

LEGAL AND HUMAN RIGHTS CENTRE



HUMAN RIGHTS AND BUSINESS REPORT 2021/22

Tanzania Mainland

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



Prepared and published by:

Legal and Human Rights Centre
Justice Lugakingira House, Kijitonyama
P.O. Box 75254, Dar es Salaam, Tanzania
Tel.: +2555 22 2773038/48
Fax: +255 22 27773037
Email: lhrc@humanrights.or.tz
Website: www.humanrights.or.tz

Research Coordinator

Mr. Fundikila Wazambi

Written/Compiled by:

Adv. Clarence Kipobota

Research Assistants

30 Research Assistants¹

Editors

Adv. Anna Henga
Ms. Felista Mauya
Mr. Fundikila Wazambi
Ms. Rita Mchaki
Adv. Joyce Komanya
Adv. Victoria Lugendo
Adv. Getrude Dyabene

Partners

The Embassy of Sweden
The Royal Norwegian Embassy
Irish Embassy
Finland Embassy
Ford Foundation



LHRC
August 2022

ISBN: 978-9987-740-67-3

¹ Suzana Fredrick Karia; Irene Damian Buihiye; Humphrey Maanga; Asha Bundala; Denis Rwekamwa Joseph; Onesmo Kinawari; Collether Huntchson; Deogratius Matui; Onesmo Mawope; Ilumva Kaleb Kabezi; Happiness Materego; Tecla Rupia; Mussa Mlawa; Nancy Moses; Evodia Matagi; Munaa Khamisi; Johnson Mtango; Yvonne Guido; Pius Sunday Charles; Mwanaid Kalinga; Irene Chipalo; Samora Julius Mwanyonga; Adam Alphonse Kivenule; Jordan Liheta Seimu; Revocatus Alexander Sepetu; Theresia Mpinga; Elisha David Shalua; Fina Michael; Grace Wajiru Wachira; Nenyorata L. Laizer.



ACKNOWLEDGEMENT

The Legal and Human Rights Centre (LHRC) acknowledges the support provided by various actors in data collection, analysis, and preparation of this report. LHRC appreciates the cooperation from the National Bureau of Statistics (NBS) and the President's Office - Regional Administration and Local Government (PO- RALG) in enabling the business and human rights survey to be conducted in 14 regions of Mainland Tanzania. LHRC extends its gratitude to various regulatory authorities and institutions for agreeing to take part in the survey, including the Tanzania Revenue Authority (TRA), the Commission for Mediation and Arbitration (CMA), the Occupational Safety and Health Authority (OSHA) and the National Environmental Management Council (NEMC). The cooperation afforded by trade union officials such as TUICO, TAMICO, NUMET, TPAWU, and CHODAWU is also much appreciated.



We wish to acknowledge the team of researchers for successfully undertaking the assignment and obtaining relevant data and information to inform this report. The research assistants worked tirelessly to collect data from these respondents in the surveyed regions, despite the various risks and challenges faced.

LHRC extends its gratitude to all business enterprises that participated in the survey and provided relevant information and data to research assistants. Special thanks go to trade unions that took part in the survey. Furthermore, LHRC acknowledges the participation of all the workers, community members, LGA officials, corporate management officials, regulatory authority representatives, and bus and truck drivers, who participated in the survey.

Finally, LHRC would like to thank its development partners (not in any order of preference), the Embassy of Sweden, the Royal Norwegian Embassy, the Irish Embassy, the Embassy of Finland, Wellspring Foundation, and the Ford Foundation, without whose support, it would not have been possible to conduct the survey and prepare this report.



ABBREVIATIONS

| | |
|-----------|--|
| ACHPR | African Charter on Human and Peoples' Rights |
| AIDS | Acquired Immunodeficiency Syndrome |
| BHR | Business and Human Rights |
| BoT | Bank of Tanzania |
| CAG | Controller and Auditor General |
| CEDAW | Convention on the Elimination of All forms of Discrimination Against Women |
| CHODAWU | Conservation, Hotel, Domestic and Allied Workers Union |
| COTWU (T) | Communication and Transport Workers Union of Tanzania |
| 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 |
| LHRC | Legal and Human Rights Centre |
| LIA | Labour Institutions Act |
| MCPs | Mine Closure Plans |
| NBS | National Bureau of Statistics |
| NMCC | National Mine Closure Committee |
| 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 |
| PLHIVs | Persons living with HIV |
| 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 |
| TRA | Tanzania Revenue Authority |
| 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 |



TABLE OF CONTENTS

| | |
|---|-----------|
| ACKNOWLEDGEMENT | ii |
| ABBREVIATIONS | iii |
| TABLE OF CONTENTS | iv |
| LIST OF TABLES | xi |
| LIST OF FIGURES | xii |
| ABOUT LHRC | xviii |
| FOREWORD | xix |
| EXECUTIVE SUMMARY..... | xx |
| A. Introduction | xx |
| B. Methodology..... | xxi |
| C. Key Findings | xxi |
| D. Key Recommendations..... | xxiv |
| 1. CHAPTER ONE: GENERAL INTRODUCTION..... | 1 |
| 1.1. Background Information | 1 |
| 1.1.1. Survey Report and Rationale..... | 1 |
| 1.1.2. Impacts of the BHR's Survey Reports | |
| 1.1.3. Thematic Areas and Salient Features of BHR's Survey..... | |
| 1.2. Objectives of Survey | 3 |
| 1.3. Design and Scope of Survey | 4 |
| 1.4. Mainland Tanzania as Study Area..... | 4 |
| 1.5. Methods of Data Collection and Analysis..... | 7 |
| 1.5.1. Approaches and Tools..... | 7 |
| 1.5.2. Sampling Size and Criteria..... | 9 |
| 1.5.3. Processes of Data Analysis and Presentations..... | 16 |
| 1.5.4. Ethical Considerations in Data Collection and Analysis..... | 17 |
| 1.6. Limitations of the Survey Study..... | 18 |
| 1.7. Report Structure | 19 |
| 2. CHAPTER TWO: STATE OF BUSINESS ENVIRONMENT AND REGULATORY FRAMEWORKS IN TANZANIA..... | 21 |
| 2.1. Introduction | 21 |
| 2.2. Overview of Business and Human Rights..... | 21 |
| 2.2.1. Global and Regional Contexts on Business and Human Rights..... | 21 |
| 2.2.2. National Context on Business and Human Rights..... | 23 |
| 2.3. Macro-Economic Performances and Trends | 24 |
| 2.4. Demographic Trends and their Implications on the Business Sector..... | 26 |



| | | |
|--------|--|----|
| 2.5. | Business Environment..... | 29 |
| 2.5.1. | Variables and Pillars of Business Environment: General Trend..... | 29 |
| 2.5.2. | Tanzanian's Efforts to Improve Business Environment: FYDPIII's Mission..... | 31 |
| 2.6. | Legal Regulatory Frameworks of Business in Tanzania | 33 |
| 2.7. | Effectiveness and Performance of Regulatory Authorities..... | 34 |
| 2.7.1. | Establishment of Some of the Authorities in Business Sector | 34 |
| 2.7.2. | State of Performance of Regulatory Authorities..... | 35 |
| 2.7.3. | Scope and Coverage of Regulatory Authorities | 37 |
| 2.7.4. | Financial and Staff Capacity of Regulatory Authorities..... | 38 |
| 2.7.5. | Sufficiency of Legal Mandates of Regulatory Authorities ... | 39 |
| 2.7.6. | Common Challenges faced by Regulatory Authorities..... | 40 |
| 2.7.7. | Positive developments and best practices by regulatory authorities..... | 42 |
| 2.8. | Business Environment for Small-Scale Business Enterprises..... | 44 |
| 2.8.1. | Some of Efforts to Support SMEs..... | 44 |
| 2.8.2. | Challenges facing SMEs..... | 44 |
| 2.9. | Business Environment During and After Covid-19 | 48 |

3. CHAPTER THREE: BUSINESS COMPLIANCE WITH LABOUR LAWS AND STANDARDS 53

| | | |
|--------|---|----|
| 3.1. | Labour Laws, Rights and Standards applicable in Tanzania..... | 53 |
| 3.2. | Employment Contracts..... | 55 |
| 3.2.1. | Workers with employment contracts | 56 |
| 3.2.2. | Written contracts and copies of contracts | 60 |
| 3.2.3. | Ready-made contracts and room for collective bargaining.. | 61 |
| 3.2.4. | Language of employment contracts..... | 63 |
| 3.2.5. | Contracts with unfair, unclear or discriminatory terms | 65 |
| 3.2.6. | Breach of employment contracts | 66 |
| 3.2.7. | Employment contract and fear of losing one's job | 66 |
| 3.2.8. | Long term contracts versus short-term contracts..... | 67 |
| 3.2.9. | Preference of casual labourers..... | 68 |
| 3.3. | Working Hours..... | 69 |
| 3.3.1. | Compliance with working hours limit..... | 70 |
| 3.3.2. | Payment for overtime work..... | 71 |
| 3.3.3. | Right to rest for workers..... | 74 |



| | | |
|---------|---|-----|
| 3.4. | Remuneration..... | 76 |
| 3.4.1. | Wages and the Wage Order | 77 |
| 3.4.2. | Timely payment of salaries..... | 81 |
| 3.4.3. | Unequal pay for equal work..... | 82 |
| 3.4.4. | Deduction of wages because of absence from work and other reasons..... | 83 |
| 3.5. | Working Environment: Overall Environment and Occupational Health and Safety in the Workplace | 83 |
| 3.5.1. | Overall working environment..... | 85 |
| 3.5.2. | Occupational health and safety policies | 90 |
| 3.5.3. | Training on occupational health and safety..... | 91 |
| 3.5.4. | Labour inspection a major concern for workers..... | 93 |
| 3.5.5. | Availability and use of personal protective equipment..... | 94 |
| 3.5.6. | Some workers opting not to wear personal protective equipment..... | 100 |
| 3.6. | Violence and Harassment in the Workplace..... | 102 |
| 3.6.1. | ILO Violence and Harassment Convention of 2019..... | 102 |
| 3.6.2. | Reported incidents of workplace violence and harassment..... | 104 |
| 3.7. | Compensation for Injury Sustained at Work..... | 106 |
| 3.7.1. | Compensation arrangements and payment of compensation | 106 |
| 3.7.2. | Awareness of Compensation Laws..... | 110 |
| 3.8. | Freedom of Association, Collective Bargaining and Right to Strike..... | 111 |
| 3.8.1. | Trade union membership at surveyed workplaces..... | 112 |
| 3.8.2. | Violation of employees' freedom to join trade unions by employers..... | 114 |
| 3.8.3. | Effectiveness of trade unions..... | 115 |
| 3.8.4. | Collective Bargaining | 117 |
| 3.8.5. | Right to strike..... | 119 |
| 3.9. | Child and Forced Labour..... | 119 |
| 3.9.1. | Child Labour | 120 |
| 3.9.2. | Forced Labour | 124 |
| 3.10. | Leaves | 125 |
| 3.10.1. | Annual leave | 126 |
| 3.10.2. | Maternity leave..... | 129 |
| 3.10.3. | Paternity leave..... | 131 |
| 3.10.4. | Sick leave | 132 |
| 3.11. | Social Security..... | 132 |
| 3.11.1. | Submission of employees' social security contributions.... | 133 |



| | | |
|----------|---|-----|
| 3.12. | Employment Termination..... | 135 |
| 3.12.1. | Complaints of unfair termination..... | 136 |
| 3.13. | Labour Disputes and Mechanism for Resolution..... | 137 |
| 3.13.1. | Existence of worker grievance mechanisms..... | 138 |
| 3.13.2. | Grievances at workplace and workers' response to labour rights violations..... | 139 |
| 3.13.3. | CMA Labour dispute resolution and statistics..... | 141 |
| 3.14. | Awareness of Labour Laws and Rights..... | 143 |
| 3.14.1. | Workers' knowledge of labour laws, regulations, and rights..... | 143 |
| 3.14.2. | Workers' duty to promote labour rights..... | 145 |
| 3.14.3. | Employers' awareness of UN Guiding Principles on Business and Human Rights..... | 147 |
| 3.15. | Human Rights and Business in the Road Transport Sub-Sector: Labour Rights of Bus and Truck Drivers..... | 148 |
| 3.15.1. | Overview..... | 148 |
| 3.15.2. | Demographic Characteristics of Respondents..... | 149 |
| 3.15.3. | Employment Contract..... | 150 |
| 3.15.4. | Remuneration..... | 151 |
| 3.15.5. | Working Hours and Overtime Pay..... | 152 |
| 3.15.6. | Working Environment..... | 154 |
| 3.15.7. | Compensation for Workplace Injury..... | 155 |
| 3.15.8. | Leave..... | 155 |
| 3.15.9. | Freedom of Association and Trade Union..... | 157 |
| 3.15.10. | Knowledge of labour laws and rights..... | 158 |
| 3.15.11. | Labour Rights Violations and Response..... | 159 |
| 3.16. | Human Rights and Business in the Media Sub-Sector: Labour Rights of Journalists..... | 160 |
| 3.16.1. | Overview..... | 160 |
| 3.16.2. | Demographic Characteristics of Respondents..... | 160 |
| 3.16.3. | Employment Contracts..... | 161 |
| 3.16.4. | Remuneration..... | 162 |
| 3.16.5. | Social Security Contributions..... | 162 |
| 3.16.6. | Employment Termination..... | 162 |
| 3.16.7. | Workplace Violence and Harassment..... | 162 |
| 3.16.8. | Comments by media institution officials and members on labour-related issues facing journalists..... | 164 |
| 3.17. | Human Rights Violations Resulting from Non-Compliance with Labour Laws and Standards..... | 165 |
| 3.18. | Comparison of Performance Indicators on Adherence of Labour Standards..... | 166 |



| | |
|---|------------|
| 4. CHAPTER FOUR: LAND ACQUISITION FOR INVESTMENT..... | 168 |
| 4.1. Overview of Land Tenure and Acquisition in Tanzania..... | 168 |
| 4.1.1. Introduction..... | 168 |
| 4.2. Compulsory Acquisition of Land and Compensation..... | 172 |
| 4.2.1. Introduction..... | 172 |
| 4.2.2. Compensation or Adequate Compensation following Acquisition of Land for Investment..... | 175 |
| 4.2.3. Disputes and Complaints Related to Compensation..... | 175 |
| 4.3. Participation of Community Members in Land Acquisition for Investment..... | 179 |
| 4.3.1. Overview..... | 179 |
| 4.3.2. Survey Findings on Community Participation in Land Acquisition Process..... | 182 |
| 4.4. Access to Unutilized Land Reserved for Investment..... | 186 |
| 4.5. Land Disputes and Land Dispute Settlement Mechanisms..... | 192 |
| 4.5.1. Introduction..... | 192 |
| 4.5.2. Reported Investment-Related Land Disputes..... | 194 |
| 4.5.3. The Loliondo Land Dispute Saga..... | 200 |
| 4.5.4. Effectiveness of Land Dispute Settlement Mechanisms..... | 209 |
| 4.6. Comparison of Performance Indicators on Adherence of Land Rights Standards..... | 210 |
| | |
| 5. CHAPTER FIVE: BUSINESS COMPLIANCE WITH TAX OBLIGATIONS..... | 212 |
| 5.1. Introduction..... | 212 |
| 5.1.1. Taxation as a Human Rights Issue..... | 212 |
| 5.1.2. Legal, Policy and Institutional Framework on Taxation..... | 213 |
| 5.2. Payment of Taxes by Businesses: Trends and Current Situation... | 213 |
| 5.2.1. Revenue Collection Trends..... | 214 |
| 5.3. Tax Obligations and Fairness: Perceptions of Companies and Small Business Owners..... | 215 |
| 5.4. Key Issues and Challenges in Revenue Collection..... | 218 |
| 5.4.1. Tax avoidance and evasion..... | 218 |
| 5.4.2. Tax haven and incentives..... | 220 |
| 5.4.3. Illicit financial flows..... | 221 |
| 5.4.4. Narrow tax base..... | 221 |
| 5.4.5. Gaps in the management of revenue collection in the mining sector..... | 222 |
| 5.4.6. Mismanagement of Tax Revenues..... | 222 |
| 5.5. Human Rights Violations Resulting from Non-Compliance with Tax Obligations..... | 223 |
| 5.6. Comparison of Performance Indicators on Taxation..... | 224 |



| | |
|---|------------|
| 6. CHAPTER SIX: CORPORATE SOCIAL RESPONSIBILITY, LOCAL CONTENT REQUIREMENTS AND CONSUMER PROTECTION..... | 226 |
| 6.1. Perspectives on Socially Responsible Conducts..... | 226 |
| 6.2. Corporate Social Responsibility..... | 227 |
| 6.2.1. Meaning and Scope of CSR | 227 |
| 6.2.2. Communities' Perceptions on CSR Practices and Its Benefits | 228 |
| 6.2.3. Positive CSR Trends by Business Enterprises..... | 230 |
| 6.2.4. Summary: Issues of Concern Regarding CSR Supports..... | 241 |
| 6.2.5. Performance Indicators on CSR..... | 245 |
| 6.3. Corporate Local Content Requirements..... | 246 |
| 6.3.1. Overview | 246 |
| 6.3.2. Legal Framework on Local Content in Tanzania: Case of Mining Sector | 247 |
| 6.3.3. Status of Compliance with Local Content Requirements: Some Cases | 249 |
| 6.4. Consumer Protection..... | 252 |
| 6.4.1. Legal and Regulatory Framework on Consumer Protection | 252 |
| 6.4.2. Hotspots for Counterfeit and Substandard Products..... | 254 |
| 6.4.3. Existence and Impact of Counterfeit and Substandard Products..... | 254 |
| | |
| 7. CHAPTER SEVEN: CORPORATE ENVIRONMENTAL RESPONSIBILITY AND RESPECT FOR HUMAN RIGHTS | 259 |
| 7.1. Corporate Environmental Responsibility | 259 |
| 7.1.1. Overview | 259 |
| 7.1.2. Key milestone: Right to environment now officially a human right | 259 |
| 7.1.3. Compliance with Environmental Obligations..... | 260 |
| 7.1.4. Status and Reported Incidents of Environmental pollution caused by business enterprises..... | 261 |
| 7.1.5. The Mara River Pollution Saga | 270 |
| 7.1.6. Concerns over Mine Closure Planning..... | 275 |
| 7.2. Corporate Respect for Human Rights..... | 276 |
| 7.2.1. Overview: Corporate Responsibility to RESPECT HUMAN RIGHTS..... | 276 |
| 7.2.2. Human Rights Best Practices..... | 277 |
| 7.2.3. Reported Human Rights Abuses and Concerns: Survey Findings..... | 277 |
| 7.2.4. Access to Remedy and Satisfaction with Grievance Mechanisms..... | 277 |



| | |
|---|----------------|
| 8. CHAPTER EIGHT: GENDER AND OTHER FORMS OF DISCRIMINATION IN THE BUSINESS SECTOR | 279 |
| 8.1. Introduction: Gender, Business and Human Rights..... | 279 |
| 8.1.1. An Overview Gender Issues in Business Sector..... | 279 |
| 8.1.2. UNGPBHR's Requirements on Gender Issues..... | 280 |
| 8.2. Key Issues Affecting Women's Rights in The Business Sector | 281 |
| 8.2.1. Key Issues on Women's Rights in Business Sector – Global Context..... | 282 |
| 8.2.2. Key Issues Affecting Women's Rights in the Business Sector – Tanzanian Context | 282 |
| 8.2.3. Women in the Informal Sector: Some Practical Issues of Concern..... | 291 |
| 8.2.4. Some of Practical Actions Recommended on Women in Business Sector | 292 |
| 8.3. Persons With Disabilities (PWDS) in Business and Human Rights | 292 |
| 8.3.1. Overview of Legal Framework on Disability Rights..... | 292 |
| 8.3.2. Trend of Inclusion and Participation of PWDs in Business Sector – General..... | 294 |
| 8.3.3. Trend of Inclusion and Participation of PWDs in Business Sector – Surveyed Areas..... | 295 |
| 8.3.4. Attributing Factors and Situation on the Ground of PWDs in Employment..... | 296 |
| 8.4. Other Forms of Discrimination in Business and Human Rights.. | 299 |
| 9. CHAPTER NINE: CONCLUSION AND GENERAL RECOMMENDATIONS | 300 |
| 9.1. Conclusion | 300 |
| 9.2. Recommendations..... | 300 |
| 9.2.1. Compliance with Labour Laws and Standards..... | 300 |
| 9.2.2. Land Acquisition for Investment..... | 301 |
| 9.2.3. Business Compliance with Tax Obligations..... | 301 |
| 9.2.4. Corporate Social Responsibility and Local Content Obligations..... | 302 |
| 9.2.5. Corporate Environmental Responsibility and Corporate Respect for Human Rights | 302 |
| 9.2.6. Gender discrimination and other Forms of Discrimination..... | 302 |
| 9.2.7. Regulatory Authorities | 303 |



| | |
|--|-----|
| REFERENCES | 304 |
| Field Reports..... | 304 |
| Books, Reports, Articles & Papers..... | 304 |
| Media Sources | 305 |
| National Laws, Policies & Regulations..... | 316 |
| International Instruments..... | 317 |
| Other sources | 319 |



LIST OF TABLES

| | | |
|-------------|--|-----|
| Table 1.1: | Tools used to collect data for each group of respondents..... | 8 |
| Table 1.2: | Number of Regions and districts reached by the BHR Survey 2022..... | 9 |
| Table 1.3: | Respondents of Human Rights and Business Survey 2022 by Sex | 11 |
| Table 1.4: | Distribution of Respondents by age groups – Workers and Community Members..... | 12 |
| Table 1.5: | Distribution of Respondents by Sex – Workers and Community Members..... | 13 |
| Table 1.6: | Distribution of Respondents by Level of Education – Workers and Community Members..... | 14 |
| Table 1.7: | Distribution of Respondents by Work Experience – Drivers and Other Workers..... | 15 |
| Table 1.8: | Distribution of Respondents by Occupation – Community Members Only..... | 16 |
| Table 3.1: | Current minimum wage rates in some of the key areas..... | 78 |
| Table 3.2: | Monthly pay of respondents..... | 79 |
| Table 3.3: | Responses on existence of unequal pay for equal work at workplaces..... | 82 |
| Table 3.4: | % Responses on overall working environment at surveyed business enterprises and factories..... | 85 |
| Table 3.5: | Number of labour disputes registered at CMA Office in Iringa – 2019 to June 2022 | 143 |
| Table 3.6: | Distribution of respondents (bus and truck drivers) by sex..... | 149 |
| Table 3.7: | Distribution of respondents (bus and truck drivers) by age..... | 149 |
| Table 3.8: | Distribution of respondents (bus and truck drivers) by work experience | 150 |
| Table 3.9: | Human rights violated as a result of non-adherence to labour standards..... | 166 |
| Table 3.10: | Comparison of some of the key performance indicators on labour rights and standards in surveys conducted in 2021 and 2022..... | 167 |
| Table 4.1: | Some of the land disputes observed in surveyed regions in Tanzania Mainland..... | 195 |
| Table 4.2: | Comparison of some of the key performance indicators on land rights and standards..... | 121 |
| Table 5.1: | Comparison of some of the key performance indicators on taxation | 224 |
| Table 6.1: | Performance indicators on CSR in 2021/22 in comparison with 2020/21..... | 245 |
| Table 8.1: | Number of Female workers at some of the surveyed industries/companies in Iringa and Tanga..... | 284 |



LIST OF FIGURES

| | |
|---|----|
| Figure 1.1: Tanzania FDI Inflow 2016-2020..... | 7 |
| Figure 1.2: # Businesses reached by nature of business..... | 12 |
| Figure 2.1: Real Gross Domestic Product's Growth (2016-2020) | 24 |
| Figure 2.2: %Share of GDP by selected activities for the years 2019 and 2020 | 25 |
| Figure 2.3: Tanzania population growth trend from the year 1967 to 2020..... | 26 |
| Figure 2.4: Percentage of total employment by main industry for persons aged 15 years and above..... | 28 |
| Figure 2.5: Most problematic factors for doing business..... | 29 |
| Figure 2.6: Annual rankings on ease of doing business in Tanzania (2012 to 2019) | 30 |
| Figure 2.7: %Responses of community members on engaging regulatory authorities (N=813)..... | 36 |
| Figure 2.8: %Responses of workers embers on engaging regulatory authorities (N=667) | 37 |
| Figure 2.9: % Responses of regulatory authority officials on regulatory authorities having have sufficient capacity to execute all mandated activities in line with the expected statutory standards (N=31)..... | 38 |
| Figure 2.10: % Responses of regulatory authority officials on sufficiency of their legal mandate to ensure effective performance (N=31)..... | 39 |
| Figure 2.11: %Responses of regulatory authority officials on whether there is a problem of overlapping of responsibilities/ duties/mandate among regulatory authorities (N=31)..... | 40 |
| Figure 3.1: Status of employment contracts amongst workers in 2020/21 and 2021/22..... | 56 |
| Figure 3.2: Status of employment contracts among workers by sex..... | 57 |
| Figure 3.3: Workers with written employment contracts by region..... | 60 |
| Figure 3.4: %Responses on discussing terms with employer before employment commencement (N=459) | 62 |
| Figure 3.5: %Responses on freedom to leave workplace after normal working hours (710)..... | 70 |
| Figure 3.6: Response on whether employees get paid for overtime work (N710) | 72 |
| Figure 3.7: Percentage of workers paid for overtime work by region..... | 72 |
| Figure 3.8: Corporate management officials' responses on existence of health and safety policies at workplace (N=101)..... | 90 |



| | |
|--|-----|
| Figure 3.9: % Responses on receiving training on occupational health and safety..... | 92 |
| Figure 3.10: Percentage of workers trained on occupational health and safety by region..... | 92 |
| Figure 3.11: %Responses on availability of personal protective equipment at workplaces (N=710)..... | 94 |
| Figure 3.12: Percentages of workers without PPE by region..... | 95 |
| Figure 3.13: %Responses on most common forms of violence and harassment at workplaces..... | 104 |
| Figure 3.14: %Responses on compensation arrangement for injury sustained at work..... | 107 |
| Figure 3.15: %Responses on awareness about laws and regulations governing compensation following injury at work..... | 110 |
| Figure 3.16: %Responses on existence of trade union branch at surveyed workplaces..... | 112 |
| Figure 3.17: %Responses on existence of trade union branch by region..... | 113 |
| Figure 3.18: Corporate management officials' responses on existence of trade union branch at workplace (N=101)..... | 113 |
| Figure 3.19: %Responses on workers' perceptions on effectiveness of trade unions (N=634)..... | 116 |
| Figure 3.20: %Responses on getting annual leave..... | 126 |
| Figure 3.21: % Male and female workers who went on leave in the past year..... | 127 |
| Figure 3.22: %Responses on getting maternity leave..... | 129 |
| Figure 3.23: %Responses on getting paternity leave..... | 131 |
| Figure 3.24: % Response on getting sick leave..... | 132 |
| Figure 3.25: %Responses on existence of worker grievance mechanisms at workplaces..... | 138 |
| Figure 3.26: Figure 3.26: % Responses on action taken following labour rights violation..... | 139 |
| Figure 3.27: %Responses on knowledge about labour laws and regulations..... | 144 |
| Figure 3.28: Workers' awareness of their labour rights..... | 144 |
| Figure 3.29: %Workplaces with employee rights statement (N=101)..... | 146 |
| Figure 3.30: % Responses of bus and drivers on discussing terms with employer before commencement of employment..... | 151 |
| Figure 3.31: %Responses of bus and truck drivers on monthly wages..... | 152 |
| Figure 3.32: %Responses of bus and truck drivers on hours worked per day..... | 153 |
| Figure 3.33: %Bus and truck drivers who are given overtime pay..... | 153 |
| Figure 3.34: %Responses by bus and truck drivers on receiving training on occupational health and safety..... | 154 |



| | |
|---|-----|
| Figure 3.35: % Responses of bus and truck drivers on getting annual leave..... | 155 |
| Figure 3.36: %Responses on bus and truck drivers getting paternity leave..... | 156 |
| Figure 3.37: Responses of bus and truck drivers on getting sick leave..... | 157 |
| Figure 3.38: Bus and truck drivers' perceptions on effectiveness of trade unions..... | 158 |
| Figure 3.39: Responses on knowledge of labour rights, 2020/21 & 2021/22..... | 159 |
| Figure 3.40: %Responses on action take following labour rights violations..... | 160 |
| Figure 3.41: %Distribution of respondents by sex (N=240)..... | 161 |
| Figure 3.42: %Distribution of respondents by position/title (N=240)..... | 161 |
| Figure 3.43: Distribution of respondents by age category (N=240)..... | 161 |
| Figure 3.44: Distribution of respondents by media type (N=240)..... | 161 |
| Figure 3.45: Respondents' views on lack of employment contract (N=240)..... | 161 |
| Figure 3.46: Respondents' views on harassment of female journalists/sexortion (N=240)..... | 163 |
| Figure 4.1: Community perceptions on compensation following land acquisition (N=813)..... | 175 |
| Figure 4.2: %Responses on meaningful community participation in land acquisition process (N=812)..... | 182 |
| Figure 4.3: %Responses on meaningful community participation by sex..... | 183 |
| Figure 4.4: Community members' perceptions on meaningful community participation in land acquisition process by region..... | 183 |
| Figure 4.5: %Responses on whether corporate entities have policies or guidelines which compel them to consult with all affected parties (including women and elders) prior to acquisition or/and use of their lands and other properties..... | 184 |
| Figure 4.6: %Responses of community members on businesses enterprises or investors allowing them to access unutilized investment land for their economic activities (N=813)..... | 187 |
| Figure 5.1: Amount of corporate taxes collected in Tanzania Mainland from the financial years 2014/15 to 2020/21 (million Tshs.)..... | 215 |
| Figure 5.2: Responses of businesses on whether taxes imposed by the Government are affordable/fair..... | 216 |



| | | |
|-------------|--|-----|
| Figure 6.1: | %Community members' responses on whether they benefit from operations of businesses through CSR activities (N=813) | 219 |
| Figure 6.2: | Regional percentages of community members who believe they benefit from CSR..... | 230 |
| Figure 6.3: | %Response of community members on whether they inspect goods or products before buying them (N=812) | 255 |
| Figure 6.4: | %Responses of community members on whether they inspect goods or products before buying them by sex..... | 255 |
| Figure 6.5: | %Responses on coming across or buying counterfeit or substandard product (N=812) | 256 |
| Figure 6.6: | Responses on action taken by community members after coming across counterfeit or substandard product (N=219) | 256 |
| Figure 7.1: | %Responses of corporate officials on companies having in place an environmental management policy..... | 260 |
| Figure 7.2: | %Reported incidents of environmental pollution by type (N=37) | 262 |
| Figure 7.3: | Common corporate human rights violations (N=813) | 277 |
| Figure 7.4: | %Responses on community members satisfaction with the business grievance mechanisms (N=813)..... | 278 |



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 operates mainly in Tanzania Mainland, 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:

LHRC envisages a just and equitable society, where the three arms of the State, as well as non-state actors, practice accountability, transparency and there is 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 a 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 human rights violations; and advocacy for reforms of policies, laws and practices in conformity with international human rights standards.



VALUES:

**INTEGRITY; EQUALITY; TRANSPARENCY;
ACCOUNTABILITY; PROFESSIONALISM;
AND VOLUNTARISM AND VOLUNTEERISM.**



FOREWORD

The Human Rights and Business Report, produced annually by LHRC since 2012, highlights the state of human rights compliance in the business sector. Focus is on relevant labour, land, environment, and human rights standards. Issues pertaining to taxation and responsibilities of oversight institutions in the business sector are also considered for the reasons stated in the main text of this report. This report is an important tool for measuring the progress made in protection of human rights in line with international human rights standards, including the Universal Declaration of Human Rights of 1948 (UDHR), which Tanzania is part of. Fundamental human rights enshrined in the UDHR include the right to equality before the law and equal protection of the law; right to work and just and favourable conditions of work; right to equal pay for equal work; right to just and favourable remuneration; right to form and join trade unions; right to own property; and right to adequate standard of living.

This report is an outcome of a study on business and human rights conducted by LHRC between June and August 2022. The initiative is one of the deliverable results of the current LHRC's Operational Plan, which seeks, among others, to provide research information to support evidence-based (data driven) advocacy (of laws, policies and practices). LHRC maintains its unique record to become the first ever and authoritative human rights organization in Tanzania to pursue this agenda.

In the financial year 2020/2021, the study on business and human rights showed that protection of human rights in the business sector was dealt a big blow by the COVID-19 pandemic. The business sector dwindled to an extent that it had adverse implications on human rights e.g. increased human rights violations of labour rights including unlawful termination from jobs. While the adverse impact of the pandemic is decreasing, the implications of said violations remain and haunt the workers to date e.g. inability to secure appropriate legal entitlements as ex-workers. Section two of this report explains more.

It is our sincere hope that the readers of this report will become change agents towards attaining just and equitable society.

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



EXECUTIVE SUMMARY

A. Introduction

This type of human rights report is among the flagship publications of LHRC and is the ninth report to be produced since 2012. The report sheds light on the situation of human rights in the business sector and is largely informed by the Human Rights and Business Survey 2022 (80%), which for this report covered the period of July 2021 to June 2022, although internal data produced by LHRC and secondary data obtained from different sources, including government reports and budget speeches (20%), also informed both the survey and the report.

The main objective of the survey was to assess compliance of business enterprises with human rights standards as well as laws, policies and practices relating to labour, land, environment, tax, corporate social responsibility, and local content in Tanzania Mainland. The survey was conducted in 14 regions of Tanzania Mainland. The report is meant to be used as an advocacy tool to advocate for and promote human rights in the business sector in Tanzania. Furthermore, the report provides some useful information on human rights and business in Tanzania and can be used for academic purposes. It is also a useful tool in determining improvements, if any, in protection of human rights in the business sector.

This report consists of nine (9) chapters. Chapter One provides for a background information about this survey. This also includes objectives and methodologies. Chapter Two is on business environments and regulatory frameworks of the same. The third chapter looks at business compliance with labour laws and standards, while Chapter Four highlights land acquisition for investment purposes, focusing on compensation and awareness on land rights by communities. Chapter Five covers compliance with tax obligations by businesses. Chapter Six is on CSR, local content obligations and consumer protection (modified a little bit from previous reports). Chapter Seven 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. Chapter Eight is on gender and other forms of discrimination in the business sector, while, Chapter Nine, the last one, provides conclusion and general recommendations to improve enjoyment and realization of human rights in the business sector.



B. Methodology

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 was obtained through desktop research and review of various reports, laws, policies, regulations and other documents on labour laws, rights and standards produced by domestic and international actors.

The survey reached a total of 1,921 individual persons (42% being females), including workers, regulatory authority officials, community members, corporate management officials, bus and truck drivers, trade union officials, government officials, NGO officials, market traders, and local government (LGA) officials. LGA officials who were engaged by the survey include trade officers and community development officers (CDOs). Tools used to collect data from these respondents were questionnaire; interview guide; key informant interview (KII) guide; observation checklist, and focus group discussion (FGD) guide.

C. Key Findings

1. Business Environment and Regulation

1.1. Business Environment

- The survey focused on business environment for SMEs and small-scale traders. For SMEs, key challenges include limited access to credit/finance, inadequate capital, poor market access, competition with foreign business enterprises for local market, corruption, Covid19, delayed payments, and poor infrastructure. Lack of or minimal government support in post Covid19 recovery was also highlighted as a challenge for SMEs.
- For small-scale traders, key issues and challenges include access to credit, GBV, lack of sufficient capital, unhygienic practices at food markets, unsatisfactory market infrastructure and sanitation system at marketplaces, lack of business-related training and entrepreneurship skills, and loss of property.

1.2. Performance of Regulatory Authorities

- Most regulatory authorities operate at zonal and regional levels, which makes it difficult for them to reach or be reached by as many people as possible.



- Key challenges affecting performance and effectiveness of regulatory authorities include financial and staff capacity (shortages of budget and staff, especially technical staff); overlapping mandate or functions; shortage of vehicles and working equipment; lack of awareness about applicable human rights standards in business; corruption; poor enforcement of laws and regulations; narrow tax base; political interference; poor coordination; and weak monitoring and evaluation.

2. Business Compliance with Labour Laws and Standards

Business compliance with labour laws and standards continues to be a concern, despite some notable improvements in some of the standards, such as provision of employment contracts and granting of leaves. The survey found that labour-related grievances were mostly aired by workers in the manufacturing, hospitality, private security, and transportation sectors. Another sector which can be added into the mix is the media sector. Key grievances include not being provided with (written) employment contracts, being overworked and not paid overtime, poor remuneration, poor working environment, denial of leave, violation of freedom of association, and workplace violence and harassment (including sexual violence and harassment).

2.1. Employment Contracts

- Improvement observed in percentage of workers with employment contracts. 64.6% of workers (6 out of 10) who responded to the survey said they had employment contract, an increase of 5.6% compared to previous survey.
- Percentage of workers with employment contracts highest in Kilimanjaro Region (90%) and lowest in Mara (30%). Percentage of workers with employment contracts was higher among male workers (67%), compared to female workers (61%). A third of both male and female workers did not have employment contracts.
- Preference of casual workers was identified as one of reasons for employers, especially SMEs, not to provide employment contracts. It was reported that employers like casual workers because 'they are the cheaper option.' This hints at labour exploitation, especially for workers who, based on the work they do and how they do it, should be regarded as employees.
- A significant improvement in percentage of workers with written employment contracts, at 89%, increasing from 56% in the previous survey. 61% of male workers and 53% of female workers said they had employment contracts
- In terms of regional variations, Mwanza Region recorded the highest percentage of workers with written employment contracts (82%), while Mara Region recorded the lowest, at 26%. Other regions ranged from 44% to 75%.



- However, majority of workers who claimed they had written employment contract said they were not given copies of their contracts, like it was the case in the previous survey. This was found to be especially the case in SMEs, including in the transportation, hospitality, and manufacturing sectors.
- Regarding ready-made contracts, 47% of the survey respondents said they did not discuss terms of contract with their employers before their employment commenced, decreasing from 56% in the previous survey.
- Some of the interviewed workers in all surveyed regions raised concerns regarding the language of their employment contracts. Most of the received samples of employment contracts were in English Language, which is not understood or well understood, especially among the low-skilled and unskilled workers. The survey also observed employment contracts with unfair or discriminatory terms, including working hours beyond the normal working hours limit.
- Like in the previous survey, preference of short-term contracts was observed in all surveyed regions. This was especially found to be the case in sectors such as private security, hospitality, manufacturing, and transportation. Apart from job security concerns, short-term contract puts workers at a disadvantage in terms of accessing credit, as banks/financial institutions are reluctant to offer loans to workers with short-term contracts.

2.2. Working Hours

- Non-compliance with the working hours labour standard continued to be a concern for many workers, particularly in regard to overtime, overtime pay, and rest for workers. Complaints about working beyond normal working hours were more common among private security guards and bus and truck drivers, followed by workers in the manufacturing sector, especially in SMEs.
- Majority of workers (9 out of 10) said they were aware of the normal working hours of 8 or 9 hours. When asked whether they are allowed to leave work after these hours, majority (81%) said Yes, while 19% said No, increasing by 2% compared to those who said No in the previous survey.
- In some of the surveyed workplaces, working hours limit does not matter, all that matters is the daily target which the worker has to meet before leaving work.
- Nearly all survey respondents claimed to have worked overtime at some point, and when asked whether they are usually paid for overtime, only 42% said they do, increasing from 38% in the previous survey.



- Working long hours still a big problem, especially in private security, hospitality, manufacturing, and transportation sectors. Some of the workers said they were even made to work on weekends and holidays. Inadequate rest for workers contributes to sleep deprivation, increases stress, increases risk of health complications, contributes to workplace injuries, and negatively affects family life. Some of the road accidents are also ascribed to long working hours among bus and truck drivers.

2.3. Remuneration

- Like in the previous survey, the Wage Order, which is still in use, is that of 2013, despite the law requiring review every 3 years. However, LHRC has been informed that the new Wage Order is in the pipeline, scheduled to be adopted sometime in 2022. The current Wage Order has been defaulted for not being commensurate with the current costs of living.
- Employers in some of the surveyed regions such as Morogoro, Dodoma, Mara, Tanga and Mtwara were accused of paying workers below the minimum wage. Majority of victims of this include hotel workers, bar tenders, security guards, and drivers.
- The survey also found that most women get lower-paying jobs, including as cleaners and receptionists.
- Approximately half of the interviewed respondents said they have experienced delays in payment of their salaries. Claims of delayed salaries were especially made at some of the workplaces in 11 out of 14 surveyed regions (79%).

2.4. Working Environment

- Majority of respondents were of the view that the state of air, light, water, toilets, fire equipment, first aid, women friendliness, and buildings were generally good or very good (around 50 to 80% total). They therefore indicated that the overall working environment was good.
- The main concern expressed by the respondents was the friendliness of the workplaces to PWDs, whereby about two thirds of the respondents said it is poor and very poor.
- Working environment also includes occupational health and safety, and in this regard, 7 out of 10 workplaces said they have occupational health and safety policies. Regarding training, percentage of workers who said they had received occupational health and safety training stood at 54%, increasing by 11% compared to the previous survey. Percentage of workers who have received occupational health and safety training was slightly higher among male workers (55%) than female workers (53%).



- When asked about availability of PPE and whether they were sufficient, only 26.9% of respondents said they are available and sufficient, decreasing from 39% in the previous survey. 26.8% felt they were available and somewhat sufficient, increasing from 24% in the previous survey.
- Percentage of workers who claimed they did not have any PPE was highest in Tanga Region, at 47%, followed by Pwani (33%), Iringa (31%), Dar es Salaam (30%), and Geita (26%).

2.5. Violence and Harassment in the Workplace

- 31.3% of respondents mentioned intimidation/threats and/or bullying as common forms of violence, while 21.3% mentioned sexual violence. This means that over half of the respondents acknowledged existence of psychological and sexual violence at their workplaces. Less than 1% also mentioned physical attack or assault, while the majority (47%) said there were other forms of violence. Nevertheless, the survey established that most workers do not have a good knowledge of different forms of workplace violence and harassment, which might have affected how they responded to the question of violence.
- In the media sector, majority of interviewed journalists also said workplace violence and harassment is a big problem, with nearly half of them (42%) saying it is a serious problem for female journalists, followed by 40% saying it is a moderate problem.

2.6. Compensation for Injury Sustained at Work

- Only a third of the respondents (32.4%) said there were arrangements in place to compensate workers who suffer injuries in the course of doing their work at their workplaces. This represents an improvement compared to the situation in the previous survey covering the period of 2020/21, whereby less than a third (22%), claimed that such an arrangement exists.
- Awareness of compensation laws also continues to be a challenge. Like it was the case in the previous survey, over two thirds of respondents indicated they lack good awareness about the laws.

2.7. 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.
- However, survey findings show a slight improvement in terms of existence of the branches in comparison with the previous survey. About a third of the respondents (34.2%) said there were trade union branches at their workplaces, increasing from 31% in the previous survey.



- In terms of effectiveness of trade unions, over two thirds of the respondents and nearly three-quarters (74%) questioned the effectiveness of trade unions, despite the majority of them recognizing the importance of such unions. Only 21% of respondents indicated that they found the trade unions to be effective.
- Percentages of claims of trade unions not being effective were highest in Mara (98%), Mwanza (94%), Geita (94%), and Dar es Salaam (89%) Regions, and lowest in Arusha Region.
- Regarding collective bargaining, only a few workplaces were found to practice collective bargaining, since majority of them discourage trade union membership. Consequently, the survey generally observed that very few companies have collective bargaining agreements (CBAs) with trade unions.

2.8. Child and Forced Labour

- Only just over a half of interviewed employers (55.4%) said have child labour prohibition policies, equal to 5 out of 10 employers. However, this marks a significant improvement from 36% in the previous survey. Overall, the survey found that most of the employers do their best to prohibit and discourage child labour. Nevertheless, instances of child labour were observed or reported in various surveyed regions, especially in Dar es Salaam, Mbeya, Geita, Shinyanga, Dodoma, Tanga, and Mtwara.
- Child labour was found to be more prominent in small businesses, in the fishing industry, in agriculture, in mining areas, and at marketplaces.

2.9. Leaves

- Majority of survey respondents (51%) said they are granted annual leave at their workplaces, increasing slightly from 48% in the previous survey. Among the respondents who said they are granted annual leave at their workplaces, nearly a half (46.8%) expressed that they took leave in the past year. Among those who took leave in the past year, female workers accounted for 46% and male workers accounted for 56%.
- Interestingly, the survey also found that among workers who are aware of annual leave, many more are not aware that is a paid leave. So, they 'remain at work so that they can continue to be paid.'
- Regarding maternity leave, only a third of respondents (33.9%) said they that female workers are granted maternity leave, as stipulated in labour laws and regulations, decreasing from 50% in the previous survey.



Pregnancy and maternity discrimination at workplaces continued to be one of the key issues affecting women's labour rights. Allegations of denial of maternity leave and incidents of maternity discrimination were made and reported by some of the interviewed respondents in Dar es Salaam, Pwani, Morogoro, Mwanza, Geita, Iringa, and Mtwara. Some of the women workers reportedly also lost their jobs because of pregnancy.

- Qualitative findings of the survey show that awareness about paternity leave is very low among workers in the industrial, transportation, private security, and hospitality sectors.
- When asked about sick leave, majority of respondents (71.5%) acknowledged that they are granted leave when they fall sick, a significant improvement from 61% in the previous survey. However, there is a catch, as some of the workers said their wages get deducted for number of days missed due to sickness.

2.10. Social Security

- Regarding social security, some of the interviewed workers complained about non-remittance of social security contributions by their employers.
- Compared to the previous survey, there more complaints were regarding submission of social security contributions. These complaints were made at some of the surveyed workplaces in 10 out of 14 survey regions, namely Dar es Salaam, Pwani, Morogoro, Mwanza, Shinyanga, Geita, Mara, Iringa, Arusha and Mtwara.
- The survey also found that some workers do not follow up and do not know the status of their contributions.

2.11. Employment Termination

- Some of the workers at some of the surveyed workplaces were reportedly unfairly dismissed for reasons such pregnancy, joining trade unions, demanding employment contract, refusing sexual advances, demanding better pay, and sustaining injury at workplace and demanding compensation. It was generally observed that some employers disregard termination procedures.
- An official from the Commission for Mediation and Arbitration (CMA) in Iringa stated during an interview that most of the labour cases they receive are on unfair termination. This is also the case at LHRC's Labour Unit at its Kinondoni Legal Aid Clinic in Dar es Salaam.

2.12. Labour Disputes and Mechanism for Resolution

- More employers said they have in place a workers' grievance mechanism to address labour disputes. Nearly two thirds of the employers (62.4%) said such mechanism is in place at their workplaces, increasing from 53% in the previous survey.



- Common grievances that were mentioned at surveyed workplaces were delayed salary payment, breach of contract, leaves, overtime pay, mileage and return allowances (drivers), long working hours, wage deductions, and work conditions.
- Overall, like in the previous survey, most of the labour disputes received at the Commission for Mediation and Arbitration (CMA) were on employment termination, breach of contract, and salary payment. Unfair termination complaints also constituted two thirds of LHRC's labour disputes registered by LHRC in the period of January to June 2022.

2.13. Awareness of Labour Laws and Rights

- When asked about awareness of labour laws and rights to determine whether they know as much as they need to, only 22.3% of the respondents said they were aware of relevant labour laws and regulations. This is a slight improvement when comparisons are made with the previous survey, whereby only 12% of the workers claimed they had a good knowledge of labour laws and regulations.
- Regarding awareness about labour rights, 71% of the workers said they were aware of their basic labour rights, significantly increasing from 52% in the previous survey. Interestingly, less than a third among them could correctly mention at least three labour rights correctly.

2.14. Labour Rights in the Transportation Sector

- In the transportation sector, the survey found that key issues affecting labour rights of bus and truck drivers include lack of employment contracts, especially written contracts; poor remuneration, including below the minimum wages; being overworked and underpaid, including denial of overtime pay; non-payment or inadequate payment of different allowances; lack of compensation following workplace injury; denial of leave, including paid leave; and poor knowledge about labour laws and rights.

2.15. Labour Rights in the Media Sector

- In the media sector, the survey found that key issues affecting labour rights of journalists include lack of employment contract, including written contracts; poor remuneration and delayed/deferred wages/salaries; non-remittance of social security contributions; unfair employment termination; and workplace violence and harassment.



2.16. Human Rights Violations Resulting from Non-Compliance with Labour Laws and Standards

- Human rights that were found to be violated as a result of failure of businesses to comply with relevant labour laws and standards include: right to form and join trade union/freedom of association; right to fair remuneration; freedom of expression; freedom from violence; right to the enjoyment of just and favourable conditions for work; right to family life; right to adequate standard of living; right to health; right to life; right to education; right to safety and security; right to equality before the law; and right to non-discrimination.

3. Land Acquisition for Investment

- Concerns of payment of adequate and timely compensation, as over half of community members who responded to the survey (54%) said they were not sure whether compensation is granted fairly and timely, like in the previous survey. Only 5% said compensation granted fairly and timely, like in the previous survey. However, the percentage of community members who indicated compensation granted is fair but untimely increased from 16% in 2021 to 19% in 2022, while the percentage of those who said it is unfair but timely increased from 6% in 2021 to 9% in 2022.
- The survey found that compensation-related complaints and disputes following land acquisition were mostly made and reported in Pwani, Morogoro, Geita, Mara, Iringa, Mbeya and Mtwara Regions.
- There are several barriers that hinder meaningful participation of community members in land acquisition for investment process, including lack of capacity to understand land laws and the land acquisition process; little or no knowledge of true value of village land; lack of awareness of exact size of land to be acquired and compensation to be provided; lack of sufficient information regarding investment project and potential impacts; language barrier; and laws and practices not adhering to Free, Prior, Informed Consent (FPIC) standard.
- Only just above a quarter of the community members who responded to the survey (28.4%) said there is meaningful community participation in land acquisition for investment process, which is a slight increase compared to the percentage of community members who had a similar view in the previous survey (22%).
- Regarding access to utilized land reserved for investment, only 19.8% of survey respondents said investors allow them access to unutilized investment land to conduct economic activities, increasing from 11% in the previous survey.



- The survey found 13 investment-related land disputes in Mbeya, Tanga, Morogoro, Shinyanga, Pwani, Geita, Mara, Iringa, and Mtwara (9 out of 14 regions). Majority of them (4) were reported in Morogoro.
- Several issues and concerns were raised by community members regarding effectiveness of land dispute settlement mechanisms, including lack of capacity among members of village and ward land tribunals; corruption; shortage of funds/insufficient budget; length of dispute settlement; political interference; and non-implementation of decisions of councils and tribunals.

4. Business Compliance with Tax Obligations

- Despite the setback caused by the COVID-19 pandemic, progress in revenue collection has been reported to be steady, with revenue collected by TRA increasing from Tshs. 9.9 trillion in 2014/15 to Tshs. 17.6 trillion in 2020/21. 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.
- In terms of corporate taxes, trends show that corporate taxes collected have significantly increased in the past seven years, increasing from Tshs. 1.18 trillion in the financial year 2014/15 to Tshs. 2.57 trillion in 2019/20. But there was a slight decrease in corporate taxes collected in the financial year 2020/21.
- When asked about fairness/affordability of taxes, 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. Percentage of business owners who perceive taxes imposed by the Government to be affordable/fair has decreased by 8.3% when compared with the previous survey.
- Some of the survey respondents recommended for some taxes to be scrapped or combined. Some of them also said some TRA officials treat them harshly/in unfriendly manner, while others expressed concern over how tax revenue collected is used.
- Key issues and challenges in revenue collection include tax avoidance and evasion; tax haven and incentives; illicit financial flows; narrow tax base; and gaps in the management of revenue collection in the mining sector.



5. Corporate Social Responsibility, Local Content Requirements, and Consumer Protection

5.1. Corporate Social Responsibility

- CSR activities performed by businesses in surveyed regions can be categorized into groups of education, water, health, employment, LGA contributions to support development initiatives and other CSR activities. Like in the previous survey, the survey found that most business enterprises do not engage in corporate social responsibility (CSR), especially SMEs.
- In areas where CSR is performed, over a-half of community members (59.3%) said they do see the benefit of CSR performed by business enterprises in their community, increasing from 54% in the previous survey.
- Among the community members who said they benefit from CSR, the percentage was slightly higher among female community members (61%) than male community members (57%).
- In terms of regional variations in responses, percentage of community members who believed as a community they do not benefit from CSR was highest in Geita (94%) and lowest in Pwani (10%).
- Like in the previous survey, most CSR activities were performed in employment and education sectors. Some of the surveyed business enterprises also claimed to provide monetary contributions to LGAs (CSR levy), including in Dar es Salaam, Shinyanga, Geita, Mbeya, Arusha, and Mtwara.
- However, several issues of concern were raised regarding CSR, including some business enterprises, especially medium and small-scale companies regarding CSR to be for big companies only; poor knowledge of CSR and its importance; complaints by businesses about being harassed by LGAs; conflicting priorities between investors and LGAs; accountability for the funds contributed to LGAs; and some investors not doing well in most or other aspects of CSR.

