 1977.

<sup>596</sup> See UN Working Group on Business and Human Rights, *Gender lens to the UNGPs*, at <https://www.ohchr.org/en/special-procedures/wg-business/gender-lens-ungps>.

<sup>597</sup> See Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Gender dimensions of the Guiding Principles on Business and Human Rights, Human Rights Council, Forty-first session, 24 June–12 July 2019, Agenda item 3, at <https://www.ohchr.org/en/special-procedures/wg-business/gender-lens-ungps>, accessed 10<sup>th</sup> August 2022.

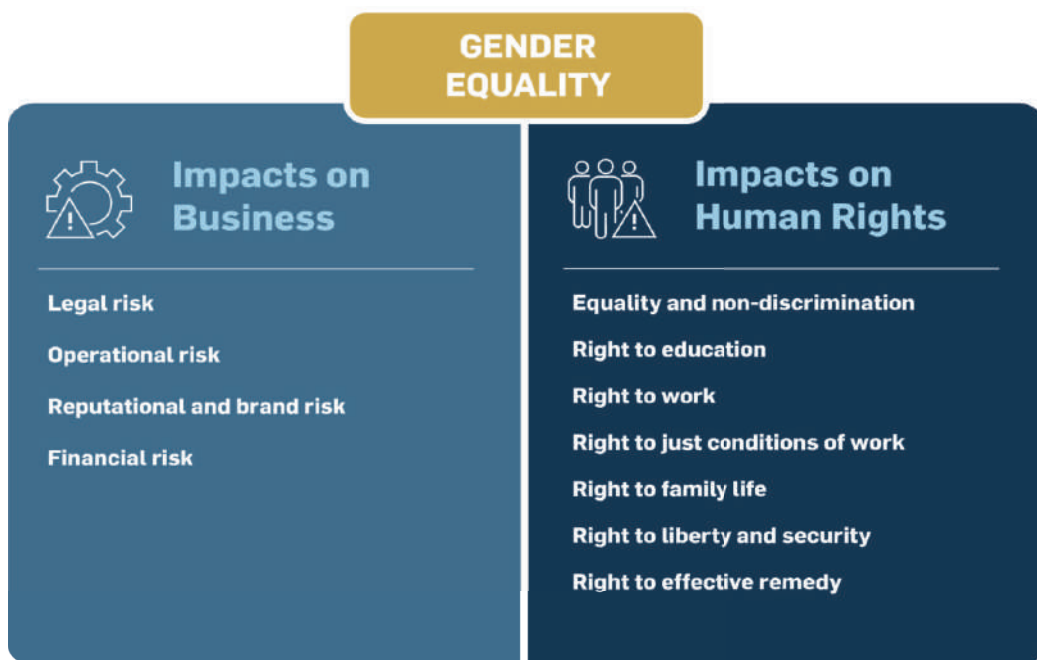
<sup>598</sup> Ibid.





The third gender window is the requirement of businesses enterprises to consider **additional standards**.<sup>599</sup>

Despite the global trends on gender equality, several gender equality challenges persist in the business sector. Key among these is low female labour participation; unequal pay for equal work; less promotion opportunities for women; gender imbalance in corporate boards, with women being under-represented; sexual harassment at work; limited access to or discrimination in access to credit; discrimination in property and inheritance rights; and unfavourable or gender-insensitive working conditions.<sup>600</sup> Limited access to education and access to information also affect women and girls, which affects their future employment prospects.<sup>601</sup> **Gender discrimination has the potential to impact a range of human rights**, including the ones outlined in the picture below.



**Picture 8.1: Impact of gender discrimination on businesses and human rights**

Source: Business & Human Rights Navigator<sup>602</sup>

<sup>599</sup> Ibid.

<sup>600</sup> See UN Global Compact Business and Human Rights Navigator, *Gender Equality*, at <https://bhr-navigator.unglobalcompact.org/issues/gender-equality/#:~:text=Right%20to%20equality%20and%20non,remedies%20for%20human%20rights%20violations>; Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Gender dimensions of the Guiding Principles on Business and Human Rights, Human Rights Council, Forty-first session, 24 June–12 July 2019, Agenda item 3, at <https://www.ohchr.org/en/special-procedures/wg-business/gender-lens-ungpps>,

<sup>601</sup> Ibid.

<sup>602</sup> <https://bhr-navigator.unglobalcompact.org/issues/gender-equality/#:~:text=Right%20to%20equality%20and%20non,remedies%20for%20human%20rights%20violations>.