5.2. Local Content Requirements

- Local Content Requirements (LCR) requires business enterprises in the mining and petroleum sectors to use domestically manufactured goods or domestically supplied services and prioritize local employment.
- Regarding local content obligations, various reviewed documents, including budget speeches, showed that there has been some positives, including increased employment for Tanzanians and local provision of services in the mining sector.
- Evidence of compliance with LCR was also found in some of the surveyed regions, especially Shinyanga, Mara, and Mbeya.



- Several factors have been identified as obstacles to effective implementation of LCR, including overlapping institutional authorities, which is caused by existence of multiple MDAs which regulate LCRs.

5.3. Consumer Protection

- The survey found that despite efforts by relevant regulatory authorities, counterfeit and substandard products continue to be a big problem in Tanzania. When asked about existence of counterfeit and substandard products, 27% of the community members said they had bought a fake or substandard before, decreasing from 37% in the previous survey. However, the percentage could be higher, since only half of them (50.2%) said they inspect goods or products before buying them.
- Like in the previous survey, the survey found that most community members tend to take no action when they come across counterfeit or substandard products. 48% of respondents who claimed to have bought or come across counterfeit or substandard products said they did not take any action. 20% of the respondents who claimed they had bought and consumed fake or substandard product said they suffered harm.

6. Corporate Environmental Responsibility and Respect for Human Rights

6.1. Corporate Environmental Responsibility

- Corporate officials at the surveyed business enterprises were asked whether they have in place environmental management policy. Only 45.4% of the businesses were said to have such policy in place. However, only a few were able to produce copies of such policy.
- Community members also identified different forms of environmental pollution, caused by industrial operations. Incidents of environmental pollution were reported in 13 out of the 14 regions (93%), categorized as air pollution, water pollution, land pollution, and noise pollution.
- Air pollution constituted the largest percentage of reported environmental pollution (40.5%), followed by land pollution (27%), and water pollution (21.7%). Noise pollution accounted for the smallest percentage, at 10.8%.



6.2. Corporate Respect for Human Rights

- Environmental pollution caused by industrial operations continued to be cited as the biggest human rights concern for community members. 25.2% of community members said environmental pollution is their biggest human rights concern when it comes to industrial and company operations, followed by violence against women and children (17%). Less than 10% mentioned other corporate human rights violations, such as property/land rights violations, torture by security guards/police, and child labour.
- Regarding access to remedy, only just above a third of community members (38.6%) said they were aware of existing community grievance mechanisms for addressing disputes between them and companies. Majority of them, (50%) said they were dissatisfied with the grievance mechanisms, one of their biggest concerns being corruption. They also mentioned inadequate compensation and delays in accessing remedy as key issues.

7. Gender and Other Forms of Discrimination in the Business Sector

7.1. Gender Discrimination

- Women experience various business-related human rights abuses, including gender discrimination and violence. The survey identified various key issues which affect women's rights in the business sector in Tanzania. These issues include women being disproportionately affected by long working hours due to additional home care duties; women mostly occupying low-paying jobs; inadequate wages and delays in payment of such wages; low rate of employment; women discrimination in the job market and at workplaces, including some jobs being considered men's jobs only; unfriendly working environment; women workers being subjected to different forms of violence and harassment in the workplace; objectification and sexualization of women's bodies, especially of female workers in the hospitality sector; sextortion and sexual harassment of women seeking employment; and pregnancy and maternity discrimination at workplaces. These issues relate to employment and labour.
- Other key issues affecting women in the business sector include lack of meaningful participation in land acquisition for investment process; women being disproportionately affected by non-payment of taxes, which affects Government's ability to safeguard socio-economic rights; and women being disproportionately affected by issues of environmental pollution and climate change.



- Women in the informal sector continued to be faced with various challenges, including limited access to credit because of lack of security to secure loans from financial institutions; underrepresentation in leadership, especially among female market traders; lack of sufficient capital; being subjected to various forms of violence, including sexual violence, psychological violence, and economic violence. Other challenges that women in the informal sector include low awareness about women's rights, and low level of education and entrepreneurial skills.

7.2. Discrimination based on Disability

- Discrimination based on disability was found to persist in all surveyed regions. The survey identified various key issues affecting Persons with Disabilities (PWDs) in business (private sector), most of which were also observed in the previous survey. These issues include lack of employment and economic opportunities; perception of 'disability means inability' among employers; loss of employment; unfair working conditions; and poor implementation of the Persons with Disabilities Act, 2010.
- The survey found that most employers have not employed PWDs, citing reasons such as industrial work being 'difficult,' 'PWDs being expensive to accommodate,' and 'PWDs not being as effective as persons without disability.'

7.3. Other forms of Discrimination

- Other forms of discrimination that were revealed or alleged at surveyed workplaces include discrimination based on tribe and racial discrimination. These allegations were made by some of the interviewed at some of the workplaces in Shinyanga, Arusha, and Mtwara.

D. Key Recommendations

1. Business Compliance with Labour Laws and Standards

- 1.1.** Business enterprises to comply with their responsibility to respect human rights, including by respecting and safeguarding labour rights.
- 1.2.** 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.
- 1.3.** The Government to review and adopt a new Wage Order to safeguard the right to fair remuneration and right to adequate standard of living.



2. Land Acquisition for Investment

- 2.1. 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.
- 2.2. 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.
- 2.3. 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.

3. Business Compliance with Tax Obligations

- 3.1. Businesses to comply with their obligation to pay taxes to enable the Government to provide quality social services.
- 3.2. The Government to revisit laws and regulations granting tax exemptions and other incentives to check the possibility of reducing them in order to boost revenue collection in line with international best practices.
- 3.3. The Government to take measures to address the problem of multiplicity of taxes to reduce inconveniences for businesses. It should consider harmonizing some of the taxes.

4. Corporate Social Responsibility and Local Content Obligations

- 4.1. Business enterprises, including SMEs, to embrace and practice corporate social responsibility (CSR).
- 4.2. The Government, through relevant ministries led by the Ministry of Constitutional and Legal Affairs, to enact law on CSR, to regulate CSR for all business enterprises. All relevant stakeholders, including companies, should be closely involved in this process.
- 4.3. The Government to closely monitor implementation of local content obligations, ensuring business enterprises in the mining and petroleum sectors, comply with local content requirements.



5. Corporate Environmental Responsibility and Respect for Human Rights

- 5.1.** 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.
- 5.2.** The Government should take action against businesses that violate human rights as part of its duty to protect human rights and ensure the victims have access to effective remedy.
- 5.3.** 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.

6. Gender and Other Forms of Discrimination in the Business Sector

- 6.1.** The Government should ensure business enterprises adopt affirmative measures to protect PWDs, women and PLHIVs from any form of discrimination at workplace, including when accessing employment.
- 6.2.** The Government, through the Ministry of Labour, Employment and Youth Development, to ensure business enterprises take measures to promote equality in the business sector and refrain from gender and other forms of discrimination, including by adopting and implementing anti-discrimination policies.

7. Performance and Effectiveness of Regulatory Authorities

- 7.1.** 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.
- 7.2.** Regulatory authorities should increase efforts of raising community awareness about their mandates and functions in order to increase accessibility.





8. Business Environment and Consumer Protection

- 8.1.** The Government, through the Ministry of Trade and Investment, to take measures to improve business environment in Tanzania, especially for SMEs and small-scale traders, by addressing the challenges that they face including limited access to credit/finance, inadequate capital, poor market access.
- 8.2.** The Government to strengthen regulatory authorities that inspect goods and products, including Fair Competition Commission (FCC) and Tanzania Bureau of Standards (TBS), to intensify efforts of curbing importation of counterfeit and substandard products in order to safeguard consumer rights.
- 8.3.** FCC, TBS, the national human rights institution (CHRAGG), and CSOs to increase public awareness on consumer protection and encourage community members to inspect good and products before purchasing them.





CHAPTER ONE

GENERAL INTRODUCTION

1.1. Background Information

1.1.1 Survey Report and Rationale

This report contains the main findings, analysis and some suggestions of the survey conducted on business and human rights compliance in Tanzania. It is the twentieth version, continually published by the Legal and Human Rights Centre (LHRC) since 2012. As it is further clarified below, the main objective of this report is to shed light on human rights in business sector in the period of 2021/2022. The report also highlights progress made by providing comparisons with the previous years, especially the immediate ending year, 2020/2021.

As a lead and authoritative human rights organization in Tanzania, LHRC has been taking charge to not only promoting and pursuing protection of human rights in the country, but also, expanding the same to reflect the global contexts (standards). It is from this noble mission that, immediately after an adoption of the United Nations Guiding Principles of Business and Human Rights of 2011 (UNGPBHR), LHRC started seeking to pursue its (i.e. UNGPBHR) incorporation and implementation at the national legal and policy frameworks. As a way of operationalizing this, LHRC designated a specific unit within its organizational structure to deal with corporate responsibilities (in relation to human rights compliance). Then, the 2010s strategic plans reflected this agenda as one of the deliverable outputs annexed to research and advocacy for reforms.

Now then, in order to engage in meaningful and therefore effective reform processes aimed at pursuing implementation of the UNGPBHR's norms, this and previous similar surveys or studies have been carried out. They all intended to generate some data and information so that LHRC could pursue evidence-based advocacy. Moreover, the way in which this survey report is designed could not only be used as an advocacy tool, but also, as reference materials for publicizing the UNGPBHR's standards in the country.

1.1.2 Impacts of the BHR's Survey Reports

A decade of surveys (researches) on and publication of business and human rights (BHR) report by LHRC, has resulted into, among several other results:-

- i) Increased awareness of human rights norms applicable in business sector. For instance, a number of violations associated with the practices of business enterprises in almost all economic sub-sectors e.g. relating to unlawful termination of employment contracts, are relatively decreasing compared with the trends in early 2010s.



- ii) Incorporation of BHR agenda into the national human rights frameworks. For instance, the Commission for Human Rights and Good Governance (CHRAGG) which is the constitutional and statutory creature national human rights institution (NHRI) in Tanzania, has specific portfolio (unit and thematic area) on BHR. The CHRAGG has also reflected BHR into its current Strategic Plan and it pursues for development and implementation of the National BHR Action Plan.
- iii) Reforms of some laws and regulations e.g. an enactment of the Non-Citizens (Employment Regulations) Act of 2015;² incorporation of requirements of corporate social responsibilities (CSR) and local contents in mining legal framework since 2018;³ new legal position transparency of investments concessions e.g. in mining sector;⁴ and, enactment of a number of laws and rules to safeguard natural resources for the people of Tanzania.⁵
- iv) Increased performance of State's regulatory authorities or agencies with oversight mandates especially on environmental management and revenue collection. Incidents of environmental pollutions caused by business practices are reportedly low as it is further explained in subsequent sections of this report.
- v) Improved revenue collection attributed to, among other reasons, responsiveness of the business enterprises to pay taxes and development levies. The current total collections are over TZS 17 trillion per annum comparing to only around half of that figure in 2015/2016 financial year (FY) as it is also explained in this report.

1.1.3 Thematic Areas and Salient Features of BHR's Survey

An assessment of compliance of human rights norms by business enterprises has been expanded over period of time. Initially, LHRC considered only five thematic areas as case studies namely employment and labor practices; land ownership and management; accountability in tax matters; environmental justice; and, CSR. But, over period of time, a focus has been expanded to consider also gender-rights issues; performance of regulatory authorities; issues pertaining local contents and consumer protection. A discussion on business environment is also expanded this time around.

² Act No. 1/2015. The LHRC recommended for enactment of kind of this law in its BHR's report of 2013. At that time, there was perceived trend of foreigners especially with Asian origin occupying business sector even petty one in Kariakoo International Market, Dar es Salaam. There was an outcry from the SMEs and other local traders that, the said foreigners were using their financial muscles to displace them from Kariakoo's market stalls and then, turn such local traders into being cheap labour. Then, LHRC suggested for legal mechanisms to protect local traders with insufficient capital and skills. The 2015 addresses this suggestion to a large extent. However, more is still desired as it is elucidated in the main text of this report.

³ Regulation 4 of the Mining (Local Content) Regulations of 2018. There is also Petroleum (Local Content) Regulation of 2017.

⁴ The Mining Act of 2010 was amended in 2017 through the Written Law (Miscellaneous Amendments) Act of 2017 to among other issues, require any mineral and petroleum agreements be submitted to the National Assembly (for perusal).

⁵ Key ones being the Natural Wealth and Resources (Permanent Sovereignty) Act of 2017; and, the Natural Wealth and Resources Contracts (Review and Re-negotiation on Unconscionable Terms) Act of 2017.



These thematic areas are purposively chosen. For instance, the one on employment and labor practices, which claims at least 25% of the contents of this report is the most crucial one as it maps compliance of full package of labor rights in line with national and international standards. The workers are key partners in business enterprises. Land and taxation themes are for consideration of micro and macro developments. Business environment and regulatory authorities are for assessing, among others, their implications to human rights protection, respect and remedy. On the other hand, gender, local contents, protection of consumers and CSR are generally for considering inclusion, participation and protection of local communities including vulnerable groups against possible human rights violations.

There are at least three salient (main features) of this survey as its analysis and findings presented in this report. The first one is comparative analysis i.e. geographically within Tanzania, thematically, and trends over period of time. Secondly, predominantly relying on primary data or information e.g. at least 80% of the information in this report is collected from the field. This approach is aimed at making the report more practical than being theoretical. Many comments by interviewed respondents have been quoted to reflect the reality on the ground. Thirdly, there is much wider consideration of international human rights frameworks plus national policies including the National Five-Year Development Plan of 2021/2022-2025/2026 (FYDP III).

1.2. Objectives of Survey

As is briefly hinted earlier, the main objective of is survey was to assess status and progress of business sector's compliance with human rights standards so that to offer suggestions on areas needing further improvements especially with regard to UNGPBHR of 2011 (explained in part two of this report) and so many other regional and international human rights instruments (all discussed extensively from part three of this report).

The specific objectives of the survey were:-

- i) To determine the extent businesses observed labour and human rights standards in the year 2021/22 as part of their responsibility to respect human rights while addressing gender inequality concerns and priorities.
- ii) To examine an inclusive adherence to land laws and human rights standards in business land acquisition for investment.
- iii) To assess compliance of businesses with tax obligations, corporate social responsibility, local content requirements, and environmental responsibility in the year 2021/22, with specific focus on those affecting women, children and persons with disabilities (PWDs).
- iv) To assess inclusive and participatory awareness of labour and human rights laws among workers and community members.



- v) To provide relevant practical recommendations to promote human rights in the business sector through the formulation of new and inclusive policies or reform of existing laws and policies in the sector while considering the needs and priorities of women, children and PWDs.
- vi) To assess the level of participation, and equitable access to remedy for communities, particularly for deprived women, children, elderly, PWDs and other marginalized groups whose socio-economic and environmental rights have been violated.

Therefore, the study sought to make available data and information to help both state and non-state actors make sound decisions regarding key business and human rights issues highlighted above and detailed below.

1.3. Design and Scope of Survey

This survey was designed on the assumption or rather consideration of legal obligations that, establishment and operations of business enterprises must abide by human rights and business standards stipulated under the national, regional, and international norms. Generally, the norms, as clarified further in subsequent sections, require avoiding causing or contributing to adverse human rights impacts relating to business operations, products made, and services provided. Moreover, when violations occur, they are not to be complicit in the human rights abuses. They should ensure they provide victims of such violations access to remedy. The data collection tools used were designed against such norms and others – reflecting all survey's thematic areas mentioned above.

Secondly, this is situational analysis report. Therefore, it maps and make an analysis of both adverse and progressive changes over period of time, especially for the year 2020/2021.

Thirdly, the coverage of this report is only Mainland Tanzania owing to the distinctiveness of legal frameworks governing conduct of research between Mainland Tanzania and Zanzibar. Moreover, wider coverage beyond Mainland Tanzania could have attracted more financial implications which are not within LHRC's plan at the moment.

1.4. Mainland Tanzania as Study Area

Mainland Tanzania is part of the United Republic of Tanzania (URT), which is comprised of Zanzibar as well. 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 (referred as the roof of 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.⁶ The unimodal areas experience rainfall once per year whereas the bimodal areas experience rainfall two times a year.⁷

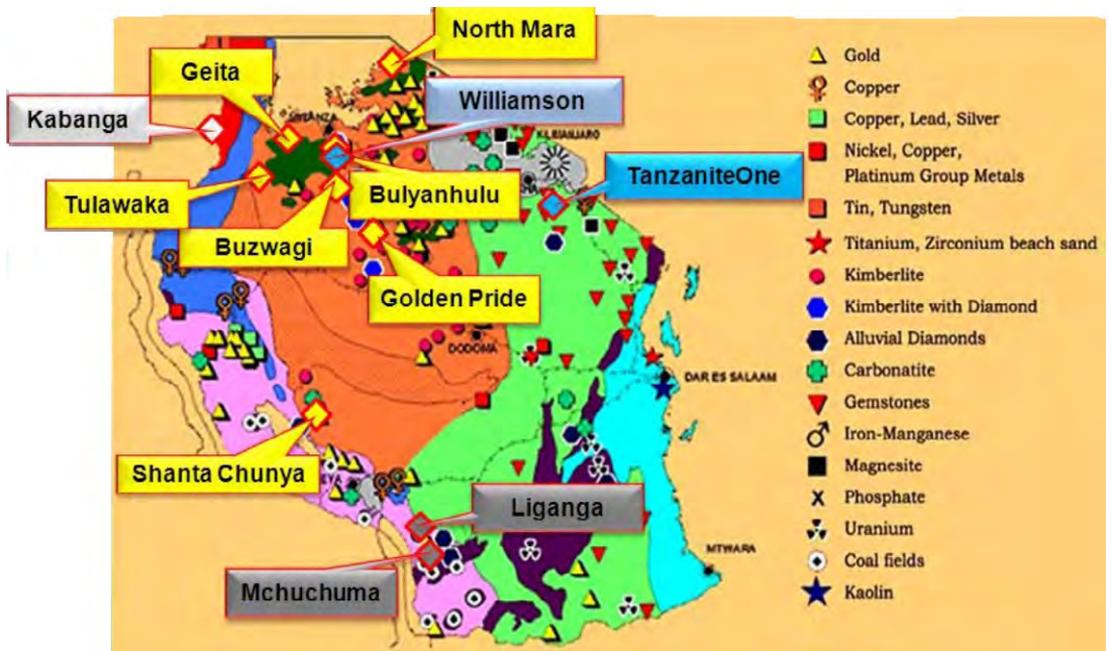
Further, Tanzania is endowed with abundant natural resources (living and non-living), including minerals such as Tanzanite, Gold, Diamond, Copper, and Iron, which are found abundantly. Major mining projects which have materialized due to the existence of minerals include Tanzanite mining in Mererani (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 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.⁸

⁶ See Tanzania Meteorological Authority (TMA) website at <http://www.wamis.org/countries/tanzania/tanzSCF-Mar-May2019-swahili.pdf> and www.meteo.go.tz, accessed on 10th 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>.

⁷ Unimodal areas include the following localities: Western regions (Rukwa, Katavi, Tabora and Kigoma); Central regions (Dodoma and Singida); Southern highlands (Mbeya, Iringa, Njombe and Southern Morogoro); and Southern regions and Southern Coast regions (Ruvuma, Mtwara and Lindi). The bi-modal areas include the following: Lake Victoria basin (Kagera, Mara, Mwanza, Geita, Simiyu and Shinyanga); Northern coast and hinterlands (Dar es Salaam, Tanga, Coast, Extreme Northern Morogoro areas, and isles of Unguja and Pemba); and North-eastern highlands (Kilimanjaro, Arusha and Manyara). Note: The bi-modal regions usually experience short rainfall (vuli) in the months of October to December and long rainy season (masika) usually starts around the end of March to May.

⁸ United Republic of Tanzania, The National Natural Gas Policy of Tanzania 2013, p. 2.





Picture 1.1: Tanzania Minerals Map

Source: Tanzania Chamber of Mines⁹

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.¹⁰ 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. The discovered natural gas is aiming at generating power, with a major project of the Kinyerezi Power Plant.¹¹

There are also water bodies including 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.¹²

⁹ <https://www.tcme.or.tz/mining.html>.

¹⁰ See <http://www.dangotecement.com/operations/tanzania/> was accessed on December 2018 during previous studies.

¹¹ See www.pesatimes.com/news/energy-mining/kinyerezi-power-plant-to-add-150 megawatts, re-accessed on 15th July 2022.

¹² 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 investments, both internal and external. Indeed, hundreds of foreign investments are attracted each year in Tanzania. For instance, the foreign direct investments (FDI) inflows in Tanzania reached USD 4.1 billion in the period of March - November 2021, being an increase of over 300% if compared with 2020's trend. The trend has also been steadily growing up since 2016 as Figure 1.1 below shows.

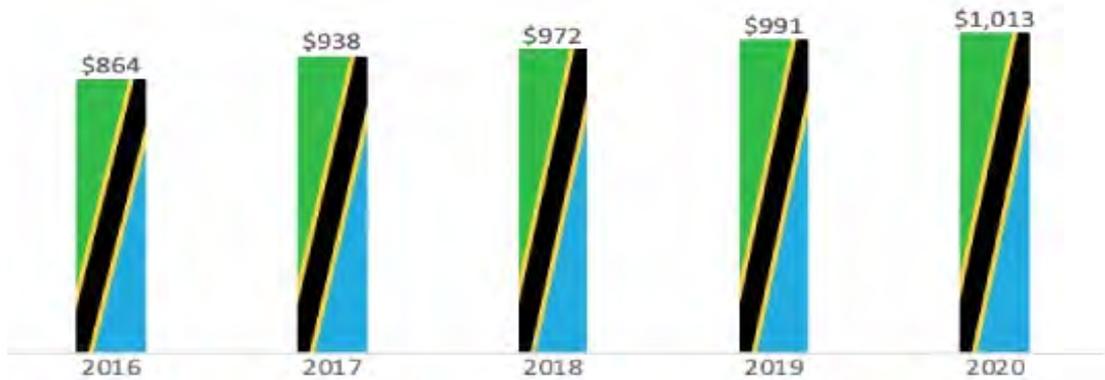


Figure 1.1: Tanzania FDI Inflow 2016-2020

Source: Tanzania Invest, 2020¹³

According to the same source,¹⁴ FDIs to Tanzania were drawn mostly to the mining sector, the oil and gas industry, and the primary agricultural products sector (coffee, cashew nuts and tobacco). The primary investors to Tanzania are China, India, Kenya, United Kingdom, Mauritius, Oman, the United Arab Emirates, Canada, the United States, the Netherlands, South Africa, and Germany.

1.5. Methods of Data Collection and Analysis

1.5.1. Approaches and Tools

This 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. Sources of data were both primary and secondary.

Major source of information for this report, as said earlier (80%) was primary data obtained through set of questionnaires for each category of respondents indicated below. The main categories of interviewed respondents were the employees (workers), employers (owners and management teams of business enterprises), regulatory authorities, local government authorities (LGAs), community members, judicial officers, academicians, and others. Table 1.1 below indicates the tools used for collection of primary data.

¹³ Accessed with modifications (i.e. skipped 2015) from: <https://www.tanzaniainvest.com/fdi>

¹⁴ Read more at: <https://www.tanzaniainvest.com/fdi>



Table 1.1: Tools used to collect data for each group of respondents

| Method [Tool] | # Respondents | Targeted Group/Area |
|---|---------------|---|
| Questionnaires [Semi-structured Questionnaires] | 1,580 | <ul style="list-style-type: none"> ■ Employees/ workers. ■ Corporate management officials. ■ Community members. ■ Regulatory authority officials. ■ Bus and truck drivers. |
| Interviews [Interview Guide/KII Guide] | 141 | <ul style="list-style-type: none"> ■ Community members. ■ Local government officials. ■ Market traders. ■ Other. |
| Observation [Observation Checklist] | - | <ul style="list-style-type: none"> ■ Workplaces. |
| Focus Group Discussion [FGD Guide] | 200 | <ul style="list-style-type: none"> ■ Community members. ■ Employees/workers. |
| Total | 1,921 | |

Source: Field Data, 2022

Apart from questionnaires and interview guides for focus group discussions (FGDs), data were collected through observation e.g. compliance of disability friendly working environments.

The questionnaires were uploaded on a tool termed as ODK which is a standard software for mobile (phone) data collection. Therefore, the Assistant Researchers (ARs) used their smart phone to collect data through ODK, which were uploaded directly to the main server managed by the survey's data analyst. However, notes of FGDs were hand-written. This was possible because in each sampled location, two ARs were fielded to complement each other.



Picture 1.2: Interviews with respondents in Morogoro (left) and Iringa (right)



Secondary data were obtained through desktop research and review of various reports, laws, policies, regulations and other documents on labour laws, rights and standards produced by domestic and international actors. A list of documents reviewed is embodied herewith at the end of this report.

1.5.2. Sampling Size and Criteria

A total of 14 regions of Mainland Tanzania (being 54% of all regions located in Tanzania Mainland) were purposively sampled for this survey.

1.5.2.1. Geographic Sampling and Criteria

The regions sampled were Dar es Salaam; Pwani; Morogoro; Dodoma; Mwanza; Shinyanga; Geita; Mara; Iringa; Mbeya; Kilimanjaro; Arusha; Tanga; and Mtwara. Approximately 80% of the regions were also visited during the previous survey, conducted in April 2021. This is important in terms of showing trends and changes at regional, zonal, and national levels.

As was the case during the previous survey, a total of 3 districts in each of the survey regions were earmarked for the survey. Nearly 50 districts were therefore expected to be reached, and this target was reached (representing around 30% of all districts of Mainland Tanzania). The districts were purposively identified based on presence of investments or businesses. The regions and districts reached by the survey are listed in table 1.2 below.

Table 1.2: Number of Regions and districts reached by the BHR Survey 2022

| Zones | Districts (Regions) |
|-------------------------|---|
| Eastern Zone | Temeke, Ilala, Kinondoni, Ubungo, Kigamboni (Dar es Salaam) Bagamoyo, Kibaha, Mkuranga (Pwani) Morogoro, Kilombero, Kilosa (Morogoro) |
| Central Zone | Dodoma, Kongwa, Bahi (Dodoma) |
| Lake Zone | Nyamagana, Ilemela, Magu, Misungwi (Mwanza) Shinyanga MC, Kishapu DC, Kahama TC, Kahama DC (Shinyanga) Geita TC, Geita MC, Nyang'hwale, Chato (Geita) Musoma, Tarime, Rorya (Mara) |
| Southern Highlands Zone | Iringa MC, Iringa DC, Mufindi, Kilolo (Iringa) Mbeya CC, Chunya, Mbarali (Mbeya) |
| Northern Zone | Moshi MC, Moshi DC, Hai, Siha (Kilimanjaro) Arusha, Meru, Longido (Arusha) Tanga MC, Korongwe, Muheza (Tanga) |
| Southern Zone | Mtwara MC, Mtwara DC, Masasi (Mtwara) |
| Total | 49 |

Source: Field Data, 2022



The geographic sampling was not haphazardly done. As said earlier, some criteria were considered, mostly being practical ones, including the following:-

- i) Zonal representation at Table 1.2 above shows.
- ii) Presence of various types of economic sub-sectors e.g. Dar es Salaam and Pwani (manufacturing, processing, transport, banking, etc. sub-sectors); Arusha and Kilimanjaro (tourism, cross-border trading, land matters, etc.); Mara, Geita and Shinyanga (mining, livestock, etc.); Tanga and Mwanza (fishery, etc.); Mtwara (gas exploration, cashew nuts, etc.); Iringa, Dodoma, Mbeya and Morogoro (land, agriculture, livestock, etc.); and, so many other considerations.
- iii) Coverage of previous studies especially the most immediate one (80% of them as said earlier).
- iv) Availability of specified information e.g. government's ministries e.g. Dodoma and Dar es Salaam.
- v) Cross-border interactions e.g. Mbeya, Arusha, Mara and Kilimanjaro.
- vi) Follow-up of pending issues previously spotted e.g. Geita and Mara regions.
- vii) Being 'hot-spot' areas, which are prone to human rights violations or had incidents recently reported e.g. mining areas in Shinyanga and Geita, cashew nut issue in Mtwara.

An assortment of this sampling criteria has enabled to deepen analysis e.g. comparing trends amongst the economic sub-sectors and therefore, drawing some conclusion which could influence interventions suiting a particular sector. For instance, mining and plantations are still perceived as sub-sectors prone for child labour; violations of labour rights are perceived in all sectors, with magnitude observed higher in transportation, manufacturing and processing sub-sectors. These are just a few examples. Deeper discussions follow from chapter three of this report.

1.5.2.2. Respondent Sampling and Criteria

At least five categories of respondents in those geographical locations mentioned above were sampled. Those include the workers of business enterprises, employers, regulatory authorities, LGAs, market traders, drivers, ministries, and community members.

The institutions and business enterprises were consulted through their representatives who were senior or authorized officers. In total, this survey has reached 1,921 individual persons (42% being females). Table 1.3 below shows the number and percentage of respondents reached during the survey by sex.

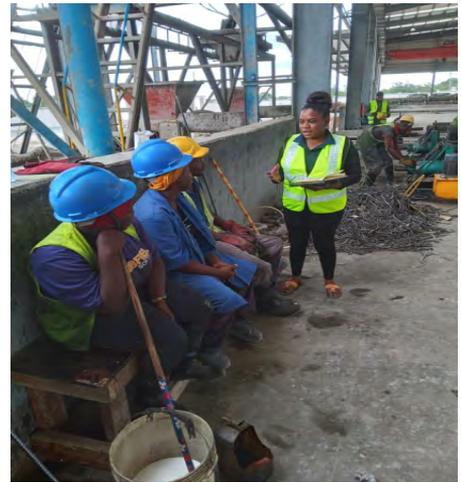


Table 1.3: Respondents of Human Rights and Business Survey 2022 by Sex

| Respondents | Female | Male | Total | % |
|--------------------------------|------------|--------------|--------------|------------|
| Community members | 431 | 382 | 813 | 42 |
| Corporate management officials | 28 | 73 | 101 | 5 |
| Employees/workers | 292 | 418 | 710 | 37 |
| Regulatory authority officials | 6 | 25 | 31 | 2 |
| LGA officials | 24 | 45 | 69 | 3.5 |
| Bus and truck drivers | 1 | 124 | 125 | 6.5 |
| Market traders | 19 | 41 | 60 | 3 |
| Other | 5 | 7 | 12 | 1 |
| Total | 806 | 1,115 | 1,921 | 100 |

Source: Field Data, 2022.

As shown in Table 1.3 above, community members accounted for the majority of respondents (42%), followed by workers at 37% and bus and truck drivers at 6.5%, corporate management officials constituted 5% of the respondents, market traders 3% and regulatory authority (officials) 2%.



Picture 1.3: Focus group discussion with community members in Mtwara Region (left) and interview with workers at a construction company in Pwani Region (right)

Sampling of business entities considered the size (big and small and medium); types or nature of their operations e.g. manufacturing, extractive, services, etc.; type of products manufactured e.g. electronics, chemicals, iron, etc.; ownership e.g. local or foreigners; locality e.g. urban or rural-based; etc. Figure 1.2 below clarifies further.



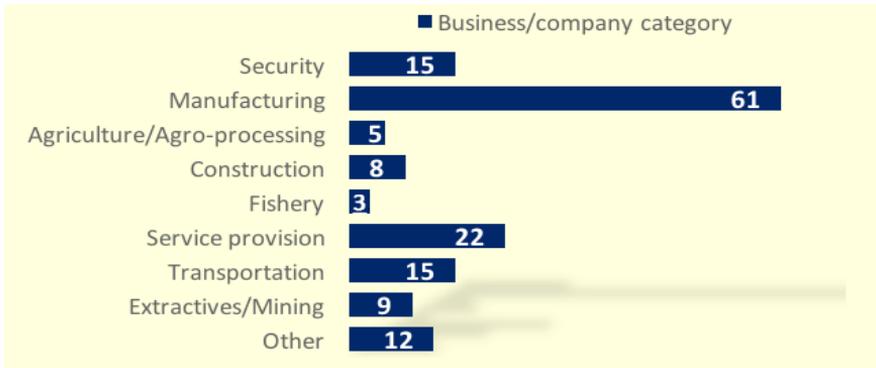


Figure 1.2: # Businesses reached by nature of business

Source: Field Data, 2022

The businesses (150) were purposively and randomly selected depending on the context and issues. Majority of the businesses (80%) reached were also reached during the previous survey, conducted in April 2021. Majority of businesses reached (41%) belonged in the category of manufacturing, followed by service provision (15%), and security and transportation, both at 10%.

1.5.2.3. Socio-Demographic Characteristics of Respondents

With a view of making this survey inclusive and therefore widely covering the sentiments of different gender groups, professions, and other demographic features, random but systematic choice of respondents was considered e.g. different characteristics in terms of age, sex, education, disability, occupation, and working experience. These characteristics are briefly discussed below.

(a) Age Groups of Respondents

Majority of workers and community members (being 56.9% and 43.4% respectively) had ages ranging between 26 and 35. Almost half of them were females. Table 1.4 below indicates representation of other age groups.

Table 1.4: Distribution of Respondents by age groups – Workers and Community Members

| Workers/ Employees (N=710) | | | Community Members (N=813) | | |
|----------------------------|---------------|---------------|---------------------------|---------------|---------------|
| Age | # Respondents | % Respondents | Age | # Respondents | % Respondents |
| 18-25 | 120 | 16.9 | 18-25 | 104 | 12.8 |
| 26-35 | 404 | 56.9 | 26-35 | 253 | 43.4 |
| 36-60 | 183 | 25.8 | 36-60 | 319 | 39.2 |
| 61+ | 3 | 0.4 | 61+ | 37 | 4.6 |
| Total | 710 | 100 | Total | 813 | 100 |

Source: Field Data, 2022



Since the fact that random (but systematic) sampling technique was used e.g. picking them on the streets and working stations, having majority of interviewees aging between 26 and 35 years could suggest that, these are most active individual persons in the labour market. The community members aging between 36 and 60 were self-employed, some with relatively stable business ventures. Apparently, at that range of age, there is a possibility for them to get capital and start own business instead of being employed. Youth with age ranging between 18-25 years were mostly in motorcycle commuter services and casual labour as it is further indicated in chapter three of this report.

As for drivers, overwhelming majority of them fell in the age categories of 26-35 (48%) as well and 36-60 (48%). Only 4% of the drivers were aged 18-25 years, while there was none in the age group of 61 years and above.

(b) Sex of Respondents

Majority of workers and community members interviewed were males and females respectively. That is, at least 58% of workers interviewed were males and 53% of community members were females as Table 1.5 below shows.

Table 1.5: Distribution of Respondents by Sex – Workers and Community Members

| Workers/ Employees (N=710) | | | Community Members (N=813) | | |
|----------------------------|---------------|---------------|---------------------------|---------------|---------------|
| Age | # Respondents | % Respondents | Age | # Respondents | % Respondents |
| Male | 418 | 58.9 | Male | 382 | 47 |
| Female | 292 | 41.1 | Female | 431 | 53 |
| Total | 710 | 100 | Total | 813 | 100 |

Source: Field Data, 2022

Most of the female community members were market traders, especially in urban areas, while those found in rural or peri-urban areas, were actually found engaging in agro-pastoralism, which is basically an informal sector. On the other hand, having nearly 60% males working in formal (i.e. formalized) business enterprises like corporate companies (regardless of being casual labour), could suggest that, informal sector e.g. agro-pastoralism and petty trading is largely occupied by females. In gender perspective then, there is high possibility that males are the most direct beneficiaries of formal business sector in the country. This is, however, an overview perspective further to deeper analysis that the ongoing national census would come out.



A much critical gender parity was observed in transportation sector i.e. drivers of commercial vehicles especially trucks and buses. Despite a struggle of trying to reach out female drivers, 99.2% of them (i.e. 124 of 125) found active in this sub-sector were actually male drivers. Therefore, only 1 out of 125 drivers randomly sampled 0.8% was a female. However, a separate assessment on metered taxis like **Uber** and **Bolt** in Dar es Salaam, found that, at least 15% of the taxi drivers were females and their number is projected to steadily grow if this business service would continue.

(c) Level of Education of Respondents

Most of the interviewed respondents sampled had ordinary secondary school level of education, being 42% and 38% of workers and community members respectively. The respondents with higher level of education (i.e. college and university) were 22% and 21% for workers and community members respectively. Table 1.6 indicates more.

Table 1.6: Distribution of Respondents by Level of Education – Workers and Community Members

| Workers/ Employees (N=710) | | | Community Members (N=813) | | |
|----------------------------|--------------|--------------|---------------------------|--------------|--------------|
| Education | #Respondents | %Respondents | Education | #Respondents | %Respondents |
| Informal education | 49 | 7 | Informal ed. | 55 | 7 |
| Standard 7 | 101 | 14 | Standard 7 | 245 | 30 |
| Form 1 – 4 | 300 | 42 | Form 1 – 4 | 305 | 38 |
| Form 5 – 6 | 107 | 15 | Form 5 – 6 | 30 | 4 |
| Higher education | 153 | 22 | Higher education | 178 | 21 |
| Total | 710 | 100 | Total | 813 | 100 |

Source: Field Data, 2022

It is this survey's finding that, on part of workers, those with levels of education at college and university levels were actually engaged in relatively senior positions including being store and transport officers; while, workers with education level of high school and below were mostly in subordinate positions including being casual workers. Presence of free-education policy has attributed to an increase of youth with education levels above primary school. However, the labour market still misses adequate skilled labour especially because most of the form four or high school graduates do not have specialized e.g. vocational training skills. This is a policy issue e.g. the linkage between education policy and macro-economic development policy e.g. presence of skilled labour as one of the indicators of conducive business environment – discussed in details in chapter two of this report.



(d) Disability Status of Respondents

Among workers interviewed, only 8 (1%) had disabilities, while 702 (99%) had no disability. Among community members 39 (5%) had disability, while the remaining 774 (95%) did not have any disability. Among drivers (125), there was no one with disability.

The statistics here connote several meanings and implications. For instance, on part of workers, this survey established that, only around 1% of PWDs with various forms of disabilities were actually engaged in formal employment in the workstations sampled for data collection. This is actually contrary to the Persons with Disability Act of 2010, which requires employment of at least 3% of qualified PWDs in a workstation with 20 and above workers. A need for specific study on this subject matter e.g. reasons for disobeying of the legal directive is urged to come out with concrete reasons of this trend.

(e) Working Experiences – Drivers and Other Workers

At least 46% of the truck and bus drivers and 41% of other workers serving in different sectors had working experiences of between 2 and 4 years. Only 7% had experiences slightly above 7%. Table 1.7 indicates more details.

Table 1.7: Distribution of Respondents by Work Experience – Drivers and Other Workers

| Truck and Bus Drivers (N=125) | | | Other Workers/ Employees (N=710) | | |
|-------------------------------|--------------|--------------|----------------------------------|--------------|--------------|
| Age | #Respondents | %Respondents | Age | #Respondents | %Respondents |
| Below 1 year | 17 | 13.6 | Below 1 year | 119 | 16.8 |
| 1 year | 21 | 16.8 | 1 year | 172 | 24.2 |
| 2-4 years | 58 | 46.4 | 2-4 years | 288 | 40.6 |
| 5-9 years | 20 | 16 | 5-9 years | 77 | 10.8 |
| 10+ years | 9 | 7.2 | 10+ years | 54 | 7.6 |
| Total | 125 | 100 | Total | 710 | 100 |

Source: Field Data, 2022

Basing on field consultations, there were some instances to suggest that workers who had longer experiences in their work had much more awareness and knowledge of legal rights, especially amongst the drivers. This happens so because of sharing experiences. Less than 30% of all these categories of workers had sustainably remained working with one employer for more than 5 years. This means that, mobility of workers from one employer to the other is relatively high – for obvious reasons of searching ‘greener pasture.’ On other perspective, this could be attributed to feelings of insufficient job security.



It is also a concern that, a good number of these workers have been working as casual ones for years as it is further explained in chapter three of this report.

(f) **Main Occupations of Respondents – Community Members**

Most of the respondents had multiple occupations. Therefore, the question was directed to solicit the main one which a particular respondent was doing at the time of this survey in July 2022. Basing on their responses, majority of them (49%) said to be traders especially in urban areas; whereas 20% were agro-pastoralists, based in peri-urban and rural areas. Table 1.8 explains more.

Table 1.8: Distribution of Respondents by Occupation – Community Members Only

| Occupation/ Sector | #Respondents | %Respondents |
|-------------------------------------|--------------|--------------|
| Business (trading). | 400 | 49 |
| Fisheries. | 13 | 2 |
| Agriculture (& Livestock Keeping). | 161 | 20 |
| Being employees in various sectors. | 65 | 8 |
| Other occupations. | 81 | 10 |
| Students. | 24 | 3 |
| None ('jobless'). | 69 | 8 |
| Total | 813 | 100 |

Source: Field Data, 2022

The community members sampled for this study were the ones residing or doing economic activities nearby the locations where there were business enterprises established and operating their businesses. This was for capturing their views on environmental issues; CSRs; local contents; land matters; etc. None of the community members interviewed in other categories mentioned earlier.

1.5.3. Processes of Data Analysis and Presentations

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, were analysed using the ODK 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.



1.5.4. Ethical Considerations in Data Collection and Analysis

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, 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, majority of whom (75%) had prior experience in undertaking a similar survey, were well trained and prepared for data collection. All of the research assistants were university graduates. Training topics included human rights and business, research methodology, and research guidelines and principles.



Picture 1.4: Research assistants undergoing training on business and human rights at SeaShells Hotel in Dar es Salaam on 17th June 2022

Training of research assistants was essential in enabling them to collect accurate and reliable data. Some of the tools were translated into Swahili and interviews were mainly conducted in Swahili, especially with community members and workers. Field supervision was also conducted to ensure research assistants were in the field and properly conducting their field assignments. Research assistants were also monitored through the **ODK data** collection system and provided daily briefings through a **WhatsApp** group.



Additionally, LHRC research coordinator contacted the consultant and 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 Tanzania Mainland, including obtaining relevant permits from authorities and institutions. The survey teams worked closely with regional, district, and ward authorities to obtain appropriate authorizations to engage 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. A total of 16 (i.e. 53%) of the research assistants were females, while 14 (i.e. 47%) were males.

1.5. Limitations of the Survey Study

The survey study on business and human rights across 14 regions of Tanzania Mainland was faced with several limitations, notably:-

- i) 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 much of the information that was needed on the grounds of 'confidentiality.' Other branches, including the Tanzania Revenue Authority (TRA), the National Environmental Management Council (NEMC), and the Workers Compensation Fund (WCF), directed survey teams to seek information and data from their respective head offices. Moreover, some of these branches were hesitant to even share basic information such as key issues and challenges that are specific to their geographical locations.
- ii) 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 to be used e.g. interviewing the workers outside their workstations in some of the regions.
- iii) 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.

- iv) 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. This includes Dar es Salaam Region, where there are many businesses. The employers demanded setting appointments, most of which were unrealistic. Some of the corporate management officials also refused to provide relevant documents, such as policies, though they claimed to have them in place. This made it difficult for the research assistants to balance some of the information shared, allegations made by the respondents or seek clarifications on some of the issues raised. Some of the enterprises, especially in Dodoma, repeatedly postponed appointments to conduct survey at workplaces.
- v) Lack of or low awareness about 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 as a result of this and other studies' recommendations.

1.6. Report Structure

This report consists of nine (9) chapters, one less than in the previous report. There is also a slight reorganization of the chapters, whereby the previous chapter nine is rearranged to become chapter two and broadened to address business environments generally including the performance of the regulatory authorities. This is for creating a more logic flow of this report. The rest of the chapters flow accordingly with little modifications to enrich the contents and analysis. But, generally, same thematic areas are reflected.

Chapter One provides for a background information about this survey. This also includes objectives and methodologies. Chapter Two is on business environments and regulatory frameworks of the same. It provides an intrinsic link between such environments with the trend of human rights



compliance in business sector. There is also some discussions on population growth and its implication to the economy of Tanzania.

The third chapter looks at business compliance with labour laws and standards, while Chapter Four highlights land acquisition for investment purposes, focusing on compensation and awareness on land rights by communities. Chapter Five covers compliance with tax obligations by businesses. Chapter Six is on CSR, local content obligations and consumer protection (modified a little bit from previous reports). Chapter Seven 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.

Chapter Eight is on gender and other forms of discrimination in the business sector, while, Chapter Nine, the last one, provides conclusion and general recommendations to improve enjoyment and realization of human rights in the business sector.



CHAPTER TWO

STATE OF BUSINESS ENVIRONMENT AND REGULATORY FRAMEWORKS IN TANZANIA

2.1. Introduction

There is a direct or an intrinsic link between business practices, the environments within which the business enterprises operate and human rights. That is provided for by several international human rights instruments, most relevant one among others being, the United Nations Guiding Principles on Business and Human Rights of 2011 (UNGPBHR).

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 performance and efficiency of the regulatory authorities – which are actually the referees overseeing compliance with the national standards in the business sector. Specific recommendations on all these issues are also provided in this chapter. To begin with a business-human rights nexus is explored.

2.2. Overview of Business and Human Rights

2.2.1. Global and Regional Contexts on Business and Human Rights

According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), one of the great challenges faced today is harmonizing economic growth with the protection of human rights. Concerns over human rights protection in the business sector in the past decade prompted the international community, through the UN, to introduce international standards on business and human rights, including UNGPBHR of 2011.

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 UNGPBHR) are the UN Global Compact's Ten Principles; the International Labor Organization (ILO)'s conventions and declarations; and international bill of human rights.

Within the contexts 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) 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 Labor of 2014.

Earlier before an adoption of the 2011 UNGPBHR, the OHCHR did an analysis on human rights importance to business and gave at least five reasons or justifications, namely:

- i) Compliance with both local and international laws: As said earlier, human rights principles are contained in national and international law. Ensuring that business operations are consistent with these legal principles helps business enterprises avoid legal challenges to their activities in a particular locality.
- ii) Promoting the rule of law: Many of the principles enunciated in the Universal Declaration of Human Rights of 1948 (UDHR) involve the creation of a stable, rule-based society that is essential to the smooth functioning of business. Applying human rights principles thoroughly, consistently and impartially in a company's operations can contribute to the development of legal systems in which contracts are enforced fairly, bribery and corruption are less prevalent and all business entities have equal access to legal process and equal protection under law.
- iii) Building community goodwill: Avoiding human rights violations will help maintain positive community relations and contribute to a more stable and productive business environment.
- iv) Enhancing risk management: Predictability is essential to stable and productive business operations. The denial of basic human rights often leads to social or political disruption. This in turn can cause labor strife, restricted access to goods and services, or delays in the movement of finished products. And avoiding public controversies reduces the direct costs of resolving high-profile disputes.
- v) Increasing worker productivity and retention: Protecting the human rights and labor rights of employees and business partners' employees leads to increased productivity, as workers who are treated fairly and with dignity and respect are more likely to be productive. Enterprises that avoid human rights and labor rights violations can also reduce employee turnover and achieve higher product quality.
- vi) Applying corporate values: The denial of basic human rights in ways that hinder a company's ability to conduct its business consistent with its stated values can undermine the faith of employees and external stakeholders in company integrity.

The said 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).

UN Global Compact's Ten Principles are a key set of principles governing human rights and business. The Ten Principles of the United Nations Global Compact are derived from the UDHR, the ILO Declaration on Fundamental Principles and Rights at Work of 1998, the Rio Declaration on Environment and Development of 1992; etc. The principles are categorized into human rights, labour, environment, and anti-corruption.

The ILO Declaration on Fundamental Principles and Rights at Work was adopted in 1998. It provides for core labour standards, which are freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced and compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. More recently, in 2019, ILO has introduced the ILO Violence and Harassment Convention, that will enter into force in June 2021.

2.2.2. National Context on Business and Human Rights

Tanzania has ratified a number of international and regional human rights instruments mentioned above and subsequent chapters of this report. However, the country lacks specific and comprehensive legal framework on business and human rights. Despite having quite comprehensive laws governing the business sector (mentioned below), human rights standards have not been adequately reflected in such laws e.g. which govern regulatory authorities. This is discussed further below under paragraph 2.3.

There are several avenues through which business and human rights agenda can be enforced at country level, including through adoption of the international and regional frameworks embodying this agenda. For instance, Tanzania implements the Sustainable Development Goals (SDGs) which generally emphasize that, development cannot be sustainable where human rights are not respected. The National Five-Year Development Plan – phase three of 2021/22 to 2025/26 (FYDP III) is the national development blueprint. It is also the main implementing mechanism of the SDGs at country level. Respect for human rights is mentioned under paragraph 4.3 as one of the guiding norms and values for realization of the objectives of FYDP III.

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. Example operations of a business may pose environmental and health risks such as poor disposal of waste, this can pollute water sources, threatening communities' right to health and life. When a businessperson employs children, it can amount to child labour, violating a child's right to education, health, etc. Illustrations of all these are indicated in subsequent chapters of this report.

2.3. Macro-Economic Performances and Trends

The Bank of Tanzania (BOT)'s Annual Report of 2020/2021, which is the latest one available, states that, Tanzania continued to record positive economic growth, despite the challenges posed by the COVID-19 pandemic. However, the real GDP growth slowed down to 4.8% in 2020 from 7% in 2019.

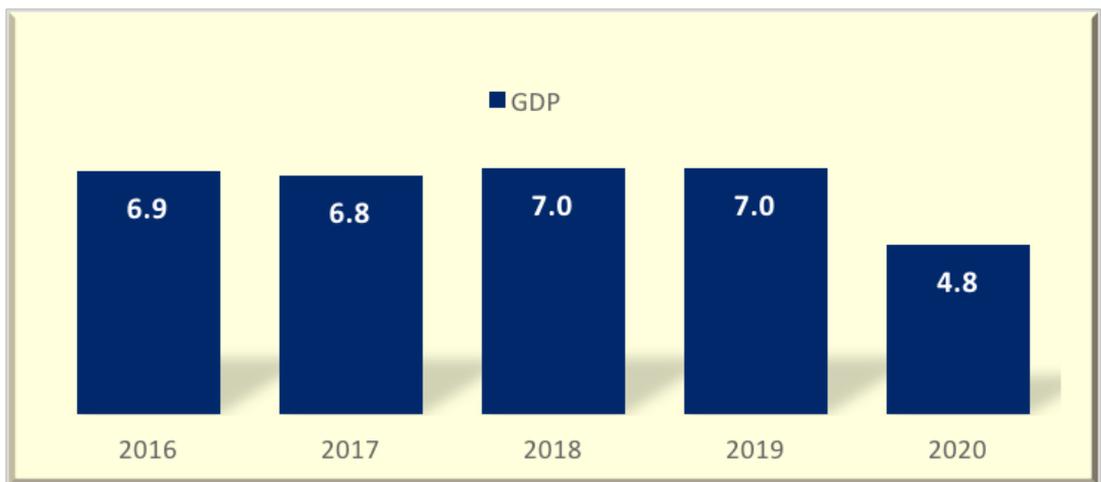


Figure 2.1: Real Gross Domestic Product's Growth (2016-2020)

Source: National Bureau of Statistics

According to the same BOT's report, the slow growth as indicated above (of 4.8%) reflected impact of the COVID-19 pandemic on economic activities, particularly those directly exposed to external shocks such as tourism as it is explained further below – basing on the field data corrected through this survey.

However, the BOT observed through the same report that, the economy was projected to grow by 5% in 2021, higher than 4.8% in 2020, reflecting recovery of economic activities particularly tourism, hotels and accommodation, arts, entertainment and recreation, international travel and trade, following the rollout of COVID-19 vaccination and relaxation of some containment measures of the pandemic.



LHRC believes that a robust economic strategy could have been to adopt some affirmative economic measures including fiscal policy adjustments on taxation and importation of raw materials in order to reignite the business sector. Moreover, all barriers to business enabling environment (BEE) highlighted below, should be addressed so that the environment could be more conducive for business to grow. Practical examples of all these are presented here-in-under basing on evidence collected from the field during this survey.