In Africa discrimination remains one of the top business and human rights issues. Women and girls in the continent are said to be among groups disproportionately harmed by business activities, according to a baseline study conducted by Business and Human Rights Africa and the United Nations Development Programme (UNDP) in 2022.<sup>603</sup>

### Tanzanian context

Tanzania has made strides in advancing human rights and gender equality, including through ratification and domestication of various key human rights instruments,<sup>604</sup> which guarantee and emphasize on the right to equality and gender equality. Nevertheless, gender discrimination remains pervasive, including in business and human rights. Several factors are responsible for this, key among them being gaps in legal and policy frameworks, poor enforcement of laws and regulations, and acceptance of gender discrimination. Limited participation in decision-making at different levels also affects women's rights and welfare in the business sector, limiting their ability to influence policies and laws to make them gender sensitive. These and other factors are briefly discussed below.

### Survey findings

The survey made the following key findings relating to gender discrimination in the area of business and human rights in Tanzania:

#### Acceptance and normalization of gender-based violence

- The survey found that gender-based violence has been accepted and normalized by some community members, sadly including women. For instance, some of the female workers said they were used to being subjected to acts of sexual harassment perpetrated by their supervisors, including unwarranted touching of body parts.

*'As you can see, we are laughing about the issue because we are now used to unwarranted touching of our body parts, including buttocks, by our supervisors. We are not giving it that much thought.'*

Female worker – Mtwara

<sup>603</sup> See Business and Human Rights Africa & UNDP (2022), *A Baseline Assessment on Business and Human Rights in Africa: From the First Decade to the Next*, BHR Africa & UNDP, at <https://www.undp.org/sites/g/files/zskgke326/files/2022-10/Baseline%20Assessment%20BHR%20Report%20EN%20-%20web.pdf>.

<sup>604</sup> Including the International Covenant on Civil and Political Rights (ICCPR), 1966; International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979; Convention on the Rights of Persons with Disabilities (CRPD), 2006; African Charter on Human and Peoples' Rights, 1981; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2004; and various ILO conventions such as the i) ILO Discrimination (Employment and Occupation) Convention of 1958 (No. 111), ILO Equal Remuneration Convention of 1951 (No. 100), and ILO Violence and Harassment Convention, 2019 (No. 190).



### Gaps in legal and policy frameworks

- ✎ Gender gaps in various laws, including those touching on business and human rights, perpetuate gender inequalities.<sup>605</sup> For instance, it has been established that the existing legal framework does not provide a comprehensive mechanism to address violence against women,<sup>606</sup> including in the business sector. It is also concerning that there is no domestic legislation on GBV and the fact that women and girls do not have equal inheritance rights under customary law.<sup>607</sup>
- ✎ Additionally, the World Bank report on women, business and the law notes that there is no legal prohibition of discrimination in access to credit based on gender.<sup>608</sup>
- ✎ Available gender-neutral laws and policies also exacerbate the existing situation of discrimination against women in Tanzania.

### Poor enforcement of laws and regulations

- ✎ The survey also found that poor enforcement of available laws and regulations also contributes to gender discrimination. Women, especially in the informal sector, are disproportionately affected by poor enforcement. For instance, the survey discovered inadequate enforcement of labour standards, including conducting regular inspections, contributed to pregnancy and maternity discrimination. Additionally, as discussed below, the majority of business enterprises reportedly lacked anti-discrimination policies.

### Unequal pay for equal work and value

- ✎ As discussed in Chapter Three above, some of the workers in the surveyed regions, including female workers, complained about unequal pay for equal work. For instance, in Mara, a female employee at a bakery, who wished to remain anonymous, said:

*'I have been employed here as a cook, as is my male co-worker, but I get paid Tshs. 4,000 daily wages, and he gets Tshs. 8,000, which is to fair.'*

Female worker – Mara

- ✎ The survey found that female workers had a higher vulnerability to unequal pay for equal work, and this is partly attributable to low awareness of labour laws and rights.

<sup>605</sup> See USAID, *Gender Equality and Women's Empowerment*, at <https://www.usaid.gov/tanzania/gender-equality-and-womens-empowerment>.

<sup>606</sup> See World Bank, *Women, Business and the Law 2024 (WBL 2024)*, at <https://wbl.worldbank.org/content/dam/documents/wbl/2024/pilot/WBL24-2-0-Tanzania.pdf>.

<sup>607</sup> Ibid.

<sup>608</sup> WBL 2024 (*supra*).



**Long working hours**

- ✎ Female and casual workers are disproportionately affected by long working hours and overtime work, considering they usually have unpaid work waiting for them at home.<sup>609</sup> As discussed in Chapter Three above, this challenge is mostly faced by female workers in SMEs, especially in sectors such as manufacturing and hospitality.

**Workplace violence, especially sexual violence**

- ✎ Reports of sexual violence against female workers were widespread in nearly all surveyed regions, particularly at SMEs, especially in sectors of manufacturing and hospitality. Some female hotel and bar workers complained about objectification and sexualization of their bodies 'to keep customers happy.'

*'Our manager often humiliates and sexually abuses us. He can touch your breasts or buttocks without permission and allows customers to do the same.'*

Female hotel worker – Dodoma

- ✎ In Pwani Region, some of the interviewed female factory workers said they had to 'sleep' with their bosses in order to keep their jobs.
- ✎ There were also concerns of different forms of violence, including sexual violence, among women working and doing business in the informal sector.
- ✎ The survey observed that women in the informal sector encounter more exploitative conditions in comparison with their counterparts in the formal sector, who enjoy more protections under the law.
- ✎ The survey further found that female workers are less likely to report acts of sexual violence perpetrated against them by their supervisors for fear of losing their jobs. Refusal of sexual advances increases the risk of unfair termination.

**Compensation following land acquisition**

- ✎ Studies have shown that compensation payments when land is acquired for business or investment are typically paid to male head of household, putting women at risk of not benefitting from the payments.<sup>610</sup> This was also raised as an issue in some of the surveyed regions.

**Inadequate participation of women**

- ✎ In Africa, Tanzania inclusive, women are said to less to be participate in community consultation processes, including during land acquisition.<sup>611</sup> This deprives them of their right to

<sup>609</sup> See Business and Human Rights Africa & UNDP (2022), *A Baseline Assessment on Business and Human Rights in Africa: From the First Decade to the Next (supra)*.

<sup>610</sup> UN Global Compact Business and Human Rights Navigator, *Gender Equality (supra)*.

<sup>611</sup> Business and Human Rights Africa & UNDP (2022), *A Baseline Assessment on Business and Human Rights in Africa: From the First Decade to the Next*, BHR Africa & UNDP, at



## in land acquisition process

### Access to remedy

free, prior, and informed consent and by extension affects their wellbeing in the long run.

- ✎ Both men and women in the business sector, including community members affected by adverse impacts of business operations, generally face similar barriers to access to remedy.<sup>612</sup>
- ✎ However, women are affected adversely by business activities face additional barriers in seeking access to effective remedies.<sup>613</sup> They are disproportionately affected by barriers to access to remedy.

*'Most women are discouraged from filing labour cases, especially when they have been subjected to gender-based violence in the workplace.'*

MCA officer – Iringa

### Lower-paid and less valued roles for women

- ✎ The study thus concluded that there is a challenge of limited access to remedies for gender-related human rights abuses.
- ✎ As it was the case in the 2022 survey and as discussed in Chapter Three above, the majority of women at surveyed workplaces reportedly occupied low paying positions. This is mainly caused by discriminatory labour practices, contributed by patriarchal beliefs, gender-based violence, and gender inequalities.

### Underrepresentation of women in leadership and other decision-making positions

- ✎ Various studies have demonstrated that women in Tanzania are underrepresented in various decision-making positions. This limits their ability to influence decision-making, including in the making of laws and policies in the areas of business and human rights.
- ✎ The survey found that women were under-represented in senior-level management positions at the workplaces that were visited.<sup>614</sup> Women accounted for only 26% of the 166 corporate management officials who participated in the survey, decreasing from 28% in the previous survey. In Arusha the percentage of female officials stood at 18%.
- ✎ Underrepresentation of women in decision-making increases the risk of their human rights concerns being overlooked.

<https://www.undp.org/sites/g/files/zskgke326/files/2022-10/Baseline%20Assessment%20BHR%20Report%20EN%20-%20web.pdf>.

<sup>612</sup> See UNDP, *Gender Dimensions of the Guiding Principles on Business and Human Rights*, at <https://www.undp.org/publications/gender-dimensions-guiding-principles-business-and-human-rights>.

<sup>613</sup> Ibid.

<sup>614</sup> Interviews with human resources managers and officers.





**Limited access to credit**

- ✎ Gender discrimination in accessing finance also remains a key challenge for women in Tanzania, especially in rural areas, where customary laws and practices still deny women and girls their property and inheritance rights. This makes it difficult for these women to access credit for business and other purposes, considering the requirement of collateral (discriminatory lending practices).

**Pregnancy and maternity discrimination**

- ✎ Pregnancy and maternity discrimination at workplaces are among key issues affecting women's labour rights, including in the business sector.<sup>615</sup> This type of discrimination includes dismissal of pregnant workers, denial of promotion, pay decrease and redundancy. Discrimination and dismissal of female workers because of pregnancy is prohibited under key international instruments and domestic laws, as discussed above.
- ✎ Complaints about pregnancy and maternity discrimination were aired by female respondents in regions such as Mtwara, Shinyanga, Mara, and Tanga.
- ✎ In Mtwara, the survey found that issuance of short-term contract of six month was used as a strategy of automatically 'getting rid of' pregnant workers and ensuring non-provision of maternity leave.
- ✎ In Mara, it was revealed that some employers did not like hiring women because of issues such as pregnancy, breastfeeding, and menstruation, which would 'affect production.'<sup>616</sup>
- ✎ In Shinyanga, allegations of denial of maternity leave were also aired. In Muheza, Tanga, some interviewed female workers at SMEs also complained about denial of maternity leave and mentioned that some of female workers were forced to resign their positions after giving birth.<sup>617</sup>