In terms of contribution of economic sub-sectors into the GDP, the BoT Annual Report of 2020/2021 mentions that agricultural activities contributed the most to the GDP, accounting for 26.9%, followed by construction at 14.4%, wholesale and retail trade and repair at 8.7% and manufacturing at 8.5%. This was almost the same trend compared with previous FY as figure 2.2 below shows.



Figure 2.2: %Share of GDP by selected activities for the years 2019 and 2020

Source: BoT Annual Report 2020/21

It is a concern, however, that, despite the progress made in economic growth, amid the COVID-19 pandemic, achieving human development through poverty reduction remains a big challenge, as acknowledged in FYDP III. The pace of poverty reduction has been slow, with basic needs poverty only declining from 26.4% in 2017/2018 to 25.7% in 2020 and food poverty declining from 8% in 2017/18 to 7.3% in 2020.

LHRC is concerned with lack of a clear human rights-based approach to industrialization and investment. In this regard, LHRC calls upon the Government to ensure that growth of investment in Tanzania benefits the poor community and business activities are conducted in such a way that human, labor, land, and environmental rights of Tanzanians are respected and safeguarded.



LHRC supports the government's industrialization drive and believes it can lead to economic growth, realization of the right to development, and human development, if all rights of communities, public and investors are considered and protected holistically. Industrial development can better and sustainably be achieved through a human rights-based approach (HRBA) as the Government seeks to boost investment in key areas such as manufacturing, agriculture, mining, tourism, infrastructure, fisheries, and ICT.

2.4. Demographic Trends and their Implications on the Business Sector

Demographic trends have implications to the business environment as said earlier on e.g. on aspects of health services, level of educations, etc. as those determine, among others, the efficiency of labor market, market size and innovation (including availability of experts). The National Population Policy of 2006 of Tanzania indicates that, population and economic development influence one another. The influence may be positive or negative depending on other factors and conditions. For instance, according to this policy (paragraph 2.4.3(ii)), rapidly growing labour force demands heavy investments in human resource development as well as development strategies which ensure future job creation opportunities

Population of Tanzania is rapidly growing, increasing more than four times from 12.3 million in 1967 to 57.6 million in 2020. The National Population and Housing Census of 2012 estimated the average annual growth rate at 3.1%. Estimated population of Tanzania Mainland is currently 55,966,030, while in Zanzibar it is 1,671,598. The new official data will be released by next year after completion of the ongoing national census. Figure 2.3 below shows the growth trend over period of time.

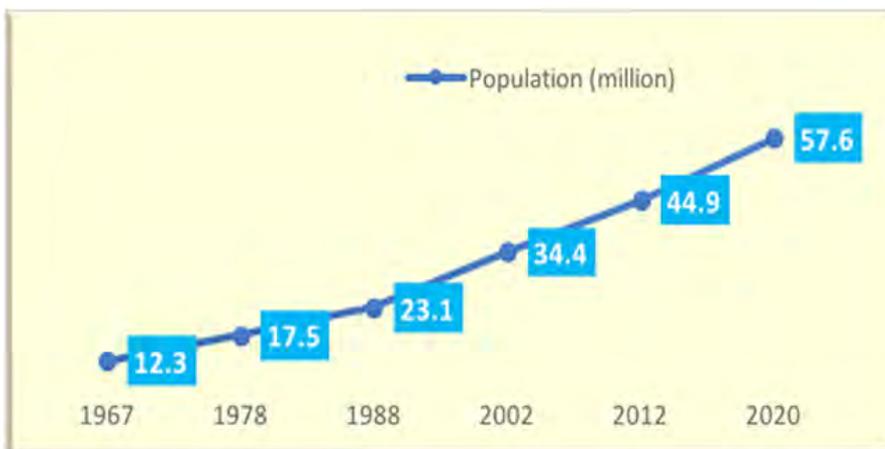


Figure 2.3: Tanzania population growth trend from the year 1967 to 2020

Source: Tanzania in Figures, 2020



Majority of the country's population resides in rural areas, where the number of households found is high compared to urban areas. There are over 600,000 non-citizens living in Tanzania, largely contributed by increased foreign direct investments and corporations, while the number of Tanzanians living and working abroad (diaspora) is over 400,000.

In terms of employment, projection indicate that persons aged 15 years and above stands at 23,029,954 people as of the year 2020, increasing from 20,984,596 people in 2016. According to the Integrated Labor Force Survey of 2020/21, overwhelming majority of Tanzanians (61.1%) are employed in the industry of agriculture, forestry and fishing, followed by services (30.9%), and manufacturing industry (8.0%). A share of employment in agriculture, forestry and fishing had decreased from 66.2% in 2014 to 61.1% in 2020/21, while manufacturing has increased from 6.7% to 8.0% during the same period and employment in the services industry has also increased 27.1% to 30.9%.



Picture 2.1: The Kariakoo Market, located in Dar es Salaam, the biggest in Tanzania

Picture source: Mwananchi Newspaper



Male employees (61.8%) slightly edge female employees (60.4%) in the agriculture, forestry and fishing industry, while female employees dominate the services industry (35.2%). In the manufacturing industry, the percentage of male employees (11.3%) is more than double that of female employees (4.5%). By sector, majority of the labor force in Tanzania (58.4%) work on their own or family farm, followed by private business not related to farming (22.7%), and household/other economic activities (7.6%).

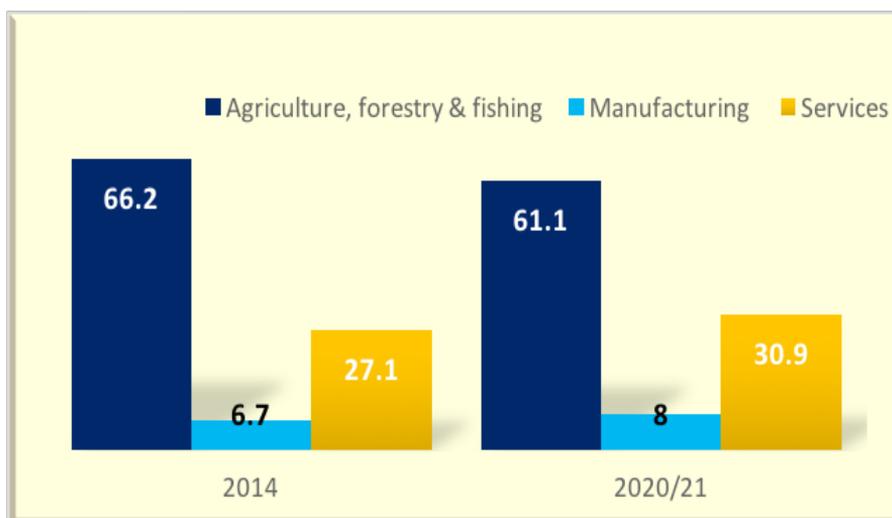


Figure 2.4: Percentage of total employment by main industry for persons aged 15 years and above

Source: Integrated Labour Force Survey 2020/21

Unemployment and underemployment remain key challenges, especially for youth. However, the rate of unemployment in Tanzania had slightly declined from 10.5% in 2014 to 9.3% in 2020/21. For both periods, unemployment rate among females was higher compared to male, almost twice that of male. Unemployment was also highest among youth (15-35 years). Employment for youth is therefore a concern, considering that every year our colleges and universities produce many youth who enter the labor market. Women, including female youth, are mostly affected by unemployment. Youth unemployment rate has increased from 12.1% in 2014 to 21.6% in 2020/21 and is higher in Zanzibar.

In terms of underemployment, statistics show a decline in underemployment when we compare the integrated labor survey of 2014 to that of 2020/21. The underemployment rate for Tanzania has decreased from 11.8% in 2014 to 11.0% in 2020/21. Underemployment has decreased more among females, from 11.9% in 2014 to 9.2% in 2020/21 and has increased among males, from 11.7% in 2014 to 12.7% in 2020/21. In Tanzania Mainland, the rate stands at 10.9%, decreasing from 11.8% in 2014, while in Zanzibar it stands at 15.9% in 2020/21, decreasing from 11.2% in 2014.



LHRC is of the view that, there is still insufficient links and alignments between the population policy and macro and micro economic development. For instance, it is not certain how and to what extent the investment do, fiscal and monetary policies are designed or implemented in a way that they respond directly to the dynamism of the population. The proportionality between improved business environments, business expansion and employment rates is difficult to establish. As such, LHRC calls for harmonization of all these policies plus the one on education and vocational training because presence of skilled labor is one of attributing factors considered in assessing business environment globally.

2.5. Business Environment

2.5.1. Variables and Pillars of Business Environment: General Trend

Basing on various standards set globally e.g. by the World Bank (WB) and the African Development Bank (AfDB), business climate or operating environment can be measured by considering a number of variables or pillars including (a) efficiency of regulatory institutions e.g. settling investment disputes; (b) infrastructural development; (c) macroeconomic trends; (d) market efficiency; (e) labor market efficiency e.g. skilled labor; (f) financial market efficiency e.g. availability, affordability and soundness of banking sector; (g) technological readiness e.g. presence of latest technologies; and, (h) innovation e.g. availability of experts.

Figure 2.5 below indicates the most problematic factors for doing business – based on the The Global Competitiveness Index 2017-2018 Edition.

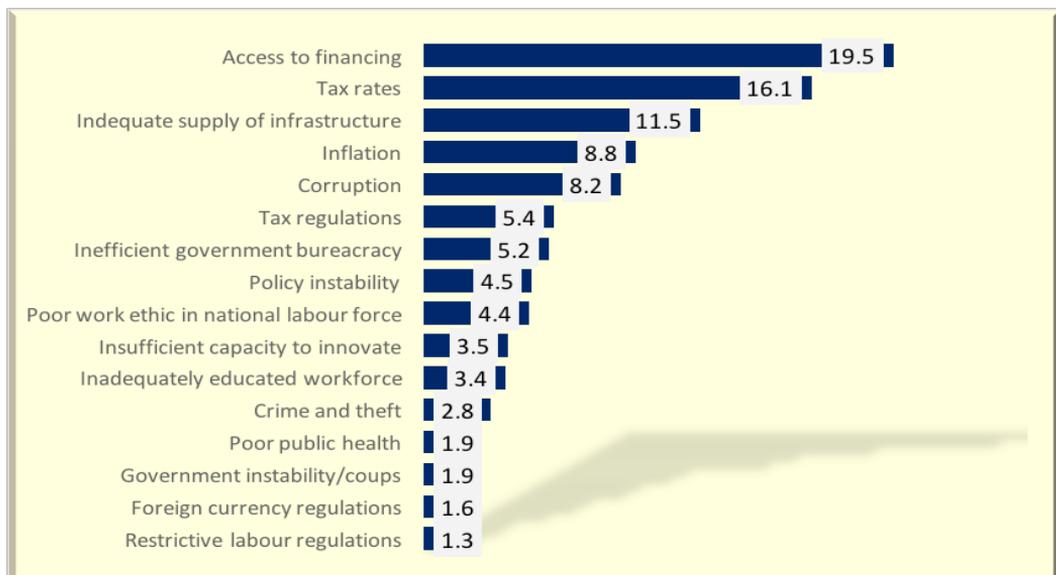


Figure 2.5: Most problematic factors for doing business

Source: World Economic Forum, Executive Opinion Survey 2017



The financial efficiency, tax policy and infrastructural development seem to be on top of priorities when a country wants to improve its business environments. At national level, Tanzania is ranked at an average position globally on the list of countries with best enabling business environments. For instance, the country is ranked 141 among 190 economies in the ease of doing business, according to the latest World Bank annual ratings as Figure 2.6 shows.

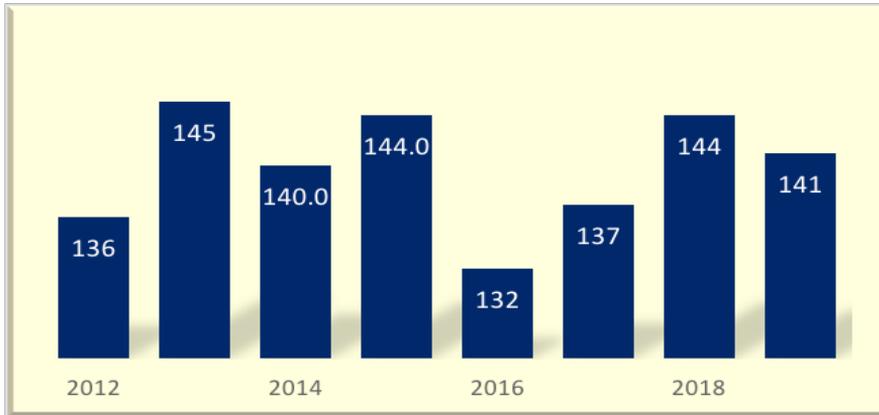


Figure 2.6: Annual rankings on ease of doing business in Tanzania (2012 to 2019)

Source: World Bank, 2019

The rank of Tanzania improved to 141 in 2019 from 144 in 2018. However, looking at the figure above, the country has generally recorded regressive development e.g. from being at the 132nd position to over 140th ranking. Factors attributing to the regression were not immediately obtained. But generally, it is obvious that, much more efforts are needed to make business environments conducive for everyone.

Some of the investors consulted during this survey were concerned with being ‘over-regulated’ and ‘heavy tax burdens.’ For instance, one business could have over 10 regulatory authorities including on standards (TBS), revenue (TRA), occupational health (OSHA), environments (NEMC), registration (BRELA), immigration, land, sectorial board, fire and rescue, workers compensation fund (WCF), social security, labor, LGAs, and others depending on the nature of the business. All these have financial implications. Each of the authorities have distinct mandates but with possibilities of being duplicated.

An investor in Dar es Salaam told the survey team in July 2022 that, being over-regulated with heavy financial burdens (running costs) could compromise with adherence of some labor or other standards e.g. inability to ensure safe working environments. **‘Employers would definitely concentrate to find all possible ways of maximizing profit, through tax evasions or other means which, some can be to the detriment of the workers ...’**, he remarked. While LHRC does not subscribe to that perspective, it is, however, calls for



mitigation of challenges which the business actors are facing. Some of the challenges could have direct adverse implications to the very rights of workers, consumers and even government. This is a case especially because there are insufficient protection mechanisms by the State's machineries as it is explained in subsequent sections of this report.

2.5.2. Tanzanian's Efforts to Improve Business Environment: FYDPIII's Mission

As it is said earlier on, the country implements the FYDP III (2021/22-2025/26). This plan sets hundreds of aspirations on macro and micro developments. One of the strategies reflected in this national plan is an improvement of micro-development through improved macro-economic performance. The infrastructural development is one of the factors indicated to facilitate fostering of performance. The other one, relevant to this survey, is an improvement of business environment.

The Government mentions several measures taken to improve such business environment, including the following (here-in-under reproduced):-

- i) Streamlining the procedures for obtaining various permits and other services with the view to reducing the cost of doing business. For instance, between 2017/18 and 2020/21, a number of fees and penalties related to agricultural and livestock subsectors were abolished through Finance Act. Further, the mandate for administration of food and cosmetics was moved from former TFDA (now TMDA) to TBS in order to remove the duplication of mandates. In 2019/20 a total of 60 different fees and charges related business licenses, permits and registration certificates including inspections which were administered by the FCC, BRELA, TBS, OSHA, and Fire and Rescues levies were abolished.
- ii) Various institutions have introduced electronic systems in delivering services. These include Online Registration Systems for registration of business enterprises, business names, trade and service marks, patent rights and industrial licenses; Online Business Licensing through National Business Portal; Tanzania Electronic Single Window System (TeSWS) for simplification of cargo clearance at the ports and other border posts; Online issuance of licenses and permits by OSHA, TMDA, TBS, NEMC and Ministry of Agriculture, Ministry of Natural Resources and Tourism; introduction of GePG for payment of fees, penalties; and introduction of Online Passport, VISA and work and resident permit.
- iii) The Government has established One Stop Boarder Posts at Rusumo, Mutukula, Holili, Kabanga, Horohoro, Sirari, Namanga and Tunduma in order to simplify cargo clearance.
- iv) The number of roadblocks along the central corridor has been reduced from 15 to three (3). The reduction of roadblocks has reduced time and cost in transportation of transit goods.



- v) Improving the One Stop Centre at Tanzania Investment Center (TIC) by increasing the number of institutions operating under the center to 11.

Moreover, the government in collaboration with private sector formulated **Blueprint for Regulatory Reforms to Improve Business Environment (of April 2018)**, which this survey has reviewed as well. The said blueprint is now regarded as the main framework for enabling a holistic review of business-enabling environments (BEE) in order to improve the business climate in Tanzania, without compromising oversight mandates of the government.

The Blueprint indicates that, the current Tanzania's business regulatory regime is characterized by high compliance costs in monetary terms and time in starting and operating businesses. Furthermore, there is also a multiplicity of often overlapping mandates in some laws and regulations. Indeed, this is the same perspective the survey at hand heard from various business enterprises consulted in July 2022.

In order to address all these challenges, it is proposed that BEE reforms be guided by, among others, the following principles:-

- i) Separate revenue motives from the regulatory rationale of the regulatory agencies: The main objective of license fees and charges should not be revenue collection. They should instead be charged to cater for the cost of providing services or administration.
- ii) Consolidate similar regulations and avoid overlaps: Related aspects/ areas for regulation should be mandated to a single regulatory agency or administered through **one-stop service centers** in order to enhance coordination and minimize transaction costs/regulatory burden on the part of the private sector (it will also minimize costs on the side of the government).
- iii) Treat regulations as integral part of trade policy, competitiveness, protection of consumers, etc.: In as much as applicable, the regulatory framework should be engineered to serve as an instrument of trade policy.
- iv) Carry out Regulatory Impact Assessment (RIA) for all future regulation proposals: It should be mandatory for all regulations and LGA by-laws which are likely to impact upon a substantial part of the business community to undergo a detailed Regulatory Impact Assessment.

It is unfortunate that, standards pertaining human rights in the business sector have not been considered as part of pre-requisite factors for business environment. Even the recently adopted **Blueprint for Regulatory Reforms to Improve Business Environment (of April 2018)** does not fully adopt the spirit of UNGPBHR of 2011. May be, the 'protection' is probably the most echoed pillar of UN's guiding principles.



LHRC reiterates a need for national based guidelines, policy and legal frameworks to reflect and incorporate all principles stipulated under the UNGPBHR of 2011. In this way, the business environments will be regulated in accordance with international human rights standards.

2.6. Legal Regulatory Frameworks of Business in Tanzania

Business operations in Tanzania are regulated by various national, regional, and international legal and institutional frameworks. At international level, there is the World Trade Organization (WTO) which provides the global rules of trade between nations to ensure that trade flows as smoothly, predictably and freely as possible. Of particular note is the General Agreement on Tariffs and Trade (GATT) - a legal agreement between many countries which seeks to promote international trade by reducing or eliminating trade barriers such as tariffs or quotas.

Moreover, there are OECD Guidelines for Multinational Enterprises, bilateral and multilateral agreements on trade that Tanzania is part of. Additionally, there are various instruments relating to conduct of businesses, including the International Covenant on Economic, Social and Cultural Rights of 1966 (ICESCR); the already mentioned UNGPBHR of 2011; ILO's conventions (discussed in chapter three of this report); etc. At regional level, business/trade environment in Tanzania is governed by various instruments relating to trade, human rights, and investment adopted under the East Africa Community (EAC), Southern African Development Community (SADC) and the African Union (AU), including treaties establishing these organizations.

At national level, there are laws and regulations that govern businesses. These include the Constitution of the United Republic of Tanzania of 1977; the Tanzania Investment Act, 1997 (No. 26 of 1997); the Financial Laws (Miscellaneous Amendments) Act, 1997 (Act No. 27 of 1997); the Capital Markets and Securities Act, 1994 (No. 5 of 1994); the Mining Act of 2010; the Bank of Tanzania Act, 2006; the Land Act, 1999 (No. 4 of 1999); the Village Land Act, 1999 (No. 5 of 1999); the Banking and Financial Institutions Act, 2006; the Value Added Tax Act, 2014; the Immigration Act, CAP 54 (R.E. 2016); the Business Licensing Act, Cap. 208; the Employment and Labour Relations Act, 2004; and, the Workmen's Compensation Act, 2008. There are also laws that establish various authorities that regulate the business sector, including TIC, BRELA, TRA, OSHA and NEMC indicated in various chapters of this report.

Below is a brief analysis of the performance of some of the regulatory agencies with mandates to regulate business practices and environments generally.



2.7. Effectiveness and Performance of Regulatory Authorities

2.7.1. Establishment of Some of the Authorities in Business Sector

As it was hinted earlier on, there are several several regulatory agencies (authorities) established to regulate the different types of business ventures. These key one 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 Social Security Regulatory Authority (SSRA); 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).

Despite differed mandates basing on the statutory functions of these authorities, in general terms, they all discharge registration and oversight functions including inspection and monitoring of businesses - to check compliance with relevant laws and regulations. For instance:

- i) OSHA: Governed by the Occupational Health and Safety Act, 2003. It is tasked with overseeing working environment e.g. free from occupational hazards.
- ii) NEMC: Governed by the Environmental Management Act, 2004. It enforces compliance of the national environmental quality standards e.g. management of the environmental impact assessments (EIA).
- iii) TMDA: Governed by the Tanzania Medicines and Medical Devices Act, Cap. 219 of 2019. It regulates medicines, medical devices and diagnostics.
- iv) TBS: Governed by the Standards Act, 2009 (amended by Finance Act, No. 8 of 2019). Regulating food and cosmetics, including registration of food and cosmetic products, licensing of premises, import and export control, inspection of premises, disposal of unfit products, recall from the market, post marketing surveillance, food borne diseases surveillance and control of advertisements.
- v) LATRA: Governed by Land Transport Regulatory Authority Act, 2019. It issues, renews and cancels permits or licenses; establishes standards for regulated goods and services; regulates rates and charges; coordinates land transport safety activities; monitor 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.
- vi) TFCC: Governed by the Tanzania Fair Competition Act, 2003. It develop and promote policies for enhancing competition and consumer welfare; investigate impediments to competition, including entry into and exit from markets, in the economy as a whole or in particular sectors' etc.



- vii) SSRA: Governed by the Social Security Regulatory Authority Act, 2008. It protects and safeguards the interests of members; monitors and reviews regularly the performance of the social security sector; facilitates extension of social security coverage to non-covered areas including informal groups; etc.
- viii) TCRA: Governed by the Tanzania Communications Regulatory Authority Act, 2003. 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.
- ix) BRELA: Operates under the Government Executive Agencies Act, 1997. Registration of business ventures e.g. companies, business names, etc.; regulating the same including on matters pertaining industrial licensing, creativity in artistic, literary works, intellectual property, etc.
- x) TRA: Governed by various laws including the Tanzania Revenue Authority Act of 1995. It assess, collect and account for all revenues, etc.

2.7.2. State of Performance of Regulatory Authorities

2.7.2.1. Overview of the Performance: More Reforms are Desired

Basing on the BEE principles (reflected in the Blueprint for Regulatory Reforms to Improve Business Environment of April 2018 mentioned above; and, among others, relevant principles under the UNGPBHR of 2011, is evident that more efforts are needed to bring these authorities into required level of standards. Key among other challenges are relating to institutional capacities e.g. inability to conduct physical monitoring to business establishments all over the country.

Principle 1(3) of the UNGPBHR, inter alia, requires States to ***'enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps.'*** The current legal frameworks governing such and all other regulatory authorities do not reflect this UN's requirement.

Moreover, the said regulatory frameworks are yet to embrace the said BEE principles e.g. there are still some overlapping of mandates which the business actors feel to have been over-regulated and financially burdened. As said earlier, these realities seem to have adverse implications to the human rights e.g. circumstances compel them to overlook or forego some of labour standards in order to operate through tightened business environment. Findings on specific issues of concern like awareness, proximity of services, institutional capacities, etc. of the regulatory authorities are presented below.

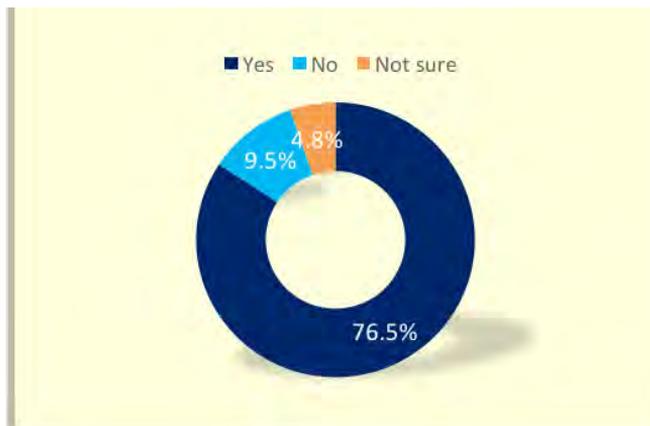
2.7.2.2. Awareness about Regulatory Authorities



Awareness about regulatory authorities that regulate the business sector and the functions they perform continues to be an issue among community members. However, a slight progress has been observed compared to the situation in the previous survey.

Nearly a quarter of respondents (24%) said they had a good awareness about the regulatory authorities, increasing from 16% in the previous survey. Those who did not have a good awareness of the regulatory authorities constituted just over two-thirds of the respondents (68.7%), while the remaining 7.3% said they were not sure. Percentage of awareness was slightly higher among male community members compared to female community members who responded to the survey, at 25% and 23% respectively. Among those who said they had a good awareness about the regulatory authorities and the functions they perform, three quarters (76.5%) said they had ever engaged the authorities.

Figure 2.7: %Responses of community members on



engaging regulatory authorities (N=813)

Source: Field data, 2022

Awareness about authorities regulating the business sector was found to be slightly higher among workers who responded to the survey than community members. A third of workers (30.1%) claimed to know about the regulatory authorities, increasing from 16% in the previous survey, while just over two thirds (62.8%) said they did not. The remaining 7% said they were not sure. However, when it came to engagement of regulatory authorities, a much smaller percentage of workers (11%) among those who said they know the regulatory authorities and the functions they perform said they had engaged regulatory authorities compared to community members (76.5%).



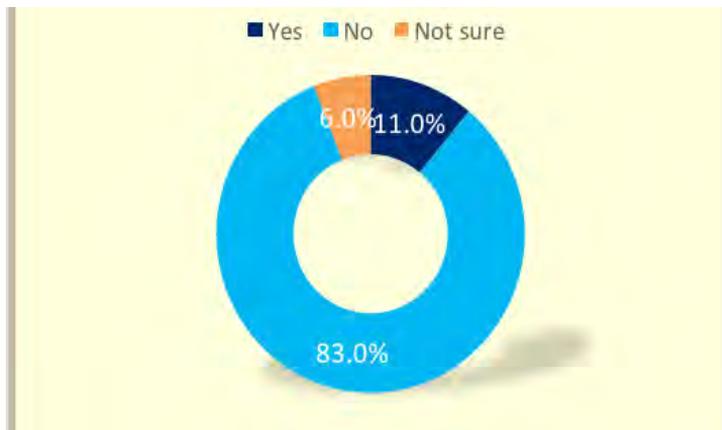


Figure 2.8: %Responses of workers on engaging regulatory authorities (N=667)

Source: Field data, 2022

TRA retained the most popular regulatory authority label among both community members and workers, followed by OSHA and NEMC. Other regulatory authorities that were mentioned commonly mentioned by respondents during interviews include LATRA, TBS, and WCF. WCF was obviously more popular among workers. In terms of engagement, the survey found that community members had most engaged NEMC while majority of interviewed workers who have a good awareness of regulatory authorities claimed OSHA was mostly known by workers. Other regulatory authorities such as TFCC, TMDA, SSRA, and TCRA were less known by majority of respondents, especially community members.

2.7.3. Scope and Coverage of Regulatory Authorities

The survey on business and human rights sought to determine coverage of regulatory authorities and the extent to which they engage with community members and workers at the surveyed workplaces. In terms of coverage, LHRC has observed that most regulatory authorities operate at zonal level, which makes it difficult for them to reach as many people as possible. For instance, OSHA is headquartered in Dar e Salaam Region, supported by six zonal offices in Arusha (Northern Zone), Mwanza (Lake Zone), Dodoma (Central Zone), Mbeya (Southern Highlands Zone), and Mtwara (Southern Zone). In Dodoma, the survey found that TMDA operates at zonal level, namely Eastern Zone, Northern Zone, Central Zone, Eastern Lake Zone, Western Lake Zone, Southern High Lands, Western Zone and Southern Zone. NEMC also has zonal offices in the seven zones.

The distance between the regulatory authorities and the people might explain why most workers and community members are unaware of key regulatory authorities and the functions they perform. Moving forward, increasing coverage, at regional and district level shall increase community



and workers' engagement of the authorities in regulating the business sector and make it easier for these groups to access them in case of any challenge or problem faced.

2.7.4. Financial and Staff Capacity of Regulatory Authorities

Regulatory authority officials who responded to the survey on business and human rights were asked whether, overall, regulatory authorities have sufficient capacity to execute all mandated activities in line with expected statutory standards. Nearly two thirds (64.5%) said they do, while another third (32.3%) said they did not. The remaining 3.2% said they were not sure.

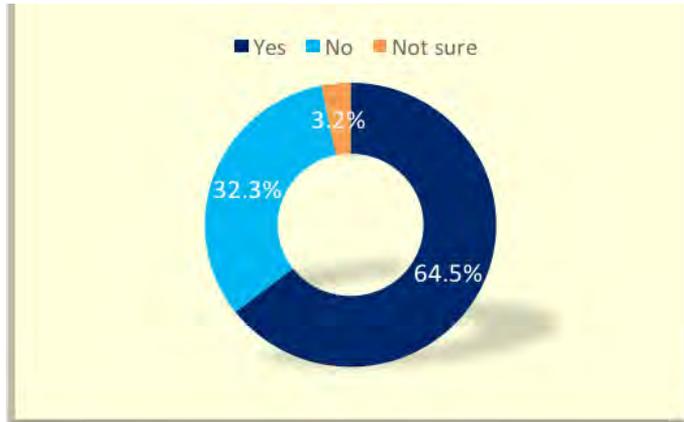


Figure 2.9: % Responses of regulatory authority officials on regulatory authorities having sufficient capacity to execute all mandated activities in line with the expected statutory standards (N=31)

Source: Field data, 2022

When asked about specific capacity gaps, majority of respondents, nearly a half, mentioned other gaps, followed by 29.4% who mentioned lack of sufficient resources as the biggest capacity gap, and 17.6% who mentioned lack of sufficient skilled officers as the biggest concern. The remaining 6% of the respondents mentioned lack of equipment and other facilities as a key capacity issue.

Financial and staff capacity concerns were raised by various regulatory officials who were interviewed. For instance, in Dar es Salaam, the survey team interviewed a LATRA official who identified financial capacity as a key obstacle in effectively operating in 25 regions of Tanzania Mainland, followed by shortage of manpower. To mitigate this challenge, the official mentioned that they work closely with the Traffic Police to assist with the inspection function. However another LATRA official in Iringa painted a different picture, noting that shortage of staff is not really a challenge since the regulatory authority has invested much on ICT systems, such that one person can cover the whole region by using the system.



In Dodoma, TMDA official also expressed concern over financial capacity of the regulatory authority but added that it has not prevented them from performing well and awarded a Maturity Level 3 status for setting up a robust medicines regulatory system (the first of its kind in Africa) by the World Health Organization (WHO).

Financial capacity concerns were also expressed by OSHA officials in Dodoma, Mwanza, and Tanga, who said it difficult for them to conduct inspections regularly at all workplaces in Tanzania Mainland due to budgetary constraints. In Mwanza, one of the OSHA officers claimed that there are only three technical staff in for the Lake Zone, which makes it difficult to provide quality services across all regions in the zone. However, in Arusha, OSHA Zonal Office official indicated that finances are not an issue, as they are even building their own offices and sent the Central Government as dividends Tshs. 5 billion in 2021.

2.7.5. Sufficiency of Legal Mandates of Regulatory Authorities

Regulatory authority officials who responded to the survey were also asked to comment on the adequacy of the legal framework regulation of the business sector. More specifically, they were asked whether the scope of the legal mandate vested on their regulatory authorities is sufficient to ensure effective performance. Majority of them (35.5%) said their legal mandate is somewhat sufficient to ensure effective performance (generally), followed by those who felt it is only somewhat sufficient (29%), 19% who said it is very sufficient. Only 16.2% of the respondents said the legal mandate is not sufficient to guarantee effective performance from their regulatory authorities.



Figure 2.10: % Responses of regulatory authority officials on sufficiency of their legal mandate to ensure effective performance (N=31)

Source: Field data, 2022



2.7.6. Common Challenges faced by Regulatory Authorities

Despite the good work done by regulatory authorities, it appears they still have a lot to do to address issues and challenges in the business sector. We have seen above issues raised by workers at some of the surveyed workplaces regarding OSHA for example, including lack of regular inspection and allegations of corruption.

Some of the TRA officials have been accused of harassing businesses, while at the same questions are being raised regarding the fairness of taxes. Some of the regulatory authorities like NEMC have also been said not to take immediate and appropriate action at times, including regarding the reports of air pollution in Tanga (industrial air pollution by **Neelkanth**). So, there are various challenges that need to be addressed by the Government through these regulatory authorities in line with State's duty to protect human rights and provide remedy in the business sector. These challenges are summarized and briefly discussed below.

i) **Overlapping mandate of regulatory authorities**

Regulatory authority officials who responded to the survey were asked whether there is a problem of overlapping of responsibilities/duties/mandate among regulatory authorities. Over half of them (58%) said such a problem exists, followed by 35.5% who said there is no such problem, and 6.5% who said they were not sure.

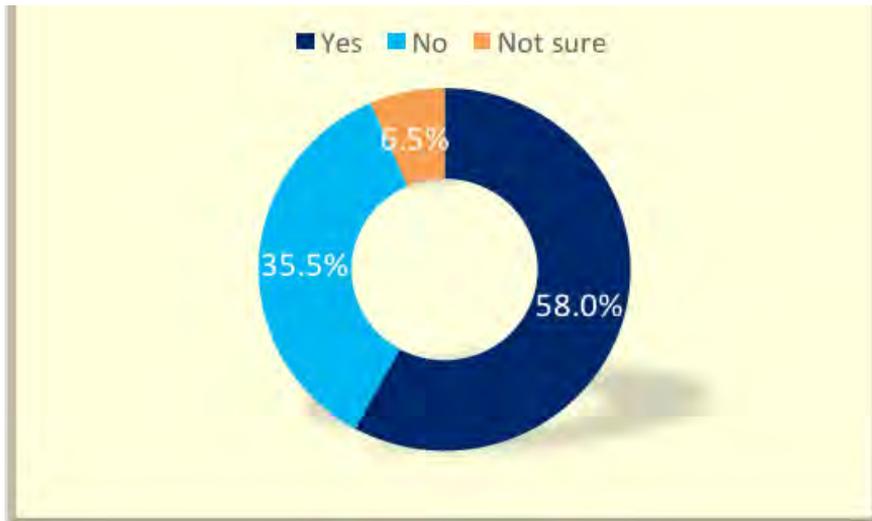


Figure 2.11: %Responses of regulatory authority officials on whether there is a problem of overlapping of responsibilities/duties/mandate among regulatory authorities (N=31)

Source: Field data, 2022



In Mtwara, an official at the Cashewnut Board pointed that there is an overlapping function with TBS when it comes to checking quality of production, while an official at OSHA said there are some overlapping functions between OSHA, NEMC, and FIRE, in terms of checking compliance with the obligation of occupational health and safety. Overlapping challenges with regards to local content requirements in the mining sector have also been discussed above.

ii) Shortages of budget and staff, especially technical staff

As discussed above, shortage of staff, especially technical staff, was also highlighted as a challenge, especially for OSHA. In Arusha, it was reported that there were only 10 staff members to cover the Northern Zone regions of Arusha, Kilimanjaro, Tanga, and Manyara. Budgetary constraints especially affect provision of services provided by regulatory authorities in remote places.

iii) Shortage of vehicles and working equipment

Shortage of vehicles and proper or modern working equipment among regulatory authorities, including OSHA, was identified as a challenge in Arusha.

iv) Lack of awareness about applicable human rights standards in business

Lack of awareness about applicable international human rights standards was also observed among some of the regulatory officials who were interviewed. Only 35.5% of the respondents indicated they were aware of human rights standards applicable in the business sector. Another 35.5% said they were not aware, while the remaining 39% said they were not sure. Nevertheless, nearly all of them (90.3%) acknowledged that observation of human rights norms in business practices is important.

v) Corruption

Corruption amongst regulatory authority officials was said to be a challenge by workers and community members in most of the surveyed regions, including Pwani, Mtwara, Mwanza, Dodoma, Mbeya, Geita, and Mara. Corrupt regulatory officials were said to contribute to smuggling of goods along the borders, including counterfeit and substandard goods. However, in Mara, it was reported by a TRA official the introduction of One Stop Border Post (OSBP) has increased efficiency in curbing smuggling along the border with Kenya.

vi) Poor enforcement of laws and regulations

Some of the community members and LGA officials who responded to the survey lamented poor enforcement of laws and regulations for non-compliance among businesses, especially in Dar es Salaam, Geita, and Mara.



vii) Narrow tax base for TRA

As discussed in Chapter Four of this report, narrow tax base is a challenge in revenue collection, which means a few people have to carry the burden of tax collection on behalf of others, leaving room for tax avoidance and evasion. In Morogoro, a TRA official noted that they have not been able to fully tap into the digital business in terms of revenue collection.

viii) Political interference

In Tanga, interference of politicians and leaders in the affairs of regulatory authorities was also said to affect performance of regulatory authorities. Similar allegations were made during interview with one respondent in Dodoma.

ix) Lack of coordination with other government authorities

In Tanga, the survey found that poor coordination and cooperation between regulatory authorities and other government institutions, including LGAs, affects performance of regulatory authorities.

x) Monitoring and evaluation

Recent CAG report has identified poor monitoring and evaluation of TBS performance as a challenge. In Mbeya, one corporate official recommended for regulatory authorities to develop a comprehensive compliance programme for businesses which shall incorporate a special monitoring mechanism to measure performance. He also Automatic Universal Checklist System (AUCS) could help regulatory authorities in checking compliance and overlapping of tasks.

xi) Inadequate knowledge of tax laws among taxpayers and technological challenges

A TRA official in Dar es Salaam revealed that inadequate knowledge of tax laws among taxpayers is one of the challenges that the regulatory authority faces in revenue collection. He also pointed out technological challenge, contributing to tax avoidance and evasion.

2.7.7. Positive developments and best practices by regulatory authorities

The survey on business and human rights was informed about several positive developments and best practices achieved and adopted by regulatory authorities. These include:

i) Use of ICT and online systems to facilitate provision of services and enhance consumer protection

Nearly all regulatory authorities, including TRA, BRELA, LATRA and TBS have embraced or are embracing the use of ICT and online systems to facilitate provision of services and also enhancing consumer protection. In Mtwara, a TRA official told the survey team that online



systems enable them to reach many people. It was also reported that during the COVID-19 pandemic, TMDA developed and used a system which enable them to attend to clients online and minimize physical contacts.

Moreover, in Mbeya, it was reported that BRELA pioneered the online registration system, that enables registration of companies online, which has also been copied by other regulatory authorities. In Mara, it was reported that TBS had made improvements on its Automated Management Information System to facilitate application of import clearance permit.

On the other hand, in Iringa, a LATRA official pointed out that the regulatory authority now uses online system to perform its duties more effectively, including use of GPS system to regulate speed. He also mentioned that they were in the final stages of developing e-ticketing system to enhance road transport consumer protection.

It is also noted that, on 18th August 2022, LATRA announced that it had extended the testing period of the system for two months, upto 31st August 2022, after initially setting the testing period from 1st April to 30th June 2022.

ii) Recognition of TMDA by the WHO

The survey was informed that recently, in 2021, TMDA was recognized by the World Health Organization (WHO) and accorded Maturity Level-3, the best in Africa.

iii) Education and awareness-raising programs using different platforms, including social media

Some of the regulatory authorities, including EWURA and TRA, were reported to be doing well in provision of education and awareness-raising, including through social media platforms. However, EWURA official in Mbeya expressed concern over budget for public awareness-raising, calling upon the Government to increase budget for this item, so that many more people can be reached, especially in rural areas.

iv) Mediation

Some of the regulatory authorities such as EWURA, LATRA, and TRA were found to have in place a mechanism to settle disputes between businesses and customers or regulatory authorities themselves through mediation. In Mbeya, a mediation chamber was observed at EWURA, containing, among other things, a Bible and a Quran. Any party not satisfied with the decision of the chamber is allowed to appeal to judicial dispute-settlement mechanisms.



v) Collaboration to ensure access to remedy

Some of the regulatory authorities have demonstrated flexibility in collaborating with CSOs in facilitating access to remedy. For instance, LHRC has worked WCF on several occasions to ensure victims of workplace injury receive compensation.

vi) Establishment of a call centre and consultation bureau by TRA

To reduce complaints from taxpayers and the general public, it was reported that TRA has taken several measures, including establishment of a call centre and establishment of Taxpayers Consultation Bureau, an avenue for reporting tax evasion and integrity-related complaints.

2.8. Business Environment for Small-Scale Business Enterprises

2.8.1. Some of Efforts to Support SMEs

There have been some attempts in Tanzania to support small and medium-scale business actors or enterprises commonly termed as SMEs. For instance, there is SME Policy of 2003 (being reviewed) and by-laws regulating business practices of the SMEs in every LGAs e.g. market spaces and payment of levies.

Other legal and policy efforts on SMEs include formulation of the National Microfinance Policy of 2017; the Mining Policy of 2009; and, an enactment of the Microfinance Act of 2018 and Cooperative Societies Act, Cap. 211. There are also tens of funding opportunities managed by the National Economic Empowerment Council (NEEC) pursuant to the National Economic Empowerment Policy of 2004 and the Economic Empowerment Act of 2004.

All these and others are generally intended to facilitate operation of SMEs. For instance, the Mining Policy of 2009 directs inter alia, presence of public funding scheme of the artisanal and small-scale miners (ASM), designating specific or exclusive areas for ASMs, trainings, etc.

2.8.2. Challenges facing SMEs

Despite such notable efforts, the aspects of protection in the spirit of UNGPBHR of 2011 is not strongly featuring in the current legal and policy frameworks on SMEs. Moreover, much more efforts are needed for the aspirations e.g. financial supports, etc. indicated in such frameworks to be realized. The SMEs are generally not eligible for the incentives which foreign or large enterprises seem to enjoy under the laws governing investments and taxation (mentioned in subsequent parts of this report). The inclusion of vulnerable gender groups into business enterprises and an interface of SMEs with large enterprises in the same market or land spaces are not reflected in those frameworks.



Other key challenges observed from this survey include limited access to financial services, inadequate capital, poor market access, competition with foreign business enterprises for local market, corruption, delayed payments, and poor infrastructure.

Moreover, lack of or minimal government support in post COVID-19 recovery and presence of gender-based violence (GBV) especially in market places were highlighted as challenges for SMEs. In Shinyanga, for instance, one of the market traders alleged that women market traders are usually asked for a sex bribe by market leaders in order to obtain market stalls.

Other issues of concern which make business environment unfavorable to SMEs were mentioned during the survey to include:-

a) Lack of women-friendly environment/ sanitary conveniences

Most of the marketplaces that were visited, especially in Dar es Salaam and Mwanza, were found to lack appropriate sanitary conveniences for women, especially changing rooms and clean toilets. For instance, in Dar es Salaam, this was observed at Kiwalani Market, where it was reported that there were no changing rooms for women traders.

b) Unhygienic practices at food markets

Unhygienic environment was observed at some of the surveyed marketplaces, including in Dar es Salaam and Dodoma. For instance, at **Majengo Market** in Dodoma, toilets were found to be unclean and without water. In Mwanza, surveyed marketplaces in Nyamagana and Ilemela Districts were also found to fall short of hygienic practices standard. Some traders at the markets, nearly all being women, were also found selling food placed on the ground, which is contrary to hygienic practices. When asked why they were selling food items on the ground, most of them mentioned lack of sufficient capital and inability to afford the market stalls. Generally, the survey found that most market stalls at marketplaces are occupied by male traders.



Picture 2.2: Women market traders found selling food items on the floor at Miringo Market in Mwanza Region



Unsafe food storage practices were also observed at some of the marketplaces. For instance, at **Mkuyuni Market** in Mwanza, some of the traders were observed storing cooking oil in used water bottles, without even bothering to wash or clean them first. When asked why they do this, the traders said they could not afford proper packaging and most of their customers are poor people.

At **SIDO Market** in Mbeya, interviewed market traders complained about large quantities of wastes around the waste storage container, which were also blocking the road, affecting passage of vehicles and people. A similar same situation was observed at Mwanjelwa Market in the region, **Deep-Sea Fish Market** in Tanga, and **Soko Kuu** Market in Mtwara.



Picture 2.3: Large quantities of wastes observed at Mwanjelwa Market in Mbeya

c) Unsatisfactory infrastructure and sanitation system at marketplaces

In Shinyanga, some of the market traders complained about leaks at their marketplaces, which they claim are not fixed or improved despite the multiple levies they pay. In Mbeya, interviewed market traders lamented inadequate drainage structures at **SIDO Market**, contributed to dirty working environment. Overall, majority of surveyed marketplaces, especially in Dar es Salaam, Mwanza, and Mbeya, were found or said to have unsatisfactory market infrastructure and sanitation systems, characterized by: drainage deficiency; inadequate management of solid waste; lack of draining structures to prevent water stagnation; and inadequate toilet facilities.



Women, who constitute the majority of informal sector traders, are disproportionately affected by unsatisfactory market infrastructure and sanitation systems, putting them and the children they are usually with at risk occupational diseases such as diarrhea.

d) Poor sales/ shortage of customers

At Majengo Market in Dodoma, one woman trader mentioned that most market traders had expressed concern over doing business at the new **Job Ndugai Market** because of location and distance. She noted that while the market is good and modern, it experiences shortage of customers, hence poor sales. In Mbeya, some traders were said to avoid some of the allocated business places, including the airport area, and move to other and already congested markets or undesignated street areas due to lack or shortage of customers.

e) Lack of disability-friendly business environment

In Dar es Salaam, the survey found that some marketplaces, such as **Gezaulole Market**, were not disability friendly. The Persons with Disabilities Act of 2010 requires presence of universally accessible public places including markets.

f) Low representation of women traders in leadership and decision-making

Low representation of women traders in leadership was observed at most of the marketplaces that were surveyed in Dar es Salaam and Mwanza.

g) Loss of property

In Dar es Salaam, it was reported that the impact of various fires that have occurred at marketplaces in the past couple of years, including at the **Kariakoo Market**, have caused huge losses for market traders. The situation was compounded by the fact that most of the traders had not insured their businesses. Majority of them were also left in huge debts that they could no longer pay since they lost everything to the fires, forced to start over. As such, the Government has had to plead with financial institutions to give the affected traders more time for repayment.

h) Payment of different types of market levies

Some of the market traders who responded to the survey complained about multiple market levies that they have to pay at marketplaces. For instance, in Dodoma one trader said that they are charged market levy for goods at the entrance and again when they are within the market premises (double taxation). This challenge was identified by some of the market traders in Tanga.



2.9. Business Environment During and After Covid-19

The country, Tanzania, has the Disaster Management Act of 2015 which provides for guidelines and measures for disaster prevention, preparedness, mitigations and response. The law also establishes the Disaster Management Agency (DMA) and the Disaster Management Fund (DMF). Down to the lower level of governance, there are also established (designated) Disaster Management Committees at the regional, district, ward and village levels.

Section 3 of the Disaster Management Act of 2015 defines 'disaster' (being paraphrased here) as an occurrence whether being natural or man-made calamity which causes significant disruption of the function of the community or an impact which exceed the capacity of that the community to cope with the incident. Therefore, pandemics like COVID-19 are supposed to be managed under the mandates of this law.

The government of Tanzania responded quite swiftly and effectively to an outbreak of COVID-19. Most of the health protocols devised by the World Health Organizations (WHO), which were supposed to be applicable throughout the world were incepted by Tanzania as well. Those include social distance, use of face masks, sanitizers, etc. At the peak of this pandemic (around 2019/2020), schools and office were closed, and the business operations went down.

Tanzania adopted the contingency plan termed as **National COVID-19 Response Plan (NCRP)** in March 2019. However, it focused more on medical response to this pandemic. There no comprehensive contingency plan for business sector.



Picture 2.4: Hon. Umy Mwalimu, who led the ministry of health during the difficult period of the Covid19 pandemic in 2020 and 2021

Picture source: MoH



But the government reportedly received some financial supports from regional and international financial institutions including the AfDB and IMF. For instance, it is indicated that on 14th October 2020, the African Development Bank Group approved the COVID-19 Crisis Response Budget Support Program (TCRBSP) for Tanzania. The said NCRP needed a budget of TZS 250 billion (USD 109 million) to facilitate development and coordination of mitigation measures as well as mobilizing resources. The said plan was also aimed at preventing and detecting the threats posed by this pandemic. The funding support (loan) from the AfDB was intended to build economic resilience while mitigating the socio-economic and health impacts of the pandemic, especially on local businesses and health systems.

That and other supports on COVID-19 seemed to work very well on part of strengthening health system. However, the safeguard of economic resilience against the shocks of COVID-19 remained to be insufficient to date.

The Disaster Management Act of 2015 requires creation or an enhancement of mechanisms for post disaster recovery and rehabilitation. Assumingly, economic bailout in terms of financial supports, mitigation of banking interest rests or tax reliefs could have been some of such mechanisms. This was not a case basing on the opinions of the interviewees consulted during this survey. As a result of that situation, the impact of COVID-19 necessitated some actions by the business enterprises which had implications to the welfare of the workers including retrenchments to economize production and running of businesses.

This (i.e. retrenchment) was reported in nearly all surveyed regions. For instance, at **Musoma Fish Processors**, it was revealed that COVID-19 impact led to decrease in production and consequently necessitated reduction of number of workers in the production section.

The **Chai Bora Limited** also did the same. For instance, on 2nd September 2021, this company wrote a notification letter to TUICO Iringa regional office on its intention to reduce a number of workers. The COVID-19's impacts were mentioned as reasons attributed to this move as an extract of the letter is indicated below.



CHAI
BORA

CHAI BORA LIMITED

P.O. Box 40670,
Dar es Salaam, Tanzania
Tel: +255 22 2962173, 2861298,
Mobile: +255 744 2089419,
Fax: +255 22 2965731,
E-mail: info@chai-bora.com

02 Septemba, 2021

KATIBU TUICO MKOA,
OFISI ZA TUICO MKOA,
P.O Box 1134,
IRINGA.

Ndugu,

YAH: MWALIKO WA KIKAO CHA MAJADILIANO KUHUSIANA NA ZOEZI LA UPUNGUZAJI WA WAFANYAKAZI.

Tafadhili rejea kichwa cha habari hapo juu.

Ukiwa kama mdau (TUICO) wa Kampuni ya Chai Bora Limited, tunapenda kukutaarifu rasmi kuwa Kampuni ya Chai Bora inapitia changamoto za kiuchumi kwa takribani kipindi cha miaka mitatu iliyopita, kutokana na kushuka kwa bidhaa zetu sokoni pia kwa ujumla kutetereka kwa uchumi duniani kuliko sababishwa na ugonjwa wa UVIKO-19 (COVID -19) tangu mwanzoni mwa mwaka 2020. Kwa sasa Kampuni inashindwa kumudu gharama za uend...aji za kila siku, kulipa mishahara, kulipa madeni benki na kufikia viwango stahiki vya uzalishaji.

Hivyo, Kampuni imeamua kufanya mabadiliko katika mfumo na utaratibu wake wa uendeshaji na uzalishaji ili kuweza kujiendesha kiushindani kwa kupunguza gharama za uendeshaji, lengo ikiwa ni kuimarisha ufanisi na kujiendesha kwa faida. Hivyo, zoezi hili litajumuisha kufunga baadhi ya Idara, Vitengo ndani ya Idara na kupunguza baadhi ya wafanyakazi ili Kampuni iweze kujiendesha.

Kama mnavyofahamu, Kampuni imefanya jitihada nyingi ili kukabiliana na changamoto hizi juu, kwa kuongeza wateja wakubwa, kupanua biashara, kupunguza gharama na kubinafsisha baadhi ya shughuli zake, lakini bado jitihada hizi zimeshindwa kukabiliana na changamoto zilizopo kutoka nje.

Ili kufikia mailego ya kuwe...a kuendelea na Kampuni kuwepo, baada ya kufanya jitihada zote kushindikana. Kampuni imeamua kubadili namna ya uendeshaji wa baadhi ya shughuli zetu, ambapo shughuli hizo za uendeshaji zitabinafsishwa na hivyo kufunga baadhi ya vitengo husika, kupunguza baadhi ya wafanyakazi wake ambao nafasi zao hazipo tena, na majukumu yao kuongezwa baadhi ya wafanyakazi watakabaki. Kampuni inasitika sana kufikia hatua hii ya mabadiliko, lakini imebidi kuchukua hatua hizi ili kuinusuru Kampuni kuanguka na kuimarisha biashara kiushindani na kuifanya iwe endelevu.

Kwa hiyo, hii ni taarifa kwenu nyote ili muweze kujitayarisha kwa mchakato mzima. Tunaamini mtweze kuelewa na kutupa ushirikiano katika jambo hili.

Mkutano kwa ajili ya kukubaliana zoezi hili umepangwa kufanyika tarehe 13th Septemba 2021, Chai Bora Mafinga, kuanzia saa 4 asubuhi. Hivyo mwenjeji kwa pamoja itazungumza mambo yafuatayo:

Directors:

R. Upadhyaya, T. Chege, V. Desai

Picture 2.5: Part of a letter from Chai Bora Company to TUICO inviting the trade union to discuss retrenchment of workers following the COVID-19 pandemic

The pandemic also affected exports of goods. For instance, the **Mufindi Tea and Coffee Limited's** Human Resources Manager told the survey team in June 2022 that, around 90% of the tea produced this company is normally exported, especially to an international auction in Mombasa, Kenya. But, when the border was closed because of the pandemic, they could not export tea. The same impact was felt at **Trianon Investment Ltd** in Tanga. In Mtwara, it was reported that the COVID-19 caused fewer containers to arrive at the usually busy Mtwara Port and affected business. It was also reported that some of the investors, including Indian investors, closed business and fled the region. Business was also to be difficult among market traders at various marketplaces.

Overall, employers and workers in the tourism and hospitality industries were affected the most in terms of loss in production, loss in sales revenue, and loss in employment. For instance, in Iringa interviewed hotel workers at **Mount Royal Hotel and Queen Esther Hotel** revealed that their wages were



reduced by 10% and 30% respectively in 2019/2020. In Arusha, it was reported that many workers at tourist companies lost their jobs as the companies shut down due to the pandemic, and some never got them back, including at **Mama Africa Tour Company**. A former driver at one of the tourist companies told the survey team that his wife left him after he lost his job due to the pandemic and staying at home without home for a long time.

Many truck drivers moving goods to nearby countries were also said to have lost their jobs because of the pandemic, as borders were closed, and business slowed down. Those who retained their jobs experienced reduced and delayed wages, as revealed by one of the interviewed truck drivers in Iringa.

Moreover, for those engaged in cross-border trading closure of borders because of COVID-19 was a very big frustration for their businesses especially in Mbeya, Mara, Kilimanjaro and Arusha regions as this survey was informed.

LHRC urges the government to initiate legal and policy reforms in order to have in place comprehensive mechanisms for post-disasters recovery and rehabilitation. This could be feasibly realized by amending the Disaster Management Act of 2015 and formulating specific regulations on what is proposed here. This should go together with the reform of fiscal policies and laws e.g. by considering possibilities of financial bailout, mitigation of banking interest rests or tax reliefs, etc. of the business enterprises.

As for an enhancement of business environment in general, LHRC urges the government to ensure that all barriers to business enabling environment (BEE) as indicated in the FYDP III, the Blueprint for Regulatory Reforms to Improve Business Environment of April 2018 and so many other reports, are addressed. There is a need to rollout an implementation of this Blueprint of 2018 be designing monitoring and evaluation mechanisms e.g. linked to accountability frameworks available such as reports on status of implementation being table to the Parliament for deliberations and directives.

Thirdly, all these proposed amendments and reforms should consider the principles stipulated as standards under UNGPBHR of 2011. Specific considerations should be on State's obligations to protect, respect and reinforce human rights standards through the oversight mechanisms especially the regulatory authorities, some mentioned earlier. There is a need also to strengthen the capacities of business associations in order to make them part of the drivers of these desired changes.

Otherwise, LHRC also subscribes to recommendations made by other stakeholders on strengthening business environment in the country. One of the key stakeholders which has offered recommendations on several occasions is the Tanzania Private Sector Foundation (TPSF).

In one of its publications this survey had an attention on, the TPSF raised



some views on reforms, which are relevant to date. Those ones included a need to consider the following on ongoing reforms:-

- i) Harmonizing local government taxation to remove excessive tax burden on private enterprises.
- ii) Streamlining work permit procedures.
- iii) Reviewing and amendment of licensing legislation to reduce the cost of business establishment and continuation – the Business Licensing Reform has been approved by the Government following the consensus of stakeholders.
- iv) Reviewing and revision of export – import procedures to reduce time costs and corruption related costs.
- v) Designing and implementation of a program for enhancing access to commercial courts by SMEs.



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,¹⁵ including all 8 fundamental conventions.¹⁶ 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.**

Other key conventions ratified by Tanzania 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).¹⁷ These conventions protect fundamental labour rights of workers or employees, rights of employers and duties of both employees and employers. These rights 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.** They are connected to the right to work, which is a fundamental human right protected under UDHR, ICESCR and Convention on the Elimination of all

¹⁵ See ILO website at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103476, accessed 17th May 2022.

¹⁶ 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).

¹⁷ Ibid. Note: The Working Environment (Air Pollution, Noise and Vibration) Convention was ratified with reservations.



forms of Discrimination Against Women of 1979 (CEDAW),¹⁸ which also provide for the right to freedom of association,¹⁹ right to non-discrimination,²⁰ right to fair remuneration,²¹ right to just and favourable working conditions,²² right to equal pay for equal work²³ and right to strike.²⁴ 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.²⁵

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**.

At 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 Tanzania Mainland, except to members of the Tanzania People's Defence Forces, the Tanzania Police Force, Tanzania Prisons Service and the National Service.²⁶ 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.²⁷ 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.²⁸

¹⁸ UDHR, Article 23(1); ICESCR, Article 6(1); CEDAW, Article 11(1)(a).

¹⁹ UDHR, Article 23(4); ICESCR, Article 8(1)(a).

²⁰ UDHR, Article 23(2); CEDAW, Article 11(2).

²¹ UDHR, Article 23(3); ICESCR, Article 7(a).

²² UDHR, Article 23(1); ICESCR, Article 7(b); CEDAW, Article 11(1)(f).

²³ UDHR, Article 23(2); CEDAW, Article 11(1)(d).

²⁴ ICESCR, Article 8(1)(d).

²⁵ See ACHPR, Articles 10 & 15; Maputo Protocol, Articles 2 & 13.

²⁶ Section 2(1) of ELRA.

²⁷ Ibid, Section 3.

²⁸ 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.



There are also rules, regulations and policies relating to labour and employment. These include 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.

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 in the financial year 2021/2022. It also looks at adherence to labour rights of freedom of association and collective bargaining, situation of forced and child labour, 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. Employment Contracts

The Law of Contract Act [CAP. 345 R.E. 2019] (LCA) defines a contract as an agreement made by free consent of parties competent to contract, for a lawful consideration and with a lawful object.²⁹ Employment contracts are legally-binding agreements between employers and employees, creating rights and duties for both parties. The Employment and Labour Relations Act [CAP. 366 R.E. 2019] provides for three types of contracts with an employee, namely:

- Contract for an unspecified period of time;
- Contract for a specified period for professional and managerial cadre; and
- Contract for a specific task.

Both oral and written employment contracts are permissible under the ELRA. However, where there is no written employment contract an employer must supply an employee with Written Statement of Particulars.³⁰ Employer has a duty to explain the written particulars to an employee if they do not understand and keep the particulars for at least five years after termination.³¹ If employer fails to produce a written contract or written particulars in case of labour dispute, such dispute may be decided against them.³² Moreover, an employee must work for more than 6 days in a month in order to qualify for any rights stipulated in the employment contract.

²⁹ Ibid, Section 10.

³⁰ According to Section 15(1) & (2), Written Statement of Particulars must contain: name, age, permanent address, and sex of employee; place of recruitment; job description; date of commencement; form and duration of the contract; place of work; hours of work; remuneration; and any other prescribed matter.

³¹ Ibid, Section 15(3) & (5).

³² Ibid, Section 15(6).



Payment of remuneration must be done monthly, or any other period agreed between employer and employee, but an employee must be provided with a written statement of particulars supporting remuneration paid.³³ The statement must contain: the name of employee; date, month and year of payment; the name of employer or logo; employment or check number; statutory deductions; other deductions; gross or basic salary; and net salary.³⁴

3.2.1. Workers with employment contracts

Overall, the survey found that there was a general improvement in terms of provision of employment contracts. A total of 64.6% of workers who responded to the survey said they had employment contracts, an increase of 5.6% compared to the previous survey covering the period of 2020/21.

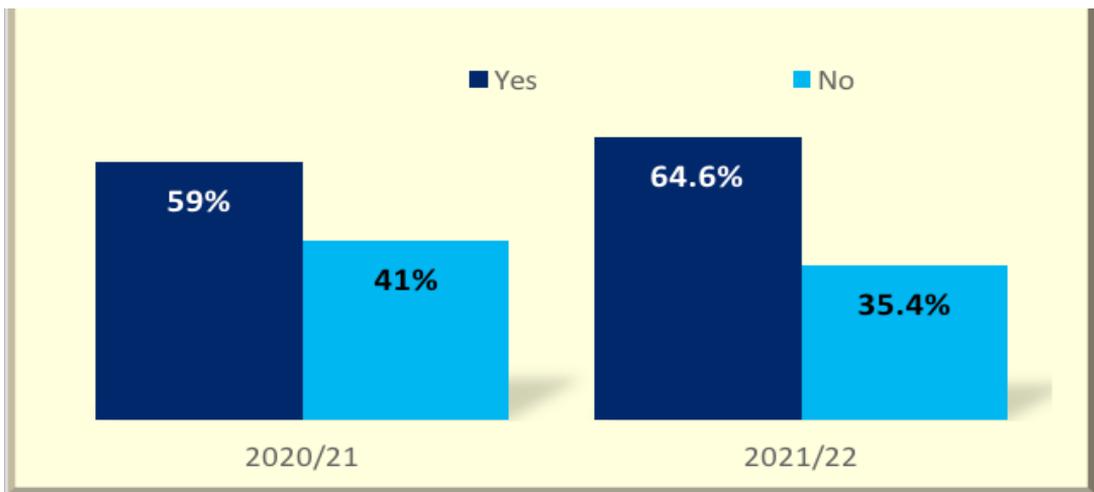


Figure 3.1: Status of employment contracts amongst workers in 2020/21 and 2021/22

Source: Field data, 2022

In the previous survey the number of workers with employment contracts had dropped significantly, as situation which was attributed to various factors, including the COVID-19 pandemic and preference of employers for short-term contracts. An increase in the number workers with employment contracts during this reporting period is therefore a step in the right direction, as the country and businesses continue to recover from the negative impacts of the COVID-19 pandemic.

Percentage of workers with employment contracts was found to be high in regions such as Kilimanjaro (90%), Mwanza (87%), Geita (86%), and Dar es Salaam (81%). Regions which recorded lower percentage (less than 60%) of employment contracts included Tanga (59%), Dodoma (53%), and Mtwara (52%). Mara Region recorded the lowest percentage of workers with

³³ Regulation 13(1) & (2) of the Employment and Labour Relations General Regulations, GN. 47 of 2017.

³⁴ Ibid, Regulation 13(3).



employment contracts, at 30%, decreasing from 54.76% in the previous survey. Percentage of workers with employment contracts was higher among male workers (67%), compared to female workers (61%). A third of both male and female workers did not have employment contracts, as shown in Figure 3.2 below.

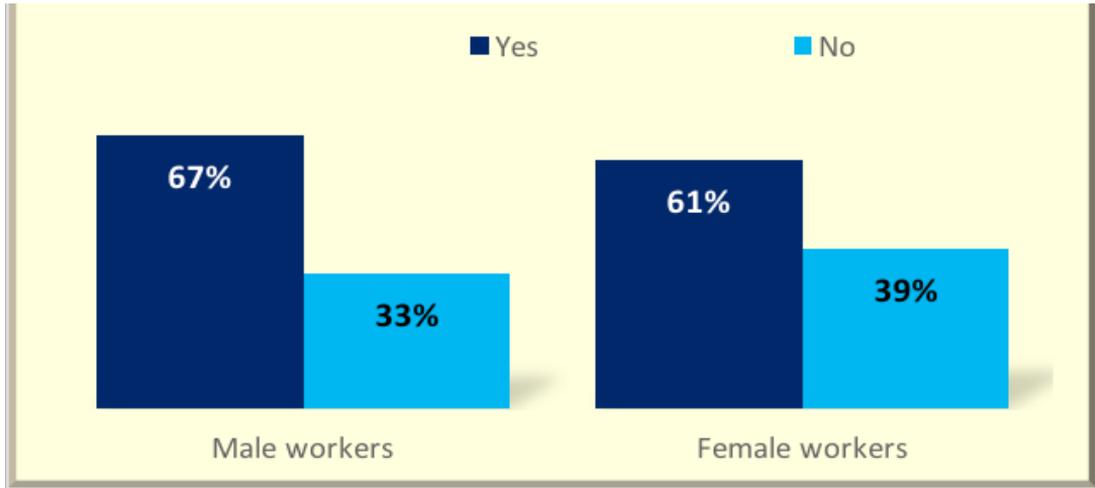


Figure 3.2: Status of employment contracts among workers by sex

Source: Field data, 2022

Some of the interviewed respondents in regions such as Pwani, Mara, Iringa, and Mtwara complained about working for three to seven years without being given employment contracts. For instance, a worker at one of the surveyed workplaces in Pwani Region claimed that she had worked for more than five years without seeing any contract.³⁵ In Mtwara, one of the interviewed respondents said, *'I have worked here for 7 years now but I am yet to receive any contract. Surprisingly, when the inspectors come, they are told we have contracts and shown signed contracts which we didn't sign...we are denied our basic rights by not being provided with employment contracts'*.³⁶

Lack of trade union branches or such branches being ineffective was identified as a factor contributing to lack of employment contracts. This was especially revealed during interviews with workers in Iringa Region.³⁷

Preference of casual workers was also said to be another key reason for employers not to provide employment contracts. This was said to be a tactic used by employers to avoid labour obligations associated with employment contracts. In the words of a worker at **Vita Foam Co Ltd**, located in Pwani Region, employers like casual workers because 'they are the cheaper option.' At most surveyed workplaces, the survey found that there were both employees and casual workers, with the latter constituting the majority. In

³⁵ Human Rights and Business Survey 2022: Pwani Field Report.

³⁶ Interviewed respondent at **Makapo Contractor and General Supply**.

³⁷ Human Rights and Business Survey 2022: Iringa Field Report.



Morogoro, majority of workers and other community members revealed that manufacturing companies such as **Upami Agribusiness Company Limited** and **Kimamba Fibres** prefer casual workers, who are paid daily.³⁸ In Pwani, it was also revealed that the Chinese and Indian employers prefer casual labour. A local government official in Mkuranga District in the region branded Chinese and Indian employers 'stubborn' and 'not liking to employ workers'.³⁹ He noted that they prefer to use casual workers because they do not have to accord them labour rights such as freedom of association, right to social security, and right to leave.⁴⁰ In Iringa, the survey found that only 10% of workers at **Yi Sen International Investment Company Limited** in Mafinga District had employment contracts (were employees).⁴¹

In Dar es Salaam, the survey found that the culture of not providing employment contracts is more common among middle and small size industries.⁴² The owner of **Alhaddad Electrical Works** in the region mentioned during an interview that they do not provide employment contracts, and legally so, because they are 'a small family business' and are 'doing most of the workers a favour' so that they can at least earn a living.⁴³ In Iringa, a supervisor at **East Africa Zhenyuan Group Company Limited** remarked that they usually do not provide employment contracts because most workers come and go within a short period of time.⁴⁴ In Mtwara, some employers, such as **Akros Cashewnut Company**, claimed that they cannot provide employment contract to all workers due to the seasonal nature of their business.⁴⁵

In over half of the surveyed workplaces, majority of interviewed workers who did not have employment contract mentioned that when they ask about such contracts, they are usually asked in return whether they want the job or the contract and forced to just leave things at that for fear of provoking the employer. Regarding this, a worker at **BNBM Company** in Pwani Region said, *'My sister, we don't dare ask about employment contract here because when we do, we are asked, which is important, the job or contract? We then decide to let it go.'*

In Dar es Salaam, one of the interviewed workers at **Alhaddad Electrical Works** said that sometimes the workers themselves prefer to work as casual labourers due to many statutory deductions associated with employment contract.⁴⁶ He said that it is better that way if they can avoid the deductions, considering their 'low wages.' Such deductions include social security contributions, Workers' Compensation Fund (WCF) contributions and trade

³⁸ Human Rights and Business Survey 2022: Morogoro Field Report.

³⁹ Human Rights and Business Survey 2022: Pwani Field Report.

⁴⁰ Ibid.

⁴¹ Human Rights and Business Survey 2022: Iringa Field Report.

⁴² Human Rights and Business Survey 2022: Dar es Salaam Field Report.

⁴³ Ibid.

⁴⁴ Human Rights and Business Survey 2022: Iringa Field Report.

⁴⁵ Human Rights and Business Survey 2022: Mtwara Field Report.

⁴⁶ Human Rights and Business 2022: Dar es Salaam Field Report.



union contributions.⁴⁷ In Arusha, some of the survey respondents said they did not see the difference between having and not having a contract. One of them, a worker at **Spanish Tiles**, said:

'I once had a one-year contract, but when it ended I decided against renewing, instead I thought it is better to just work as a casual worker....I don't see the difference really between a casual worker and an employee... if I do not report for work my wages still get deducted.'

Some few interviewed respondents also indicated that they do not see the benefit of having employment contract, hence reluctant to push for such a contract. For instance, in Dar es Salaam, a respondent at **Dar Ceramica Centre** opined that even when one has an employment contract, there is still no guarantee their rights will be protected and 'there is nothing you can do when your supervisors violate your labour rights, unless you want to lose your job.'⁴⁸ In this regard, in Mbeya, a bus driver at **Maud Bus Service** said:

'My sister, to tell you the truth, I don't see the point of employment contract. Just last year our co-worker was unfairly dismissed, and his contract did not help with anything. If you are not well educated the rich shall surely make you suffer a lot!'

In Mwanza, it was reported that there is a general improvement in terms of provision of employment contracts, including among beverage companies such as **Coca-Cola** and **Pepsi**. This was said to be partly attributed to consistent follow ups by the Regional Labour Officer In-Charge.⁴⁹ In Mbeya, an interview with an official from the Communication and Transport Workers Union of Tanzania (COTWU (T)), revealed that there has been some improvement in provision of employment contracts in the transportation sector, although issuance of contract copies is still a big challenge.⁵⁰ The official noted that the transportation sector in doing better in this regard compared to the communication sector.⁵¹ In Mtwara, a Tanzania Union of Industrial and Commercial Workers (TUICO) official claimed that more companies in the region were now providing employment contracts due to initiatives to ensure compliance by different stakeholders, including labour officers.⁵²

In Iringa, most of the workers at business enterprises such as **Iringa Food and Beverages Company**, **Asas Transport Limited**, **Yi Sen International Investment Company Limited** and **Queen Esther Hotel** indicated that they had employment contracts.⁵³ In Mbeya, some employers, including **AI Bakery Co Ltd**, claimed to provide employment contracts to all their workers, but failed to produce proof in the form of copies of current contracts.⁵⁴

⁴⁷ Ibid.

⁴⁸ Human Rights and Business 2022: Dar es Salaam Field Report.

⁴⁹ Human Rights and Business 2022: Mwanza Field Report.

⁵⁰ Human Rights and Business 2022: Mbeya Field Report.

⁵¹ Ibid.

⁵² Human Rights and Business 2022: Mtwara Field Report.

⁵³ Human Rights and Business 2022: Iringa Field Report.

⁵⁴ Human Rights and Business 2022: Mbeya Field Report.



3.2.2. Written contracts and copies of contracts

When asked about written contracts, the overwhelming majority of respondents (89%) claimed they had written employment contracts, while the remaining 11% said they only have oral contracts.⁵⁵ This is a significant improvement compared to the previous survey, in which the percentage of workers with written employment contract stood at 56%. There were variations among workers with employment contracts in terms of sex, whereby 61% of male workers and 53% of female workers had employment contracts. Regionally, Mwanza Region recorded the highest percentage of workers with written employment contracts (82%), while Mara Region recorded the lowest, at 26%. Other regions ranged from 44% to 75%.

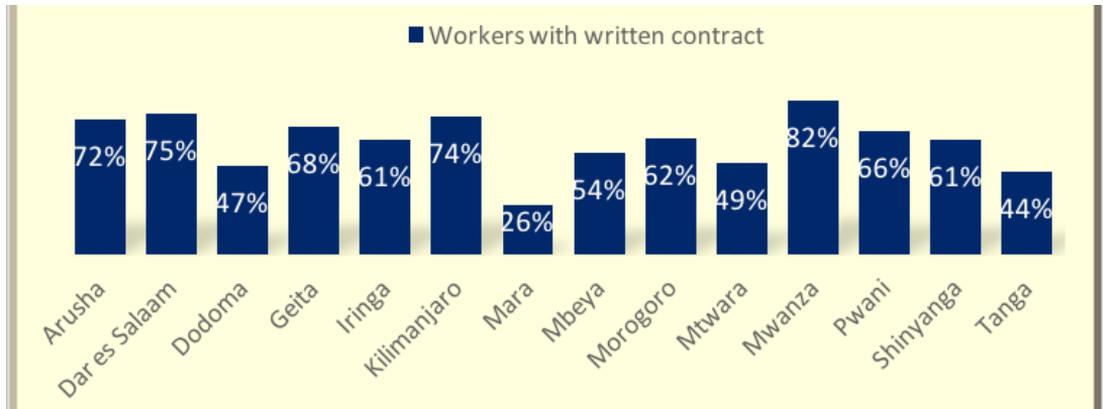


Figure 3.3: Workers with written employment contracts by region

Source: Field data, 2022

Majority of interviewed workers who claimed to have employment contract said they were not provided with copies. For instance, in Morogoro, a worker at **Whatsafrica Limited (Udzungwa Drinking Water)** claimed that he had employment contract but was not provided with a copy.⁵⁶ In Dodoma, similar grievances were aired by workers in the hospitality and private security sectors, including at **Morena Hotel** and **SGA Security**.⁵⁷ In Geita, most of the interviewed workers in the hospitality industry also claimed not to have copies of employment contract.⁵⁸ In Mara, some of the interviewed workers in the private security industry, including at **KIC Security Company**, also lamented not being provided with copies of contract. One of them said: *'We signed our contracts and they said they would bring us our copies, but today is a year later and I am yet to receive my copy, despite asking for it frequently'*

⁵⁵ N=459

⁵⁶ Human Rights and Business Survey 2022: Morogoro Field Report.

⁵⁷ Human Rights and Business Survey 2022: Dodoma Field Report.

⁵⁸ Human Rights and Business Survey 2022: Geita Field Report.



Other workplaces where complaints of non-provision of employment contract copies were made include *Iringa Food and Beverages Company, En Xin Co. Ltd* and *Ever Green Wood Company* in Iringa; and *Calpro Tanzania Limited* in Arusha; *EUTCO* in Tanga. On the other hand, some companies were said to provide copies of employment contract to workers, including *Tanga Fresh Diary* and *RATCO Co. Limited* in Tanga.

In Mbeya, bus and truck drivers were identified to be among workers who are usually not provided with employment contract copies. This was revealed during an interview with a COTWU(T) official, who remarked that 'drivers are usually read terms of their contracts and told to sign, but not provided with copies of contract.'⁵⁹

Interviews with workers in nearly all surveyed regions revealed that most workers tend not to read their employment contracts, even when presented with an opportunity to do so. They just check their monthly pay and sign the document. This tendency was observed to be more common among workers with low skill and lower paying jobs, especially in manufacturing, hospitality, private security, and transportation industries. In Mwanza, an employee at a pharmaceuticals company, said, '*I have been provided with employment contracts several times...what I usually do is just check the salary and ignore other areas of the contract...*' A similar statement was made by a worker at *Matrix international Ltd*, who said, '*My brother, let nobody lie to you, most of us just check the salary amount and then sign the contract. We are not concerned or bothered with anything else in the contract.*'

In Iringa, it was observed that some workers do not see the importance of having copy of employment contract. All they care about is that they get their salary. For instance, one of the employees at *Ronglan International Investment Company Limited* said, '*I don't care about a copy of my employment contract...what matters is that I get my salary....other things do not concern me.*'

3.2.3. Ready-made contracts and room for collective bargaining

Good employment and labour practices discourage ready-made contracts and provide room for collective bargaining among employers and workers. Employees engaged during the survey were asked whether they discussed terms of contract with their employers before their employment commenced. Only 53% of the respondents, which is a little over a half, said they did, while the remaining 47%, which is nearly a half, said they were not afforded such an opportunity.

⁵⁹ Human Rights and Business Survey 2022: Mbeya Field Report.



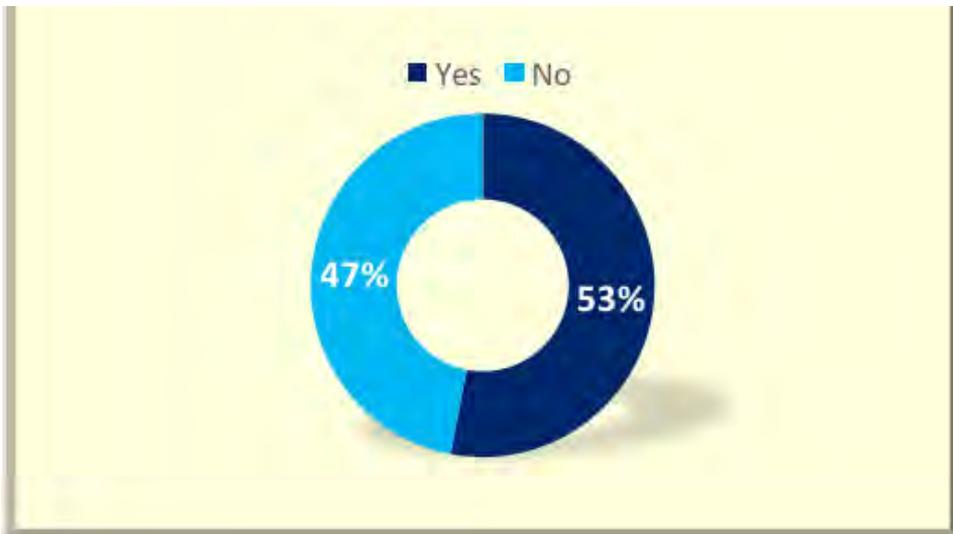


Figure 3.4: %Responses on discussing terms with employer before employment commencement (N=459)

Source: Field data, 2022

Contrary to the quantitative findings, majority of interviewed workers said that they were not afforded an opportunity to discuss terms of contract with employer. They said that they were just given ready-made contracts to sign, with no room for bargaining. Surveyed workplaces where this claim was made include **Mastercool Industry** in Dar es Salaam; **Biotech** in Pwani; **TOTAL Energies** in Mwanza; **Primefuels Tanzania Limited** in Geita; private security companies in Mbeya; **Irvines Company** in Kilimanjaro; **USA Limited, FIBERBOARDS (2000) LTD, and Tanelec Limited** in Arusha; **Neelkenth Lime Ltd, Huaxin Cement Tanzania, AI Bakery, Tanga Fresh Ltd, LABA Contractors, LAL Garage Ltd, East Usambara Tea Company, and Sasalana (T) Co. Ltd** in Tanga; **Cachson Risk Management, Listram Commodities Co.ltd , Akros Company Ltd, Specialized Hauliers Transportation Ltd, Dangote Cement Factory, and Shebby Mix Investment** in Mtwara.⁶⁰ Women find themselves in more a more disadvantageous position in bargaining with their employers or prospective employers because they burdened by factors such as discrimination and different forms of violence, including sextortion.

In Geita, a TUICO official confirmed that most employers in the region have ready-made contracts in place, which are not negotiable. He said:

'Most of the employers already have in place the contracts, thus all that is left is for the worker to sign and agree to terms, if they want the job... and most of the company workers here in Geita have not joined trade unions and there are no branches at their workplace, thus making it difficult for them to get help in negotiating.'

⁶⁰ Human Rights and Business Survey 2022: Dar es Salaam Field Report; Human Rights and Business Survey 2022: Pwani Field Report; Human Rights and Business Survey 2022: Geita Field Report; Human Rights and Business Survey 2022: Kilimanjaro Field Report; Human Rights and Business Survey 2022: Arusha Field Report; Human Rights and Business Survey 2022: Tanga Field Report; & Human Rights and Business Survey 2022: Mtwara Field Report.



Over 90% of survey respondents in Geita said they did not discuss terms with employers. One of the employers, **Primefuels Tanzania Limited**, said that providing employees with a room for discussing wages is not a good practice because some can demand high wages, which they cannot pay.⁶¹ In Iringa, one of the survey respondents at **Iringa Food and Beverage Company** said that the employer is too busy to discuss terms with workers.⁶² What usually happens is that the workers sign the contracts and return them to the manager. A manager at **Sai Energy and Logistic** in the region commented that they would only discuss terms or bargain with a worker if they really needed them, meaning they are very good at what they do.

In Iringa, lack of trade union branches at workplaces was said to contribute to reduction of chances of a worker to negotiate with an employer.⁶³ For instance, the survey found that no such branches existed at workplaces such as **Iringa Food and Beverages Company**, **Asas Transport Lt** and **Sai Energy and Logistics Ltd**. A trade union branch was found at **Dabaga company Ltd**, but even then, only 43% of workers were said to be members.⁶⁴

In Iringa, one of the workers at **Dabaga company Ltd** remarked that there is no need to discuss a contract written in a language he does not understand (English). At **Sai Energy and Logistics Ltd**, another worker said that he did not care about bargaining and did not discuss terms because he was just happy to get the job, considering many people were looking for jobs.⁶⁵

In Mtwara, the survey findings show that 50% of workers who responded to the survey said they bargained with their employers before signing contracts.⁶⁶ However, this was mostly the case for those with skilled jobs.

3.2.4. Language of employment contracts

Some of the interviewed workers in all surveyed regions raised concerns over the language of their employment contracts. Most of the received samples of employment contracts were in English Language, which is not understood or well understood, especially among the low-skilled and unskilled workers. Workplaces where workers expressed concerns about the language of their contracts include **Flomi Hotel**, **ILLOVO Kilombero Sugar** and **Udzungwa Drinking Water Company** in Morogoro; **Jielong Holdings (T) Ltd** in Shinyanga; **Dekker Kilimanjaro Limited** in Kilimanjaro; **SUN FLUG Company Ltd** in Arusha; **LABA contractor Ltd**, **Huaxin Cement Tanzania**, **Neelkenth**, and **Tanga Fresh Co. Ltd** in Tanga; and **Dangote Cement Factory** and **Xinghao Group Co. Ltd** in Mtwara.

⁶¹ Human Rights and Business Survey 2022: Geita Field Report.

⁶² Human Rights and Business Survey 2022: Iringa Field Report.

⁶³ Ibid.

⁶⁴ Human Rights and Business Survey 2022: Iringa Field Report.

⁶⁵ Ibid.

⁶⁶ Human Rights and Business Survey 2022: Mtwara Field Report.



In Dodoma, a worker at a private security firm stated that his contract was written in English, a language he did not understand.⁶⁷ In Shinyanga, a survey respondent at *Jielong Holdings (T) Ltd* said, *'The contract I was given was written in a foreign language. When I asked for clarifications, I was told to just sign and proceed to work.'*

On the other hand, there were some workplaces where contracts were prepared in the language that the workers understand. These were mainly observed in Iringa, Mbeya, and Mtwara Regions. For instance, in Iringa a contract sample at *Yi Sen International Investment Company Limited* was found to be in three languages, namely Swahili, English and Chinese.⁶⁸ A similar contract sample was found at *Ronglan International Industry and Trade Company Limited*.⁶⁹ At *Lumilo Classic Hotel* in the region, it was revealed that contracts are prepared in English and Swahili, depending on the language proficiency of the worker. A similar practice was observed at *SERC Construction Co. Ltd* in Mtwara.

YI SEN INTERNATIONAL INVESTMENT COMPANY LIMITED
P.O.BOX. 42450
DAR ES SALAAM
MKATABA WA AJIRA
(Employment Contract) 员工与公司协议

Makubaliano haya yamefanyika leo tarhe..... mwezi wa mwaka
下述双方于 在易森公司签署本协议
(This agreement has been made at this day of of 20.....)

BAINA YA (Between)与

Yi Sen International Investment Company Limited P.o.Box. 42450 Dar es Salaam
kwa upande mmoja ambaye atajulikana kama Mwajiri.(Hereafter referred to as the employer, 易森公司 DAE ES SALAAM 地址, 邮编 42450 以下简称甲方

NA(and)与

..... wa S.L.P. umri(age)年龄..... jinsia(sex)
性别..... kwa upande wa pili ambaye atajulikana kama Mwajiriwa.(Hereafter referred to as the employee)以下简称乙方

Pande mbili katika mkataba huu zinakubaliana kama ifuatavyo. The parties to the contract agreed as follows :双方本着平等互利友好协商达成以下协议

- MAHALI PA AJIRA (Place of recruitment) 工作地点**
Mahala ulipoajiriwa ni (Place of recruitment) 工作岗位.....
- MAELEZO YA KAZI YAKE (Job descriptions) 职位**
Ni umuzi wa Muajiri kutajwa hapo juu katika nafasi ya kwenye kitengo cha na Muajiriwa amekubali kutoa haduma kuajiriwa kwenye majukumu/wajibu na masharti yaliyotajwa katika taratibu za kiwanda hiki kwa misingi ya mkataba huu. (It is the employer's decision to employ one mentioned above in department and the employee has agreed to work under factory's policy and regulations.
Majukumu ya Mwajiriwa katika mkataba huu yatakuwa. The responsibilities of employee shall be 乙方责任与义务
a)
b)
c)
- SEHEMU YA KAZI (Place of work) 工作岗位**
.....
- KIPINDI CHA MAJARIBIO (Probation period) 试用期**
Utakuwa katika kipindi cha majaribio kwa muda ustotidi mizizi 6 na iwago utaonesha juhudi na uaminifu wa hall ya juu utabithiishwa kazini na endapo hutuonecha juhudi katika kazi yako kipindi hicho cha majaribio

Picture 3.1: Part of a sample of employment contract written in Swahili, English and Chinese at a company in Iringa Region

⁶⁷ Human Rights and Business Survey 2022: Dodoma Field Report.

⁶⁸ Human Rights and Business Survey 2022: Iringa Field Report.

⁶⁹ Ibid.



3.2.5. Contracts with unfair, unclear or discriminatory terms

Selected employers at the surveyed workplaces were asked to produce copies of employment contract to ascertain fairness of terms of contracts. While this request was met with resistance at most workplaces, the few copies of contracts that were obtained showed that there were some employment contracts which include terms that are unfair, unclear or discriminatory. For instance, a copy of employment contract obtained from ***Al Haddad Electoral Works*** in Dar es Salaam did not contain provisions regarding important items such as leaves.⁷⁰

In Pwani, a contract sample from at one of the surveyed workplaces⁷¹ did not stipulate working hours per day, which are either 8 or 9 hours.⁷²

Mkatoba wa Ajira ya majaribio

KUMBA VFL/KBH/SU/05/2022

Tarehe 16/05/2022

Mwajiriwa ameajiriwa kama (Cheo) MUDA K...

Linapenda kukutaanifu kwamba sampuni inakupa Juma ya kazi ya majaribio kama MUDA wa MUDA 216

Kuanzia 01/06/2022 mpaka au 31/12/2022, mpaka hapo utakopopewa taarifa na mkuu wako wa kazi kama ameridhika na utendaji wako wa kazi uti kwa kiongozi wote pamoja na mwananyakazi wenzako kwa ujumla nakuli kuhunizera na milangoza iliyowekwa na kampuni.

MSHAHARA

- Mwajiri atakulipa kiasi cha shilingi za Kifaransa Tsh. (Gross salary) 2,000,000
- Ambayo utakuwa mshahara (Basic pay) 1,000,000
- Malipo ya chakula (food allowance) 200,000
- Malipo ya masaa ya kazi (Fixed overtime) (ACTUAL)

muda wa majaribio ya kazi MUDA 216

Sehemu ya alipajiwa Mwajiriwa ni KIBAHIA Tanzania

MUDA WA KAZI:

Muda wa kazi utapangwa na mkuu wako idara kulingana na majukumu atakayakupangia kwa siku hiyo.

USITISHWAJI WA AJIRA.

Ajira yaweza kusitishwa mara moja, kabla au baada ya muda wa uangalizi/majaribio pale ambapo mwajiri ataona kwamba uwezo wa utendaji kazi kwa Mwananyakazi/Mwajiriwa ni mdogo au hauridhishi, au endapo Mwajiriwa atafanya kosa laote la utovu wa niganu uwapa kazi.

Nakutaka kila lakhefi.

Sahihi ya mwajiriwa Tarehe 01/06/2022

Idara ya Rasimali watu

Picture 3.2: Employment contract not stipulating working hours at one of the surveyed business enterprises in Pwani Region

In Shinyanga, scrutiny of a copy of employment contract of one of the private security companies that was visited revealed that workers who decide to terminate employment within 11 months since commencement of employment are deducted Tshs. 95,000 to cover the cost of uniforms provided to them, since ‘such uniforms should not be worn by another person.’⁷³ Employees are also deducted Tshs. 15,000 for not showing up at

⁷⁰ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

⁷¹ Vita Foam (T) Ltd.

⁷² Human Rights and Business Survey 2022: Pwani Field Report.

⁷³ Human Rights and Business Survey 2022: Shinyanga Field Report.



work and Tshs. 5,000 for showing up late. At another private security firm, located in Mara Region, one of the survey respondents lamented a provision within his contract which suggests that he could be fired on the spot when found ‘dosing,’ even accidentally.⁷⁴

In Mbeya, majority of employers refused to share copies of employment contracts so that they can be scrutinized for compliance with labour standards. This suggests that there is a high possibility that the contracts contain unfair or discriminatory terms that the employers did not want the survey team to see. However, one of the few copies of employment contracts that were shared, from a private security company,⁷⁵ included a term that stipulated that normal working hours shall be 12 hours, contrary to the working hours limit of 8 or 9 hours per day stipulated in the labour laws and regulations.⁷⁶ There is no mention of overtime and additional pay in the contract.

In Tanga, interviewed truck drivers complained about a provision within their employment contract that says that they will be responsible for truck maintenance while en route to their destinations.⁷⁷

3.2.6. Breach of employment contracts

Some of the survey respondents in regions such as Pwani, Morogoro, Dodoma and Shinyanga levelled complaints against their employers for breach of contract. For instance, in Pwani some of the respondents, including at **Hontai Col Ltd**, claimed that they are often not paid the salary indicated in the employment contract.⁷⁸ In Morogoro, a respondent working for a sugar company in Kilombero District mentioned that sometimes they are told to do work that is not in their job description.⁷⁹ In Dodoma, a worker at a private security firm said she was made to work in two positions at the company but only provided with a salary for one position.⁸⁰ In Shinyanga, an officer from the Commission for Mediation and Arbitration (CMA) pointed out that 80% of labour cases filed at CMA in the region are on breach of employment contract.⁸¹

3.2.7. Employment contract and fear of losing one's job

‘My sister where did you see an Indian employer providing an employment contract? There is no such thing here, and if you persist with the demand for contract, you get fired, and how does that benefit my family? Let them oppress us, we are the ones in need,’ remarked one of the interviewed workers in Tanga Region. Similar statements were made by many other interviewed workers in all surveyed regions, as intimidation for workers

⁷⁴ Human Rights and Business Survey 2022: Mara Field Report [**Intelligence Securico Ltd**].

⁷⁵ Affairs Services & Consultants Company Ltd.

⁷⁶ Human Rights and Business Survey 2022: Mbeya Field Report.

⁷⁷ Human Rights and Business Survey 2022: Tanga Field Report.

⁷⁸ Human Rights and Business Survey 2022: Pwani Field Report.

⁷⁹ Human Rights and Business Survey 2022: Morogoro Field Report.

⁸⁰ Human Rights and Business Survey 2022: Dodoma Field Report.

⁸¹ Human Rights and Business Survey 2022: Shinyanga Field Report.



demanding employment contracts continues to be a recurring theme during this reporting period. In Shinyanga and Pwani Regions, some of the interviewed workers said their fellow workers had been fired after pushing for employment contract.⁸² At **China Civil Engineering Construction Corporation (CCECC) Company** in Shinyanga, one of the interviewed workers said:

'I have been at this Chinese-owned company for a year and half now, and every time I introduce the topic of employment, they threaten to fire me, so I gave up to prevent further problems.'

Bus drivers in Dodoma also expressed concerns about pushing for employment contract during a focus group discussion at the Nanenane Bust Stand.⁸³ They said that demanding contracts puts them at risk of losing their jobs, considering the fact that there are many people looking for driving jobs.⁸⁴ Similar statements were made during interviews with respondents such as bus drivers in Mbeya, who recommended during a focus group discussion at Nanenane Bus Stand in the region that a law should be enacted to require employers to ensure a copy of a driver's contract is available in the bus at all times, together with a car registration card and driving licence.⁸⁵ They recommended that when stopped by traffic police for inspection, they should also be asked for a copy of employment contract. They added that transportation sector employers who obtain transportation licence without providing drivers' employment contracts should be legally held accountable.

3.2.8. Long term contracts versus short-term contracts

Like in the previous survey, preference of short-term contracts was observed in all surveyed regions. This was 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. In Pwani, a survey respondent at **Hontai Manufactures Limited** said that it was her fourth year with her current employer and each year she had been signing a new contract.⁸⁶ She noted that such short-term contract creates a sense of fear among workers and job insecurity. Respondent to this claim, a human resources manager at the company said that it is true that they provide short-term contracts, but this is done in good faith to maintain workers' efficiency and professionalism. He said:

'When you give them long-term contracts, they will become complacent, and their work performance shall drop. Short-term contracts ensure they keep up the standards so that they can get another contract (renewal)'

Offering long-term contracts is a good practice and desirable in safeguarding labour rights. They are also important in securing loans from financial

⁸² Ibid; Human Rights and Business Survey 2022: Pwani Field Report.

⁸³ Human Rights and Business Survey 2022: Dodoma Field Report.

⁸⁴ Ibid.

⁸⁵ Human Rights and Business Survey 2022: Mbeya Field Report.

⁸⁶ Human Rights and Business Survey 2022: Pwani Field Report.



institutions. For instance, in Dodoma, the Zonal Manager at **SGA Security Company** revealed during an interview that they offer permanent contracts to their employees, which enable them to obtain loans from banks and other financial institutions.⁸⁷ On the other hand, a worker at **GIPCO Construction Ltd** in Geita said, *'We have only been given a one-year contract, with which you can only secure a small loan...our colleagues with five-year plus contracts can get big loans.'*

In Arusha, a worker at **USA Limited** made a similar claim regarding short-term contracts, noting that it is difficult to obtain a bank loan due to a one-year contract offered to him.⁸⁸ In Tanga, it was revealed by some of the workers during a focus group discussion in Muheza District that most of them had been with their company for more than 10 years and some 16 years, but they get nine-month renewable contracts.⁸⁹

At **Gold Crest Hotel** in Mwanza, a corporate management official claimed that they prefer to offer only one-year contract because the hotel workers might want to leave and go work at other hotels within a short period of time.⁹⁰ In Mtwara, the survey found that majority of workers engaged during the survey had short-term contracts, with employers preferring such contracts so that they can exert more control, influence, or pressure over workers. Some of the workers at **Dangote Cement Factory** said that they were very much aggrieved by short-term contracts (one-year) and even took initiative to complain to trade unions, but they were told, and rightly so, short-term contracts are legal.⁹¹ Another employee at **Shebby Mix Investment** claimed during an interview that he was only given a three-month contract.

3.2.9. Preference of casual labourers

As it has been observed in past LHRC surveys on business and human rights, majority of employers, especially in small and medium-sized enterprises, continue to prefer casual labour rather than employment. As briefly discussed in 3.2.1 above, most employers in these companies prefer casual workers because they do not enjoy the labour rights that employees do. They are seen as a cheaper option, taking advantage of the big labour/job market. During the survey, preference of casual workers was especially stated in Geita, Mbeya, and Tanga.⁹² In Geita, Nkome Ward WEO in Geita DC revealed that use of casual labour was dominant in the fishing industry.⁹³

Casual workers were said to work under difficult conditions in Mbeya Region, characterized by little pay and hazardous environment.⁹⁴ Unlike

⁸⁷ Human Rights and Business Survey 2022: Dodoma Field Report.

⁸⁸ Human Rights and Business Survey 2022: Arusha Field Report.

⁸⁹ Human Rights and Business Survey 2022: Tanga Field Report [FGD with EUTCO employees].

⁹⁰ Human Rights and Business Survey 2022: Mwanza Field Report.

⁹¹ Human Rights and Business Survey 2022: Mtwara Field Report.

⁹² Human Rights and Business Survey 2022: Geita Field Report; Human Rights and Business Survey 2022: Mbeya Field Report; Human Rights and Business Survey 2022: Tanga Field Report.

⁹³ Human Rights and Business Survey 2022: Geita Field Report.

⁹⁴ Human Rights and Business Survey 2022: Mbeya Field Report.



their colleagues who are employed, they are not entitled to labour rights such as leave and social security. Consequently, as it was revealed in Tanga, they work on daily basis throughout the year to survive, with little or no time to rest. Female casual workers are disproportionately affected as they face more discrimination and experience various forms of violence, especially verbal abuse and sexual harassment. Pregnant women working as casual labourers are also forced to continue going to work, especially where they are the only breadwinners in the family. As a result, some of them have miscarriages, as revealed by a nurse at one of the factories that were visited in Tanga, who said:

'We are getting many cases of miscarriages here at the factory, as some pregnant casual workers are the breadwinners in their families, and they know that if they do not report for work, they will earn a living to support them and their families.'

The nurse added that there was one pregnant casual worker who fainted while working and was given first aid and then rushed to a hospital.⁹⁵ It was revealed that she was eight-month pregnant and advised to rest.⁹⁶

3.3. Working Hours

Working hours or working time has been an issue of concern across the world since the 19th Century, with excessive working hours seeming to pose danger on workers' health and harm family life. This prompted the international community, through the ILO, to agree on international standards on working time, which are set out in different ILO conventions.⁹⁷ The international standard is now 8 hours per day.⁹⁸ The Employment and Labour Relations Act (ELRA) conforms to the 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.⁹⁹ ELRA also prohibits an employer to require or allow an employee to work for more than 12 hours in a day.¹⁰⁰ Overtime work is allowed under the law, but should not exceed 50 hours in any four week cycle¹⁰¹ and is subject to an agreement between employer and employee¹⁰² as well as additional pay (overtime pay).¹⁰³ However, a written agreement may be entered between employer and employee to work for

⁹⁵ Human Rights and Business Survey 2022: Tanga Field Report.

⁹⁶ Ibid.

⁹⁷ **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).

⁹⁸ **See** ILO, **Q&As on business and working time**, at http://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_TIM_FAQ_EN/lang--en/index.htm, accessed 20th August 2022; LHRC (2016), Human Rights and Business Report 2015, p. 87.

⁹⁹ Section 19(2) of the Employment and Labour Relations Act [CAP. 366 R.E. 2019].

¹⁰⁰ Ibid, Section 19(1).

¹⁰¹ Ibid, Section 19(3) (b).

¹⁰² Ibid, Section 19(3) (a).

¹⁰³ Ibid, Section 19(5).



up to 12 hours in a day without overtime pay.¹⁰⁴ 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.¹⁰⁵

3.3.1. Compliance with working hours limit

In assessing compliance of businesses with working hours limits provided by domestic laws and regulations, as well as international labour standards, the survey found that generally most workers (over 90%) know the number of hours they are supposed to work daily, which is 8 or 9 hours. However, not all of them were free to leave their workplaces after these working hours. According to the survey findings, 19% of workers were not free to leave after the normal working hours.

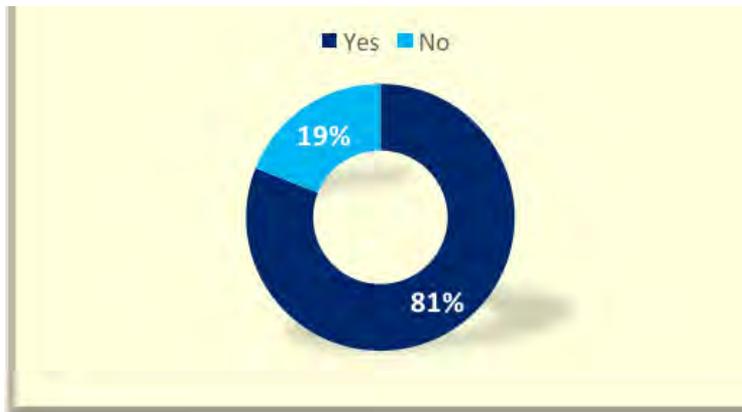


Figure 3.5: %Responses on freedom to leave workplace after normal working hours (710)

Source: Field data, 2022

Complaints regarding non-compliance with the daily working hours limit of 8 to 9 hours were made in surveyed regions such as Dar es Salaam, Pwani, Morogoro, Dodoma, Shinyanga, Geita, Mara, Iringa, Mbeya, Kilimanjaro and Tanga. These complaints were more common among private security guards and bus and truck drivers.

In Dar es Salaam, the survey found that it is all about the daily target and not the working hours limit. This means that the workers are only allowed to leave once they have reached the daily target, irrespective of whether it is within or beyond the normal working hours. In this regard, a survey respondent at *Matrix International* said, *'Here we have to attain the target set by the boss. For example, you have to sew 1,000 per day before you can be allowed to leave, so it's all about your speed. Otherwise, you will work late or even spend the night.'*

¹⁰⁴ Ibid, Section 21.

¹⁰⁵ Ibid, Sections 23 and 25 respectively.



In Pwani, a survey respondent working at a Chinese-owned company in Kibaha District said that they are usually not allowed to leave work until a supervisor has inspected the work done.¹⁰⁶ Similar claims were made by workers in the manufacturing industry in Dodoma.¹⁰⁷

In Shinyanga, the survey found that nearly a half of bus and truck drivers work for more than 12 hours.¹⁰⁸ They only have short breaks along the way, which they can use to purposes of resting. Interviewed bus and truck drivers acknowledged that working beyond normal working hours and consequently not getting enough rest causes fatigue and in turn increases the risk of causing road accidents.

In Mara, while majority of interviewed hotel, gas station and industrial workers said they were free to leave work after normal working hours, the situation was different for private security workers and truck drivers. A guard at a private security company said, *'I know very well that the normal working hours are 8. When you complain to the employer, they tell you to quit the job as there are others who shall do it for the same salary.'*

In Geita, a sample of employment contract of a private security firm indicated normal working hours to be from 07:30am to 6:00pm, which beyond the normal working hours stipulated in labour laws and regulations.¹⁰⁹ Complaints about longer working hours in the region were also made at **FABEC Investment Ltd**, **ALFA Hotel** and **Green GML Hotel**.

In Iringa, long working hours was found to be a bigger challenge for hotel and private security workers. This was revealed during interviews with workers at **Queen Esther Hotel**, **Mount Royal Hotel** and **Over Speed Security**.

3.3.2. Payment for overtime work

As stated above, labour standards require employers to pay employees extra amount of money when they work beyond the stipulated working hours. During the survey, respondents were asked whether they get paid for overtime work. Only 42% of respondents said they do get additional pay for working overtime, increasing from 38% in the previous survey.

¹⁰⁶ Human Rights and Business Survey 2022: Pwani Field Report.

¹⁰⁷ Human Rights and Business Survey 2022: Dodoma Field Report.

¹⁰⁸ Human Rights and Business Survey 2022: Shinyanga Field Report.

¹⁰⁹ Human Rights and Business Survey 2022: Geita Field Report.