*'A female co-worker tried to hide her pregnancy until she couldn't, and I haven't seen her ever since. Most private security employers are reluctant to hire women. I am here because there is a client who wanted a female guard. I just have to make sure I don't get pregnant.'*

Female security guard – Shinyanga

<sup>615</sup> See Equality and Human Rights Commission, *Pregnancy and maternity discrimination*, 27 Apr 2022, at <https://www.equalityhumanrights.com/equality/equality-act-2010/your-rights-under-equality-act-2010/pregnancy-and-maternity>.

<sup>616</sup> Interviews at Expanc Construction Limited .

<sup>617</sup> Interview with a female worker at a petrol station in Muheza District.



### Inadequate protection and consideration of gender needs of women in the informal sector

- As discussed above in this report, some marketplaces in the surveyed regions were characterized by unsanitary conditions, causing traders, including women, to work in unclean environment.
- As was the case in the previous (2022) survey some women traders complained about restricted access to stalls, claiming that they really struggle to get the stalls, while male traders often get the better stalls and spots. Some of them also claimed that market leaders demand sex bribe in exchange for the stalls.

*'As women, we go through a lot, but we can't tell you everything. What we can say is that securing a market stall is a big challenge for us, as men get favoured and are given better spots.'*

Female trader at Mlali Market – Morogoro

- At *Tangamano Clothing Market* in Tanga, female traders also complained about being allocated undesirable trading spots (*vizimba*), navigating in an environment characterized by limited access to strategic trading positions, which directly impacts their visibility, sales potential, and overall economic empowerment.
- The survey also observed that a significant number of women working as market traders tend to be accompanied by their children at marketplaces but found that the marketplaces lack the facilities to accommodate female traders with children, including a place for children to play and mothers to breastfeed their babies (gender needs). Some female market traders, including at Mbuyuni Market in Moshi, said they were forced to bring their children to work because they had no one to look after them at home.





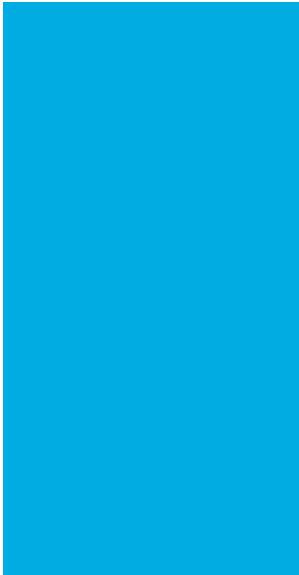
**Picture 8.2: A female trader found working with her child beside her at Mbuyuni Market in Moshi MC**

Source: Field data, 2024

### Discrimination and sextortion in employment

- ✎ In Tanga, it was reported at *Deepsea Fish Market*, located in Tanga CC, that male and female traders and customers were sharing a toilet.
- ✎ Based on these findings, gender needs assessments and mainstreaming are therefore desirable at marketplaces to ensure women and other groups, such as PWDs, are working in a conducive environment.
- ✎ Like in the previous (2022) survey, one of the key observations made by the survey is that few women were employed at most of the surveyed workplaces, while they dominated casual labour in some sectors. This was found to be largely contributed to a negative perception towards women and their ability to handle some of the jobs. For instance, in Kilimanjaro, some employers said they cannot hire women because most of them are incapable to performing the tasks required. In Mbeya, the survey found that women accounted for only 26% of workers at the 16 business enterprises that were visited.
- ✎ In Mara, the survey found that most women occupied low-paying jobs in manufacturing and hospitality sectors. Additionally, during a discussion some construction workers and their supervisors in the region mentioned that women were not hired to do construction jobs because they are masculine in nature. Similar opinions were shared by some of the workers and employers in Arusha.
- ✎ Most interviewed female workers in Pwani Region indicated that female workers were less likely to get a promotion based on merits in comparison with their male counterparts.





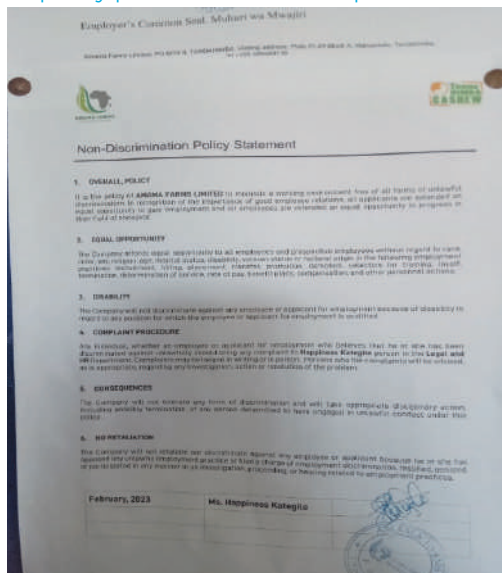
- ✎ In Iringa, it was reported in Mafinga District that some of the industrial workers, especially Chinese-owned industries, were discriminated against at their workplaces for refusing to engage in sexual relationships with their supervisors.<sup>618</sup>
- ✎ In Mtwara, some female workers expressed concerns over personal protective equipment (PPE), noting that unlike men, they need at least two pairs of uniform.<sup>619</sup>

*'You get a job offer under the condition that you sleep with the boss. What option do I have? Life is too difficult and some of us have young children who have been abandoned by their fathers.'*

Female worker – Mkuranga, Pwani

**Lack of anti-discrimination and gender equality policies at some workplaces**

- ✎ Only 20% of interviewed workers at surveyed workplaces said they were aware of the existence of anti-discrimination and gender equality policies at their workplaces.



**Picture 8.3: Anti-discrimination policy observed at Amama Farms Company in Mtwara**

Source: Field data, 2024

The survey further found that low awareness of laws and rights, including among women, is also a key driver of gender discrimination. Awareness of women's rights

<sup>618</sup> Interviews with local leaders and community members in Mafinga District.

<sup>619</sup> Interview with a female worker at Amama Farms Ltd.



is much lower among women in the informal sector, majority of whom have lower educational levels and limited access to information.

### 8.3. Disability Discrimination

#### Overview

Disability discrimination refers to treating a person with disability (PWD) less favourably than a person without the disability in the same or similar circumstances.<sup>620</sup> It includes direct discrimination, indirect discrimination, harassment, and victimization.<sup>621</sup> This form of discrimination is prohibited by various international and regional instruments on human rights and rights of PWDs, including the UN Convention on the Rights of Persons with Disabilities (CRPD) of 2006. States, including Tanzania, are obligated to take appropriate measures to ensure PWDs do not suffer any form of discrimination and protected from forms of exploitation, violence and abuse.<sup>622</sup> In the context of business and human rights, the relevant provisions within the CRPD, including Articles 5, 6, 7, and 27.

#### Tanzanian context

At the national level, the Persons with Disabilities Act of 2010 also recognizes various rights of PWDs, including right to non-discrimination and right to work (employment). Regarding the right of PWDs to work, the law imposes various obligations to employers, in both public and private sectors. These obligations include the obligation to give employment to PWDs; facilitate continuance of employment for PWDs; not to discriminate PWDs in employment; and provide conducive working environment.<sup>623</sup> The Government has also taken various measures to promote and protect rights of PWDs in Tanzania, including introducing economic empowerment opportunities and promoting inclusive education. In Employment, statistics by the National Bureau of Statistics (NBS) show that the rate of unemployment among PWDs decreased from 12.4% in 2014 to 6% in 2020/21.<sup>624</sup>

<sup>620</sup> See Australian Human Rights Commission, *Know your rights: Disability discrimination*, 2012, at <https://humanrights.gov.au/our-work/disability-rights/know-your-rights-about-disability-discrimination-and-harassment#:~:text=Disability%20discrimination%20is%20when%20a,and%20have%20a%20guide%20dog>.

<sup>621</sup> See Equality and Human Rights Commission, *Disability discrimination*, 18 February 2020, at <https://www.equalityhumanrights.com/equality/equality-act-2010/your-rights-under-equality-act-2010/disability-discrimination>.

<sup>622</sup> Articles 16(1) & 27(1) of CRPD.

<sup>623</sup> Sections 31, 32, 33 & 34 of Persons with Disabilities Act, 2010.

<sup>624</sup> NBS & OCGS, Integrated Labour Force Survey 2020/21: Key Labour Market Indicators for the United Republic of Tanzania, September 2021, at [https://www.nbs.go.tz/nbs/takwimu/labour/KILM\\_with\\_Policy\\_Brief%202020\\_21\\_ILFS%20English.pdf](https://www.nbs.go.tz/nbs/takwimu/labour/KILM_with_Policy_Brief%202020_21_ILFS%20English.pdf).





Despite the progress made in safeguarding rights of PWDs, several challenges persist, as observed in the survey on business and human rights. Key among them is access to employment and other economic opportunities, which are essential in driving PWDs out of poverty and enjoyment of their human rights in general.

### Survey findings

The survey made the following key findings relating to disability discrimination in the area of business and human rights in Tanzania:

#### Perception of disability as inability, leading to discrimination in employment

- ✎ Complaints about low employment of PWDs were aired in over half of the regions, including Mtwara, Kilimanjaro, Singida, and Mbeya.
- ✎ Like in the previous (2022) survey, some employers claimed that they preferred not to hire PWDs because 'they are not suitable to the job,' 'can delay production,' or 'cannot operate heavy machines.'