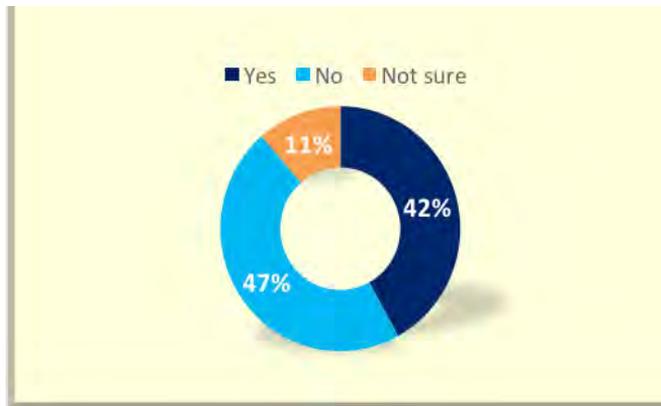


Figure 3.6: Response on whether employees get paid for overtime work (N710)

Source: Field data, 2022

Regional variations in terms of overtime pay were observed by the survey. Percentage of workers who claimed they are usually paid for overtime work was highest in Pwani (70%) and lowest in Geita (5%). Percentages in other regions ranged from 22% in Shinyanga to 58% in Dar es Salaam. As shown in Figure 3.7 below only 6 regions (43%) recorded 50% and above, namely Pwani, Dar es Salaam, Mwanza, Morogoro, Mtwara, and Arusha.

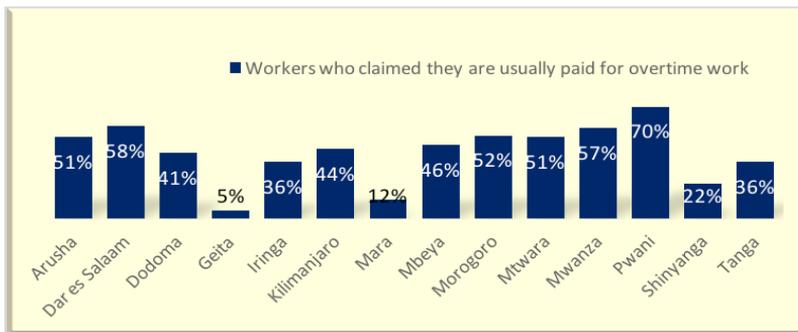


Figure 3.7: Percentage of workers paid for overtime work by region

Source: Field data, 2022

Qualitative findings of the survey show that most employers do not pay or underpay for overtime work. Many survey respondents complained about these two issues during interviews Dar es Salaam, Pwani, Geita, Mwanza, Shinyanga, Mara, Iringa, Mbeya, Tanga, Kilimanjaro and Mtwara. For instance, in Pwani, a community member in Mkuranga District revealed during an interview that industrial workers in the district have been complaining about working overtime without additional pay.¹¹⁰ One of the interviewed workers at **Hang Yuu Steel Co. Ltd** in the region claimed they get no additional pay for working beyond normal working hours. On the other hand, interviewed workers at **CPL Co Ltd** claimed that they are get overtime pay, but it is inadequate and getting paid is a 'struggle.' In Arusha, one of the workers

¹¹⁰ Human Rights and Business Survey 2022: Pwani Field Report.



who responded to the survey said: *'Sir, we do get paid for overtime work here at PAN AFRICA, but the thing is what they pay is very little, only Tsh. 1,500 per hour. It is not adequate at all.'*¹¹¹

In Mwanza, some of the survey respondents claimed to be made to work for up to 14 hours a day, 2 hours above the 12-hour limit, inclusive of overtime, and yet were not getting extra pay.¹¹² Majority of victims of denial of overtime pay were hotel workers, petrol/gas station attendants, security guards and machine operators. Some of the workers at Prince **Pharmaceuticals Company Ltd** and **Serengeti Breweries Ltd** also reported lack of overtime pay. Most interviewed workers in the private security industry in Mara, Shinyanga and Mbeya also stated that they do not get paid for overtime work.

In Iringa, it was a different case for hotel workers at **Lumilo Classic Hotel**, where one of the interviewed workers said that their employer adheres to the 9-hour daily working limit and provides additional pay in case they work overtime.¹¹³ The survey respondent said:

'To tell you the truth, our manager is very understanding. He pays us for overtime work. We work daily for 9 hours and when you spend more time at work you just sign in the register. Our accountant is very good at his job, he adds the overtime pay in our salaries.'

Additionally, the survey found that many employees do not know how overtime pay is calculated.¹¹⁴ This might contribute to the problem of underpayment. Others stated that they are not paid overtime despite their employment contracts indicating they are entitled to overtime pay. For instance, a worker at **UCC Company** in Mtwara said that his contract indicates entitlement to overtime pay, but he has never been paid.¹¹⁵ Another one at **Dangote Cement Factory** hinted at discrimination in overtime pay, claiming that some workers get the additional pay and others do not. Another worker at **Shebby Mix Investment** said they were promised by their boss to get paid for overtime work at the end of the year in 2021 but they were not paid. Security guards and bus and truck drivers in the region also said they are often not paid for overtime.¹¹⁶

In Mbeya, human resources policies of **City Coffee Limited** and **Lulu SACCOS** were found to contain provisions on overtime pay, calculated in line with the labour laws and regulations.¹¹⁷ Overtime pay is also recognized in employment contract.¹¹⁸ In Tanga, a group of workers at the **East Usambara Tea Company** Muheza, claimed during a focus group discussion that they

¹¹¹ Human Rights and Business Survey 2022: Arusha Field Report.

¹¹² Human Rights and Business Survey 2022: Mwanza Field Report.

¹¹³ Human Rights and Business Survey 2022: Iringa Field Report.

¹¹⁴ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

¹¹⁵ Human Rights and Business Survey 2022: Mtwara Field Report.

¹¹⁶ Ibid.

¹¹⁷ Human Rights and Business Survey 2022: Mbeya Field Report.

¹¹⁸ Ibid.



work 8 hours a day and when they work beyond this daily limit then they discuss with the factory manager and get paid one and half times the basic hourly wage for the extra-time.¹¹⁹

In Kilimanjaro, interviewed workers at *China Paper Co. Ltd* alleged that they work in a factory from 8am to 7pm, including lunch time, every day and they are not paid overtime.¹²⁰ Similar claims were made by workers at bakeries and petrol/gas stations.¹²¹

3.3.3. Right to rest for workers

International labour standards set by the International Labour Organization (ILO) have set maximum weekly working hours. The maximum weekly working hours include the normal 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**.¹²² ILO Member States, including Tanzania, have introduced legislations to regulate both normal weekly working hours and maximum weekly working hours. In Tanzania, the 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.”¹²³ 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.¹²⁴ The law does provide, however, for possibility of daily rest period being reduced, if there is a written agreement to that effect; and ordinary working hours are interrupted by an interval of at least 3 hours or employee lives on the premises of the workplace.¹²⁵ The law further guarantees a 1 hour break for any employee who works continuously for more than 5 hours.¹²⁶ In practice, there is a tendency of disregarding or not adhering to these standards. Employees are usually made to work beyond 12 hours, which significantly reduces their daily rest period.

There is a good reason why international and domestic labour standards demand rest for workers in the form of **daily workplace rest breaks, daily rest, weekly rest, and annual leave**. The biggest reason is protection of the health of workers, which is why the right to rest is recognized under the International Covenant on Economic, Social, and Cultural Rights (ICESCR)

¹¹⁹ Human Rights and Business Survey 2022: Tanga Field Report.

¹²⁰ Human Rights and Business Survey 2022: Kilimanjaro Field Report.

¹²¹ Ibid.

¹²² 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, Switzerland at http://ilo.ch/wcmsp5/groups/public/---ed_protect/---protrav/--travail/documents/publication/wcms_516123.pdf, accessed 19 May 2022.

¹²³ See Section 19(1) of the Employment and Labour Relations Act [CAP. 366 R.E. 2019].

¹²⁴ Ibid, Section 24(1)(a).

¹²⁵ Ibid, Section 24(2).

¹²⁶ Ibid, Section 23(1).



of 1966 as a component of the right to the enjoyment of just and favourable conditions of work.¹²⁷ Studies have shown that breaks and rests are essential for the individual wellbeing of workers and help to address fatigue, especially for work that is physically or mentally demanding.¹²⁸ Researchers have also established a link between rest breaks and injuries in the workplace, finding that sufficient rest for workers helps in reducing workplace injuries. Weekly rests also help workers recuperate and can negatively impact workplace safety if disregarded.

Inadequate rest for workers may contribute not only to sleep deprivation, but also increase stress and affect the balance between work and life, more specifically family life. Studies have shown that shift work is more problematic in terms of creating fatigue and sleep problems, including insomnia, among shift workers.¹²⁹ It is therefore important to ensure workers get adequate rest, to protect their health, their family life, the environment, and a safer workplace. Meal breaks have also been found to be especially important for the health and wellbeing of workers.

Working long hours still a big problem, especially in private security, hospitality, manufacturing, and transportation industries

As discussed in 3.3.1 and 3.3.2 above, workers in industries such as private security, hospitality, manufacturing and transportation are the major victims of working long hours. This was observed in nearly all surveyed regions of Tanzania Mainland.

In Pwani, some of the survey respondents said they leave work at night every day and are expected back to work by 8:00am the following day.¹³⁰ In Geita, some of the interviewed workers said that it is not uncommon for them to work even on holidays, let alone weekends.¹³¹ A similar point was made

¹²⁷ See Article 7(d) of the International Covenant on Economic, Social, and Cultural Rights of 1966.

¹²⁸ 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, Switzerland at http://ilo.ch/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_516123.pdf, accessed 19 May 2022; Tucker, P.; Bejerdot, E.; Kecklund, G.; Aronsson, G.; Akerstedt, T. 2013. Doctors' work hours in Sweden: Their impact on sleep, health, work-family balance, patient care, and thoughts about work, Stressforskningsrapport nr 235, Stockholm University. http://www.stressforskning.su.se/polopoly_fs/1.233341.1429526778!/menu/standard/file/sfr325.pdf; Lombardi, D.; Kezhi, J.; Courtney, T.; Arlinghaus, A.; Folkard, S.; Liang, Y.; Perry, M. 2014. "The effects of rest breaks, work shift start time, and sleep on the onset of severe injury among workers in the People's Republic of China," Scandinavian Journal of Environmental Health, 40(2), pp. 146-155; Arlinghaus, A.; Lombardi, D.; Courtney, T.; Christiani, D.; Folkard, S.; Perry, M. 2012. "The Effects of rest breaks on time to injury – a study on work-related ladder-fall injuries in the United States," Scandinavian Journal of Work, Environment & Health, 38(6), pp. 550-567.

¹²⁹ 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, Switzerland at http://ilo.ch/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_516123.pdf, accessed 19 May 2022; Sallinen, M.; Kecklund, G. 2010. "Shift work, sleep, and sleepiness – differences between shift schedules and systems," Scandinavian Journal of Work and Environmental Health, 36, pp. 121-133; Eldvik, M.; Flo, E.; Moen, B.; Palleson, S. 2013. "Insomnia, Excessive Sleepiness, Excessive Fatigue, Anxiety, Depression, and Shift Work Disorder in Nurses Having Less Than 11 Hours in-Between Shifts," PLOS One, 8(8), pp. 1-9.

¹³⁰ Human Rights and Business Survey 2022: Pwani Field Report.

¹³¹ Human Rights and Business Survey 2022: Geita Field Report.



by some of the workers at **FIBERBOARDS (2000) LTD** in Arusha, but when reached for comment the company management insisted that working on public holidays is voluntary, no one is forced to work on such days.¹³² In Mbeya, bus and truck drivers said sometimes they drive for up to 18 hours.¹³³

Some workers made to work even on weekends and holidays

Some of the workers confirmed that they work even on weekends and holidays, mostly without any additional pay.¹³⁴ This is a concern in terms of compliance with labour laws and standards, which require adequate rest for workers.

Long working hours depriving workers much needed rest and increase risk of health complications

In Pwani, some of the survey respondents, including at **Hontai Manufacturers Limited**, noted that they get too tired due to long working hours, remaining with very little time for rest and family.¹³⁵ They also expressed that they are worried with their mental health and stress levels.

Inadequate rest for bus and truck drivers caused by working long hours causing road accidents

In Mwanza, a truck driver expressed concern over the amount of time drivers have for rest vis-à-vis road safety. He said, **'Other times road accidents occur because drivers don't adequately rest, we get very tired and sometimes lose focus on the road.'** A similar remark was made by one of the bus drivers interviewed in Mbeya, who said, **'Bus and truck owners contribute to most road accidents because they don't listen to their drivers. A driver is forced to continue with work even when they are tired..'**

3.4. Remuneration

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), among other instruments. According to the ACHPR, "Every individual shall have the right to work under equitable and satisfactory conditions and shall receive **equal pay for equal work.**"¹³⁶ The Charter puts emphasis on equal pay for equal work.

¹³² Human Rights and Business Survey 2022: Arusha Field Report.

¹³³ Human Rights and Business Survey 2022: Mbeya Field Report.

¹³⁴ Human Rights and Business Survey 2022: Geita Field Report; Human Rights and Business Survey 2022: Dar es Salaam Field Report.

¹³⁵ Human Rights and Business Survey 2022: Pwani Field Report.

¹³⁶ Article 15 of African Human Rights Charter, 1981.



The ELRA provides for the right to remuneration under Section 27(1), which is defined as ‘total value of all payments, in money or in kind, made or owing to an employee arising from the employment of that employee,’¹³⁷ including wage or salary.

3.4.1. Wages and the Wage Order

Wages in Tanzania Mainland are determined based on the Wage Order of 2013. Wage boards, established under the Labour Institutions Act [CAP. 300 R.E. 2019], are mandated with reviewing the Wage Order every 3 years, seeking to provide more favourable wage, allowances, terms and conditions of employment to be negotiated annually between employers and employees.¹³⁸ However, as indicated in previous LHRC report on human rights and business, the Wage Order is yet to be reviewed and the minimum rates are not in line with the current costs of living. The Wage Order was last reviewed in 2013. As a result, the minimum wages do not reflect the current actual costs of living. Table 3.1 below outlines minimum wage for some of the key areas in the private sector.

¹³⁷ Section 4 of the ELRA.

¹³⁸ Regulation 8 of the Labour Institutions (General) Regulations 2017 (GN 45 2017).



Table 3.1: Current minimum wage rates in some of the key areas

| Sector | Area | Minimum Wage Rates (Tshs.) | | | | |
|---|--|----------------------------|-----------|-----------|---------------|------------|
| | | Per Hour | Per Day | Per Week | Per Fortnight | Per Month |
| Domestic and Hospitality Services | Domestic Workers employed by diplomats and potential businessmen | 769.30 | 5769.65 | 34,618.05 | 69,236.10 | 150,000.00 |
| | Domestic workers employed by entitled officers | 666.70 | 5000.40 | 30,002.30 | 60,0004.60 | 130,000.00 |
| | Domestic workers, other than those employed by diplomats | 410.30 | 3077.15 | 18,463.00 | 36,925.90 | 80,000.00 |
| | Other domestic workers not specified in (a), (b) and (c) above. | | | | | 40,000.00 |
| | Potential and tourist hotels | 1282.15 | 9616.10 | 57,696.75 | 115,393.50 | 250,000.00 |
| | Medium hotels | 769.30 | 5769.85 | 34,618.05 | 69,236.10 | 150,000.00 |
| | Restaurants, guest house and bars | 666.70 | 5000.40 | 30,002.30 | 115,393.50 | 130,000.00 |
| Private Security Services | International and potential companies | 769.30 | 5769.65 | 34,618.05 | 69,236.10 | 150,000.00 |
| | Small companies | 615.45 | 4615.75 | 27,694.45 | 55,388.85 | 100,000.00 |
| Construction | Contractors class I | 1666.80 | 12,500.95 | 75,005.75 | 150,011.55 | 325,000.00 |
| | Contractors class II-IV | 1436.05 | 10,770.05 | 64,620.35 | 129,240.35 | 280,000.00 |
| | Contractors class V-VII | 128.15 | 9616.10 | 5769.75 | 115,393.50 | 250,000.00 |
| Mining | Mining and prospecting licenses | 2051.45 | 15,385.80 | 92,314.80 | 184,629.60 | 400,000.00 |
| | Primary mining licenses | 1025.80 | 7692.90 | 46,157.40 | 92,314.80 | 200,000.00 |
| | Dealers' licenses | 1538.55 | 11,539.35 | 69,236.10 | 138,472.20 | 300,000.00 |
| | Brokers licenses | 1025.80 | 7692.90 | 46,157.40 | 92,314.80 | 200,000.00 |
| Trade, industries and commercial services | Trade, industries and commerce | 512.85 | 3,846 | 23,078.70 | 46,157.40 | 100,000.00 |
| | Financial institutions | 2051.45 | 15,385.80 | 92,314.80 | 184,629.60 | 400,000.00 |

Source: Wage Order of 2013



Table 3.2: Monthly pay of respondents

| Pay | #Respondents | %Respondents |
|----------------------|--------------|--------------|
| Tshs 10,000-40,000 | 19 | 2.7 |
| Tshs 41,000-70,000 | 19 | 2.7 |
| Tshs 71,000-100,000 | 69 | 9.7 |
| Tshs 110,000-150,000 | 169 | 23.8 |
| Tshs 160,000-200,000 | 143 | 20.1 |
| Tshs 210,000+ | 291 | 41 |
| TOTAL | 710 | 100 |

Source: Field data, 2022

From Table 3.2 above, we can see that less than a half of the bust and truck drivers are paid in accordance with the Wage Order of the year 2013, which sets Tshs. 200,000 as the minimum wage for them. Majority of them (44%) are paid between Tshs. 71,000 and 150,000 per month. This calls for increased efforts from the regulatory authorities such LATRA and labour officers to ensure compliance with labour laws and regulations by employers in the transportation sector.

Wages paid versus costs of living

Like in the previous survey, inadequate wages continued to be one of the biggest concerns for workers at most of the surveyed workplaces. As shown in Table 14 above, over a half of respondents said they receive below Tshs. 210,000 per month, which is not much considering the living costs. Indeed, most of the interviewed workers lamented receiving wages that are not commensurate with the current costs of living. Most of them fell in the industries of hospitality, transportation, manufacturing, and private security. In Dar es Salaam, an official at the Tanzania Union of Private Security Employees (TUPSE) said that minimum wage for security guards working at international security firm is Tshs. 150,000 per month, while for those working at domestic security firms it is Tshs. 100,000, which is inadequate considering their working conditions. He then went on to say:

'Security guards have been forgotten, the salaries are too low, and they work they do is very risky. You can find one staying in Magomeni and has to work in Manzese, needing a busfare every single day and having to borrow and pay back money...others just do the work for the purpose of keeping respect at home.'

In Geita, a survey respondent at Nyororo Posho Mill said, ***'We are paid below Tshs. 150,000 which is not equal to the amount of work we do and considering that we also need to drink milk due to the amount of dust we inhale, at the same time we have to take care of our families. It is very difficult.'***



In Iringa, Regional Secretary of the Tanzania Plantation and Agricultural Workers Union (TPAWU) also lamented the low wages paid to plantation and agricultural workers, which are still subjected to various statutory and other deductions. He said:

'The wages are a big concern for workers. Let's take the wages of Tshs. 100,000 and deduct 10% for NSSF contribution, 2% for trade union contribution and some percentage for tax, one may remain with only Tshs. 80,000. You can now imagine how difficult it is for workers to sustain their lives and support their families. When we (as trade union) discuss with the employers so that they increase the wages they tell us it is the Government which has set the minimum wage of Tshs. 100,000 and that is what they pay. If they decide to add they only add Tshs. 10,000.'

The TPAWU Regional Secretary added that since the wages paid are not adequate to sustain workers and their families, some of the workers have resorted to immoral and criminal acts, such as theft and prostitution.¹³⁹

Payment of wages below minimum wage

Employers in some of the surveyed regions such as Morogoro, Dodoma, Mara, Tanga and Mtwara were accused of paying workers below the minimum wage. For instance, a receptionist at **Las Vegas Lodge** in Morogoro revealed that she is paid Tshs. 110,000 per month, which is below the minimum wage of Tshs. 130,000 set in the Wage Order of 2013.¹⁴⁰ Another receptionist at **Kifa Best Point Hotel** in Mara said she was paid Tshs. 100,000 per month.¹⁴¹ Most hotel workers and bar tenders in Dodoma and Tanga were also found to be paid below the minimum wage of Tshs. 130,000 per month.¹⁴²

Interviewed drivers in Tanga and Mtwara also lamented payment of wages below the minimum wage but indicated that there is little or nothing they can do to rectify the situation since they need their jobs. Some of them indicated that they were paid Tshs. 150,000, which is below the required Tshs. 200,000 set as minimum wage.¹⁴³

Payment of exact minimum wage

The survey also found that some workers pay the exact minimum wage as stipulated in the Wage Order of 2013 or add very little amount on top. To curb this, there is need to review the Wage Order, as required by law, and increase minimum wages.

Women mostly occupying low-paying jobs

The survey also found that most women get lower-paying jobs, such as cleaners and receptionists. In Pwani, a TUICO secretary added that the few

¹³⁹ Human Rights and Business Survey 2022: Iringa Field Report.

¹⁴⁰ Human Rights and Business Survey 2022: Morogoro Field Report.

¹⁴¹ Human Rights and Business Survey 2022: Mara Field Report.

¹⁴² Human Rights and Business Survey 2022: Dodoma Field Report; Human Rights and Business Survey 2022: Tanga Field Report.

¹⁴³ Human Rights and Business Survey 2022: Mtwara Field Report.



women face difficulties at work due to poor working environment.¹⁴⁴ As such, some of them decide to work for short time to raise a capital and then quit their jobs.

3.4.2. Timely payment of salaries

Labour standards not only demand salaries or wages to be fair but also timely. Workers who responded to the survey were asked whether they get their salaries timely. This question was asked during interviews and focus group discussions. Approximately half of the interviewed respondents said they have experienced delays in payment of their salaries. Claims of delayed salaries were especially made at some of the workplaces in 11 out of 14 surveyed regions (79%), namely Dar es Salaam, Pwani, Dodoma, Mwanza, Shinyanga, Geita, Mara, Iringa, Mbeya, Tanga and Mtwara. For instance, in Dar es Salaam, some of the interviewed workers at **Matrix International Ltd** stated that sometimes they receive their salaries on time and sometimes there are delays.¹⁴⁵ In Mwanza, one of the survey respondents said, ***'We get paid on 7th to 11th of each of each month. By that time your landlord has frequently demanded his rent and doesn't know and care what is going on at your workplace.'***

An official from the Tanzania Security Company Association (TSCA) in Dar es Salaam acknowledged that private security companies sometimes fail to pay their employees on time. But this is usually caused by delays in payments of funds owed to the companies by their clients. He said:

'Most private security companies depend on payments from clients to run and law allows clients up to 10th of the following month to pay the companies, making this service one of the services which are usually provided on loan basis. Some clients may not pay for up to 6 months, how do you pay your worker on time under such circumstances'

In Pwani, interviewed workers at **CPL Grain Processing & Storage Co. Ltd** claimed to be owed 6-month wages.¹⁴⁶ They claimed that they were told delay in payment of their wages was caused by the negative impact of the Covid19 pandemic, which affected company operations for the years 2021 and 2022. Some of the workers at other business enterprises in the region such as **KEDS CO Limited** and **Hontai Manufacturers Limited** also alleged delays in payment of wages at times. On the other hand, interviewed workers at **Bakhresa Food production Limited** said they are always paid their salaries on time.

In Dodoma, bar workers who responded to the survey indicated that salary payment is usually dependent on sales, such that if the sales are good then the workers are paid on time, but if not good then delays occur, though not for long.¹⁴⁷ In Mara, an employee at a private security company stated that

¹⁴⁴ Human Rights and Business Survey 2022: Pwani Field Report.

¹⁴⁵ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

¹⁴⁶ Human Rights and Business Survey 2022: Pwani Field Report.

¹⁴⁷ Human Rights and Business Survey 2022: Dodoma Field Report.



it is now normal to go for two months without salary payment.¹⁴⁸ Similar claims were made by interviewed workers at EUTCO in Tanga¹⁴⁹ and majority of interviewed hotel workers in Iringa, who said delays sometimes take up to two to three weeks, making their lives very difficult.¹⁵⁰ A security guard said the following regarding his April salary, *'It is now June and I have just received by April 2022 salary.'*

In Geita, interviewed corporate management officials at **GIPCO CONSTRUCTION LTD** and **GROUP 12 SECURITY SERVICE LTD** admitted that sometimes salaries are not paid on time.¹⁵¹ They stated that the workers sometimes strike when there are such delays, but they usually tell them reasons for the delays, which some of them understand and continue with work.

In Tanga, it was reported that some of the workers at **Tanga Fresh Limited** went on strike and refused to report for work due to non-payment of three-month salary.¹⁵² Commenting on the incident, TUICO official in the region said the dispute was caused by the sub-contractor who failed to send invoice and other relevant documents to **Tanga Fresh Limited** on time.

3.4.3. Unequal pay for equal work

Survey respondents were asked whether they feel that they receive unequal pay for equal work, which is a form of workplace discrimination. Majority of them (40.6%) said they receive unequal pay for equal work, meaning that there are different workers, including women, who use equal skill and effort to perform their job under similar conditions or working environment, but are paid differently. Only over a third (34.6%) of the respondents said there are no issues of unequal pay for equal work. The remaining 24.8% said they did not know or were not sure whether there is an issue of unequal pay for equal work at their workplaces.

Table 3.3: Responses on existence of unequal pay for equal work at workplaces

| Unequal Pay for Equal Work | #Respondents | %Respondents |
|----------------------------|--------------|--------------|
| Yes | 288 | 40.6 |
| No | 246 | 34.6 |
| Don't know | 176 | 24.8 |
| TOTAL | 710 | 100 |

Source: Field data, 2022

Table 3.3 suggests that there is a problem of discrimination in pay among workers, as attested by a third of the workers who responded to the survey. This situation may be aggravated by lack of trade union branches at

¹⁴⁸ Human Rights and Business Survey 2022: Mara Field Report.

¹⁴⁹ Human Rights and Business Survey 2022: Tanga Field Report.

¹⁵⁰ Human Rights and Business Survey 2022: Iringa Field Report.

¹⁵¹ Human Rights and Business Survey 2022: Geita Field Report.

¹⁵² Human Rights and Business Survey 2022: Tanga Field Report.



workplaces, where workers can raise such a concern. Fear to demand equal treatment can also be a contributing factor, as indicated by some of the interviewed workers, especially in Dar es Salaam.

3.4.4. Deduction of wages because of absence from work and other reasons

The tendency of employers unfairly deducting wages was reported by survey participants in 7 of the 14 regions that were surveyed (50%). These regions are Pwani, Geita, Mara, Iringa, Mbeya, Arusha and Mtwara. Reasons for deducting wages include failing to show up at work due to illness or other emergency, accidentally breaking glass utensils (for hotel workers), arriving at work late, and returning late to work from lunch break. Deduction of wages because of absence from work was reported to be the most common, followed by deductions for arriving at work late. In Pwani, one of the survey respondents said, *'When you have an emergency, like maybe you or your child gets sick, and you miss work or get to work late they deduct your salary, unlike in the past where they would reduce your leave days.'*

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

Right to safety and health at work is a fundamental human right that is closely connected to right to health and right to life.¹⁵³ According to the joint ILO/WHO Committee on Occupational Health, occupational health 'should aim at: the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations; the prevention amongst workers of departures from health caused by their working conditions; the protection of workers in their employment from risks resulting from factors adverse to health; the placing and maintenance of the worker in an occupational environment adapted to his physiological and psychological capabilities; and, to summarize: the adaptation of work to man and of each man to his job.'¹⁵⁴

Occupational health and safety is an issue of great and global concern, whereby it has been reported by ILO that an estimated 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.¹⁵⁵ This has

¹⁵³ 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.

¹⁵⁴ Benjamin O. Alli (2008), *Fundamental Principles of Occupational Health and Safety*, International Labour Office-General: ILO, Second Edition, available at http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_093550.pdf, accessed 20th August 2022; International Commission on Occupational Health (ICOH), *International Code of Ethics for Occupational Health Professionals*, available at http://www.icohweb.org/site_new/multimedia/core_documents/pdf/code_ethics_eng_2012.pdf, accessed 20th May 2022.

¹⁵⁵ See ILO, *International Labour Standards on Occupational Safety and Health*, at <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/occupational-safety-and-health/lang--en/index.htm>, accessed 20th August 2022.



prompted the international community, through ILO, to develop more than 40 international labour standards on occupational health and safety, as contained in various ILO instruments.¹⁵⁶ Key among the instruments providing for labour standards on occupational health and safety is the Occupational Safety and Health Convention, 1981 (No. 155), which is yet to be ratified by Tanzania.¹⁵⁷

To promote the prevention of occupational accidents and diseases globally, the international community, through ILO, also introduced the World Day for Safety and Health at Work in 2003.¹⁵⁸ This day is celebrated annually on 28 April, seeking to raise awareness and focus international attention on the magnitude of the problem and on how promoting and creating a safety and health culture can help reduce the number of work-related deaths and injuries.¹⁵⁹

According to the ILO, it is estimated that the global cost of work-related injuries and deaths totals almost \$3 trillion.¹⁶⁰ In September 2017, the ILO Director-General Guy Ryder stated that “economic impact of failing to invest in worker safety and health is nearly equal to the combined gross domestic product of the 130 poorest countries in the world.”¹⁶¹

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.¹⁶² The Act also prohibits work that is not adapted to workers and provides for workers to be protected from toxic materials and employers to provide occupational health and safety services. Among the key aspects of the Act is **inspection** of workplaces, whereby inspectors are empowered to enter a workplace and inspect or examine it without notice.¹⁶³ The Employment and Labour Relations Act empowers the Minister responsible for labour to make regulations in respect of matters

¹⁵⁶ Ibid.

¹⁵⁷ Other instruments include the Occupational Health Services Convention, 1985 (No. 161), which provides for enterprise-level occupational health services, focusing on prevention; Occupational Safety and Health Recommendation, 2006 (No. 197); Safety and Health in Construction Convention, 1988 (No. 167); Safety and Health in Mines Convention, 1995 (No. 176); and Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148).

¹⁵⁸ See SDG KNOWLEDGE HUB “World Day for Safety and Health at Work 2021” at <https://sdg.iisd.org/events/world-day-for-safety-and-health-at-work-2021/#:~:text=The%20World%20Day%20for%20Safety,occupational%20accidents%20and%20diseases%20globally,> accessed 20th May 2022.

¹⁵⁹ Ibid.

¹⁶⁰ See “ILO: Global cost of work-related injuries and deaths totals almost \$3 trillion” Safety and Health Magazine, at <https://www.safetyandhealthmagazine.com/articles/16112-ilo-global-cost-of-work-related-injuries-and-deaths-totals-almost-3-trillion>, accessed 20th May 2022.

¹⁶¹ Ibid.

¹⁶² Sections 24, 54, 56, 58 & 62 of the Occupational Health and Safety Act, 2003.

¹⁶³ Ibid, Section 6(1).



of occupational health and safety standards and working environment.¹⁶⁴ Employers must ensure safe working environment and report occupational hazards, accidents or diseases occurring at workplace to authorities, promoting the culture of health and safety at work. They must also train their workers on occupational health and safety.

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. These include the Occupational Health and Safety (First aid And Welfare Facilities) Rules, 2015; Occupational Health and Safety (First aid And Welfare Facilities) Rules, 2015; Occupational Health and Safety (Notification of Occupational Diseases, Injuries and Dangerous Occurrence) Rules, 2016; Occupational Safety and Health (General Administrative) (Amendments) Rules, 2018; The Occupational Safety and Health (Building and Construction Industry) Rules, 2015; and the National Occupational Safety and Health Policy 2010.

3.5.1. Overall working environment

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.¹⁶⁵ During the human rights survey, assessment of safe and healthy working conditions was done 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 3.4 below.

Table 3.4: % Responses on overall working environment at surveyed business enterprises and factories

| | Very Poor | Poor | Good | Very Good |
|-------------------------|-----------|-------|-------|-----------|
| Equipment | 13% | 23% | 44.4% | 19.6% |
| Air | 8.6% | 14.5% | 50.1% | 26.8% |
| Light | 2.5% | 14.9% | 51.8% | 30.8% |
| Water | 3.5% | 14.7% | 52.1% | 29.7% |
| Toilets | 5.6 | 22.8% | 50.3% | 21.3% |
| Fire equipment | 10.6% | 18% | 48.3% | 23.1% |
| Disability friendliness | 30% | 32.8% | 27.5% | 9.7% |
| First aid | 10.7% | 20.4% | 46.2% | 22.7% |
| Women-friendliness | 10.8% | 24.2% | 45.1% | 19.9% |
| State of buildings | 4.8% | 16.5% | 53.9% | 24.8% |

Source: Field data, 2022

¹⁶⁴ Section 98(1) of the Employment and Labour Relations Act, [CAP. 366 R.E. 2019].

¹⁶⁵ See Article 7 of the ICESCR, 1966.



As shown in Table 3.4 above, majority of respondents were of the view that the state of air, light, water, toilets, fire equipment, first aid, women friendliness, and buildings were generally good or very good (around 50 to 80% total). Overall working environment was therefore said to be good. The main concern expressed by the respondents was the friendliness of the workplaces to PWDs, whereby about two thirds of the respondents said it poor and very poor, while only 9.7% said it is very good and 27.5% said it is good. In Dar es Salaam, it was observed that the environment at most workplaces (business enterprises) was not friendly to PWDs, with relevant infrastructure missing.¹⁶⁶

To ascertain the views of the respondents regarding working environment, survey teams conducted on-site observation. The observation focused on toilets and other sanitary conveniences, first aid kits, and fire equipment.

Toilets

The ILO Hygiene (Commerce and Offices) Recommendation of 1964 provides that sufficient and suitable sanitary conveniences¹⁶⁷ should be provided for use of workers and be properly maintained.¹⁶⁸ The sanitary conveniences “should be partitioned as to ensure sufficient privacy” and as far as possible “supplied with flushing systems and traps and with toilet paper or some other hygienic means of cleaning.”¹⁶⁹ Additionally, there should be accessible washstands near the sanitary facilities¹⁷⁰ and there should be sanitary conveniences for men and women.¹⁷¹

Regarding the number of sanitary facilities, the ILO Hygiene (Commerce and Offices) Recommendation provides that a competent authority should fix the number of such facilities,¹⁷² which in Tanzania’s case is the Occupational Safety and Health Authority (OSHA) – established under the Occupational Health and Safety Act of 2003. In line with ILO labour standards, the Act also contains provisions on sanitary conveniences.¹⁷³ Section 55 of the Act requires employers to provide sufficient and suitable sanitary conveniences for persons employed in factory or workplace, which should be maintained and kept clean.¹⁷⁴ The Act also requires separate sanitary conveniences for male and female persons at workplaces and provision of sanitary conveniences to be one toilet for every 25 persons.¹⁷⁵ Additionally, sanitary conveniences should be made separately for employees with disability.¹⁷⁶

¹⁶⁶ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

¹⁶⁷ Facilities such as toilets, urinals, sinks, showers, bathtubs, and bidets which discharge waste water.

¹⁶⁸ 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, accessed 20th May 2022.

¹⁶⁹ Ibid, Recommendation 38 (1) & (2).

¹⁷⁰ Ibid, Recommendations 38(4).

¹⁷¹ Ibid, Recommendations 39.

¹⁷² R120 - Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120), Recommendation 40.

¹⁷³ Include urinals, water closets, earth closets, privies, ash-pits, and any similar conveniences.

¹⁷⁴ Section 55(1) of the Occupational Health and Safety Act, 2003.

¹⁷⁵ Ibid, Section 55(1) & (2).

¹⁷⁶ Ibid, Section 55(4).



The Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015 contains similar provisions relating to sanitation at workplaces. They require an employer to provide sanitary facilities at workplace, which are freely and readily accessible,¹⁷⁷ as well as make available items such as soap or similar cleansing agent, toilet papers, and sanitary towel disposal bins for female employees.¹⁷⁸ They also require sanitary facilities to be marked with relevant sex signs, ensure privacy, and be naturally or artificially ventilated.¹⁷⁹ Generally, toilets at the majority of the surveyed workplaces were found to be in satisfactory or good condition. However, toilets at other workplaces were found to be dirty and/or in dilapidated condition.

Dirty toilets were observed at workplaces such as **Matrix International Ltd** in Dar es Salaam; **Lush Chanzo Wood Industry Company**, **Yi Sen International**, **Ronglan International Industries & Trade company Ltd** and **APP Group of Companies** in Iringa; **Maru Maru Factory** in Mbeya; **Xinghao Group Co. Ltd** in Mtwara.



Picture 3.3: Dirty/filthy toilets used by workers at Lush Chanzo Wood Industry Company (left), APP Group of Companies (middle) & Hong Yu Steel Industry (right) in Iringa



Picture 3.4: A dirty toilet at Maru Maru Factory in Mbeya

¹⁷⁷ Rule 7(1) of the Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015.

¹⁷⁸ Ibid, Rule 7(3).

¹⁷⁹ Ibid, Rule 7(5).



Workplaces where toilets were found to be in satisfactory/good and clean condition include *VITA Foam Limited Company* in Pwani; *Gaki Investment* in Shinyanga; *Pyrethrum Wood Company Limited* and *Dabaga Chai Bora Co. Limited* in Iringa; and *Alpha Namata Co. Ltd* in Mtwara.



Picture 3.5: Clean toilets at Alpha Namata Co. Ltd in Mtwara (left) and Vita Foam Co. Ltd in Pwani (right)

Women visiting workplaces and female workers were found to be disproportionately affected by dirty toilets, especially in terms of increasing the risk of contracting diseases such as UTI. Regarding this issue, one of the workers at *Africa Zhenyan Group of Companies* in Iringa, had this to say: *'Our sisters are very much affected by the state of toilets, which are very dirty/filthy and without water. Most of them get UTI.'*

The survey also found that dirty toilets are usually used by workers/employees, while management team members use other, clean toilets. The toilets were also not disability friendly and did not have means for disposing sanitary dressing, while others did not even have hygienic means of cleaning such as toilet papers and soaps. In Iringa, some of the toilets at *Ronglan International Industries & Trade Company Ltd* were found to be without doors. This raises concern over the issue of privacy.

Other sanitary conveniences

Apart from toilets, the Occupational Health and Safety Act of 2003 and the Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015 make provisions for other sanitary conveniences such as washrooms, washing facilities, and changing rooms. For instance, the former requires employees to be provided with adequate and suitable washing facilities, which should be kept in a clean and orderly condition,¹⁸⁰ and provision of adequate and suitable accommodation for clothing not worn during working hours, including separate changing rooms for each sex.¹⁸¹ Under

¹⁸⁰ Section 56 of the Occupational Health and Safety Act, 2003.

¹⁸¹ Ibid, Section 57.



the latter employers are also required to provide separate change rooms for males and females.¹⁸²

Regarding changing rooms, some of the interviewed workers said there are changing rooms at their workplaces, while others said there were not. Fewer claimed there were separate changing rooms for males and females.

First aid kits and fire equipment

Under the Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015, employers are required 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.¹⁸³ This is in line with international labour standards on occupational health and safety.

Like in the previous survey, first aid kits and fire extinguishers were observed at most workplaces, in compliance with the occupational health and safety obligations. However, some of the workplaces did not have such equipment, and others were found to have empty first aid kits.



Picture 3.6: First aid kits at Iringa Food and Beverages Company in Iringa (left) and Coast Concrete Poles in Pwani (right)



Picture 3.7: Empty first-aid kits at SAI Energy and Logistic Services Ltd in Iringa(left) and Alpha Namata in Mtwara (right)

¹⁸² Rule 9(1)(b) of the Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015.

¹⁸³ Rule 15(1) of the Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015.



Regarding fire extinguishers, some of the workers Pwani and Dar es Salaam claimed that some of the equipment have expired or are empty and just put there for show. Majority of them also claimed they have not received training on using the fire equipment. In Dar es Salaam, one of the survey respondents at *Matrix International Ltd* said, *'There are several fire extinguishers here at the company, but I doubt there is any worker who can use them in case of fire as we have not been trained on how to use them.'*



Picture 3.8: Well-placed fire extinguishers at Coast Concrete Poles Ltd in Pwani

3.5.2. Occupational health and safety policies

Corporate management officials who responded to the survey were asked whether there are occupational health and safety policies in place. Majority of them, just over three quarters (77.2%), said they have such policies, while 21.8% said there are no such policies.

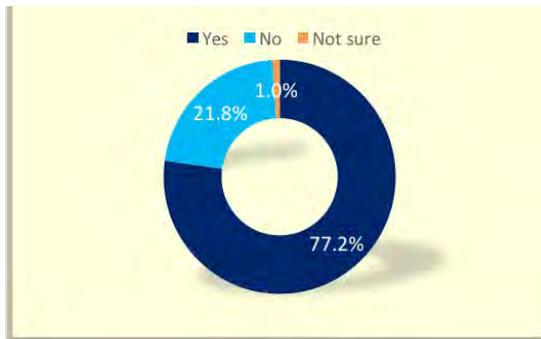
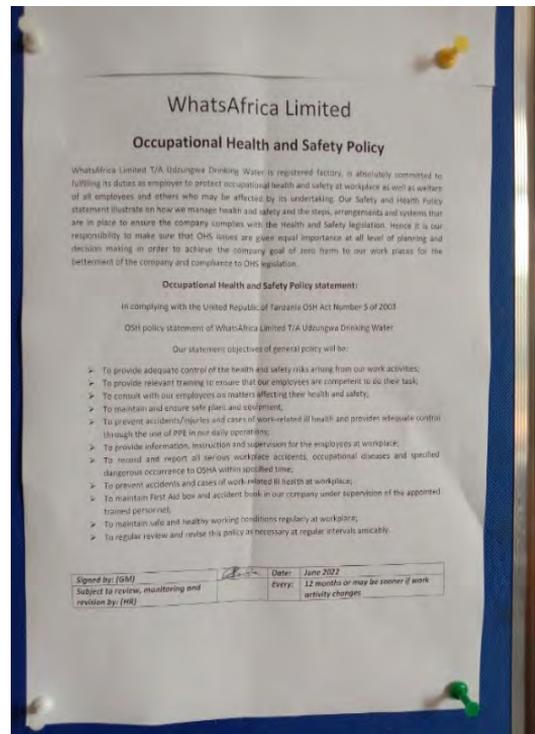
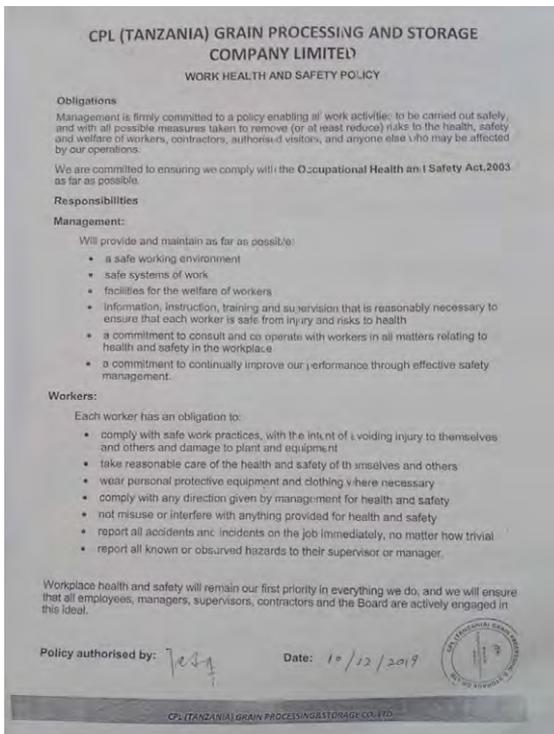


Figure 3.8: Corporate management officials' responses on existence of health and safety policies at workplace (N=101)

Source: Field data, 2022

Survey teams were able to obtain copies of work health and safety policies at some of the surveyed workplaces in regions such as Pwani, Morogoro, Dodoma, Tanga and Mtwara.





Picture 3.9: Workplace health and safety policies at CPL Co. Ltd in Pwani (left) and WhatsAfrica Limited in Morogoro (right)

At workplaces where health and safety policies existed and copies were provided, the survey observed that most of them were written in English language. This might present a language barrier for workers who are not conversant with the language.

3.5.3. Training on occupational health and safety

Labour standards require provision of regular trainings on occupational health and safety to ensure a safe and conducive working environment. Workers engaged during the survey were asked whether they had received any training on occupational health and safety. About half of them (54%) said they have received such training, while the remaining 46% said they had not received training. Percentage of workers who have received such training has increased by 11% compared to the findings of the previous survey.



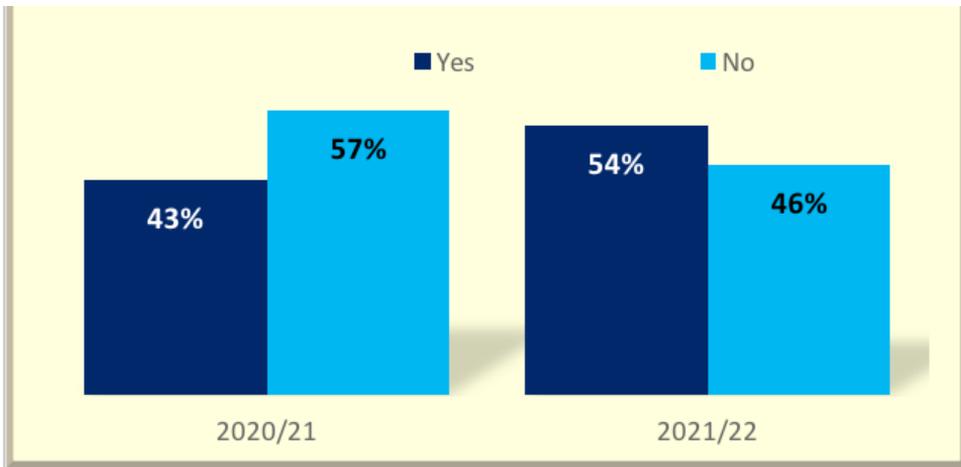


Figure 3.9: % Responses on receiving training on occupational health and safety

Source: Field data, 2022

Cross-tabulation of field data revealed that the percentage of workers who claimed to have received training on occupational health and safety was highest in Morogoro and Geita Regions (71%) and lowest in Mara Region (13%). Apart from Mara, regions which recorded less than 50% of workers who said they had received training included Dar es Salaam, Dodoma, Mtwara and Shinyanga. Percentage of workers who have received occupational health and safety training was slightly higher among male workers (55%) than female workers (53%).

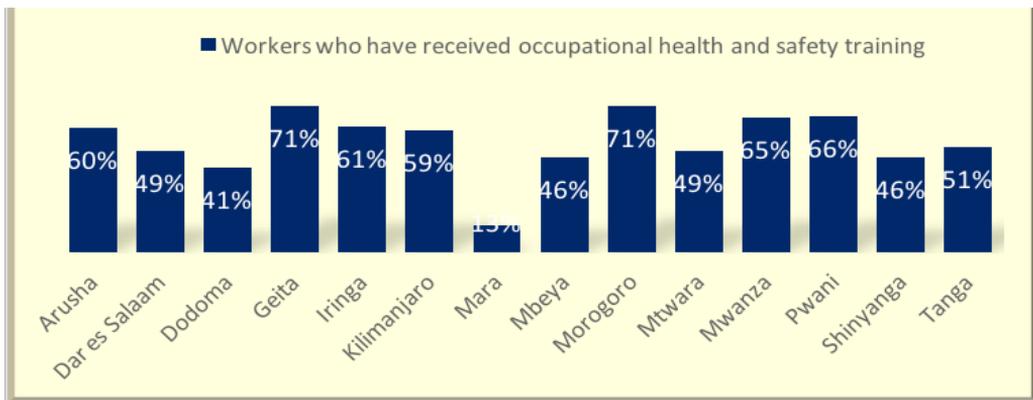


Figure 3.10: Percentage of workers trained on occupational health and safety by region

Source: Field data, 2022

Employers were also asked about provision of occupational health and safety training. They were specifically asked whether they provide any or regular training on workplace health and safety and skills to their workers. Overwhelming majority of them (89.1%) claimed to provide on-job trainings



on workplace health and safety skills to their employees.¹⁸⁴ The remaining 8.9% acknowledged that they do not provide such trainings.

A key issue regarding training on occupational health and safety that was raised during interviews with some of the respondents is the cost for the training. This concern was especially expressed by corporate management officials who responded to the survey in Mwanza and Geita. For instance, in Geita, a respondent at *Primefuels Co. Ltd* opined that the training conducted by OSHA is too expensive, as one module costs up to Tshs. 500,000.¹⁸⁵ In Mwanza, a survey respondent at *Coca-Cola Company* made a similar statement in saying, ***‘Training costs are too high, such that we must train only a few workers who will then train other workers. The Government should address this challenge so that many workers can benefit from the training.’***

It is LHRC’s view that training on occupational health and safety is of paramount importance for a conducive and safe working environment. As such, it is in the best interests of employers to ensure such trainings are provided and in a regular manne 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.

3.5.4. Labour inspection a major concern for workers

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 strong labour inspection system is essential for ensuring compliance with labour laws and standards on the part of employers and employees. Inspection services help to ensure decent working conditions, promote compliance, and ensure enforcement of labour laws.

Like in the previous survey, the survey generally found that workers are not happy with labour inspection, claiming that the inspectors do not regularly visit workplaces and when they do, they do nothing or little to address their grievances. Dissatisfaction with labour inspection was especially expressed by workers during interviews in the regions of Dar es Salaam, Pwani, Morogoro, Shinyanga, Mara, Mbeya, and Tanga. OSHA was mentioned the most, followed by labour officers. Some of the interviewed workers accused inspectors of not meeting with them when they come for inspection, while others mentioned that the inspections are not regular.¹⁸⁶ In Morogoro, one of the respondents said, ***‘The inspectors do come to our workplace, but they should do so regularly. That would really help to improve occupational health and safety.’***

¹⁸⁴ N-101.

¹⁸⁵ Human Rights and Business Survey 2022: Geita Field Report.

¹⁸⁶ Human Rights and Business Survey 2022: Morogoro Field Report; Human Rights and Business Survey 2022: Pwani Field Report.



3.5.5. Availability and use of personal protective equipment

Personal protective equipment (PPE) refers to any equipment that protects user against health or safety risk at work. It includes helmets, goggles, protective clothing, safety footwear/protective boots, safety gloves, dust mask, ear plugs, and eye protection. The equipment are meant to protect 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.¹⁸⁷ In case of any processes specified in the Fifth Schedule to the Act, employers must ensure suitable goggles or effective screens are provided to protect the eyes of persons employed in the process.¹⁸⁸ The processes which require provision of suitable goggles or effective screens include dry grinding of metals or articles of metal, welding or cutting of metals, as well as processes such as cutting out or cutting off of cold rivets or bolts from boilers or other plant or from ships and breaking or dressing of stone concrete or slag.¹⁸⁹

When asked about availability of PPE and whether they were sufficient, only 26.9% of respondents said they are available and sufficient, closely followed by 26.8% who felt they were available and somewhat sufficient. During the previous survey, over a third of respondents (39%) said they had sufficient PPE, while 24% said the available PPE was somewhat sufficient.

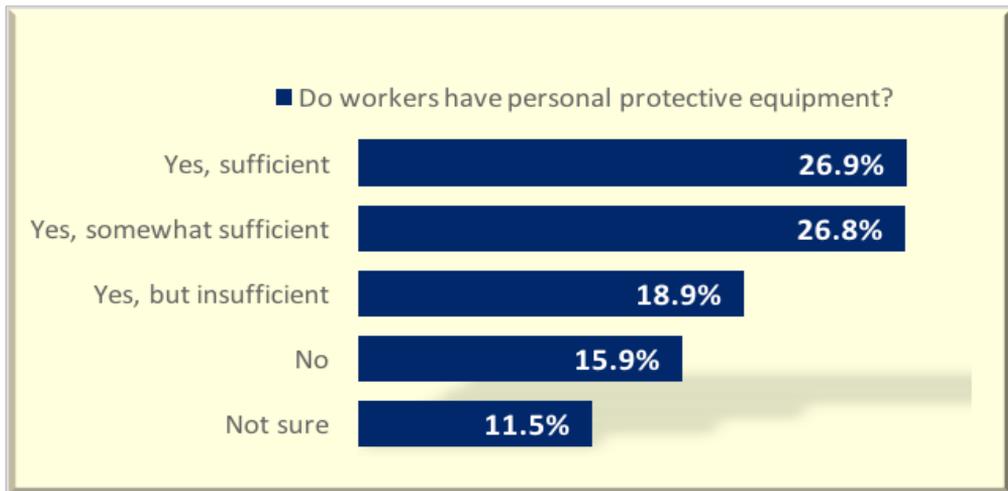


Figure 3.11: %Responses on availability of personal protective equipment at workplaces (N=710)

Source: Field data, 2022

¹⁸⁷ See Section 62 of the Occupational Health and Safety Act, 2003.

¹⁸⁸ Ibid, Section 63.

¹⁸⁹ See the Fifth Schedule to the Occupational Health and Safety Act, 2003.



Further analysis of field data showed that percentage of workers who claimed they did not have any PPE was highest in Tanga Region, at 47%, followed by Pwani (33%), Iringa (31%), Dar es Salaam (30%), and Geita (26%). In Kilimanjaro and Mwanza Regions, none of the respondents said they did not have PPE.

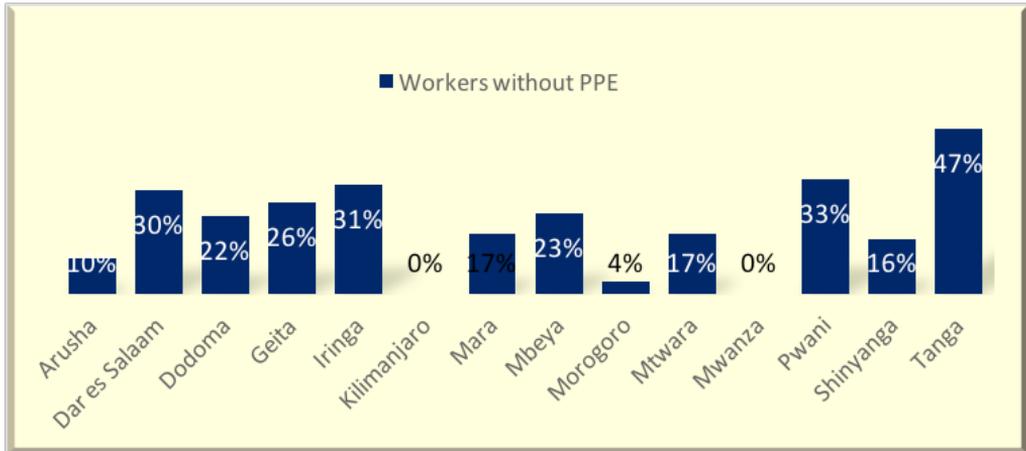


Figure 3.12: Percentages of workers without PPE by region

Source: Field data, 2022

Regions where most workers claimed to have insufficient PPE included Dar es Salaam, Iringa, and Mtwara. Regions where most workers claimed to have sufficient PPE included Morogoro, Arusha, and Mbeya. In terms of sex, male workers who said they did not have PPE and had insufficient PPE were 16.9% and 8.6% respectively, while their female counterparts were 14% and 12% respectively.

Workplaces without sufficient PPE

As discussed above, overall, over a half of the respondents (53.7%) said they have sufficient PPE. The remaining percentage of workers, which is nearly a half, said they did not have sufficient PPE or did not have them at all, save for a few who indicated they were not sure.

Some of the workplaces which either the respondents said they did not have sufficient PPE or were observed by survey teams not to have sufficient PPE include *Kimamba Fibres Company* in Morogoro; small scale miners in Mtakuja Ward in Geita; *Bandit Security Guard Limited* in Mara; *Yi Sen International Investment Company Limited*, *Ronglan International Industries & Trade company Ltd*, and *East Africa Zhenyan Group of Companies* in Iringa; mining workplaces in Mbeya and Geita; *RUHAMWA Security Company* in Mbeya; *EUTCO* in Tanga; *UCC*, *Listram Commodities Company* and *Xinghao Group Co. Ltd* in Mtwara.





Picture 3.10: Workers at Ronglan International Industries & Trade Company Ltd found working without PPE



Picture 3.11: A worker without PPE (left) and female workers at Listram Commodities Co. Ltd without PPE (protective gloves) in Mtwara

As shown in the right picture above, female workers at **Listram Commodities** in Mtwara were found working without wearing PPE, specifically protective gloves. They were found deshelling cashew nuts (removing the shells) with their bare hands. They find it easier and work faster using their hands, but there are consequences as the nuts produce a liquid that burns their skins (corrosive liquid).¹⁹⁰ As a result, many women working in the industry are said to have sustained permanent damage on their hands.¹⁹¹ These women end up with industrial skin diseases, which cause morbidity and disability. Due to repeated pressure on skin the workers may also experience temporary or permanent skin damage or bruises.¹⁹²

¹⁹⁰ See Bee Wilson "‘Blood cashews’: the toxic truth about your favourite nut" The Telegraph Newspaper (online), available at <https://www.telegraph.co.uk/foodanddrink/foodanddrinknews/11577928/Blood-cashews-the-toxic-truth-about-your-favourite-nut.html>, accessed on 2nd April 2022.

¹⁹¹ Ibid.

¹⁹² Ibid.





Picture 3.12: Small scale miners in Geita found working without PPE (left) and a female cleaner working without PPE (mask and gloves) in Iringa



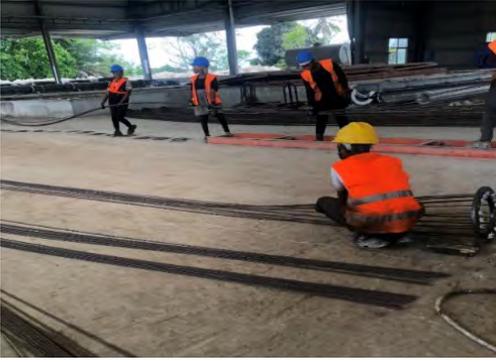
Picture 3.13: A worker at Xinghao Group Co. Ltd in Mtwara found working without wearing safety boots (barefooted)

Workplaces with sufficient PPE

Some of the workplaces which either the respondents said they had sufficient PPE or were observed to have some include **Coast Concrete Poles** in Pwani; **Kilombero Sugar Company** in Morogoro; **ALAF Ltd** in Dodoma; **Musoma Fish Processor** in Mara; **Sai Energy and Logistics Company** and **Dabaga Chai Bora** in Iringa; **Irvines' Tanzania Ltd** in Kilimanjaro; **Tanalec Limited** in Arusha; **Tanga Fresh Ltd** and **Neelkanth Lime Ltd** in Tanga; and **Dangote Cement Factory** in Mtwara. At **Irvines' Tanzania Ltd** one of the workers said:

'To tell you the truth, we have sufficient PPE hear, from safety boots, protective coveralls/PPE suit to masks, and when they are worn out or damaged what you have to do is just ask and they shall be replaced.'





Picture 3.14: Workers at Coast Concrete Poles in Pwani (left) and ALAF Ltd in Dodoma (right) working while wearing sufficient PPE



Picture 3.15: Workers at Irvines' Tanzania Ltd in Kilimanjaro (left) and Tanga Fresh Ltd in Tanga(right) working while wearing sufficient PPE

PPE only provided to worker once

Some of the interviewed workers, especially in Dar es Salaam and Mtwara, complained about being provided with PPE only once. For instance, a worker at *Kiwango Security Company* alleged that they only given PPE once, such that when they are worn out one decides to buy onther PPE themselves.¹⁹³

No PPE provided to casual workers at some workplaces

Interviewed casual workers in Shinyanga indicated that they are not considered by their employers in terms of provision of PPE.¹⁹⁴ One of them at *Afrisian Investment* stated that they usually buy some of the PPE, such as masks, themselves and when they are worn out and they do not have money to buy new ones they have to persevere with the dust and buy and drink milk when they get some money.

¹⁹³ Human Rights and Business Survey 2022: Mtwara Field Report.

¹⁹⁴ Human Rights and Business Survey 2022: Shinyanga Field Report.



Workplaces demanding wearing of PPE

Boards and signs demanding workers to wear PPE were observed at some of the workplaces. These include *Musoma Fish Processor* in Mara and *Neelkanth Lime Ltd* in Tanga.¹⁹⁵



Picture 3.16: Boards observed at Musoma Fish Processor in Mara (left) and Neelkanth Lime Ltd in Tanga (right) demanding workers to wear PPE

In Morogoro, one of the workers at *Kilombero Sugar Company* said, ‘*One of the things that is taken very seriously here is provision and use of PPE, and where one is not wearing even one of their PPE they are not allowed to work on that day.*’ At *Musoma Fish Processor* in Mara, the survey found that it was mandatory for all workers to wear PPE before entering production area.¹⁹⁶ At *Neelkanth Lime Limited* in Tanga it was reported that there is a fine ranging from Tshs. 30,000 to Tshs. 40,000 for any worker who enters work premises without PPE.¹⁹⁷ A health and safety officer at the company said, ‘*This disciplinary action has helped to increase compliance with the requirement of wearing PPE and supervisors to ensure the workers always wear PPE while working. This week I have so far recorded the names of 14 workers who were caught not wearing PPE at some point and I have their pictures. The fines shall be deducted from their wages.*’

Complaints about worn out or damaged PPE

Some of the interviewed workers in regions such as Dar es Salaam, Mtwara and Shinyanga complained about their PPE being worn out or damaged. In Mtwara, a worker at *Xinghao Group Co. Ltd* was observed with a worn-out mask.

¹⁹⁵ Human Rights and Business Survey 2022: Mara Field Report; Human Rights and Business Survey 2022: Tanga Field Report.

¹⁹⁶ Human Rights and Business Survey 2022: Mara Field Report.

¹⁹⁷ Human Rights and Business Survey 2022: Tanga Field Report.





Picture 3.17: A worker at Xinghao Group Co. Ltd found working while wearing a worn-out/damaged mask

Provision of only some of the PPE

Some of the interviewed respondents at the surveyed workplaces stated that sometimes they are only provided with some of the equipment for protection. For instance, in Morogoro a community member alleged that safety boots are usually not provided at *Kimamba Fibres Company*.¹⁹⁸ A similar claim was made by one of the respondents at *East African Zhenyan Group of Companies* in Iringa, who alleged that they were only provided with gloves, while they needed other PPE such as safety boots and helmets.¹⁹⁹ In Mtwara, one of the interviewed workers at *UCC*, a sub-contractor for *Dangote Cement Factory*, said, *'This is the second year that I have had to buy safety boots myself.'*

3.5.6. Some workers opting not to wear personal protective equipment

Like in the previous survey, some of the employers who responded to the survey revealed that some workers are given PPE but then opt not to use them. This was said to be the case at some of the workplaces in Dar es Salaam, Pwani, Shinyanga, Mbeya, Arusha, Tanga and Mtwara Regions. For instance, at *Jambo Foods Company* in Shinyanga, some of the workers were found working without their PPE, while others were wearing PPE. When interviewed, one of the workers not wearing PPE said they feel suffocated by the masks and believe there is no harm in not wearing them anyway since the work premises are clean.²⁰⁰ In Arusha, some of the workers at *Tanelec Limited* were also found not wearing their gas/respirator masks.²⁰¹

¹⁹⁸ Human Rights and Business Survey 2022: Morogoro Field Report.

¹⁹⁹ Human Rights and Business Survey 2022: Iringa Field Report.

²⁰⁰ Human Rights and Business Survey 2022: Shinyanga Field Report.

²⁰¹ Human Rights and Business Survey 2022: Arusha Field Report.





Picture 3.18: Unused masks found at Jambo Foods in Shinganya



Picture 3.19: A worker at Al-Haddad Electrical Works in Dar es Salaam found working without wearing PPE, including safety boots

In Mbeya, a corporate management official at *Marmo E. Granito Mines (T) Limited* revealed that they had been experiencing the problem of some workers not wearing PPE, something which got them in trouble with OSHA, a regulatory authority responsible for occupational health and safety in Tanzania.²⁰² Under the advisement of OSHA, he said that they had to introduce a fine of Tshs. 5,000 for workers not wearing PPE and it has helped to address the problem.

²⁰² Human Rights and Business Survey 2022: Mbeya Field Report.



3.6. 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.”²⁰³ 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.”²⁰⁴

According to ILO, violence and harassment in the world of work is a widespread phenomenon across the world in all sectors.²⁰⁵ 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.²⁰⁶ 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.

3.6.1. ILO Violence and Harassment Convention of 2019

In June 2019, the International Labour Organization (ILO) adopted the Violence and Harassment Convention, 2019 (No. 190).²⁰⁷ 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 works 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.²⁰⁸ It applies to all sectors, whether private or public, both in the formal and informal economy, and whether in urban or rural areas.²⁰⁹ The Convention applies to violence and harassment in the world of work occurring in the course of, linked with or arising out of work:²¹⁰

- in the workplace, including public and private spaces where they are at place of work;

²⁰³ 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::PI2100_ILO_CODE:C190.

²⁰⁴ Ibid.

²⁰⁵ See ILO “Violence and harassment in the world of work” at <https://www.ilo.org/global/topics/violence-harassment/lang--en/index.htm>, accessed 21st May 2022.

²⁰⁶ Ibid.

²⁰⁷ See C190 - Violence and Harassment Convention, 2019 (No. 190) at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::PI2100_ILO_CODE:C190.

²⁰⁸ Article 2(1) of ILO Violence and Harassment Convention, 2019 (No. 190).

²⁰⁹ Ibid, Article 2(2).

²¹⁰ Article 3 of ILO C190.



- in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;
- during work-related trips, travel, training, events or social activities;
- through work-related communications, including those enabled by information and communication technologies;
- in employer-provided accommodation; and
- when commuting to and from work.

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.²¹¹ They must take appropriate measures to prevent violence and harassment in the world of work, including: recognizing the important role of public authorities in the case of informal economy workers; identifying, in consultation with the employers' and workers' organizations concerned and through other means, the sectors or occupations and work arrangements in which workers and other persons concerned are more exposed to violence and harassment; and taking measures to effectively protect such persons.²¹²

Additionally, the Convention 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.²¹³ This includes:

- adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;
- take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;
- identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them; and
- provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned.

It is LHRC's view that 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 measures to ratify and later domesticate this convention, which entered into force in June 2021.

²¹¹ Article 7 of ILO C190.

²¹² Ibid, Article 8.

²¹³ Ibid, Article 9.



3.6.2. Reported incidents of workplace violence and harassment

Common forms of workplace violence

The survey conducted in 14 regions of Tanzania Mainland also probed on workplace violence and harassment. Respondents were specifically asked about the common forms of violence that occur at their workplaces. 31.3% of respondents mentioned intimidation/threats and/or bullying as common forms of violence, while 21.3% mentioned sexual violence. This means that over half of the respondents acknowledged existence of psychological and sexual violence at their workplaces. Less than 1% also mentioned physical attack or assault, while the majority (47%) said there were other forms of violence.

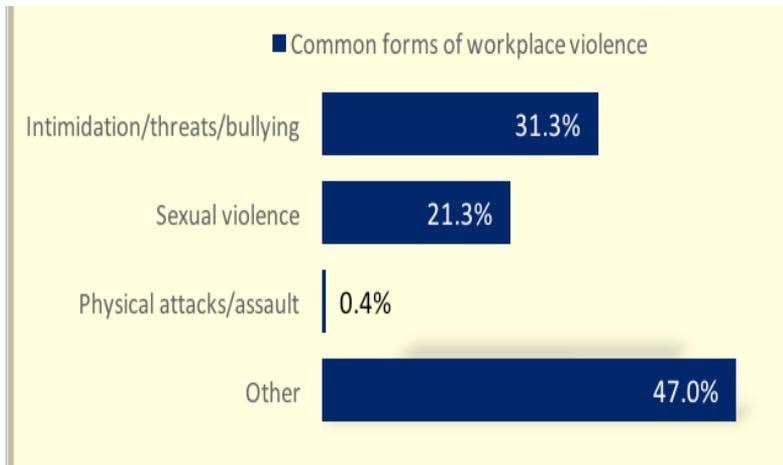


Figure 3.13: %Responses on most common forms of violence and harassment at workplaces

Source: Field data, 2022

The fact that majority (47%) of respondents said there were other forms of violence suggests that knowledge about different forms of violence is poor among workers. In this regard, training on workplace violence and harassment is very important, so that workers know which acts perpetrated against them constitute acts of violence.

Workplace violence in the media sector

In the second half of 2021, LHRC also conducted a mini survey on the rights of journalists that touched on workplace violence and harassment. Majority of respondents acknowledged existence of different forms of violence at workplace and female journalist were identified as the major victims/survivors of such violence. Nearly half of them (42%) said it is a serious problem for female journalists, followed by 40% who said it is a moderate problem. 14% of the respondents said it is a minor problem, while 4% said it is not at all a problem.²¹⁴ Regarding this problem, one journalist based in Dar es Salaam said:

²¹⁴ LHRC Rights of Journalists Survey Field Report, 2021.



'Some of our bosses, such as media owners, human resources officers and editors demonstrate a very bad behaviour of constantly demanding a sex bribe, especially from new female and male workers. When the workers say no, there is a very big possibility of not getting employment contract or their news story being dropped or read at some latter point in time. Most of them just give up and quit their jobs.'

Nearly half of the journalists who participated in the survey (43%) said they had witnessed or heard about any incident of sexual violence or sextortion against a journalist in the past year. When asked which acts of sexual violence against female journalists they had witnessed or heard about, most of the respondents mentioned being asked for a sex bribe to be employed or for a story to be published or aired. Young women doing fieldwork or internship were said to be more vulnerable in this regard as they seek employment.²¹⁵ Some of the respondents, especially in Dar es Salaam, mentioned unwarranted touching of body parts, especially breasts and buttocks, as a common form of sexual violence against female journalists.

Sexual harassment in its different forms was also mentioned by nearly all respondents as common. Examples include flirting, making sexually offensive gestures or remarks, inappropriate or unwanted touching of arms or brushing up against a woman, blocking the way or standing in the way, making sexually offensive facial expressions, unwelcome sexual advances, and repeatedly asking for dates or hook ups. A few other respondents also mentioned looking at a woman's body up and down (persistent staring) and telling sexually offensive jokes. Some few respondents in Dar es Salaam also mentioned that some female journalists encourage sexual advances or deliberately target their bosses or supervisors for a certain gain.²¹⁶

Editors and human resources officers were mentioned the most as perpetrators of sexual violence against female journalists. Other perpetrators that were mentioned included managing directors/managers, media owners, and sources. Male journalists, especially older or experienced one, were also mentioned by some of the respondents as perpetrators of sexual violence against female journalists, especially sexual harassment.²¹⁷ Consequences of rejecting unwelcome or unwanted sexual advances include non-employment, difficult working environment, a story not being published, and unfair dismissal.²¹⁸

Call for adoption of sexual harassment policies

Nearly a half of interviewed respondents (48%) indicated that they were not aware of existence of any sexual harassment policies and only a few of employers who claimed to have in place such policies could share copies with the study teams. This calls for the need for all employers to adopt and/or

²¹⁵ Ibid.

²¹⁶ Ibid.

²¹⁷ LHRC Rights of Journalists Survey Field Report, 2021.

²¹⁸ Ibid.



fully implement sexual harassment and gender inclusion policies. Some of the employers, in Arusha, were found to have established sexual harassment committees.²¹⁹

3.7. Compensation for Injury Sustained at Work

States parties should ensure that workers suffering from an accident or disease, and where relevant, their dependents, receive adequate compensation, including for costs of treatment, loss of earnings and other costs, as well as access to rehabilitation services.²²⁰ 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,²²¹ and other relevant ILO conventions.²²² 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,²²³ which provides for the right to compensation for occupational injury (resulting in disablement or death)²²⁴ and right to compensation for occupational diseases.²²⁵ It also establishes the Workers Compensation Fund²²⁶ and creates an obligation for an employer to contribute to it.

3.7.1. Compensation arrangements and payment of compensation

Respondents at surveyed workplaces were asked whether there are arrangements in place to compensate workers who suffer injuries while doing their work. Only a third of the respondents (32.4%) said the arrangement exists, while over a third (38.6%) said it does not. The remaining percentage of workers (29%) said they were not sure whether compensation is granted in case of workplace injury. This represents an improvement compared to the situation in the previous survey covering the period of 2020/21, whereby less than a third (22%), claimed that such an arrangement exists at their workplaces and 46% who said there is no such arrangement.²²⁷

²¹⁹ Human Rights and Business Survey 2021/22: Arusha Field Report.

²²⁰ Committee on Economic, Social and Cultural Rights, General Comment No. 23 of 2016.

²²¹ 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."

²²² 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).

²²³ CAP 263, R.E. 2015.

²²⁴ Section 19(1) of the Workers' Compensation Act.

²²⁵ Ibid, Section 22(1).

²²⁶ Ibid, Section 5(1).

²²⁷ LHRC (2021), *Human Rights and Business Report 2020/21*, at www.humanrights.or.tz.



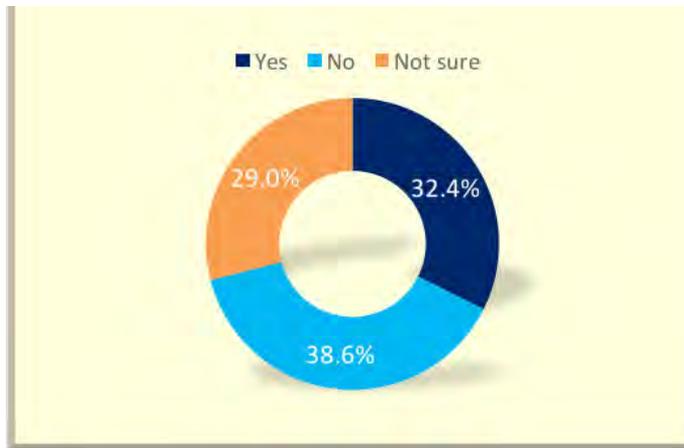


Figure 3.14: %Responses on compensation arrangement for injury sustained at work

Source: Field data, 2022

Respondents of the survey were also asked whether they were aware of any co-worker who sustained an injury while working and was thereafter compensated. Only 9.2% of the respondents said they did, decreasing from 22% in comparison to the previous survey. 84.6% of the respondents said that the workers who were injured did not receive any compensation, while the remaining 6.2% said they either did not remember or were not sure.

Reported incidents of workplace injury

Incidents of workplace injury were reported in 57% of the surveyed regions, namely Dar es Salaam, Pwani, Dodoma, Shinyanga, Iringa, Arusha, Tanga and Mtwara. Most of the incidents occurred in the period of 2019 to 2021. It was reported that workers suffered different types of injuries, some leading to permanent disability. For instance, in Dar es Salaam, the survey team came across a worker whose finger was severed by a machine while at work in 2021.

In Shinyanga, **Jambo Products/Group** reportedly saw the need to join the Workers' Compensation Fund (WCF) after one of the company workers sustained a workplace injury and lost three of his right-hand fingers in May 2021.²²⁸ The company management informed the survey team that the worker was hospitalized, and the company covered his medical bills, totaling Tshs. 1,500,000, and paid him a compensation of Tshs. 1, 200,000.²²⁹ The Human Resources Officer at the company said, *'Initially, we did not have in place compensation arrangement through WCF. But the situation changed in May last year when one of our workers had his fingers severed by a machine. We covered bills for his medical treatment and gave him some money as compensation then we joined WCF. We are still following*

²²⁸ Human Rights and Business Survey 2022: Shinyanga Field Report.

²²⁹ Ibid. [However, the worker claimed that he had been paid any compensation, but was given an employment contract].



up on his compensation with WCF. Another challenge is that WCF offices are in Mwanza (far) and there is sometimes bureaucracy.'



Picture 3.20: An employee at Jambo Products who sustained a workplace injury in May 2021



Picture 3.21: A worker at Lush Chanzo Company in Iringa (left) and a driver at Kapricorn Royal Class in Arusha, who sustained workplace injuries

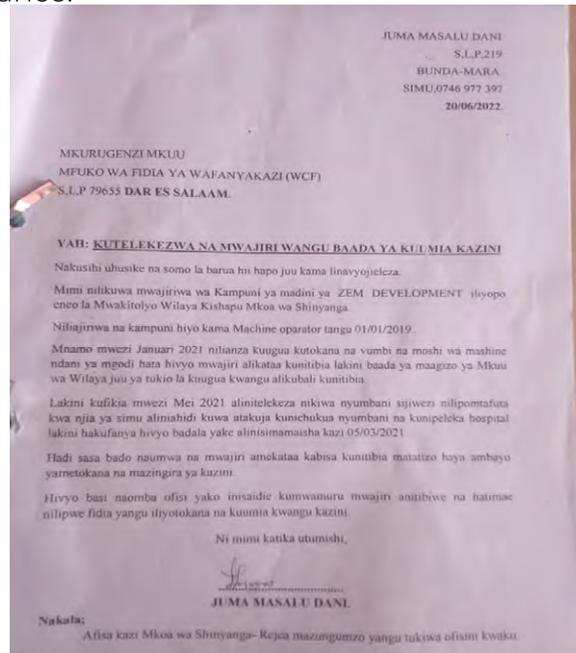
Complaints about not receiving compensation following workplace injury

Majority of workers who claimed to have sustained workplace injury complained about not receiving compensation. For instance, a worker at *Al-Hadda Electrical Works* in Dar es Salaam alleged that, apart from his employer covering his medical treatment expenses, he did not receive any compensation after losing his finger to a workplace injury, despite the company being registered with the Workers' Compensation Fund (WCF)



and his salary being deducted for the fund each month.²³⁰ A worker at **CPL Co. Ltd** in Pwani, who suffered a similar fate, also alleged that he had not been paid compensation after his fingers were severed while working in January 2022 and suffering permanent partial disability.²³¹

In Shinyanga, the survey team met Juma Masalu Dani, who claimed that he is a former employee at **Zem Development Company**, a mining company located in Mwakitolyo in Kishapu District. He claimed that he suffered internal injury and fell ill after inhaling smoke and dust at work. When he started experiencing chest pains and requested his employer to go for medical checkup, the employer refused. However, coincidentally the Kishapu District Commissioner paid an impromptu visit to the mines, found him in a bad condition, and ordered the employer to take him to hospital and cover his medical bills. He stated that while still receiving medical treatment, his employer terminated his employment, and that was in May 2021. To date, he is yet to receive any assistance, either from employer or WCF, and claimed he is still sick. In June 2022, he decided to write to WCF and ask for assistance.



Picture 3.22: A copy of a letter written by Juma Masalu to WCF requesting for assistance

Complaints about inadequacy of compensation and delays

Some of the interviewed workers who sustained workplace injury complained about inadequacy of compensation and delays in receiving compensation. For instance, in Dodoma the survey team came across a security guard at **SGA Security Company**, who sustained an injury in 2019 and claimed that

²³⁰ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

²³¹ Human Rights and Business Survey 2022: Pwani Field Report.



his employer took good care of him following the injury, including covering medical bills. He also said he was eventually paid compensation by WCF but it was a 'struggle' and 'there was a lot of bureaucracy' as it took two years to finally receive the compensation in 2021.



Picture 3.23: SGA Security worker in Dodoma who sustained a workplace injury in 2019

3.7.2. Awareness of Compensation Laws

During the survey, workers were also asked about their awareness of compensation laws in case of workplace injury. In comparison with the previous survey, a bigger percentage of workers claimed to be aware of such laws, increasing by 5.1%. However, like it was the case during the previous survey, over two thirds of the respondents indicated they lacked the legal awareness.

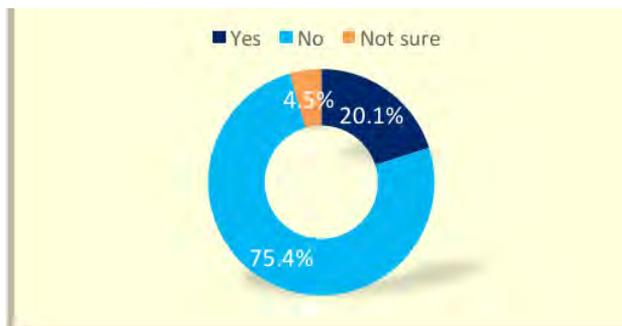


Figure 3.15: %Responses on awareness about laws and regulations governing compensation following injury at work

Source: Field data, 2022

Lack of awareness about compensation laws is a worrying sign for workers, especially given the fact that vulnerability to workplace injury is high at most workplaces. 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 any expenses when accidents do occur.



3.8. 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, 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).²³² ICCPR states that everyone has the right to freedom of association with others, which **includes right to form and join trade unions for the protection of one's interests**. This right is thus also a labour right and it provides a platform for enjoyment of another fundamental labour right, the right to collective bargaining. It is 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). 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.²³³

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.²³⁴ It is important for employer-employee relations as it ensures that both parties have a say and fairly negotiate their employment relations, concluding what we call collective bargaining agreement (CBA). Section 68 of ELRA imposes a duty upon an employer or his association to bargain in good faith.

Closely associated with freedom of association and collective bargaining is the **right to strike**. This right has been upheld at ILO, whereby the ILO's Government Group now recognizes that 'without protecting the right to strike, freedom of association, in particular the right to organize activities for the purpose of promoting and protecting workers' interests, cannot be fully realized.'²³⁵

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 were generally restricted by most employers in surveyed regions. Most interviewed workers claimed

²³² Articles 20(1) & 23(4) of UDHR; Article 22(1) of ICCPR; Article 8(1)(a) of ICESCR; and Article 10 of ACHPR.

²³³ Sections 9(1) & 10(1) of ELRA.

²³⁴ 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, accessed 20th May 2022.

²³⁵ United Nations Human Rights Office of the High Commissioner, *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 20th May 2018; "Right to Strike upheld at ILO" at <http://www.industrialunion.org/right-to-strike-upheld-at-ilo>, accessed 20th May 2022.



that their employers discourage them from joining trade unions as part of their freedom of association. Most of them also continued to express dissatisfaction with the work of trade unions, expressing that they are not of much help to them when it matters.

3.8.1. 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).

Workers at all surveyed workplaces were asked about existence of trade union branch. Survey findings show a slight improvement in terms of existence of such branches in comparison with the previous survey. About a third of the respondents (34.2%) said there were trade union branches at their workplaces, increasing from 31% in the previous survey. On the other hand, 55.6% of the respondents claimed there were no such branches, decreasing from 44% in the previous survey, while 10.2% said they were not sure, decreasing from a quarter in the previous survey.

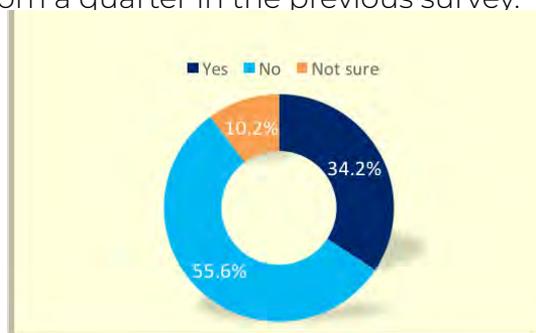


Figure 3.16: %Responses on existence of trade union branch at surveyed workplaces

Source: Field data, 2022

In terms of regional responses, existence of trade union branches was found to be the highest in Shinyanga (56%) and lowest in Mara (20%). Apart from Shinyanga, only two other regions had more than 50% of workers who claimed trade union branches exist at their workplaces, namely Iringa and Arusha.





Figure 3.17: %Responses on existence of trade union branch by region

Source: Field data, 2022

Workplaces without trade union branches

While only 34.2% of workers said there were trade union branches at their workplaces, corporate management officials who responded to the survey indicated that 60.4% of the surveyed workplaces had trade union branches, while nearly 40% claimed there were no trade union branches at their workplaces. Only 1% of the respondents said they were not sure whether there is a trade union branch at their workplace.

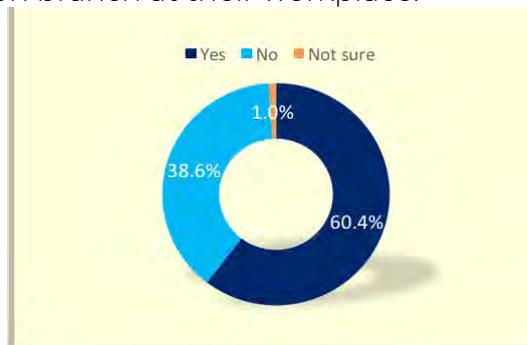


Figure 3.18: Corporate management officials' responses on existence of trade union branch at workplace (N=101)

Source: Field data, 2022

Membership at workplaces where trade union branches exist

It is also worth mentioning, as observed by the survey, that even at the workplaces where trade union branches were said to exist, generally few workers were found or said to be members of respective trade unions. For instance, in Iringa only a few workers were found to be members of trade unions at surveyed workplaces of *Queen Esther Hotel, Ronglan International Industries & Trade company Ltd, En Xin Co. Ltd, and Yi Sen International Investment Company*.²³⁶ In Mara, it was reported that despite there being a trade union branch at *Musoma Fishing Co. Ltd*, the employer has been reluctant to allow employees to join.²³⁷

²³⁶ Human Rights and Business Survey 2022: Iringa Field Report.

²³⁷ Human Rights and Business Survey 2022: Mara Field Report.



Lack of awareness about trade unions and other issues affecting membership

Some of the interviewed workers in nearly all surveyed regions and workplaces indicated that they were not aware about existence of trade unions. For instance, in Mtwara, one of the workers at **Cashson Risk Management** acknowledged that she did not know any trade union.²³⁸ In Mbeya, interview with the Secretary of the Communication and Transport Workers Union of Tanzania of Tanzania (COTWU (T)) revealed limited knowledge about trade unions as a challenge in the transportation and communication sectors.²³⁹ Awareness issues were also raised in Mara, especially among workers in the hospitality and private security industries.²⁴⁰ For instance, one of the interviewed respondents at **Kifa Best Point Hotel** in the region indicated that she did not know about the Conservation, Hotels, Domestic and Allied Workers Union (CHODAWU).²⁴¹

A TUICO official in Pwani also mentioned the challenge of lack of awareness about trade unions among some of the workers, but pointed out that the problem is compounded by employers in the region, who are reluctant to allow TUICO officials into workplaces to raise awareness about the trade union and encourage workers to join.²⁴²

The survey also found that lack of awareness about trade unions was not the only factor affecting membership. An issue of monthly contributions submitted to trade unions arose during focus group discussions and interviews with workers in some of the regions, including Shinyanga and Mwanza, where some of the workers said they were put off by the monthly contributions in making a decision not to join trade unions.²⁴³ A Human Resources Officer at **Jielong Holding** in the region also stated that majority of workers at the company had refused to join the Tanzania Plantation and Agricultural Workers Union (TPAWU) because of corrupt leadership. When reached for comment on these allegations, TPAWU Regional Secretary acknowledged that there were problems within the leadership in the previous two years, which caused some of the members to withdraw, but the situation has been resolved and some of the former members were rejoining.²⁴⁴

3.8.2. 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.²⁴⁵ Interference with this right is only

²³⁸ Human Rights and Business Survey 2022: Mtwara Field Report.

²³⁹ Human Rights and Business Survey 2022: Mbeya Field Report.

²⁴⁰ Human Rights and Business Survey 2022: Mara Field Report.

²⁴¹ Ibid.

²⁴² Human Rights and Business Survey 2022: Pwani Field Report.

²⁴³ Human Rights and Business Survey 2022: Shinyanga Field Report; Human Rights and Business Survey 2022: Mwanza Field Report.

²⁴⁴ Ibid.

²⁴⁵ 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).



allowed in line with restrictions imposed by international standards. Past reports on business and human rights produced by LHRC show that most employers have been interfering with this right of employees, in violation of human rights and labour standards.

Reports of employers preventing and discouraging their workers from joining trade unions were widespread across all surveyed regions. Most of the interviewed workers in regions such as Pwani, Shinyanga, Mara, Iringa and Tanga claimed that they were prohibited by their employers from joining trade unions and even received threats in some occasions. Employers were said to dislike the idea of workers joining trade unions for various reasons, including fear of the workers knowing their rights and demanding them, revealing company secrets, and being encouraged to strike in the future.

In Pwani, some of the respondents stated that they had to withdraw their membership from TUICO after receiving threats from their employers.²⁴⁶ In Geita, an official from the National Union of Mine and Energy Workers of Tanzania (NUMET) revealed that some employers violate the right of their workers to join trade union by forcing them to join trade unions they (the employers) want or prefer.²⁴⁷

Trade union officials in some of the surveyed regions also corroborated the claims made by workers regarding threats by employers when workers want to join trade unions. For instance, in Iringa an official from the Tanzania Mines, Energy, Construction and Allied Workers Union (TAMICO) said that most employers in the region, especially Chinese-owned companies, dislike trade unions and discourage their workers from joining them.²⁴⁸ They usually terminate employment of workers who join them or do not renew their contracts. Because of this situation, the TAMICO official stated that most workers are afraid of joining trade unions. Similar statement was made by a TUICO official in Tanga, who claimed that most employers in the region are reluctant to allow trade unions to establish branches and go as far as threatening those who wish to join trade unions.²⁴⁹ Another TUICO official in Mtwara also mentioned that some employers threaten workers who join trade unions, something which affects the work and performance of the trade union.²⁵⁰

3.8.3. Effectiveness of trade unions

Most of the past reports on business and human rights situation in Tanzania Mainland produced by LHRC paint a picture of an increase in perception that trade unions are not effective in protecting the welfare of the workers they represent. They have usually been associated with corruption and not doing enough to protect the rights of their members. Workers who responded

²⁴⁶ Human Rights and Business Survey 2022: Pwani Field Report.

²⁴⁷ Human Rights and Business Survey 2022: Geita Field Report.

²⁴⁸ Human Rights and Business Survey 2022: Iringa Field Report.

²⁴⁹ Human Rights and Business Survey 2022: Tanga Field Report.

²⁵⁰ Human Rights and Business Survey 2022: Mtwara Field Report.



to the survey were asked to give their views on the effectiveness of trade unions and the results are not far from those of the previous survey, as once again over two thirds of the respondents and nearly three-quarters (74%) said they are not at all effective.



Figure 3.19: %Responses on workers' perceptions on effectiveness of trade unions (N=634)

Source: Field data, 2022

Percentages of claims of trade unions being ineffective were highest in Mara (98%), Mwanza (94%), Geita (94%), and Dar es Salaam (89%) Region. Percentage of such claims was the lowest in Arusha Region.²⁵¹ In all other regions the percentages ranged from 59% in Shinyanga to 88% in Mbeya.²⁵² Interviewed workers who expressed concerns over effectiveness of trade unions cited several reasons for not trusting trade unions. One of the reasons is the perception that trade union officials collude with employers to oppress the employee. Regarding this perception, an employee at *Flomi Hotel* in Morogoro said:

'I cannot join a trade union because it is there to protect the interests of our employers, even where they have made a mistake. What they will tell you is to listen to your employer to employer and let bygones be bygones.'

In Dodoma, bus drivers at Nanenane Bus Stand also expressed mistrust with trade unions. They accused them of only protecting the interests of their bosses and failing to resolve workers' issues.²⁵³ At some other workplaces, such as *TOTAL Energies* in Mwanza, some of the survey respondents said they were not interested in joining trade unions because they felt they would not benefit much from such membership.²⁵⁴ A similar statement was made by a worker at African Vegetables Company in Kilimanjaro.²⁵⁵

Despite question marks over effectiveness of trade unions, there was a general feeling among most interviewed workers that it is still better to have in place the trade unions than not having them at all, especially in terms of their role in creating awareness about labour laws and rights.

²⁵¹ HRB Survey 2022: Quantitative field data.

²⁵² Ibid.

²⁵³ Human Rights and Business Survey 2022: Dodoma Field Report.

²⁵⁴ Human Rights and Business Survey 2022: Mwanza Field Report.

²⁵⁵ Human Rights and Business Survey 2022: Kilimanjaro Field Report.



3.8.4. Collective Bargaining

According to the ILO, the right of workers to bargain freely with employers is an essential element in freedom of association.²⁵⁶ 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

As discussed above, majority of employers at the surveyed workplaces reached by the survey teams were said to discourage existence of trade union branches and their workers from joining from. Consequently, the survey generally observed that very few companies have collective bargaining agreements (CBAs) with trade unions.

A 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.²⁵⁷ Such an agreement is a product of extensive negotiations between these parties on any labour matter.²⁵⁸ 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.²⁵⁹

Survey teams asked employers to share copies of CBA, if any. Only a few employers, especially in Morogoro, Mwanza and Mbeya shared the CBA. In Morogoro, the survey team met with the Secretary of the Tanzania Plantation

²⁵⁶ 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, accessed 20th May 2022.

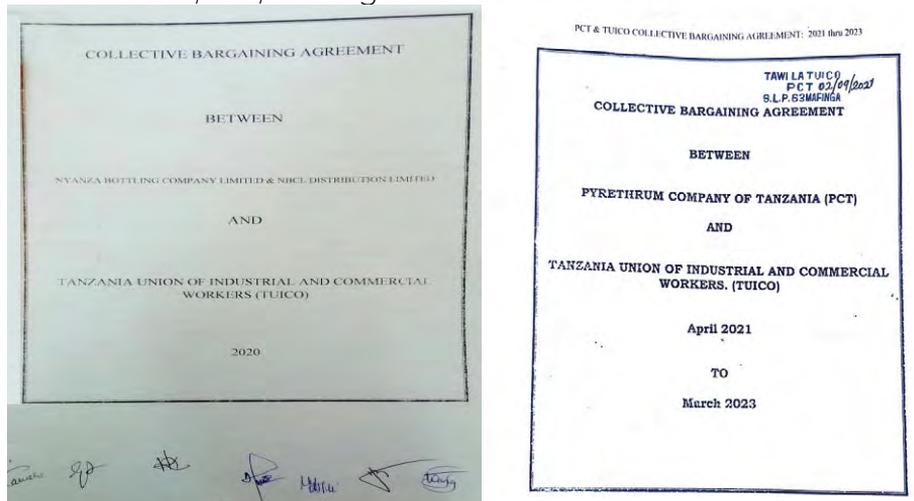
²⁵⁷ See Africaorg.pay/Tanzania, *Collective Bargaining Agreements*, at <https://africapay.org/tanzania/labour-law/employment-security/collective-bargaining-agreements#:~:text=Collective%20Bargaining%20Agreements%20are%20written,employees%20or%20an%20individual%20employee.,> accessed 8th August 2022.

²⁵⁸ Section 68 of the Employment and Labour Relations Act, 2004.

²⁵⁹ Africaorg.pay/Tanzania, *Collective Bargaining Agreements (supra)*.



and Agricultural Workers' Union (TPAWU) at the **Kilombero Sugar Company Ltd**, who claimed that there is a collective agreement in place, scheduled for signature in 2022 between TPAWU and the company.²⁶⁰ He added that the trade union branch has successfully negotiated with the employer to increase the minimum wage of Tshs. 100,000 prescribed in the Wage Order of 2003 to Tshs. 210,000, among other achievements.



Picture 3.24: Copies of CBA between Nyanza Bottling Company Limited & NBCL Distribution Limited and TUICO and CBA between Pyrethrum Company of Tanzania (PCT) and Tanzania Union of Industrial and Commercial Workers (TUICO) obtained during the survey in Mwanza and Iringa respectively

The survey also found that most of the CBAs are between employers and TUICO, which suggests that the trade union has fared better in advocating for collective bargaining than other trade unions. According to the newsletter of the trade union, covering the period of January to March 2021, one of the key achievements of TUICO is concluding a total of 511 CBAs with different companies in the period of January 2016 to December 2020.²⁶¹ TUICO also reported increase of trade union branches from 1,487 in 2016 to 2,362 in 2020, as well as a 30% increase in membership within that period.

Corporate management officials who responded to the survey were also asked whether the employment contracts they provide allow room for collective bargaining. Two thirds of the respondents (66.3%) said they allow the practice, while a quarter (25.7%) said they don't, and the remaining 8% said they were not sure.²⁶² However, having such a clause in contracts and/or policies is not enough where trade union branches are discouraged, and CBAs cannot be concluded.

²⁶⁰ Human Rights and Business Survey 2022: Morogoro Field Report.

²⁶¹ See Sauti ya TUICO, *Utekelezaji wa Mpango Mkakati wa 2016-2020: Mafanikio, Changamoto na Mwelekeo Mpya*, Toleo Na. 24, Januari – Machi, 2021, at <http://tuico.or.tz/news/sauti-jan-march-2021.pdf>, accessed 8th August 2022.

²⁶² N=101



3.8.5. Right to strike

Right to strike is essential for protection of freedom of association and promoting and protecting workers' interests.²⁶³ 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 from preventing employers from entering premises or locking them inside, and employers should not hire replacements during a lawful strike.

During this reporting period, one incident of strike was documented, reported in Mwanza Region. In February 2022, more than 100 workers of a construction company called CCECC, commissioned to construct the Magufuli Bridge in the region, organized and conducted a strike, protesting various labour rights violations, including lack of additional pay for working overtime, being overworked and not afforded time to rest (including Saturdays and Sundays), inadequate pay, lack of health insurance, and not being provided with copies of employment.²⁶⁴ Most of the grievances were aired by crane operators and drivers. Police who arrived at the scene advised the protesting workers to sit down with their employer and engage in a dialogue to resolve their labour disputes.

3.9. 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.²⁶⁵ 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**.²⁶⁶ Forced labour is prohibited and amounts to an

²⁶³ 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 20th May 2018; "Right to Strike upheld at ILO" at <http://www.industrialunion.org/right-to-strike-upheld-at-ilo>, accessed 20th May 2022.

²⁶⁴ See "WAFANYAKAZI DARAJA LA MAGUFULI WAGOMA, POLISI WAFIKA - "HATUPEWI HAKI ZETU" at <https://tanzania.gazetiapp.one/wafanyakazi-daraja-la-magufuli-wagoma-polisi-wafika-hatupewi-haki-zetu-47957.html>, accessed 8th August 2022.

²⁶⁵ Section 5(1) & (2) of ELRA and Section 12 and Part VIII of the Law of the Child Act [CAP 13, R.E 2019].

²⁶⁶ Ibid, Section 5(3) and Section 82(1,2 &3) of the Law of the Child Act [CAP 13, R.E 2019].



offence under the ELRA.²⁶⁷ 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.²⁶⁸

3.9.1. 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.²⁶⁹ 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."²⁷⁰ 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.²⁷¹ Child labour may lead to impairment of a child's physical, mental, moral, spiritual and social development.²⁷² Poverty remains the major cause of child labour in Tanzania, hindering a child's basic social and economic rights, such as the right to education and right to protection.

The Minimum Age Convention provides for the minimum age of employment or work at 15 years for light work (after completing compulsory schooling) and 18 years for hazardous work (work that could jeopardise health, safety, or morals).²⁷³

The first schedule of the Employment and Labour Relations (General) Regulations of 2017 provides a list of work considered hazardous for children.²⁷⁴ The list includes hazardous works in the sectors such as agriculture, fishery, mining, construction, service, trade, and transport. Examples include: fetching and carrying fire wood, 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.

Under the Employment and Labour Relations (General) Regulations, 2017, no person is allowed to employ or cause to be employed a child under the age fourteen;²⁷⁵ and a child of this age and above can only perform light

²⁶⁷ Ibid, Sections 6(1) and 80(1).

²⁶⁸ Ibid Sections 6(2) and 80(2).

²⁶⁹ 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 21st May 2022.

²⁷⁰ See FAO "Child Labour in Agriculture" at <http://www.fao.org/childlabouragriculture/en/>, accessed 17th September 2022.

²⁷¹ 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.

²⁷² Ibid.

²⁷³ Articles 2(3) & 3(1) of Minimum Age Convention, 1973 (No. 138).

²⁷⁴ Employment and Labour Relations (General) Regulations, GN. 47 of 2017 and under section 82(3) of the Law of the Child Act 2009

²⁷⁵ Regulation 3(1) of the Employment and Labour Relations (General) Regulations, 2017.



work as stipulated in the schedule to the Regulations.²⁷⁶ They also stipulate that a child who is still attending school is only allowed to work in excess of three hours per day.²⁷⁷ Additionally, a child aged 14 years and above can work for no more than 6 hours per day provided he is on leave, has completed his studies, or is not in school for any justifiable reason.²⁷⁸

Regarding hours of work and rest, the Regulations stipulate that a child should not work for more than three consecutive hours without at least a one-hour rest.²⁷⁹ However, no child is allowed to work overtime and work between 8pm and 6am.²⁸⁰ Other working conditions include 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.²⁸¹ Nevertheless, employer must keep register and maintain a register in respect of children employed in his work place,²⁸² pay the child wages,²⁸³ and provide written employment contract and a copy of such contract to the child.²⁸⁴

Child labour prohibition policies

Corporate management officials who responded to the survey were asked whether they have in place policies that set the minimum age of employment or child labour prohibition policies. Only just over a half of the respondents (55.4%) said they have such policies, while 40.6% percent, a significant percentage, said they did not have such policies. The remaining 4% of the respondents indicated that they were not sure such if there were such policies or not. This is nevertheless an improvement in comparison with the previous survey, whereby only 36% of the respondents said there were company policies that prohibit child labour. Among workplaces where the policies were said to exist, only approximately a half were able to produce copies to survey teams.

²⁷⁶ Ibid, Regulation 3(2).

²⁷⁷ Ibid, Regulation 4(1).

²⁷⁸ Regulation 4(2) of the Employment and Labour Relations (General) Regulations, 2017.

²⁷⁹ Ibid, Regulation 5.

²⁸⁰ Ibid, Regulation 6 and section 79(1) of the Law of Child 2009

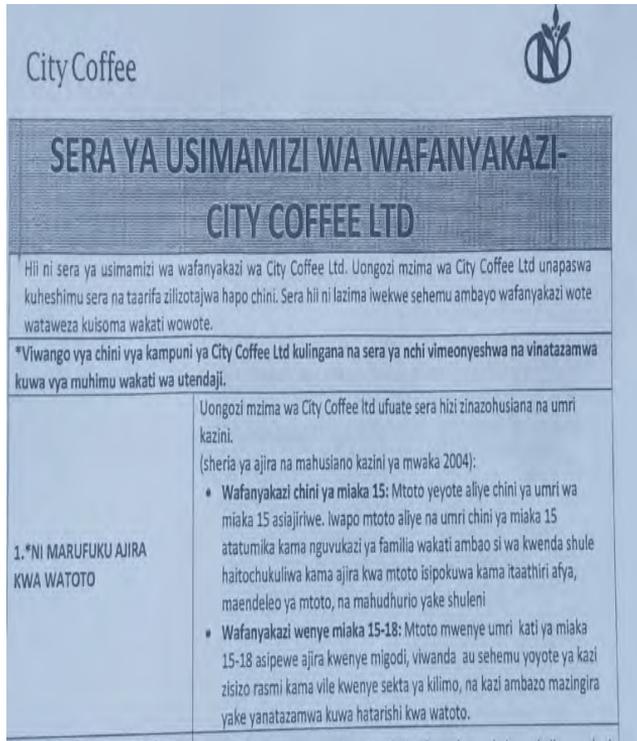
²⁸¹ Regulation 7 of the Employment and Labour Relations (General) Regulations, 2017.

²⁸² Ibid, Regulation 8(1) and under section 85(1) of the Law of the Child Act entitled Registration of a child in Industrial Undertakings

²⁸³ Ibid, Regulation 9 and section 81(1,2) of the Law of the Child Act [CAP 13, R.E 2019].

²⁸⁴ Ibid, Regulation 10(1).





Picture 3.25: An extract of child labour prohibition of City Coffee Ltd in Mbeya

Some of the business enterprises that reported not to have child labour prohibition policies were in Dar es Salaam, Pwani, Geita, Iringa, Mbeya, Kilimanjaro, and Tanga. On the other hand, good practices on prohibition of child labour were found in some of the workplaces, including putting in place boards that prohibit child labour. This was for instance observed in some of the surveyed business enterprises in Kilimanjaro Region.



Picture 3.26: Some of the boards prohibiting child labour observed at some of the workplaces in Kilimanjaro



Reported incidents of child labour

Overall, the survey found that most of the employers do their best to prohibit and discourage child labour. Nevertheless, instances of child labour were observed or reported in various surveyed regions, especially in Dar es Salaam, Mbeya, Geita, Shinyanga, Dodoma, Tanga, and Mtwara. Child labour was found to be more prominent in small businesses, in the fishing industry, in agriculture, in mining areas, and at marketplaces. Poverty and children being considered to be cheap labour were said to be the main drivers of child labour. In Dar es Salaam, some of the business owners were accused of using children as vendors, while in Iringa use of child labour in plantations was reported. In regions with mining activities, such as Geita, Mbeya, and Shinyanga, children were found and said to be working in mines.