*'We don't have any person with disability (PWD) among our workers because the nature of the work, which PWDs can't do. Thus, we don't employ a PWD.'*

Mill manager – Iringa

- ✎ In Kilimanjaro, only one of the business enterprises surveyed indicated they had hired PWDs (2 out of 186 workers). In Mtwara, only one enterprise said it had employed PWDs.
- ✎ In Singida, no worker with disability was found at all 14 surveyed business enterprises. In Mbeya, a trade officer confirmed discrimination against PWDs in the job market. He said:

*'It's difficult for PWDs to be employed in the private sector. If see PWDs at most workplaces then it's probably because they acquired their disability through occupational injury and the company decided to keep them, albeit reluctantly.'*

Trade officer – Mbarali, Mbeya

- ✎ Limited access to employment and economic activities has left PWDs more vulnerable to poverty and unreliable source of income.<sup>625</sup>

<sup>625</sup> See LHRC & ZLSC (2024), *Tanzania Human Rights Report 2023*, LHRC: Dar es Salaam, at [www.humanrights.or.tz](http://www.humanrights.or.tz).



### Lack of conducive working environment for PWDs

- ✎ Like in the 2022 survey, there workers at some of the surveyed workplaces expressed concerns over the working environment not being conducive for PWDs, including due to lack of ramps to allow easy access to different parts of buildings, lack of lifts, and lack disability-friendly toilets. Ramps were found to be non-existent at most workplaces.

### Losing a job because of disability

- ✎ Interviews with some workers in the surveyed regions indicated that an injury resulting in disability might signal termination of employment. In Dodoma, one of the workers said a fellow worker lost his job after losing her hand.<sup>626</sup>

### Inadequate enforcement of disability and other laws

- ✎ The survey found that most business enterprises, especially SMEs, failed to adhere to the statutory requirement under the Persons with Disabilities Act of 2010 of employing at least 3% of workers with disabilities.
- ✎ In August 2023, it was reported that youth with albinism in Mwanza requested the Government to ensure effective implementation of the Persons with Disabilities Act, that requires employers with a certain number of employees to ensure 3% of the employees are PWDs.<sup>627</sup>
- ✎ LHRC calls for strict enforcement of the disability law regarding proportionality of inclusion of PWDs in employment opportunities. The labour officers and other relevant regulatory authorities should be mandated to enforce this requirement. Moreover, the disability committees established under Section 14 of the Persons with Disability Act of 2010 should be effectively operationalized so that they could also act as watchdogs to oversee compliance of this legal requirement.

### Lack of disability-friendly infrastructure

- ✎ Findings of another survey, conducted by LHRC in 2023, revealed that unfriendly infrastructure is one of the top three challenges affecting the rights of PWDs.<sup>628</sup> The survey on business and human rights also found this be a key challenge for PWDs in the business sector, hindering their ability to effectively in economic activities.

### Limited access to education

- ✎ Despite the various measures taken by the Government to promote inclusive education, access to education for PWDs remains a key challenge, with serious implications on future employment prospects and ability to engage in economic activities.

### Underrepresentation of PWDs in decision-making positions

- ✎ PWDs also face participation-related challenges at different levels, culminating into underrepresentation in various decision-making structures, including in the area of business and human rights.

<sup>626</sup> Human Rights and Business Survey 2024: Dodoma Field Report.

<sup>627</sup> "Wenye ualbino wataka mkazo sheria ya ajira wenye ulemavu" Nipashe Newspaper, 6 Aug 2023.

<sup>628</sup> See Tanzania Human Rights Report 2023 (*supra*).



### Harassment and mistreatment of workers with disability

✎ Some of the 22 workers with disability who participated in the survey pointed out that they are sometimes subjected to mistreatment by supervisors and fellow workers, including verbal abuse.

### Lack of anti-discrimination policies at some workplaces

✎ Only 20% of interviewed workers at surveyed workplaces said they were aware of the existence of anti-discrimination policies at their workplaces.

## 8.4. Other Forms of Discrimination in Business and Human Rights

### Survey findings

Other forms of discrimination reported in the surveyed regions included racial and HIV status discrimination. In Iringa, a worker, who wished his name and that of his company to be anonymous, told the survey team that he had faced racial discrimination. Another form of discrimination, mentioned in Arusha, was HIV status discrimination, limiting employment and other economic opportunities. Consequently, workers and other people living with HIV seeking employment were less likely to disclose their status, for fear of stigma and discrimination.