Picture 3.27: A boy found working at a mining area in Shinyanga

In Mbeya, LGA officials in Chunya DC who responded to the survey said child labour was prevalent in gold mining.²⁸⁵ The Community Development Officer in the District (DCDO) said during an interview that children have been working in mines and tobacco plantations. Most of them come from Songwe, Rukwa and Shinyanga, which suggests child trafficking for labour. In Mbarali DC, one of the interviewed community members alleged existence of child labour at *Highland Estates*.

In Tanga, children were observed to engage in the business of stone quarrying/crushing, which is listed as a hazardous work for children for being hard and dangerous, because of possible hazards such as toxic gases, explosives, sexual harassment, vibration, long working hours, harsh supervision, and mercury fumes.²⁸⁶ Possible physical, mental, or psychological harm associated with this hazardous work includes low self-esteem, physical assault, heat stress, poor physical and mental development, and depression.

²⁸⁵ Human Rights and Business Survey 2022: Mbeya Field Report.

²⁸⁶ See the First Schedule of the Employment and Labour Relations (General) Regulations, 2017.





Picture 3.28: Children found crushing stones in Kiomoni Ward in Tanga Region

In Muheza DC, Tanga Region, a key child labour issue that was reported is the use of child labour in the orange business.²⁸⁷ A Social Welfare Officer (SWO) in the district remarked that children account for nearly 80% of labour in the orange business in Muheza. Children were said to be mostly used in harvesting and loading and unloading the oranges, and it was reported that they are preferred in the business due to their agility and being cheaper labour than adults. The SWO further said, ***‘Child labour is a very big issue in Muheza, and even recently during the ‘mwenge’ celebrations the District Commissioner spoke angrily about the issue and demanded children not to be used in business.’***

In Geita, child labour was reported to be common in fishing and mining sectors.²⁸⁸ Regarding this issue, the Education Officer in Nkome Ward in Geita DC said, ***‘Truancy in schools has become a big problem as children go to engage in fishing activities and work in mines.’***

LHRC calls upon business enterprises to develop and adopt child labour prohibition policies. The Government through relevant ministry and labour officers, should ensure such policies and adopted by enterprises and monitor their conduct in relation to child labour practices.

3.9.2. Forced Labour

Forced labour contravenes fundamental human rights, including 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.”²⁸⁹ It includes situations where persons are coerced to work through the use of violence or intimidation.²⁹⁰

²⁸⁷ Human Rights and Business Survey 2022: Tanga Field Report.

²⁸⁸ Human Rights and Business Survey 2022: Geita Field Report.

²⁸⁹ Article 2 of the Forced Labour Convention, 1930 (No. 29).

²⁹⁰ See ILO “What is forced labour, modern slavery and human trafficking” at <https://www.ilo.org/global/>



Forced labour is also prohibited by the Employment and Labour Relations Act of 2004, but the survey found that there are instances of forced labour in some surveyed regions. For instance, as discussed in sub-chapter 3.3 above, some workers indicated that they are forced to work beyond the 9 normal working hours and some even beyond the 12 maximum normal working hours, in the absence of consent. Where employees have not consented to working overtime, it amounts to forced labour.²⁹¹ For such labour not to constitute forced labour, there must therefore be an agreement between the worker and the employer to require them to work beyond ordinary workings hours.²⁹² Some of the interviewed 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.

3.10. 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),²⁹³ which has not been ratified by Tanzania. Nevertheless, domestically, labour standards on leaves are adequately covered under 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)** and **sick leave (126 days maximum)**.²⁹⁴

An employee with less than six months of service is not entitled to paid leave.²⁹⁵ However, if an employee with less than six months service has worked more than 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.²⁹⁶ An employee employed on seasonal basis is also entitled to paid leave.²⁹⁷

[topics/forced-labour/definition/lang--en/index.htm](https://www.africapay.org/tanzania/labour-law/fair-treatment/forced-labour/), accessed 24th May 2022.

²⁹¹ See Africapay "Forced Labour" at <https://africapay.org/tanzania/labour-law/fair-treatment/forced-labour/>, accessed 25th May 2022.

²⁹² Ibid.

²⁹³ 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.'

²⁹⁴ Sections 31(1), 32(1), 33(1) & 34(1) of ELRA.

²⁹⁵ Ibid, Section 29(1).

²⁹⁶ Ibid, Section 29(b).

²⁹⁷ Ibid, Section 29(a).



Employer has a duty of ensuring that no employee is continuously working in any leave cycle without applying for annual leave.²⁹⁸ 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.²⁹⁹

3.10.1. Annual leave

Respondents of the survey were asked whether they are granted annual leave, as required by labour standards. Majority of them (51%) said they are granted annual leave at their workplaces, increasing slightly from 48% in the previous survey. The percentage of workers who said they were not granted annual leave also slightly decreased from 46% in the previous survey to 42% in this survey.

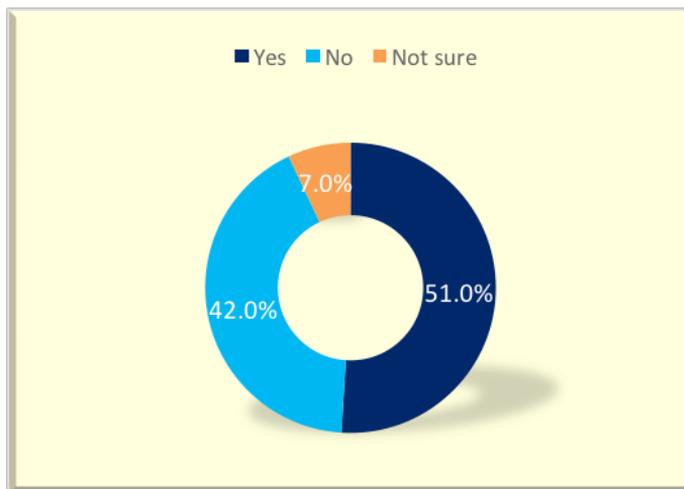


Figure 3.20: %Responses on getting annual leave

Source: Field data, 2022

Among the respondents who said they are granted annual leave at their workplaces, nearly a half (46.8%) expressed that they took leave in the past year. The remaining half said they did not take leave. The highest percentage of workers who went on annual leave in the past year was recorded in Dar es Salaam (84%), followed by Arusha (81%) and Dodoma (71%). The lowest percentage of workers who claimed they took annual leave in the past year was Mara (10%), followed by Geita (24%) and Mtwara and Shinyanga (both 44%). Among those who took leave in the past year, female workers accounted for 46% and male workers accounted for 56%.

²⁹⁸ Regulation 14(2) of Employment and Labour Relations (General) Regulations, GN. 47 of 2017.

²⁹⁹ Ibid, Regulation 15.



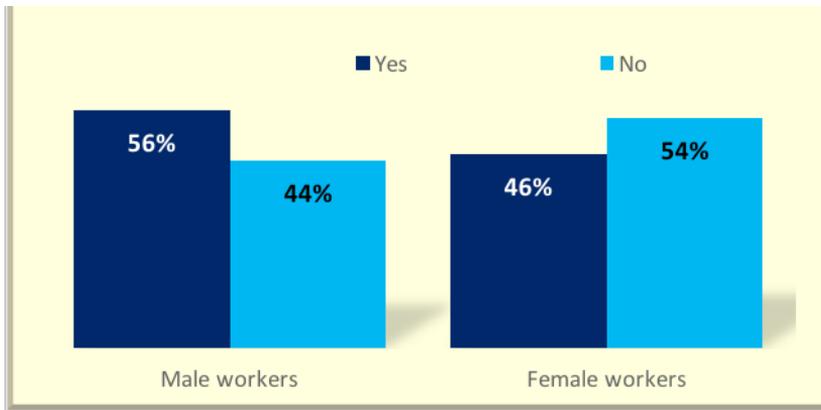


Figure 3.21: % Male and female workers who went on leave in the past year

Source: Field data, 2022

Complaints about denial of annual leave were aired by some of the workers in all surveyed regions. One of the group of workers who complained is those who are paid their wages daily. They stated that it is difficult for them to take the leave because if they do it will be unpaid leave, as they are paid only paid when they show up at work. Regarding this concern, a worker at *Colour Ful Industries Ltd* in Dar es Salaam, said, ***'We are paid a daily rate at our workplace, so if you take a leave then there is no pay...that is why we don't like taking leave because we cannot earn a living, hence it is better to just continue reporting for work in order to sustain our lives.'***

Another category of workers for whom annual leave is a dream are *bodaboda*, *Bajaj*, *Bolt*, and *Uber* drivers. Some of these drivers who were interviewed in Dar es Salaam claimed that the nature of their work and demands of their employers make it impossible for them to take annual leave, unless it is unpaid leave.³⁰⁰ Even when it is possible for them take leave, there is no guarantee of keeping the job, as another driver shall replace them for the business to continue.

Some of the survey respondents indicated that when they take leave, their wages get deducted for the number of days they miss work. This was revealed by one of them in Pwani Region, who said, ***'it is better to continue working instead of taking leave, because if you do then you salary gets deducted.'***³⁰¹

Complaints about annual leave were also found to be more common among workers in the hospitality, private security, industrial, and transportation sectors. For instance, in Dodoma, one of the survey respondents who works at a private security company claimed he had never been granted annual leave, which would give him a break from his very tiresome work.³⁰² Another

³⁰⁰ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

³⁰¹ Human Rights and Business Survey 2022: Pwani Field Report. [Interview with a worker at CPL Co. Ltd]

³⁰² Human Rights and Business Survey 2022: Dodoma Field Report.



security guard in Mara also claimed denial of annual leave, despite his contact stipulating that he is entitled to the leave.³⁰³ Complaints about denial of leave in the region were aired by some of the survey respondents at **Intelligence Security Co. Ltd, Musoma Fishing Co. Ltd, Kifa Hotel, and Bandit Security Co. Ltd**. In Mbeya, a COTWU official revealed that lack of annual leave is one of the key challenges drivers face.³⁰⁴

In some cases, the survey found that employees may take annual leave because they are not aware of the leave. This is rare, but it appears it happens. For instance, in Shinyanga, the survey team came across a worker at **Jambo Food Products** who said he was not aware if he was entitled to annual leave and that is actually a paid leave.³⁰⁵ He said he had never taken leave and was not sure if he was entitled to it and whether one gets paid. When he was told he is, he was happy and said he was looking forward to it. Another worker at **Specialized Hauliers(T) Ltd**, who claimed he had not taken leave for 2 years, provided a similar statement.³⁰⁶ Strange as it may sound, this can actually be explained by several factors, most of which have been discussed above. One, there is an issue of employers not providing workers with copies of their written contracts and not affording them enough time to read and understand them. Second, workers may not understand contract written in English or other foreign language. Third, some employers tend to deliberately omit or not include provisions or terms on leave in employment contracts. Fourth, employers have a duty to promote rights of workers, including the legal requirement of placing a statement of rights at workplaces, at a place where everyone can see, but most of them do not comply with this requirement. Statement of rights should include right to leave. Another contributing factor could be the fact that trade union branches do not exist at some workplaces and even where there are such branches, majority of workers are not members.

Interestingly, the survey also found that among workers who are aware of annual leave, many more are not aware that is actually a paid leave. So, they remain at work so that they can ‘continue to be paid.’ But the Employment and Labour Relations Act of 2004 (revised in 2019) very clearly stipulates that a worker is entitled to a consecutive 28-day paid annual leave. The employers know this, and it appears they take full advantage of lack of awareness on the part of their employees. For instance, in Arusha, one of the company managers who were interviewed, was asked why they do not grant annual leave and he provided an interesting answer. He said, **‘We pay our workers some amount in the month they are supposed to take annual leave so that they can remain and continue working.’** Some of the workers were happy with that arrangement of being paid so that they can forfeit their leave for extra pay. One of them said, **‘My brother, it is true that we like leave, but it is better to get the money and continue working. We shall rest when we die!’**

³⁰³ Human Rights and Business Survey 2022: Mara Field Report.

³⁰⁴ Human Rights and Business Survey 2022: Mbeya Field Report.

³⁰⁵ Human Rights and Business Survey 2022: Shinyanga Field Report.



Some of the workers in Mbeya and Mtwara Regions claimed that annual leave is granted at their workplaces but is ‘a process’ and ‘a struggle.’ One of the interviewed workers at **Dangote Cement Factory** in Mtwara said that several years may pass by if one does not seriously follow up and insist on taking leave.³⁰⁷ Another worker at **Shebby Mix Investment** in the region claimed that he had only taken a 14-day leave and once since 2019.³⁰⁸

3.10.2. Maternity leave

Opinions on granting of maternity leave

Respondents at the surveyed workplaces were asked whether female workers are granted maternity leave. Only a third of them (33.9%) said that female workers are granted such leave, as stipulated in labour laws and regulations, while another third (32.9%) said they are not granted the leave, and the remaining third (33.2%) claimed they were not sure. It appears that the situation was much better in the previous survey, whereby half of the respondents (50%) said that female workers were allowed to take maternity leave. Regions where most workers said female workers are usually granted maternity leave were Kilimanjaro, Tanga, Mbeya, Mtwara, Morogoro, Iringa, Pwani and Shinyanga.

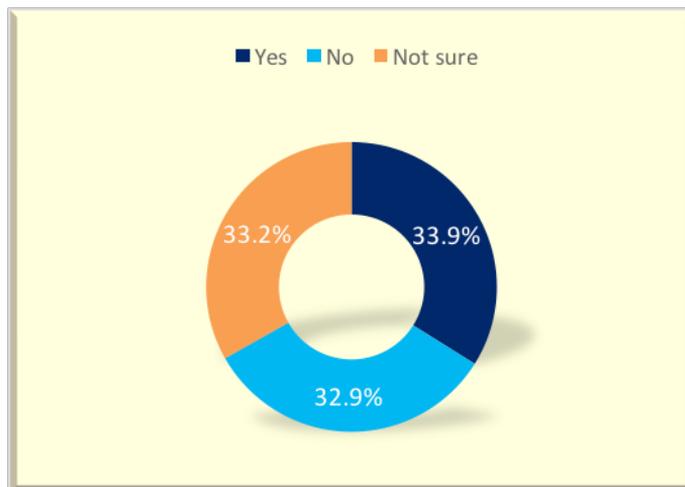


Figure 3.22: %Responses on getting maternity leave

Source: Field data, 2022

Pregnancy and maternity discrimination at workplaces

Pregnancy and maternity discrimination at workplaces is 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.³⁰⁹ Discrimination and dismissal of

³⁰⁷ Human Rights and Business Survey 2022: Mtwara Field Report.

³⁰⁸ Ibid.

³⁰⁹ Olena Mykhalchenkoisabel Santagostino Recavarren “In 38 countries, women can still be fired for being pregnant” World Bank Blogs, May 13, 2021.



female workers because of pregnancy is prohibited under key international instruments, including the ILO Conventions on maternity protection³¹⁰ and termination of employment,³¹¹ 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 (CEDAW) of 1979, which prohibits dismissal on the grounds of pregnancy or of maternity leave.³¹² 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.³¹³ It also provides that termination of employment for reasons related to pregnancy is not a fair termination.³¹⁴

Allegations of denial of maternity leave and incidents of maternity discrimination were made and reported by some of the interviewed respondents in Dar es Salaam, Pwani, Morogoro, Mwanza, Geita, Iringa, and Mtwara. In Dar es Salaam, for instance, it was reported that some of the employers dislike employing female workers because they do not want to provide maternity leave in the future.³¹⁵ One of the interviewed female workers in the region stated that pregnant workers are less likely to retain their jobs upon returning from maternity leave. In Iringa, a director at **Iringa Food and Beverage Ltd** said:

'We have only employed male workers, there is only one woman who works as the quality controller. This is because many women became pregnant in the past and could not do their jobs properly, so we have decided to employ men only.'

Some of the workers in Dar es Salaam and Pwani Regions said maternity leave is granted but not paid. In Pwani one of the survey respondents also lamented reduction of her maternity leave days, alleging that her leave was cut short by her employer.³¹⁶

In Morogoro, the survey team met a woman who claimed to be a former employee of **Mazava Winds Group Ltd** and that she lost her job because of pregnancy.³¹⁷ A similar claim was made by a gas/petrol station worker in Mwanza, who asked the survey team, *'Have you ever seen a pregnant woman at gas/petrol station.'*³¹⁸ A similar situation was reported during interviews with workers at **Yi Sen International**, **Evergreen** and **East Africa Zhenyan** in

³¹⁰ See ILO C183 - Maternity Protection Convention, 2000 (No. 183).

³¹¹ ILO C158 - Termination of Employment Convention, 1982 (No. 158)

³¹² Article 11(2)(a) of the Convention on the Elimination of All Forms of Discrimination against Women, 1979.

³¹³ Section 7(4)(h) & (i) of the Employment and Labour Relations Act, 2004.

³¹⁴ Ibid, Section 37(3)(b)(i).

³¹⁵ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

³¹⁶ Human Rights and Business Survey 2022: Pwani Field Report.

³¹⁷ Human Rights and Business Survey 2022: Morogoro Field Report.

³¹⁸ Human Rights and Business Survey 2022: Mwanza Field Report.



Iringa.³¹⁹ In Mtwara, a female security guard at **Kiwango Security Company** said that she got pregnant in the past while working at the company and had to quit her job because of it, but later she returned and successfully re-applied for the job.³²⁰

3.10.3. Paternity leave

Previous survey on business and human rights suggested that there is generally low awareness of paternity leave among male workers. Workers who responded to the survey were asked whether male workers were granted paternity leave. Only a quarter of the respondents (25%) said that male workers were granted such leave at their workplaces, increasing from 21% in the previous survey. Just over a third of the respondents (37.2%) indicated that no such leave is granted at their workplaces, decreasing from 43% in the previous survey. The remaining 37.7% of the respondents said they were not sure if such leave is granted. Regions where most workers claimed male workers who become fathers are granted paternity leave were Dar es Salaam, Arusha, Mbeya, Kilimanjaro and Pwani.

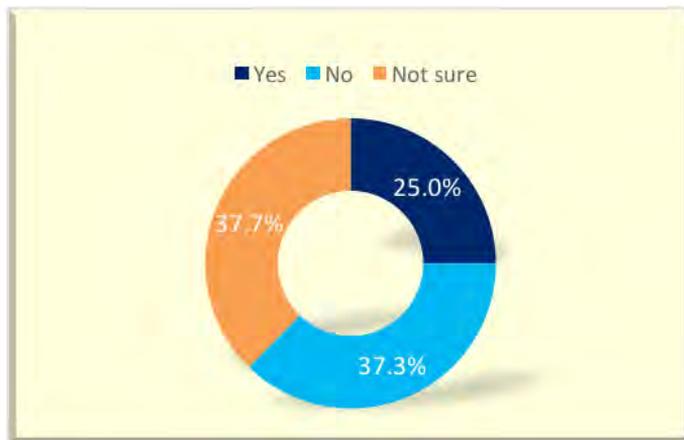


Figure 3.23: %Responses on getting paternity leave

Source: Field data, 2022

Qualitative findings of the survey show that awareness about paternity leave is very low among workers in the industrial, transportation, private security and hospitality sectors. This was especially found to be the case in Pwani, Morogoro, Mara and Iringa Regions. For instance, in Pwani, one of the survey respondents, a worker at Vita Foam Products, said, ***'No leave is granted when there is a lot of work. My sister, I didn't know there is a leave for fathers, am just hearing about it from you. I usually request for annual leave but with no success. I usually fill in the form and take it to the production manager, but he doesn't sign.'*** A trucker driver in Pwani said, ***'I am just hearing from you that there is paternity leave. I don't get annual leave, let alone paternity leave.'***

³¹⁹ Human Rights and Business Survey 2022: Iringa Field Report.

³²⁰ Human Rights and Business Survey 2022: Mtwara Field Report.



3.10.4. Sick leave

The Employment and Labour Relations Act [CAP. 366 R.E. 2019] recognize sick leave as a labour right.³²¹ An employee is entitled to sick leave of at least 126 days in any leave cycle.³²² 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.³²³

Survey respondents were asked whether they are granted sick leave. Overwhelming majority of the respondents (71.5%) acknowledged that they are granted leave when they fall sick, a significant improvement from 61% in the previous survey. 20.1% of the respondents opined that workers are not usually granted sick leave, while the remaining 8.4% said they were not sure, as shown in Figure 3.24 below.

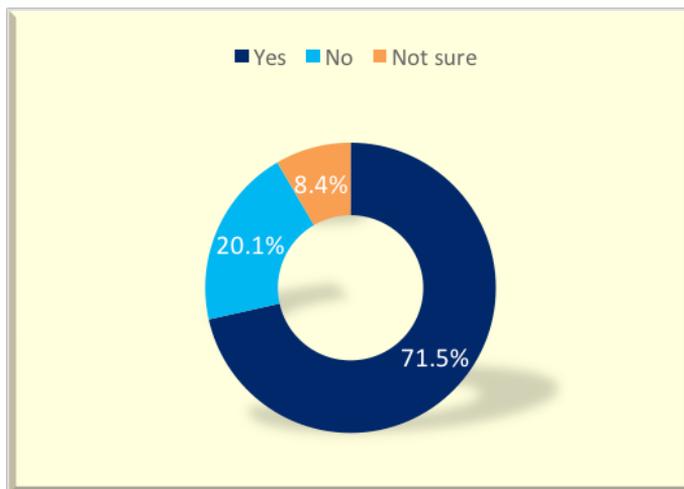


Figure 3.24: % Response on getting sick leave

Source: Field data, 2022

Regions where most workers claimed they are usually granted sick leave include Dar es Salaam, Kilimanjaro, Iringa, Mbeya, Morogoro, Mtwara and Tanga. Some of the workers in these regions claimed that when they are granted sick leave the days missed at work are usually deducted in wages or annual leave. For workers who are paid daily rates, the situation is even more complicated because they will miss their daily pay when on sick leave.

3.11. 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

³²¹ See Section 32 of the Employment and Labour Relations Act, [CAP. 366 R.E. 2019].

³²² Ibid, Section 32(1).

³²³ Ibid Section 32(2) (a)&(b).



Human Rights (UDHR),³²⁴ the International Covenant on Economic, Social and Cultural Rights (ICESCR)³²⁵ and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).³²⁶ Key international labour rights instruments providing for the right to social security are Social Security (Minimum Standards) Convention, 1952 (No. 102) and Equality of Treatment (Social Security) Convention, 1962 (No. 118).³²⁷ The essence of social security is to address 'insecurities related to making a living through work.'³²⁸

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 National Social Security Fund Act [Cap. 50 R.E 2018] provide social security services to members from private and informal sectors.³²⁹ Employers and employees covered under the Act include employees in the private sector, including business enterprises, NGOs, religious organizations.³³⁰ Under this law, 20% of 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.³³¹

3.11.1. Submission of employees' social security contributions

More complaints about non-remittance of social security contributions

The main issue regarding social security for workers that was probed during the survey was submission of social security contributions. Compared to the previous survey, more complaints were made regarding non-submission of social security contributions by survey respondents. These complaints were made at some of the surveyed workplaces in 10 out of 14 survey regions, namely Dar es Salaam, Pwani, Morogoro, Mwanza, Shinyanga, Geita, Mara, Iringa, Arusha and Mtwara. For instance, in Pwani, an LGA official told the survey team that he had received complaints about non-remittance of social security contributions at *Balochistan Group of Industry* and *Lodhia Still Industry*.³³² In Morogoro, some of the truck drivers also complained about their employers not remitting their social security contributions.³³³ A similar concern was expressed by a worker at *DALUSI Company* in Mwanza, who claimed that some of the workers took the initiative of following up on the constitutions at NSSF but were told no contributions had been remitted.³³⁴

³²⁴ Article 22 of UDHR.

³²⁵ Article 9 of ICESCR.

³²⁶ Article 11(1) (e) of CEDAW.

³²⁷ Note: These two conventions have not been ratified by Tanzania.

³²⁸ 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 21st May 2022.

³²⁹ See NSSF website at <https://www.nssf.or.tz/pages/overview>, accessed 26th May 2022.

³³⁰ Section 6 of the National Social Security Fund Act [Cap. 50 R.E 2018].

³³¹ Ibid, Section 12.

³³² Human Rights and Business Survey 2022: Pwani Field Report.

³³³ Human Rights and Business Survey 2022: Morogoro Field Report.

³³⁴ Human Rights and Business Survey 2022: Mwanza Field Report.



In Shinyanga, the survey team met with and interviewed a man who claimed to be a former employee of *Zem Development*.³³⁵ He claimed that when he followed up on his social security contributions at NSSF, he was astounded to find out his card and membership number were fake. Complaints about social security contributions were also levelled against *Kahama Oil Mills* in Kahama DC in the region. In Geita, most of the complaints were levelled against employers in the hospitality and private security sectors³³⁶. One of the employers, *Group 12 Security Service Company*, claimed that they do submit the social security contributions, and that the problem might be NSSF not updating their database.³³⁷

In Iringa, non-remittance of social security contributions was said to be an issue at workplaces such as *Mufindi Tea and Coffee Ltd*, *Yi Sen International Investment Company Ltd*, and *Zhenyan Group of Companies*.³³⁸ In Mtwara, a similar issue was raised at workplaces such as *Kiwango Security Company*, *UCC* and *Cashson Risk Management*.³³⁹ One of the respondents at these workplaces said:

'My sister, if you can help us with our NSSF problem we can even give you an acre of cashewnuts farm, because it has been such a big challenge. We contribute each month but when we follow up with NSSF we do not see the contributions, and when you are seen as stubborn and told they shall be remitted.'

Some workers do not follow up and do not know status of their contributions

In Dar es Salaam, the survey found that some of the workers just know that their employers deduct social security contributions from their salaries but do not follow up and by extension are not aware of how much has been remitted. For instance, a worker at *Al-Haddad Electrical Works* in the region had this to say regarding his social security contributions, *'I just hear that our boss remits our social security contributions to NSSF, but I don't know how much has been contributed so far, he just says he deducts the money and send to NSSF.'* In Arusha, one of the workers who responded to the survey said they did not know how much was deducted from their salaries as social security contribution and their employer has been reluctant to tell them.³⁴⁰

Deputy minister for labour speaks out

Recently, in July 2022, the Deputy Minister of State, Prime Minister's Office (Labour, Youth, Empowerment, and Persons with Disability), Hon. Patrobas Katambi, spoke out against non-remittance of social security contributions by some employers in the county.³⁴¹ He called upon the employers to comply

³³⁵ Human Rights and Business Survey 2022: Shinyanga Field Report.

³³⁶ Human Rights and Business Survey 2022: Geita Field Report.

³³⁷ Ibid.

³³⁸ Human Rights and Business Survey 2022: Iringa Field Report.

³³⁹ Human Rights and Business Survey 2022: Mtwara Field Report.

³⁴⁰ Human Rights and Business Survey 2022: Iringa Field Report [a worker at USA Limited]

³⁴¹ Hilda Mhagama "REMIT CONTRIBUTIONS TO SOCIAL SECURITY FUNDS, EMPLOYERS URGED" *DAILYNEWS* Newspaper (Online), 14 July 2022, at <https://dailynews.co.tz/news/2022-07-1362cee35c55a16.aspx>.



with the social security laws by ensuring social security contributions are submitted timely. He noted that it is illegal to delay or postpone the contributions. He also promised to visit various business enterprises to check on compliance with the obligation to remit social security contributions.³⁴²

3.12. 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 employee's capacity/conduct or operational requirements.³⁴³ 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 month-employment with same employer.³⁴⁴ It states that termination of employment includes:³⁴⁵

- a lawful termination of employment under the common law;
- a termination by an employee because the employer made continued employment intolerable for the employee;
- a failure to renew a fixed term contract on the same or similar terms if there was a reasonable expectation of renewal;
- a failure to allow an employee to resume work after taking maternity leave granted under this Act or any agreed maternity leave; and
- a failure to re-employ an employee if the employer has terminated the employment of a number of employees for the same or similar reasons and has offered to re-employ one or more of them.

Unfair termination of employment is prohibited under the ELRA and occurs if employer fails to prove that:³⁴⁶

- 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.

Unfair reasons to termination of employment include: an employee disclosing information that they are allowed under the law; employee refusing to do anything that employer is not lawfully permitted or required to ask them to do; employee exercising their right under contract or law;

³⁴² Ibid.

³⁴³ 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.

³⁴⁴ Section 35 of ELRA.

³⁴⁵ Ibid, Section 36(a).

³⁴⁶ Ibid, Section 37(1) & (2).



and participation in trade union and its activities, including a lawful strike.³⁴⁷ Other reasons include pregnancy and disability. In proceedings relating to unfair termination, the burden of proof lies with the employer to prove that it was fair.³⁴⁸

The ELRA also provides for conditions of termination based on operational requirements, which include a notice by employer on intention to retrench as soon as possible and disclosing relevant information, measures to minimize entrenchment, timing of retrenchment, severance pay and reasons for retrenchment.³⁴⁹ It also provides for remedies for unfair termination,³⁵⁰ notice of termination,³⁵¹ severance pay,³⁵² transport to place of recruitment,³⁵³ payment on termination³⁵⁴ and certificate of service upon termination.³⁵⁵

3.12.1. Complaints of unfair termination

As discussed above, some of the workers at some of the surveyed workplaces were reportedly unfairly dismissed for reasons such as pregnancy, joining trade unions, demanding employment contract, demanding better pay, and sustaining injury at workplace and demanding compensation. It was generally observed that some employers disregard termination procedures. In Dar es Salaam, one of the survey respondents at **Colourful Industries Ltd** said that fellow workers were unfairly dismissed for demanding salary increase.³⁵⁶ In Pwani, business enterprises such as **Hontai Manufacturers Limited** and **Surpass International Investment Company Limited** were accused of unfair termination.³⁵⁷ In Iringa, allegations of unfair termination were levelled against employers such as **Yi Sen International Investment Company Ltd** and **East Africa Zhenyan Group of Companies**.³⁵⁸ At the **Yi Sen International Investment Company Ltd**, a Chinese boss popularly known as 'Punda' was accused of unfairly dismissing female workers who refuse his sexual advances and demands. One of workers at the company said, '**There is a Chinese man called Punda, who demands sex from female workers and gets them fired when they refuse...it is very easy to be fired here..**'

³⁴⁷ Ibid, Section 37(3).

³⁴⁸ Ibid, Section 39.

³⁴⁹ Ibid, Section 38 (1).

³⁵⁰ Ibid, Section 40(1). [Reinstatement (back to work); Re-engagement (on any terms decided by Court or arbitrator); Compensation (not less than 12-month remuneration)]

³⁵¹ Ibid, Section 41(1). [7 days if given in first month of employment; 4 days if employment of daily or weekly basis; and 28 days if employment on a monthly basis].

³⁵² Ibid, Section 42. [Amount at least equal to 7 days' basic wage for each completed year of continuous service with that employer up to a maximum of ten years.]

³⁵³ Ibid, Section 43.

³⁵⁴ Ibid, Section 44(1).

³⁵⁵ Ibid, Section 44(2).

³⁵⁶ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

³⁵⁷ Human Rights and Business Survey 2022: Pwani Field Report.

³⁵⁸ Human Rights and Business Survey 2022: Iringa Field Report.



An official from the Commission for Mediation and Arbitration (CMA) in Iringa stated during an interview that most of the labour cases they receive are on unfair termination.³⁵⁹ He noted that cases of female workers unfairly terminated for refusing sexual advances are very common among workers in the hospitality sector, such as those who work at night clubs, bars, and hotels. Majority of complaints relating to labour by clients at LHRC's Dar es Salaam Legal Aid Clinic are also usually on unfair termination. For instance, in the period of January to June 2022, two thirds of the labour-related complaints filed at the clinic (66.6%) were on unfair termination.³⁶⁰

3.13. 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)³⁶¹ and the Labour Division of the High Court³⁶² 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.³⁶³ It appoints mediators and arbitrators to perform its functions.³⁶⁴ The Labour Court 'has exclusive civil jurisdiction over any matter reserved for its decision by the labour laws and over any employment matter falling under common law, tortious liability, vicarious liability or breach of contract within the pecuniary jurisdiction of the High Court.'³⁶⁵ Part VIII of ELRA provides for dispute resolution in terms of mediation and arbitration under the CMA and the Labour Court, including complaints over the fairness or lawfulness of employment termination or any other contravention of ELRA, other labour law or employment contract.³⁶⁶ Arbitration is resorted to if mediation fails.³⁶⁷ Unlike mediation, arbitration award is binding on the parties to the dispute.³⁶⁸ Labour Court may refuse to hear a complaint if not referred to mediation and may conduct reviews and revisions of decisions of CMA.³⁶⁹ 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.³⁷⁰

³⁵⁹ Ibid.

³⁶⁰ LHRC Labour Unit Monthly Reports, January to June 2022.

³⁶¹ Section 12 of LIA.

³⁶² Ibid, Section 50(1).

³⁶³ Ibid, Section 14(1)(a) & (b).

³⁶⁴ Ibid, Section 19(1).

³⁶⁵ Ibid, Section 51.

³⁶⁶ Section 88(1) of ELRA.

³⁶⁷ Ibid, Section 88(2).

³⁶⁸ Ibid, Section 89(1).

³⁶⁹ Ibid, Section 94(1) & (2).

³⁷⁰ Ibid, Section 95(1) & (2).



3.13.1. Existence of worker grievance mechanisms

A mechanism for addressing workers' concerns is essential at a workplace. Such a mechanism provides workers with a platform to air their grievances or concerns and access internal remedy. A company can form a committee or body that addresses such workplace concerns. However, such mechanism should not be taken as a substitute for existing judicial and non-judicial mechanism.³⁷¹ The worker grievance mechanism is not in a prescribed form, but rather depends on the type and needs of a specific organization or company, and to be effective it must adhere to the principles of **transparency**, **impartiality**, **confidentiality**, and **accessibility**.³⁷²

Corporate management officials at the surveyed workplaces were asked whether worker grievance mechanism exist at their workplaces. Nearly two thirds of the respondents (62.4%) said such mechanism is in place at their workplaces, increasing from 53% in the previous survey. Only a third of the respondents (33.6%) said they did not have such a mechanism, decreasing from just about a third in the previous survey (37%). The remaining 4% said they were not sure.

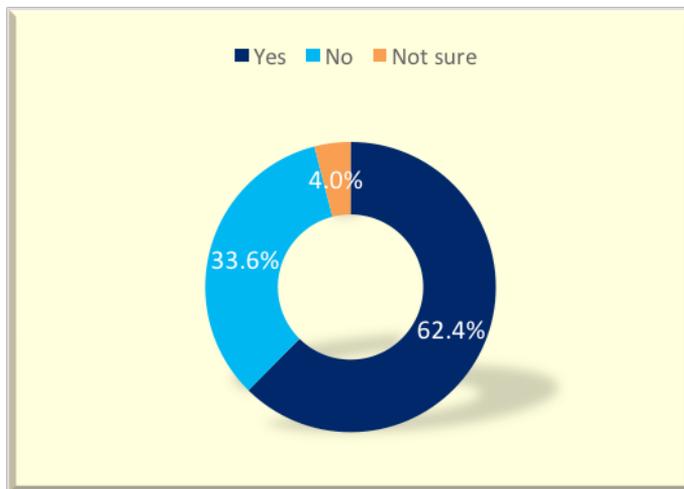


Figure 3.25: %Responses on existence of worker grievance mechanisms at workplaces

Source: Field data, 2022

Increase in percentage of workplaces where worker grievance mechanisms exist is a welcome development in terms of protection of workers' labour rights. Existence of such mechanisms shall also encourage other workers to come forward with their complaints against their supervisors and to resort to solving labour disputes internally first.

³⁷¹ See European Bank for Reconstruction and Development, *Employee Grievance Mechanism: Guidance Note*, December 2017, at <https://www.ebrd.com/documents/admin/employee-grievance-mechanism.pdf?blobnocache=true#:~:text=A%20grievance%20mechanism%20is%20a,and%20management%20response%20and%20feedback,> accessed 27th May 2022.

³⁷² Ibid.



3.13.2. Grievances at workplace and workers' response to labour rights violations

During the survey, workers at the surveyed workplaces were asked about their workplace grievances and the action they usually take. Common grievances that were mentioned were delayed salary payment, breach of contract, leaves, overtime pay, mileage and return allowances (drivers), long working hours, wage deductions, and work conditions.

Respondents of the survey were also asked whether they had experienced or witnessed labour rights violations in the past year and if yes what they did about it. Only a quarter of the respondents (24.4%) said they had experienced or witnessed such violations, while the majority (59.6%) said they had not and the remaining 16.1% said they were not sure or did not remember. When asked what they did after experiencing or witnessing labour rights violations, overwhelming majority of the respondents (78.9%) said they reported to their immediate supervisor, followed by 10% who said they did not do anything, and 8.8% who said they reported the matter to trade union. Only 1.4% of the respondents felt the need to resort to police intervention.



Figure 3.26: % Responses on action taken following labour rights violation

Source: Field data, 2022

The fact that the majority of respondents indicated that they report labour rights violations to their supervisors shows that most workers try to resolve labour disputes internally first, even when they are not fully aware of procedures or worker grievance mechanisms are absent. This may also mean that this is the only first and easy option for most workers, especially where there are no trade union branches.

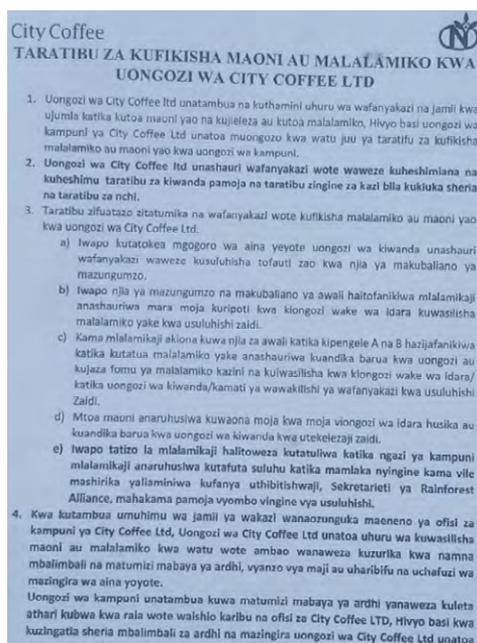
In Shiyanga, the survey team interviewed the TPAWU Regional Secretary, who among other things, spoke about labour dispute settlement. He noted that as a trade union, TPAWU, is sometimes involved in settling disputes between a worker and their employer. This may be part of the package of



CBA's concluded with employers or their association. He said:

'We receive labour disputes, and when we do we go to a workplace, sit down with a worker and their employer and try to resolve their dispute before it reaches CMA. We do that to reduce costs and inconveniences for our members, as based on our experience, when the matter gets out of workplace it becomes more difficult to get remedy.'

In Geita, Mbeya and some other regions, the survey found that some of the business enterprises had established workers' grievance mechanisms to address labour disputes. In Geita, some of the corporate management officials who responded to the survey stated that they have the worker grievance mechanisms, where workers can report their complaints, and they allow labour disputes to be referred to trade unions for settlement when a worker is dissatisfied with the outcome of internal proceedings.³⁷³ In Mbeya, the survey team found that there is a workers' grievance mechanism at **City Coffee** and was presented with a copy of guidelines for grievance mechanism.³⁷⁴



Picture 3.29: Guidelines for grievance mechanism at City Coffee Ltd in Mbeya

In Iringa, the survey found that there were worker grievance mechanisms at business enterprises such as **Chai Bora** and **Sai Energy and Logistics**.³⁷⁵ The director at **Sai Energy and Logistics** stated during an interview that they have an internal committee which addresses different labour disputes, including labour disputes between a worker and another worker and between a worker and the employer. Use of trade unions to settle labour

³⁷³ Human Rights and Business Survey 2022: Geita Field Report.

³⁷⁴ Human Rights and Business Survey 2022: Mbeya Field Report.

³⁷⁵ Human Rights and Business Survey 2022: Iringa Field Report.



disputes was also reported in Iringa, with trade unions such as TUICO and CHODAWU usually involved in settling such disputes. A TUICO official in the region told the survey team that common labour disputes that are reported and resolved are lack of written employment contract, working conditions (e.g. lack of PPE), and unfair termination. He noted that most of the unfair termination complaints are levelled against Chinese-owned industries. Regarding working conditions, he said, ***‘There are workers who have lost their lives because of poor/difficult working conditions, a worker was once killed following a saw injury when a machine malfunctioned at a Chinese-owned factory. Fightings between the Chinese and Africans are also very common.’***

At CHODAWU the survey found that common labour disputes that are reported to the trade union are unfair termination and salary payment. A CHODAWU official said, ***‘We receive many labour disputes, majority of them on salary payment, also unfair termination.’***

3.13.3. CMA Labour dispute resolution and statistics

The Commission for Mediation and Arbitration (CMA) was established under the Labour Institutions Act [CAP. 300 R.E. 2019]³⁷⁶ as an independent department of the Government.³⁷⁷ 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.³⁷⁸ Functions of CMA are to:³⁷⁹

- mediate any dispute referred to it in terms of any labour law;
- determine any dispute referred to it by arbitration if: a labour law requires the dispute to be determined by arbitration; the parties to the dispute agree to it being determined by arbitration; and the Labour Court refers the dispute to CMA in line with the Employment and Labour Relations Act [CAP. 366 R.E. 2019];
- facilitate the establishment of a forum for workers participation, if requested to do so in line with the Employment and Labour Relations Act [CAP. 366 R.E. 2019].

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.³⁸⁰ 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.³⁸¹ There are mediators and arbitrators appointed

³⁷⁶ Section 12 of the Labour Institutions Act [CAP. 300 R.E. 2019].

³⁷⁷ Ibid, Section 13(1)(a).

³⁷⁸ Sections 13(1) (b) & (c) of the Labour Institutions Act [CAP. 300 R.E. 2019].

³⁷⁹ Ibid, Section 14(1).

³⁸⁰ Ibid, Section 14(2)(a).

³⁸¹ Ibid, Section 14(2) (b) & (c).



by CMA to perform these functions on part-time or full-time basis.³⁸² CMA offices are scattered across Tanzania Mainland.

Labour disputes received by CMA for resolution

Survey teams in Morogoro, Dodoma, Shinyanga, Iringa and Mbeya were able to meet with CMA officials to discuss labour disputes reported to the body for mediation and arbitration. Overall, like in the previous survey, most of the labour disputes were on employment termination, breach of contract, and salary payment. These were followed by cases of leaves, organizational rights and working environment.

In Morogoro, a CMA official told the survey team that most of the labour disputes filed at his office are from private security companies and concern unfair termination.³⁸³ He stated that most of the private security companies are owned by former military officials, who are not well known for their management skills, but rather giving or barking orders, something which may trigger labour disputes.

In Dodoma, a visit to CMA offices also revealed that most of the labour disputes filed also concerned employment termination.³⁸⁴ In the period of January to June 2022, a total of 72 labour disputes were registered in Dodoma, majority of them concerning unfair termination (56.9%), followed by breach of contract (26.3%). Most of the disputes involved employers in the construction sector, followed by education sector. It was also revealed that some of the workers decide against filing labour disputes at CMA for fear of losing their jobs.

In Shinyanga, the survey team was able to interview a CMA officer, who also revealed that majority of labour disputes registered in the region in the period of January to June 2022 (80%) concerned unfair termination.³⁸⁵ Most of the registered disputes involved workers and employers in the education and hospitality sectors, while the rest were equally divided among mining, private security and construction sectors.³⁸⁶

In Iringa, the survey team was able to obtain labour dispute statistics for the years 2019, 2020, 2021 and part of 2022 (by June) from the regional CMA Office.

³⁸² Section 19 of the Labour Institutions Act [CAP. 300 R.E. 2019].

³⁸³ Human Rights and Business Survey 2022: Morogoro Field Report.

³⁸⁴ Human Rights and Business Survey 2022: Dodoma Field Report.

³⁸⁵ Human Rights and Business Survey 2022: Shinyanga Field Report.

³⁸⁶ Ibid.



Table 3.5: Number of labour disputes registered at CMA Office in Iringa – 2019 to June 2022

| Year | #Total Disputes | #Mediation | #Arbitration |
|-----------------------|-----------------|------------|--------------|
| 2019 | 100 | 87 | 23 |
| 2020 | 123 | 98 | 25 |
| 2021 | 128 | 96 | 32 |
| 2022 (By June) | 42 | 42 | 0 |
| TOTAL | 393 | 323 | 80 |

Source: CMA Office - Iringa

As shown in Table 3.5 above, labour disputes have been slightly increasing, and most of them end up at the mediation stage. Majority of disputes concerned employment termination, workplace violence, and salary payment.³⁸⁷ At LHRC, majority of labour disputes that were registered during this reporting period were also on unfair termination. For instance, as highlighted above, in the period of January to June 2022, two thirds of the labour-related complaints filed at the clinic (66.6%) were on unfair termination.³⁸⁸

3.14. Awareness of Labour Laws and Rights

3.14.1. Workers' knowledge of labour laws, regulations, and rights

Knowledge of labour laws and rights is important for workers and employers to effectively safeguard labour and human rights. Respondents of the survey were asked about their awareness of labour laws and rights to determine whether they know as much as they need to. The results show that only 22.3% of the respondents were aware of relevant labour laws and regulations. This is a slight improvement when comparisons are made with the previous survey, whereby only 12% of the workers claimed they had a good knowledge of labour laws and regulations.

³⁸⁷ Human Rights and Business Survey 2022: Iringa Field Report.

³⁸⁸ LHRC Labour Unit Monthly Reports, January to June 2022.



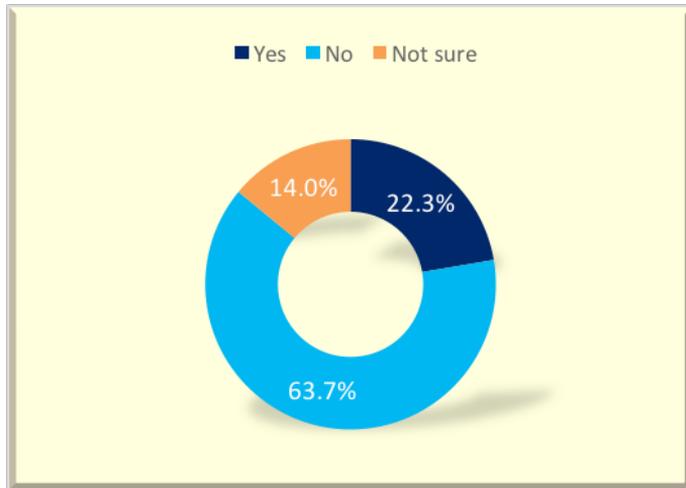


Figure 3.27: %Responses on knowledge about labour laws and regulations

Source: Field data, 2022

Regions which recorded the largest percentage of workers who have a good knowledge of labour laws and regulations are Iringa (39%), Mbeya (37%), and Shinyanga (37%), while those with the lowest percentages were Mara (6%), Mtwara (12%) and Geita (13%). Results also show that more male workers (24%) had a good knowledge of labour laws and regulations compared to female workers (21%).

Regarding awareness about labour rights, 71% of the workers who responded to the survey said they were aware of their basic labour rights, significantly increasing from 52% in the previous survey. Interestingly, less than a third among those who claimed to possess a good knowledge of their rights could mention three labour rights correctly.

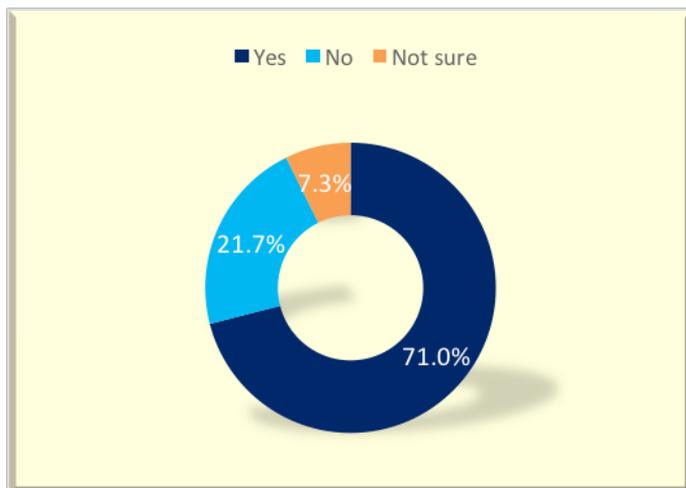


Figure 3.28: Workers' awareness of their labour rights

Source: Field data, 2022



The study 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. This attests to a crucial role that can be played by trade unions in raising awareness about labour laws and rights.

3.14.2. Workers' duty to promote labour rights

Employers have a duty to ensure their workers are aware of their rights at work. 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.³⁸⁹ The survey sought to assess compliance with this mandatory requirement at the surveyed workplaces.

G.N. No. 47 (contd.)

SECOND SCHEDULE

FORMS

EMPLOYEES' RIGHTS FORM LAIF. 9

(Made under Regulation 12)

PART I: RIGHTS UNDER THE ACT

1. Right to exercise freedom of association
2. Right to be supplied with the Contract of Service/Statement of Particulars
3. Right to annual leave
4. Right to maternity/paternity/sick leave
5. Right to certificate of service on termination
6. Right to remuneration and written statement of particulars supporting each payment of remuneration
7. Right to payment for the overtime worked and night work allowance
8. Right to daily and weekly rest periods as provided for in the Act
9. Right to be repatriated to place of recruitment on termination
10. Right to daily subsistence allowance between termination date and the date of transporting an employee and family to the place of recruitment
11. Any other rights as provided for under the Act

PART II: GENERAL RIGHTS UNDER CONTACT OF SERVICE

.....

PART III: GENERAL RIGHTS UNDER COLLECTIVE AGREEMENT

.....

Name: Signature:

Designation: Date:

Employer's Common Seal:

*NOTE: Employer shall display dully filled copy of this form, in a conspicuous place at workplace

Picture 3.30: A statement of employees' rights that is required to be placed at a conspicuous place at workplaces

When asked whether there exists a policy statement on human rights at their workplaces, only 22.8% of the corporate management officials said the policy statement exists. Just over two thirds of the respondents (67.3%) said they do not have such a statement, while 9.9% said they were not sure. In the previous survey, only 16% of corporate management officials claimed there was a human rights statement at workplace.

³⁸⁹ See Regulation 12 & the Second Schedule of the Employment and Labour Relations (General) Regulations, GN. 47 of 2017.



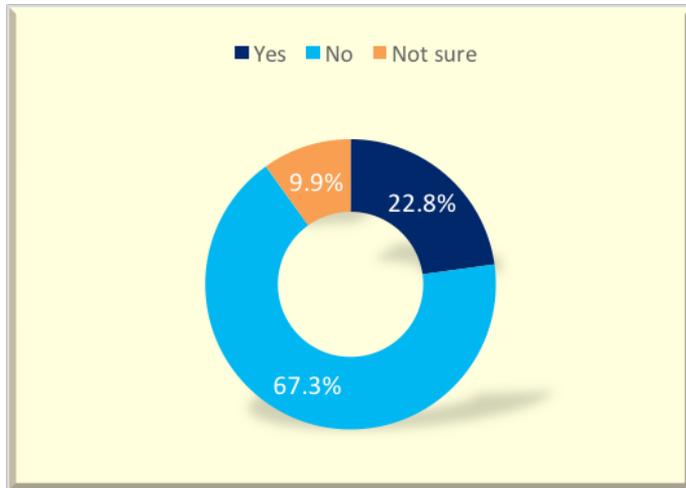
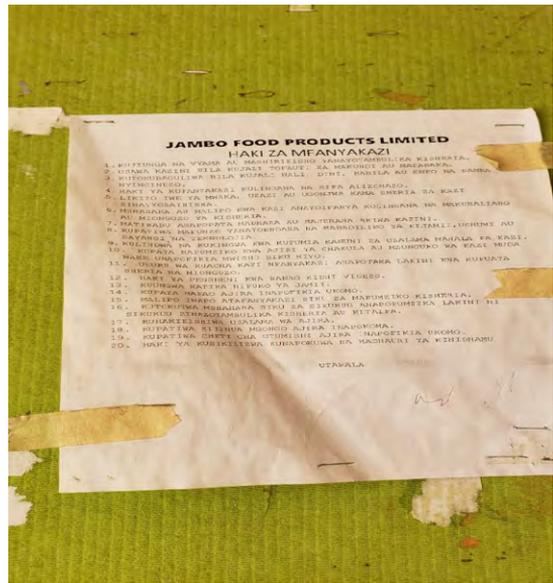
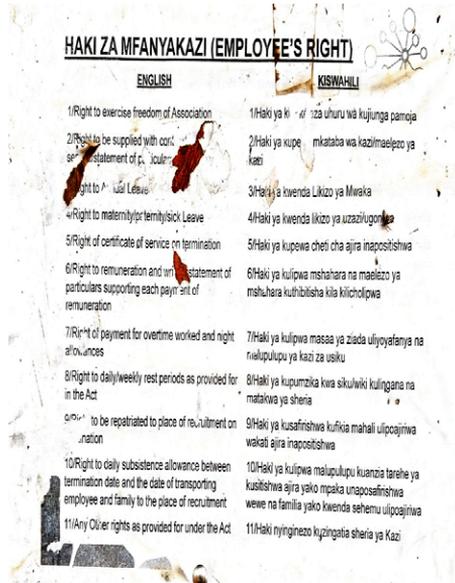


Figure 3.29: %Workplaces with employee rights statement (N=101)
 Source: Field data, 2022

Some of the workplaces where rights statements were observed include **Ok Plast Company Ltd** in Dar es Salaam; **Jambo Food Products Limited** in Shinyanga; and **Chai Bora Limited, En Xin Co. Ltd, Pyrethrum Company of Tanzania (PCT)**, and **Mufindi Tea and Coffee Limited** in Iringa.