In Dar es Salaam, the survey team met with some truck drivers, who claimed that they were treated less favourably on the grounds of nationality, as their counterparts from Zambia enjoyed preferential treatment. For instance, they noted that there was huge allowance pay gap for same trips to the Democratic Republic of Congo (DRC). At some workplaces interviewed workers accused supervisors of Chinese and Indian origin of racial harassment.

At most workplaces, some workers claimed they faced discrimination on the grounds of defending labour rights of fellow workers. They claimed that they were denied certain opportunities, including seminars, because of being vocal on labour rights violations.



## CHAPTER NINE: GENERAL CONCLUSION AND RECOMMENDATIONS

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### 9.1. Conclusion

Based on the assessment of field and other findings, the situation of human rights and business in Tanzania during this reporting period appears to have slightly deteriorated compared to the previous survey conducted in 2022, largely due to non-compliance with labour rights and standards. Additionally, inadequate enforcement of laws and regulations to ensure compliance by businesses continues to be an issue, leading to inadequate compliance with labour laws and standards, tax obligations, corporate social responsibility standards; and inadequate performance of regulatory authorities. Corporate human rights violations also continue to be a concern as most businesses fail to adequately respect human rights. This situation affects promotion and protection of human rights in the business sector and prompts deliberate measures to be taken to protect human rights in the business sector.

#### 9.1.1. Recommendations

To enhance protection of human rights in the business sector, LHRC makes the following recommendations:

#### 9.1.2. Business Environment and Regulatory Frameworks

- The Government, through the Ministry of Industry and Trade, to take deliberate measures to improve the business environment in Tanzania, in line with human rights standards.
- The Government, through the Ministry of Labour, Employment and Youth Development, to strengthen key regulatory authorities in the business sector, especially their institutional capacity, to enable them to conduct regular inspection and monitoring of businesses to check compliance with relevant laws and regulations.
- The Government to strengthen the institutional capacity of regulatory authorities operating in the business sector, including OSHA and NEMC.



- Regulatory authorities to intensify efforts of raising community awareness of their mandates and functions in order to increase accessibility.
- Regulatory authorities to mainstream gender and ensure that companies and organizations have gender responsive policies that promote equality, non-discrimination and inclusion.

### 9.1.3. Compliance with Labour Laws and Standards

- The Government, through the Ministry of Labour, Employment and Youth Development, to ensure effective enforcement of labour laws to ensure businesses comply with relevant labour and human rights laws and standards.
- The Government, through the Ministry of Constitution and Legal Affairs, to spearhead ratification of the ILO Violence and Harassment Convention.
- Civil society organizations and the Commission for Human Rights and Good Governance (CHRAGG) to reach out to workers and employers sensitize them about labour and human rights of both parties in a bid to promote human rights in the business sector.
- The Government, through the Ministry of Constitution and Legal Affairs and the Judiciary, to improve access to remedies in the business sector, including by strengthening key institutions such as the CMA.
- The Government to regularly review the Wage Order to safeguard the right to fair remuneration and adequate standard of living.
- Community members and employees to report practices that lead to abuse of human rights in the business sector to the relevant authorities, including regulatory authorities.

### 9.1.4. Land Acquisition for Investment

- The Government, through the Ministry of Lands, Housing and Human Settlements to ensure that community members effectively participate in the process of land acquisition for investment, including having the relevant legal knowledge and be fully informed about the impact of proposed investment in order to make free prior informed consent.
- The Prevention and Combating of Corruption Bureau to address corruption in the land sector which is one of the major obstacles in realization of land rights.
- Community members and local authorities should refrain from corrupt practices that hinder land-related rights.
- The Government should facilitate amendment of land laws to limit the size of land that can be acquired by investors to cure the problem of unutilized land and community members not having enough land to conduct their economic activities.
- The Ministry of Lands, Housing and Human Settlements to collaborate with the Ministry of Constitutional and Legal Affairs and the Judiciary to effectively address land-related conflicts between community members and investors in order to guarantee realization of land-related rights.





- The Ministry of Lands, Housing and Human Settlements to operationalize the Land Compensation Fund, as it is not yet used by investors to pay project affected persons (PAPs).
- The Government to refrain from entering into contractual agreements with investors that treat land rights in manners different from the positions set forward by the law. The government should lead the people in complying with the law.
- The Government, through the Ministry of Constitution and Legal Affairs, the Ministry of Lands, Housing and Human Settlements, and the Law Reform Commission of Tanzania, to amend land laws to accommodate international standards of valuation and compensation; broaden scope of PAPs, include people who did not have a legal title to land but their rights were attached to land and they have suffered losses because of land acquisition.
- The Ministry of Lands, Housing and Human Settlements to ensure land acquisition process is fair and the affected community members are fairly remedied, including fair and timely compensation.
- The Commission for Human Rights and Good Governance (CHRAGG) and NGOs to raise public awareness about land laws and rights, including through regular media programmes.

#### **9.1.5. Business Compliance with Tax Obligations**

- The Government to closely monitor business enterprises to ensure they comply with their tax obligations, especially those in the mining sector – which have been mainly implicated in tax evasion and avoidance.
- The Government to ensure proper use of tax revenues to improve public services and enhance accountability to boost tax morale.
- The Government, through the Ministry of Finance and the Tanzania Revenue Authority (TRA), to employ a human-rights based approach (HRBA) that focuses on citizen participation and education, to create a more effective and sustainable tax system.
- The Government to reduce tax exemptions and other tax incentives discussed in this report to increase revenue collection.
- Non-governmental organizations (NGOs) to collaborate with the Tanzania Revenue Authority (TRA) to provide and strengthen tax education and awareness as a way of improving tax compliance.

#### **9.1.6. Corporate Social Responsibility and Local Content Obligations**

- The Government, through the Ministry of Minerals and other relevant MDAs such as the Ministry of Industry and Trade and the Mining Commission, to enhance enforcement of laws, regulations, and policies governing corporate social responsibility (CSR), local content requirements (LCR), and consumer protection. The Government should also consider allocating a percentage for CSR, as it is the case for service levy.



- The Commission for Human Rights and Good Governance (CHRAGG) and NGOs to monitor business compliance with CSR and LCR and assist business enterprises in complying with the obligations.
- The Government, through the Ministry of Constitution and Legal Affairs, the Ministry of Minerals, and the Vice President's Office - Ministry of State (Union and Environment), to make efforts to harmonize conflicting laws such as the Mining Act, 2010, and the Environmental Management Act, 2004, as one legislation speaks of Environmental Protection Plan (EPP), another legislation speaks about the Environmental Impact Assessment (EIA) for small scale miners. Harmonization of such laws would bring about legal certainty and enable effective coordination amongst government agencies such as the Mining Commission and the NEMC.
- The Government, through the Ministry of Constitutional and Legal Affairs should enact a comprehensive law on corporate social responsibility (CSR) to supplement the changes in the mining law, which makes CSR a legal requirement for mining companies. This will ensure all businesses, not just mining companies, comply with their CSR.

### 9.1.7. Corporate Environmental Responsibility and Corporate Respect for Human Rights

- The Government, through the Vice President's Office - Ministry of State (Union and Environment) and the National Environmental Management Council (NEMC), to ensure adequate enforcement of environmental laws and regulations in the business sector, including taking relevant action against businesses failing to comply. Enforcement of environmental bylaws created by LGAs is also crucial to protect and preserve the environment.
- The Government, through the Ministry of Constitution and Legal Affairs and the Commission of Human Rights and Good Governance (CHRAGG), to ensure business enterprises respect human rights and held accountable when they fail to oblige.
- The Government, through the Ministry of Constitution and Legal Affairs and the Commission of Human Rights and Good Governance (CHRAGG), to adopt and operationalize the National Action Plan on Business and Human Rights.
- Business enterprises should refrain from causing adverse human rights impact or participate in human rights abuses; and when they are implicated in human rights abuses, they should provide effective remedy.
- The Government to ensure victims of corporate human rights violations have access to effective remedy.
- The Commission for Human Rights and Good Governance (CHRAGG) and NGOs to monitor business compliance with respect for human rights and call for accountability when this is not adhered to.
- Environmental impact assessment (EIA) and social impact assessment (SIA) are very important for ensuring environmental responsibility and protecting the interests and welfare of community members before



investment is made. As such, the Government, through the ministries responsible for investment, land and environment, should ensure compliance with these requirements in line with the laws, including the Environmental Management Act.

### 9.1.8. Gender Discrimination and Other Forms of Discrimination

- The Government, through the Ministry of Constitution and Legal Affairs and the Prime Minister's Office - Labour, Youth, Employment and Persons with Disability, to ensure effective implementation of labour and disability laws and regulations to ensure the rights of marginalised groups, including persons with disabilities (PWDs) and women, are respected and realized in the business sector.
- The Government, through the Ministry of Industry and Trade, to ensure business enterprises adopt affirmative and other measures to protect PWDs, women and PLHIVs from any form of discrimination, including adopting and implementing anti-discrimination policies.
- Business enterprises to develop and implement anti-discrimination policies in their workplaces. These policies should be actively promoted to foster an inclusive and equitable work environment.
- Human resources departments at business enterprises to monitor and analyse job applications to generate gender and disability data.
- Community development officers and other stakeholders should ensure that rights relating to gender and non-discrimination are mainstreamed in all plans and activities of companies.
- Regulatory authorities and relevant government ministries, specifically those overseeing labor, women's issues, and persons with disabilities, should enforce the requirement for employers to adopt and rigorously implement gender and inclusion policies in the workplace.



## NOTES



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