Picture 3.31: Statements of employees' rights at Mufindi Tea and Coffee Limited in Iringa (left) and Jambo Food Products Limited in Shinyanga (right)

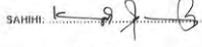


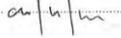
CHAI BORA LIMITED
HAKI ZA MFANYAKAZI

(MAJAZI UNDER SECTION 16 OF EMPLOYMENT AND LABOUR RELATIONS ACT, NO. 6 OF 2006)

Kampuni ya Chai Bora (CBL) inawajibika kuhakikisha kwamba wafanyakazi wake:

1. HAKI NA UHURU WAKUJIUNGA NA CHAMA CHA WAFANYAKAZI
2. HAKI YA KUPATIWA MKATABA WA AJIRA
3. HAKI YA KUPEWA LIKIZO YA MWAKA SIKU 30.
4. HAKI YA LIKIZO YA UZAZI KWA KINA BABA NA MAMA/ LIKIZO YA UGONJWA.
5. HAKI YA KUPEWA CHETI CHA UTUMISHI BAADA YA KUSITISHA AJIRA.
6. HAKI YA KULIPWA MSHAHARA KWA KAZI ILIYOFANYIKA.
7. HAKI YA KULIPWA MASAA YA ZIADA YA KAZI
8. HAKI YA KUPEWA MUDA WA MAPUMZIKO KWA SIKU NA KWA WIKI KAMA ILIYOAINISHWA KATIKA SHERIA YA KAZI.
9. HAKI YA KUSAFIRISHWA KURUDI SEHEMU ALIPOAJIRIWA BAADA YA KUACHISHWA KAZI.
10. HAKI YA KUPEWA FEDHA ZA KUJIKIMU TOKA TAREHE YA KUACHISHWA KAZI MPAKA TAREHE YA KUSAFIRISHWA.
11. HAKI ZINGINE KWA MUJIBU WA SHERIA.

MAJINA: KAPILA AHNYATILAKA SAHIBI: 

CHEO, MANAGING DIRECTOR TAREHE: 

(Chini ya Kanuni 12)

HAKI KWA MUJIBU WA SHERIA

1. Haki ya kujiunga na chama chochote cha wafanyakazi.
2. Haki ya kupewa mkataba wa kazi.
3. Haki ya kupata likizo ya mwaka baada ya kufanyakazi kwa muda wa miezi 12 kwa mwajiri mmoja.
4. Haki ya kupata likizo ya uzazi na ulezi kwa wafanyakazi wa kike / wakitume na likizo ya ugonjwa.
5. Haki ya kupewa cheti cha utumishi baada ya ajira kukoma
6. Haki ya kulipwa posho ya kujikimu baada ya kuachishwa kazi mpaka siku ya kusafirishwa sehemu aliyojirwa.
7. Haki ya kulipwa mshahara aliofanya kazi na kupewa hati ya malipo ya mshahara.
8. Haki ya kulipwa saa za ziada aliofanya kazi.
9. Haki ya kupurika saa moja baada ya kufanya kazi masaa matano (5) mfululizo na siku moja kwa wiki.
10. Haki ya kurudishwa sehemu uliyojirwa baada ya kuachishwa kazi.
11. Haki mwingine zote zinazotambuliwa na Sheria za Kazi

Jina: 
Saini: 
Cheo:  Tarehe: 01/08/2022

Picture 3.32: Statements of employees' rights at Chai Bora Limited in Iringa (left) and En Xin Co. Ltd in Iringa

3.14.3. 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), 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.³⁹⁰

When asked whether they were aware of or had heard about the UNGPs, 20% of corporate management officials said they were aware of the principles. This constitutes a slight improvement when comparisons are made with the results of the previous survey, whereby only 11% of the respondents said they were aware of the principles. At **SGA Security** in Dodoma, an employee ID card was found to include three pillars of the UN Guiding Principles on Business and Human Rights, namely PROTECT, RESPECT and REMEDY, explaining each of the pillars in Swahili Language.³⁹¹ This is a commendable effort **SGA Security Company** to popularize the UNGPs.

³⁹⁰ See https://www.ohchr.org/Documents/Issues/Business/Intro_Guiding_PrinciplesBusinessHR.pdf

³⁹¹ Human Rights and Business Survey 2022: Dodoma Field Report.





Picture 3.33: A worker at SGA Security in Dodoma showing his ID, which contains a note on the three pillars of the UN Guiding Principles on Business and Human Rights

3.15. Human Rights and Business in the Road Transport Sub-Sector: Labour Rights of Bus and Truck Drivers

3.15.1. Overview

Bus and truck drivers in different parts of the world are faced with various labour-related challenges, common among them being overworked, underpaid, not given employment contracts, and not given travel allowances. For instance, a 2010 survey by the U.S. National Institute for Occupational Safety and Health showed that most truck drivers were overtired, overworked, and underpaid, working 50 percent more hours than typical workers.³⁹² In Africa, Tanzania inclusive, truck drivers are faced with similar challenges, but their situation is worse because of lesser protection of their labour rights.

In 2013, LHRC conducted a mini-study on human rights compliance in the road-transport sub-sector, targeting bus and truck drivers as primary respondents.³⁹³ The study, conducted in eight regions,³⁹⁴ generally found that most of the workers in the road sub-sector, especially bus and truck drivers, did not have employment contracts; were overworked and underpaid; were denied leave; were not paid their wages timely; were prevented or threatened from joining trade unions; and were subjected to various forms of discrimination.³⁹⁵ For instance, the study found that 90% of the workers did not have employment contracts; 83.6% claimed they were not granted leave; 59% said they were made to work for 11 to 16 hours, which is well beyond the 12 maximum working hours (inclusive of 3-hour overtime);

³⁹² See Michael Belzer "Truck drivers are overtired, overworked and underpaid" The Conversation Newsletter, July 25, 2018 at <https://theconversation.com/truck-drivers-are-overtired-overworked-and-underpaid-100218>, accessed 11th May 2022.

³⁹³ LHRC (2015). *Mini-Study on Human Rights Compliance in Transportation Section 2013*. Legal and Human Rights Centre.

³⁹⁴ Tanga, Arusha, Shinyanga, Mwanza, Mbeya, Iringa, Dodoma, and Dar es Salaam.

³⁹⁵ LHRC (2015). *Mini-Study on Human Rights Compliance in Transportation Section 2013*. Legal and Human Rights Centre.



and 21.5% said they were made to work for up to 17 hours, and without any overtime pay. Eight years later, most of these challenges persist for bus and truck drivers, as found in the previous and current surveys. For instance, the current survey shows that most of them continue to work without written contracts and copies of such contracts; and continue to be overworked and underpaid.

3.15.2. Demographic Characteristics of Respondents

a) Sex and disability

Save for one respondent, nearly all respondents were male, constituting 99.2% of all respondents. This shows how much the transportation sector is dominated by male workers and a community perception of bus and truck driving as a ‘masculine’ profession and women who work in this field are stigmatized by fellow community members and workers. In terms of disability, none of the bus and truck drivers who responded to the survey had any kind of disability.

Table 3.6: Distribution of respondents (bus and truck drivers) by sex

| Sex | #Respondents | %Respondents |
|--------------|--------------|--------------|
| Male | 124 | 99.2 |
| Female | 1 | 0.8 |
| TOTAL | 125 | 100 |

Source: Field data, 2022

On her part, LHRC is working with different stakeholders to promote women’s labour rights. In the transportation sector, LHRC has entered into an MoU with the National Institute of Transport (NIT) to support gender mainstreaming at the institute and encourage more women to pursue the transportation career.

b) Age

When asked about their age, majority of respondents fell in the age categories of 26-35 (48%) and 36-60 (48%), followed by 4% who were aged 18 – 25 years. None of the respondents were aged above 60 years.

Table 3.7: Distribution of respondents (bus and truck drivers) by age

| Age | #Respondents | %Respondents |
|--------------|--------------|--------------|
| 18-25 | 5 | 4 |
| 26-35 | 60 | 48 |
| 36-60 | 60 | 48 |
| 61+ | 0 | 0 |
| TOTAL | 125 | 100 |

Source: Field data, 2022



c) Working experience

In terms of working experience of bus and truck drivers, majority of respondents, nearly a half (46.4%), said they have worked for 2 – 4 years, followed by 16.8% who said they had a one-year working experience and 16% who said they have worked for 5-9 years. 13.6% of respondents said they had worked for their employer(s) for less than a year, while only 7.2% claimed they have worked for over 10 years.

Table 3.8: Distribution of respondents (bus and truck drivers) by work experience

| Age | #Respondents | %Respondents |
|--------------|--------------|--------------|
| Below 1 year | 17 | 13.6 |
| 1 year | 21 | 16.8 |
| 2-4 years | 58 | 46.4 |
| 5-9 years | 20 | 16 |
| 10+ years | 9 | 7.2 |
| TOTAL | 125 | 100 |

Source: Field data, 2022

3.15.3. Employment Contract

Bus and truck drivers who responded to the survey were first asked about employment contract, asked whether they have such a contract, if yes then which type of contract and whether they had an opportunity to discuss terms of employment with their employers. Regarding having employment contract, majority of the respondents (63.2%), said they had employment contracts, while just over a third (36.8%) said they did not have employment contracts. Among respondents who said they had employment contracts, 71% said they had written employment contracts, while the remaining 29% said they had oral contract. This is a significant improvement compared to the situation in the previous survey, whereby only 36% of drivers said they had written employment contracts.



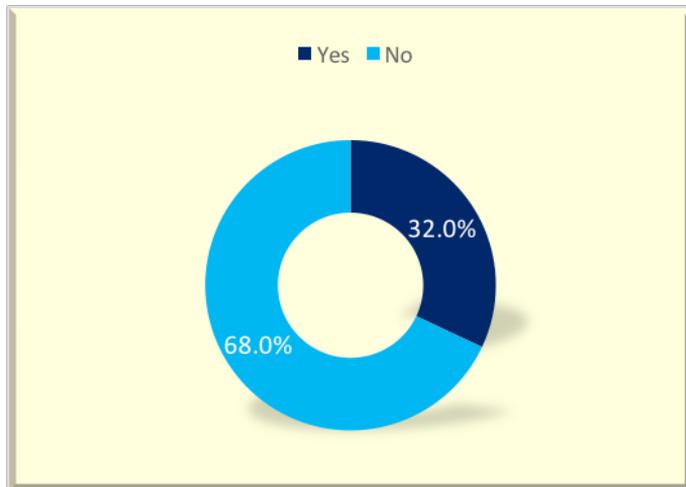


Figure 3.30: % Responses of bus and drivers on discussing terms with employer before commencement of employment

Source: Field data, 2022

As shown in Figure 3.30 above, only 32% of bus and truck drivers who claimed to have employment contracts said discussed terms of their employment with their employer before they started to officially work.

Interviewed bus and drivers in surveyed regions mostly complained about non-provision of employment contract and denial of copies of contract. In Mbeya, a COTWU official confirmed that non-provision of employment contract is one of the biggest concerns for drivers. He also pointed out that most employers only tell drivers to sign contracts and deny them their copies. As discussed in 3.3 above, some of the drivers also complained about the language of their contracts, English, which they do not understand.

3.15.4. Remuneration

In past studies, unfair remuneration has always been among the major concerns for bus and truck drivers. When asked about their monthly pay, nearly a half of the respondents (46.4%) said they were paid over Tshs. 200,000, followed by 29.6% who said they were paid between Tshs. 160,000 and 200,000. In the previous survey, covering the period of 2020/21, 43% of the respondents said they were paid above Tshs. 200,000, while 32% said they were paid between Tshs. 160,000 and 200,000.





Figure 3.31: %Responses of bus and truck drivers on monthly wages

Source: Field data, 2022

Looking at the results in Figure 3.31 above, it can be observed that 3.2% of the respondents said their monthly pay was less than Tshs. 100,000. This is well below the minimum wage as per the Wage Order of 2013. Overall, less than 50% of the workers were paid Tshs. 200,000 and more than a half were paid less than that. This suggests that majority of bus and truck drivers are paid below the minimum wage.

Survey respondents also pointed out pay discrimination, suggesting that some bus and truck drivers were paid more than others, even when they have equal responsibility and use equal skill and work to work under similar conditions. When asked about this matter, nearly half of the respondents (40%) said pay discrimination exists at their workplaces, while just over a quarter (27.2%) said such discrimination does not exist. Nearly a third of the respondents, however, said they did not know or were not sure if there is pay discrimination.

3.15.5. Working Hours and Overtime Pay

In recent years, another key complaint by bus truck and drivers in Africa, Tanzania inclusive, is being overworked and not paid for overtime. Questions regarding working hours and overtime pay were posed to the bus and truck drivers who responded to the Human Rights and Business Survey 2022. Regarding working hours, just over a half of the respondents (57%) indicated that they work for more than 12 hours, decreasing from 67% in the previous survey. This is well beyond the normal working hours of 8 to 9 hours plus 3 overtime hours. 29% of the respondents said they work for 9 to 12 hours, which may or may not include overtime hours, and only 13% said they work the usual 8 to 9 hours.



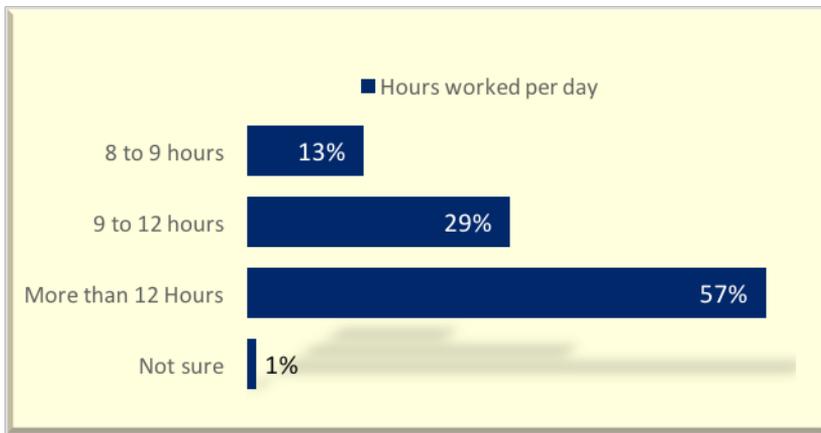


Figure 3.32: %Responses of bus and truck drivers on hours worked per day

Source: Field data, 2022

Regarding overtime work, respondents were asked whether they receive any additional pay. Only 18.4% said they do get paid for working overtime. 74.4% said they are not given such pay, decreasing from 84% in the previous survey. The remaining 7.2% said they were not sure whether workers are paid for overtime work at their workplaces.

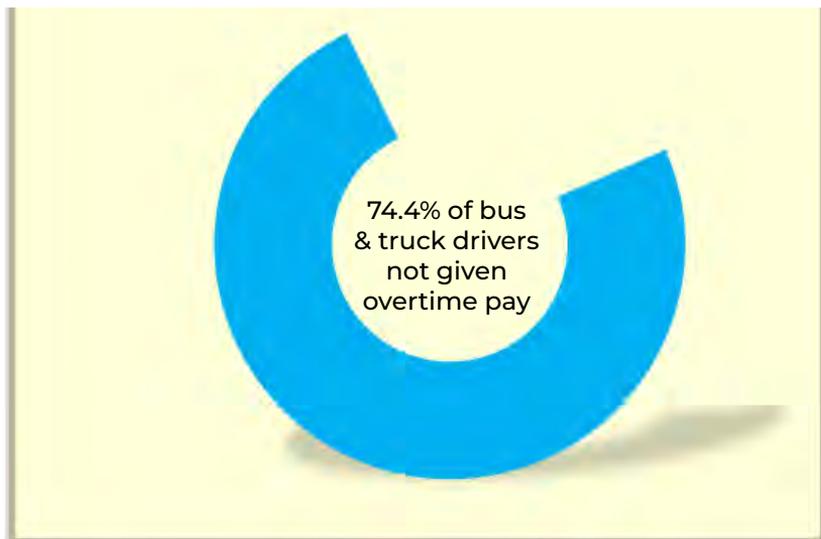


Figure 3.33: %Bus and truck drivers who are given overtime pay

Source: Field data, 2022

Most of the interviewed drivers in Dodoma, Mwanza, Mtwara, and Mbeya complained about being overworked and not being paid for overtime. In Dodoma, bus drivers revealed during a focus group discussion that it is normal for them to work for 9 to 12 hours and sometimes even more hours everyday, and there is no additional pay.³⁹⁶

³⁹⁶ Human Rights and Business Survey 2022: Dodoma Field Report.



In Mtwara, one of the interviewed truck drivers complained about inadequate rest because of being overworked, saying, *'My sister, we hardly get time to rest, usually resting for only three to four hours. We sleep at midnight and wake up around 4:00am...'*

3.15.6. Working Environment

Survey respondents were asked about various issues relating to working environment, including occupational health safety. They were first asked whether they had received any training on occupational health and safety, which is essential for a safe working environment. Only just about a quarter of the respondents (26.4%) said they had attended such training, while two thirds (66.4%) said they had not, and the remaining 7.2% claimed they were not sure or did not remember.

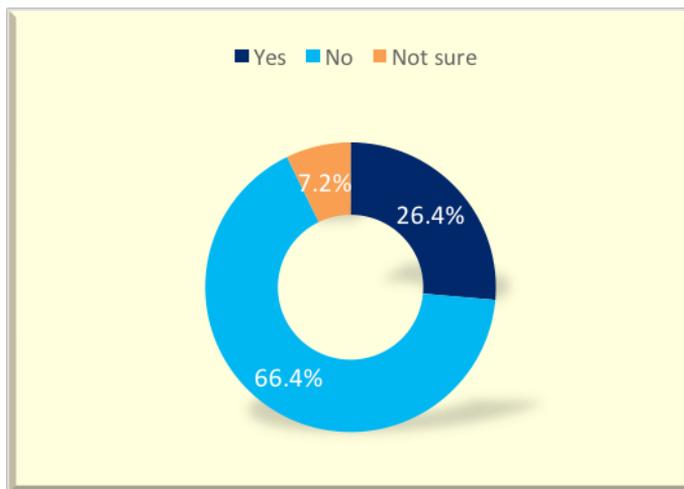


Figure 3.34: %Responses by bus and truck drivers on receiving training on occupational health and safety

Source: Field data, 2022

Another key grievance that was aired by most truck drivers is being liable for maintenance and repair of trucks while en route to their destinations. They branded this practice by employers 'unfair.'

Another key concern for truck drivers is non-payment or inadequate payment of different allowances, including mileage allowance, return allowance, and overstay allowance. This was revealed by a COTWU official in Mbeya, who also claimed that sometimes employers also delay in payment of such allowances, which creates inconveniences for the drivers and a very difficult working environment.³⁹⁷ He added that such allowances are usually not stipulated in the employment contracts of drivers, and that some employers pay very little mileage allowance to the truck drivers. For instance, he said, there are truck drivers who are paid Tanzanian shillings 400,000 for a long

³⁹⁷ Human Rights and Business Survey 2022: Mbeya Field Report.



route of Dar es Salaam to Congo.³⁹⁸

In Tanga, some of the fuel truck drivers lamented deduction of their salaries by their employers for gas evaporation from fuel tanks.³⁹⁹ They claimed that it is unfair for their employers to penalize them for gas/fuel evaporation, something that is out of their control.

3.15.7. Compensation for Workplace Injury

Survey respondents were also asked whether there is an arrangement for compensation in case of workplace injury. Majority of them (47.2%) said there is no such arrangement, while only 21.6% said there is such arrangement. However, nearly a third of the respondents (31.2%) said they were not sure whether such arrangement or procedure exists at their workplaces. In the previous survey, only 16% of the workers said compensation for workplace injury is usually provided at their workplaces.

3.15.8. Leave

Bus and truck workers were asked about their right to leave, including annual leave (28 days), maternity leave (84 to 100 days), paternity leave (3 days) and sick leave (126 days maximum), which are guaranteed under the Employment and Labour Relations Act [CAP. 366 R.E. 2019] (ELRA).⁴⁰⁰

Annual leave

When asked about annual leave, less than a third of the respondents (28%) said they were granted annual leave, increasing from 24% in the previous survey. Just over two thirds of the respondents (68%) said they are not usually granted annual leave, decreasing by 1% compared to the previous survey.

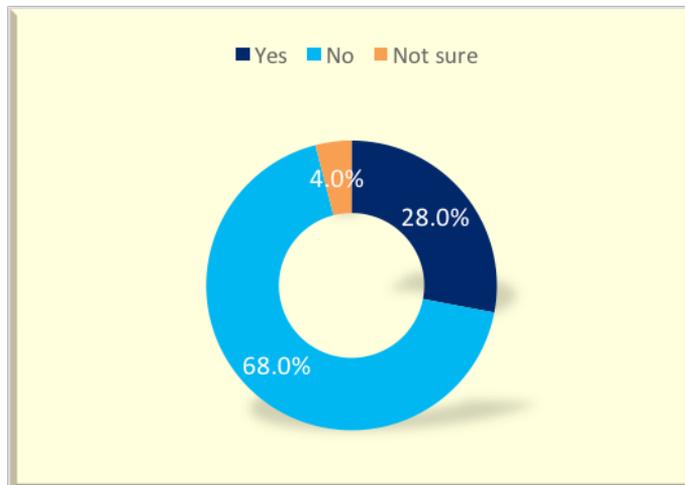


Figure 3.35: % Responses of bus and truck drivers on getting annual leave

Source: Field data, 2022

³⁹⁸ Ibid.

³⁹⁹ Human Rights and Business Survey 2022: Tanga Field Report.

⁴⁰⁰ Sections 31(1), 32(1), 33(1) & 34(1) of ELRA.



Despite 28% of the respondents claiming they are not usually granted annual leave, 32.8% of all bus and truck drivers who responded to the survey said they had taken leave in the past years, increasing from 25% in the previous survey.

Complaints about denial of annual leave were made by drivers in all surveyed regions. In Mbeya, the Chairperson of Bus Drivers told the survey team that drivers in the region usually are not granted annual leave.⁴⁰¹ One of the drivers in the region, who drives in the Mbeya-Rukwa route, also said that annual leave is usually not granted, but when it is granted, it is unpaid leave. Another truck driver in Mwanza said, *'My sister, we are at work every day, we have no rest, no weekend, no annual leave. In short, we don't rest at all. As you can see, I am about to unload cargo and we have to go back to Dar es Salaam, load another cargo, then come back here. This is our life throughout the year.'*

Paternity leave

Regarding paternity leave, survey results show that paternity leave is not taken seriously at most workplaces. Over three quarters of the respondents (80%) said paternity leave is not granted at their workplaces. Only 6% said such leave is granted at their workplaces. In the previous survey, only 5% of the respondents said paternity leave is granted.

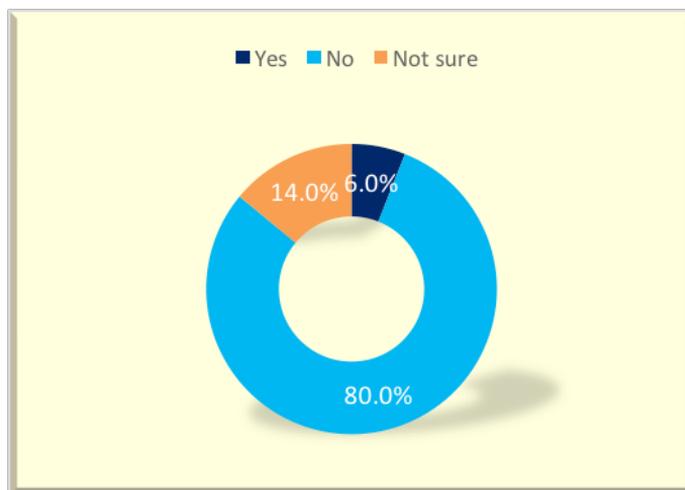


Figure 3.36: %Responses on bus and truck drivers getting paternity leave

Source: Field data, 2022

Sick leave

In terms of sick leave, only a third of the respondents (33.6%) said they are granted sick leave, decreasing from 53% in the previous survey. Another third of the respondents (34%) said such leave is not usually granted, while the remaining 32.4% said they were not sure.

⁴⁰¹ Human Rights and Business Survey 2022: Mbeya Field Report.



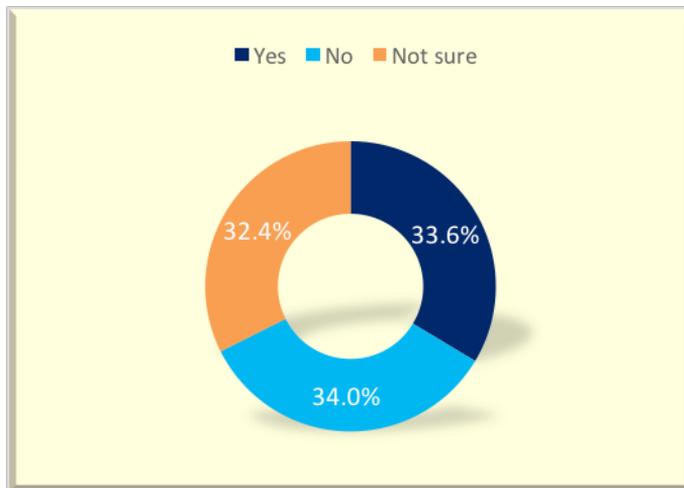


Figure 3.37: Responses of bus and truck drivers on getting sick leave

Source: Field data, 2022

In Dodoma, the majority of drivers who participated in a focus group discussion claimed that they do not have the luxury of taking sick leave, and even when they are granted such leave when the situation becomes too serious, they are certain of salary deduction to the days missed at work.⁴⁰² One of the drivers said that because of this situation and fact that they do not get enough rest, they usually have to resort to using energy drinks to keep going. He said, *‘.So, when you feel sick you just have to pull yourself together and go to work, that’s why we are said to be among the biggest energy-drink consumers...the working environment is very difficult, but what can you do? If we don’t keep going our families will dies of hunger..’*

3.15.9. Freedom of Association and Trade Union

As discussed above, freed of association, which encompasses the right to form or join trade union and is guaranteed under domestic and international laws,⁴⁰³ is a fundamental labour right. To ascertain enjoyment of these rights, bus and truck drivers who responded to the survey were asked about existence of trade union branches at their workplaces. Less than a third of the respondents (28.8%) said there were trade union branches at their workplaces while just over a half (55.2%) said there are no such branches and 16% said they were not sure.

While respondents generally recognized the importance of having in place trade unions, majority of them casted doubt over their effectiveness. When asked whether they are effective, nearly three quarters of the respondents (72.8%) opined that they are not effective, including 43.2% who felt they are not at all effective.

⁴⁰² Human Rights and Business Survey 2022: Dodoma Field Report.

⁴⁰³ Article 20 of the Constitution of Tanzania, 1977; Sections 9(1) & 10(1) of ELRA; Articles 20(1) & 23(4) of UDHR; Article 22(1) of ICCPR; Article 8(1)(a) of ICESCR; and Article 10 of ACHPR.



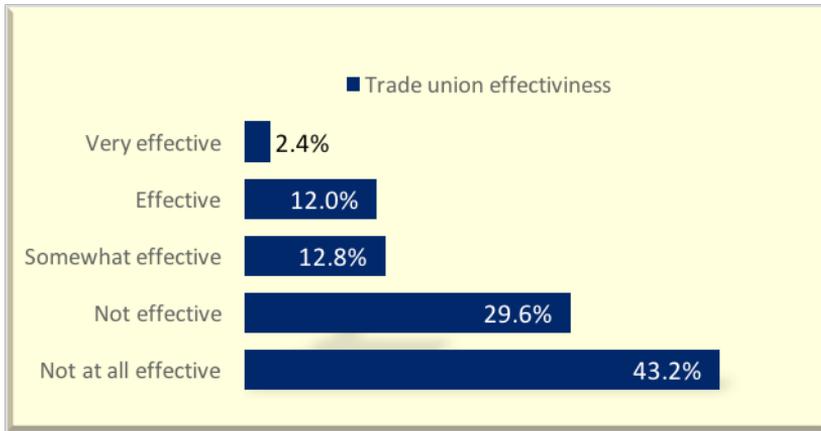


Figure 3.38: Bus and truck drivers' perceptions on effectiveness of trade unions

Source: Field data, 2022

3.15.10. Knowledge of labour laws and rights

Bus and truck drivers who responded to the survey also had an opportunity to express their opinions on their knowledge of labour laws and regulations. Only 23.2% of the respondents said they were confident with their knowledge of labour laws and regulations, while the majority (61.6%) acknowledged that they did not possess good knowledge of such laws and regulations, and the remaining 15.2% said they were not sure, which could imply they have little knowledge. Nevertheless, awareness about labour laws has increased by 12.2% in comparison with the results of the previous survey.

Regarding awareness about labour rights, respondents were asked whether they feel well informed about their labour rights. Unlike in the previous survey, whereby nearly a half of the respondents said they were well informed (45%), results of the current survey show that more respondents are confident about their knowledge of their rights. Figure 3.39 below shows comparison of results from this question between the previous (2021) and current surveys.



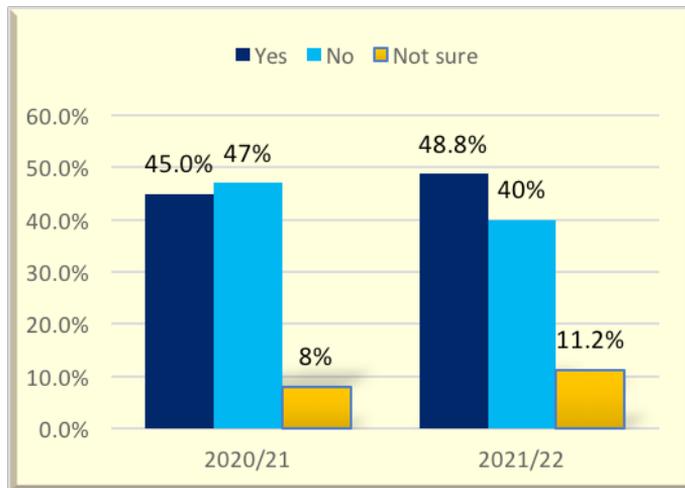


Figure 3.39: Responses on knowledge of labour rights, 2020/21 & 2021/22

Source: Field data, 2022

As shown in Figure 3.39 above, there has been a slight increase in the percentage of bus and truck drivers who are aware of their labour rights. This may be attributed to increased engagement of drivers by CSOs, including LHRC, through surveys and public awareness raising. This is also impressive given the fact that nearly a third of the bus and truck drivers reached by the study (30.4%) are relatively new drivers, having 1 year or less of working experience.

3.15.11. Labour Rights Violations and Response

Survey respondents were also asked about labour rights violations, specifically whether their employers had violated any of their labour rights in the past year. They were further asked what action they took in response to violation. Regarding the first question, nearly a half of the respondents (48.8%) acknowledged that they had experienced labour rights violations at the hand of their employers within the past year, increasing from 47% in the previous survey. 40% of the respondents expressed that they had not suffered any labour rights violations in the past year. However, given the generally low level of awareness about labour laws and rights, as discussed above, it might be the case that more bus and truck drivers experienced labour rights violations, but they did not know the actions or omissions by their supervisors or managers constituted violation of such rights. The remaining 11.2% of the respondents said they were not sure or did not remember if their rights were violated.

Regarding response to labour rights violations, majority of the respondents (67.2%) said they reported to their immediate supervisors, while 2.8% said they reported to trade unions. Worryingly, just over a quarter of the respondents (28%) said they did not do anything in response to violations of their labour rights.





Figure 3.40: %Responses on action take following labour rights violations

Source: Field data, 2022

When asked about choosing not to take any action following labour rights violations, majority of interviewed bus and truck drivers stated that they do not bother to do so because they know nothing will be done about it, and at best doing so would only escalate tensions with their supervisors and jeopardize their jobs.

3.16. Human Rights and Business in the Media Sub-Sector: Labour Rights of Journalists

3.16.1. Overview

The Human Rights Survey 2021, conducted by LHRC in Tanzania Mainland, also probed on the situation and rights of journalists in Tanzania. This was motivated by various challenges that journalists face that have been reported in recent years, including issues around the legal environment, labour rights, and violence. The major aim was to assess the situation of journalists vis-à-vis international and regional human rights standards.

3.16.2. Demographic Characteristics of Respondents



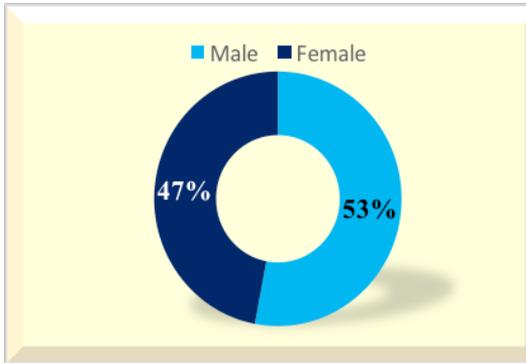


Figure 3.41: %Distribution of respondents by sex (N=240)

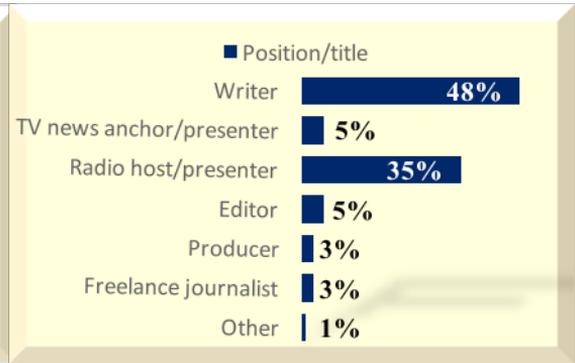


Figure 3.42: %Distribution of respondents by position/title (N=240)

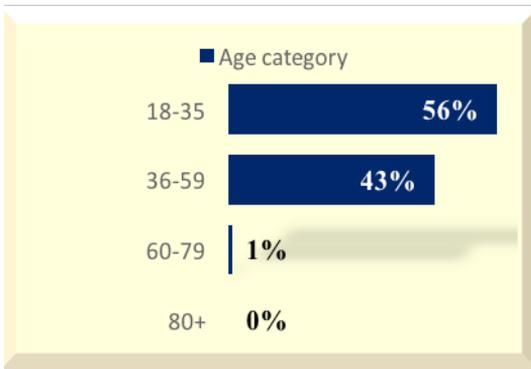


Figure 3.43: Distribution of respondents by age category (N=240)

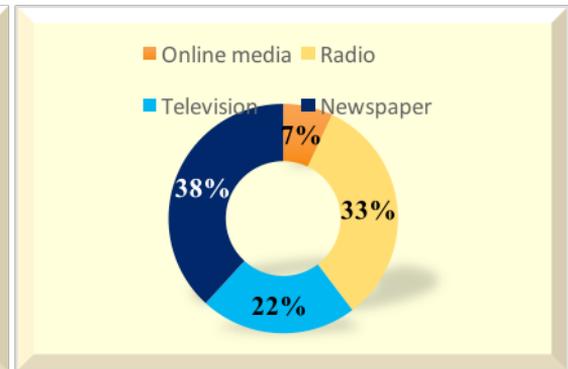


Figure 3.44: Distribution of respondents by media type (N=240)

3.16.3. Employment Contracts

Lack of employment contract was cited as a serious problem by the majority of respondents (73%), followed by 23% who saw it as a moderate problem. Only 3% and 1% of the respondents said it is a minor problem and not at all a problem respectively.

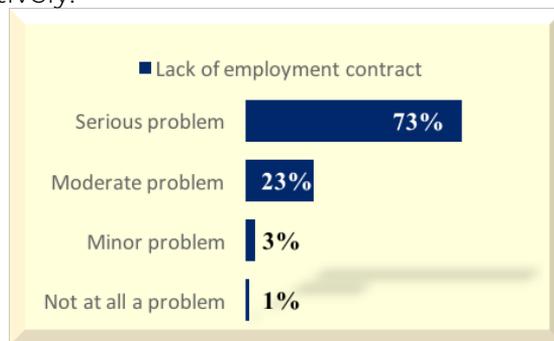


Figure 3.45: Respondents' views on lack of employment contract (N=240)

Source: Field Data, 2021



Regarding employment contracts, one journalist in Morogoro said, ***'Most journalists don't have permanent contract, because of economic hardships, they have no choice but to keep going.'*** Survey respondents also expressed concerns over breach of contract by employers. Slightly over half of them (54%), said breach of contract by employer is a serious problem, followed by 38% who said it is a moderate problem, and 6% who said it is a minor problem. Only 2% of the respondents said it is not at all a problem. Breach of contract by employer includes delays in payment of wages or salaries, which was mentioned as challenge by most respondents. Regarding this issues, one journalist in Dar es Salaam said that it is normal for some of the journalists to get paid monthly wages after three or more months. A similar point was raised by another journalist in the region, who said: ***'If you get your salary today, 30th, just know that your next salary is 60 to 90 days away, and even then, you might not get full salary.'***

3.16.4. Remuneration

Survey respondents raised concerns over low pay, with just over two thirds (68%) claiming it is a serious problem, while 26% said it was a moderate problem. 5% of the respondents said low pay is only a minor problem, while only 1% said it is not at all a problem. One journalist in Dar es Salaam expressed that most journalists work in difficult work environment, characterized by low pay.⁴⁰⁴

3.16.5. Social Security Contributions

Non-remittance of social security contributions was also raised as an issue of concern by some of the journalists. Regarding this matter, one journalist in Dar es Salaam said, ***'There is a serious problem of employers not remitting social security contributions to NSSF, e.t.c.'***

3.16.6. Employment Termination

Complaints of unfair termination of employment have been among the key grievances of workers in the business sector and journalist are no exception. Unfair dismissal was generally cited as a serious problem by the majority of the respondents (55%), followed by 32% who felt that it is a moderate problem, and 12% who said it is a minor problem. Only 1% of the respondents said it is not at all a problem. Regarding this issue, one of the interviewed journalists in Dar es Salaam said, ***'Dismissal, usually without any warning and unfair, is common. You are just told you are fired and have to leave, no questions asked.'***

3.16.7. Workplace Violence and Harassment

Different forms of workplace violence were reported by journalists who responded to the journalists' rights survey in the second half of the year 2021. Common among them were threats, bullying, verbal abuse, and sexual harassment/sexortion.

⁴⁰⁴ LHRC Journalists Rights Survey 2021 Field Report.



Threats were also mentioned as a serious problem by over half of the respondents (56%), followed by 37% who claimed it is a moderate problem, and 6% who said it is only a minor problem. Only 1% of the respondents indicated that it is not at all a problem.

Regarding verbal abuse, journalists who participated in the survey generally indicated that it is a problem, with majority of them indicating it is a moderate problem (42%), followed by those who felt it is a serious problem (41%). Only 11% and 6% of the respondents said it is a minor problem (11%) and not at all a problem (6%) respectively.

For the case of bullying, majority of the respondents (45%) said it is a moderate problem for journalists, while 36% said it is in fact a serious problem. 13% of the respondents said bullying is only a minor problem for journalists, while 6% said it is not at all a problem.

In recent years, sexual harassment/sextortion has been identified as a key concern for women working in different sectors, including the media sector. Journalists who responded to the survey were asked about harassment or sextortion experienced by female journalists. Majority of the respondents, nearly half of them (42%) said it is a serious problem for female journalists, followed by 40% who said it is a moderate problem. 14% of the respondents said it is a minor problem, while 4% said it is not at all a problem, as indicated in figure 3.46 below.

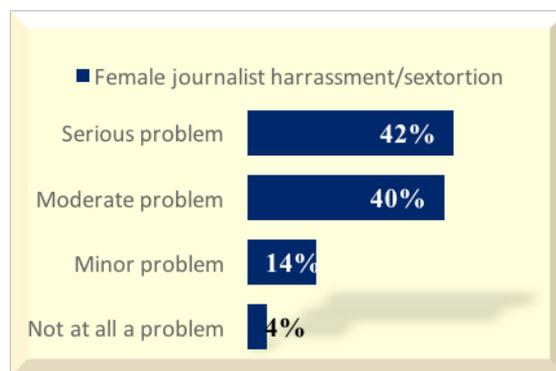


Figure 3.46: Respondents' views on harassment of female journalists/sextortion (N=240)

Source: Field Data, 2021

Survey participants were also asked whether they had witnessed or heard about any incident of sexual violence or sextortion against a journalist in the past year. Half of the respondents (50%) said they had not witnessed or heard, while 43% said they had actually witnessed or heard. 7% of the respondents said they did not remember.



When asked which acts of sexual violence against female journalists they had witnessed or heard about, most of the respondents mentioned being asked for a sex bribe to be employed or for a story to be published or aired. Young women doing fieldwork or internship were said to be more vulnerable in this regard as they seek employment. Some of the respondents, especially in Dar es Salaam, mentioned unwarranted touching of body parts, especially breasts and buttocks, as a common form of sexual violence against female journalists. In Tabora, a female journalist remarked that at her workplace the manager demands a sex bribe before giving a job to female applicants.⁴⁰⁵ A similar claim was made by a male journalist in Geita.

Sexual harassment in its different forms was also mentioned by nearly all respondents as common at their workplaces. Examples include flirting, making sexually offensive gestures or remarks, inappropriate or unwanted touching of arms or brushing up against a woman, blocking the way or standing in the way, making sexually offensive facial expressions, unwelcome sexual advances, and repeatedly asking for dates or hook ups. A few other respondents also mentioned looking at a woman's body up and down (persistent staring) and telling sexually offensive jokes. Some few respondents in Dar es Salaam also mentioned that some female journalists encourage sexual advances or deliberately target their bosses or supervisors for a certain gain.

Editors and human resources officers were mentioned the most as perpetrators of sexual violence against female journalists. Other perpetrators include managing directors/managers, media owners, and sources. Male journalists, especially older or experienced one, were also mentioned by some of the respondents as perpetrators of sexual violence against female journalists, especially sexual harassment. Regarding perpetrators of sexual violence against female journalists, one male respondent in Dar es Salaam said, *'Older people in the newsrooms or editors and bosses, such as HRs, have been accused of demanding sex from young journalists.'*

Consequences of rejecting unwelcome or unwanted sexual advances include non-employment, difficult working environment, a story not being published, and unfair dismissal. This was confirmed some of the interviewed journalists in Iringa, Tanga, and Dar es Salaam Regions. For instance, in Iringa, one journalist said, *'There is a female journalist who was asked for a sexual relationship by a media owner, and when she refused, she was fired.'*

3.16.8. Comments by media institution officials and members on labour-related issues facing journalists

The various labour or employment -related challenges faced by journalists above were also confirmed by interviewed officials and members various media institutions including the MISA Tanzania,⁴⁰⁶ Union of Tanzania

⁴⁰⁵ LHRC Journalists Rights Survey 2021 Field Report.

⁴⁰⁶ Tanzania chapter of the Media Institute of Southern Africa.



Press Clubs (UTPC), and Tanzania Media Women's Association (TAMWA).⁴⁰⁷ Generally, the respondents in this category made the following comments relating to journalists and their rights:

- Labour rights violations is a daily reality for many journalists in Tanzania. However, the issue is poor implementation and/or enforcement of labour laws and regulations by government authorities.
- Some Of the female journalists create an environment for sexual corruption by demanding preferential treatment and favours from their supervisors. Others also engage in sexual relationships with sources, such as District Commissioners, Police Officers and community leaders. Some journalists do this for purposes of easily getting information and comments.
- Some journalists leak information regarding journalists' welfare and jeopardize steps that need to be taken to address certain situations.
- Majority of journalists do not have employment contracts, whether written or oral. However, majority of them work as freelance journalists and only have certificates. The requirement of diploma as a minimum qualification for professional journalism has hit some of the journalists with certificates hard.
- Most journalists are reluctant to pursue further education in journalism, which would boost their employability and labour rights.

3.17. 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:

⁴⁰⁷ LHRC Human Rights Survey 2021: Interviews with members and officials from media institutions in Dar es Salaam, Tanga, Mwanza, Kilimanjaro, and Dodoma Regions.



Table 3.9: 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 |
| Lack of collective bargaining | Right to fair remuneration |
| Denial of leave | Right to the enjoyment of just and favourable conditions of work Right to family life |
| Unfair wage cuts/deductions | Right to fair remuneration 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 |
| 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 |
| Granting unpaid leave | Right to the enjoyment of just and favourable conditions of work |
| 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 |
| Firing female workers because of pregnancy/breastfeeding | Right to non-discrimination |

3.18. 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 2021/2022 are compared with those of the period of 2020/21. Most of the indicators were assessed during both surveys.



Table 3.10: Comparison of some of the key performance indicators on labour rights and standards in surveys conducted in 2021 and 2022

| Labour Standard | Performance Indicators | |
|----------------------------|--|---|
| | 2020/21 | 2021/22 |
| Employment contracts | <ul style="list-style-type: none"> 59% of respondents with employment contracts 56% of workers with written employment contracts | <ul style="list-style-type: none"> 64.6% of respondents claimed they had employment contracts 89% of workers with written employment contracts |
| Trade unions | <ul style="list-style-type: none"> 31% of respondents said trade union branches exist at their workplaces 69% of respondents perceived trade unions to be not effective | <ul style="list-style-type: none"> 34.2% of workers said trade union branches exist at their workplaces 78.4% of workers perceive trade unions to be not effective. |
| Working hours | <ul style="list-style-type: none"> 85% of workers not forced to work beyond normal/maximum working hours 57% of the workers said they received overtime pay | <ul style="list-style-type: none"> 81% of workers not forced to work beyond normal/maximum working hours 42% of workers said they receive overtime pay |
| Leaves | <ul style="list-style-type: none"> Nearly half of the workers (48%) said they are granted annual leave Nearly half of the respondents had not taken leave in the past year | <ul style="list-style-type: none"> 51% of workers said they take annual leave 53.2% of workers said they had not taken leave in the past year |
| Awareness of labour laws | <ul style="list-style-type: none"> 73% unaware of relevant labour laws and regulations | <ul style="list-style-type: none"> 63.7% of workers unaware of relevant labour laws and regulations |
| Awareness of labour rights | <ul style="list-style-type: none"> 52% claimed to be aware of their rights as workers, while 39% said they were not aware | <ul style="list-style-type: none"> 71% of workers claimed to be aware of their rights as workers, 21.7% unaware, remaining not sure |

Source: Field data, 2021 & 2022



CHAPTER FOUR

LAND ACQUISITION FOR INVESTMENT

4.1. Overview of Land Tenure and Acquisition in Tanzania

4.1.1. Introduction

In Tanzania, the land tenure system has evolved over different periods of time, particularly during pre-colonial, colonial, and post-colonial periods. The situation of land tenure during these periods is briefly discussed below.

Land tenure in pre-colonial period

During the precolonial period, land tenure and administration was government customary laws, based on the customs and traditions of the many different tribes that exist in Tanzania. Like in most other African countries, during the pre-colonial period, land in Tanzania was communally owned (belonged to communities) and mostly conceived of as an unbounded.⁴⁰⁸ Communal land ownership ensures that every member of the society enjoyed access to land.⁴⁰⁹

Land tenure in colonial period

The colonial period in Tanzania featured the eras of the Germans, who ruled from 1884 to 1917, and the British, who took over in 1918 until Tanganyika (later Tanzania after uniting with Zanzibar), became independent in 1961. The colonial powers designed land tenure system to exploit the land resource at the expense of the natives.⁴¹⁰

During this period, land tenure system favoured the two colonial administrations and foreign settlers in land acquisition, exploitation, and use.⁴¹¹ The Imperial Decree of 1895 declared all land to be unowned Crown Land vested in the German Empire and in 1900 a circular was issued, which stated the extent of the dominion of the empire, to be determined by the Land Commissions.⁴¹² These commissions had a duty of setting aside four times the land currently held by natives for purposes of future expansion. Another key piece legislation governing land tenure during the German rule was the Land Registration Ordinance of 1903.

⁴⁰⁸ See JOHAN POTTIER, 'Customary Land Tenure' in Sub-Saharan Africa Today: Meanings and contexts, at <https://issafrica.s3.amazonaws.com/site/uploads/2CUSTOMARY.PDF>, accessed 8th August 2022.

⁴⁰⁹ See Land Portal, Tanzania - Context and Land Governance, at <https://landportal.org/tanzania>, accessed 8th August 2022.

⁴¹⁰ See Issa G. Shivji, *Land Tenure Problems and Reforms in Tanzania*, https://www.academia.edu/35727466/LAND_TENURE_PROBLEMS_AND_REFORMS_IN_TANZANIA, accessed 8th August 2022.

⁴¹¹ See African Natural Resources Centre of the African Development Bank (2019), *Review of land tenure systems to support the creation of an enabling environment for agricultural transformation: Report on Tanzania*, African Development Bank Group, at <https://www.afdb.org/en/documents/document/review-of-the-land-tenure-systems-report-on-tanzania-109426>, accessed 8th August 2022.

⁴¹² Ibid.



The main types of land tenures that were introduced by the Germans were:

- Freeholds – granted mainly to European settlers (created out of conveyance)
- Leaseholds – granted by the Government
- Crown land – unowned land as determined by the Land Commissions
- Customary land (customary tenure) – land occupied by natives

When the British took over in 1918, they continued using the laws enacted by the Germans, recognizing freeholds and leases. But they also enacted another land law, the Land Ordinance of 1923, which declared all land as public land vested in the Governor on behalf of the Queen of England.⁴¹³ In 1928, the Land Ordinance was amended to recognize the rights of occupancy of native communities, and to this effect anyone holding land under the customary tenure was officially declared a legitimate holder of the land and a deemed right of occupancy.

The main types of land tenure that existed during the British colonial era were:

- Freeholds
- Granted rights of occupancy – 33,66 or 99 years
- Granted rights of occupancy – 6 years or under
- Granted rights of occupancy – from year to year
- Deemed rights of occupancy in urban areas
- Deemed rights of occupancy outside urban areas
- Public land

Land tenure in the post-colonial period

After independence of Tanganyika in 1961 and subsequent union with Zanzibar to form the United Republic of Tanzania in 1964, the Land Ordinance of 1923 continued to govern land tenure in Tanzania.⁴¹⁴ However, several changes were made in the land tenure system, including converting all freeholds granted by the German and British administrations during their colonial eras into government leases for a period of 99 years in 1963. Government leaseholds were later converted into rights of occupancy in 1969 through enactment of the Government Leaseholds (Conversion to Rights of Occupancy) Act 1969.⁴¹⁵ The land tenure system thereby recognized granted rights of occupancy and deemed rights of occupancy (customary tenure). The main types of land tenure that existed in the post-independence era were:

- Granted rights of occupancy (25,33,66 or 99 years)
- Granted right of occupancy (6 years or under)

⁴¹³ African Natural Resources Centre of the African Development Bank (2019), *Review of land tenure systems to support the creation of an enabling environment for agricultural transformation: Report on Tanzania (supra)*.

⁴¹⁴ Ibid.

⁴¹⁵ African Natural Resources Centre of the African Development Bank (2019), *Review of land tenure systems to support the creation of an enabling environment for agricultural transformation: Report on Tanzania (supra)*.



- Granted right of occupancy (from year to year)
- Deemed right of occupancy in villages within urban areas
- Deemed right of occupancy in villages outside urban areas
- Deemed right of occupancy in areas not recognised and registered as villages
- Public land (unowned land)

Key milestone in land tenure and administration in Tanzania was reached in the year 1999, when the Land Act and Village Land Act were enacted. This is when the Land Ordinance of 1923 was finally replaced.⁴¹⁶ This followed the adoption of the National Land Policy in 1995, which addressed various issues of land tenure and administration.

Other key pieces of legislation governing or affecting land tenure and administration during the post-independence era include the Courts (Land Disputes Settlements) Act, of 2002; the Land Use Planning Act of 2007; the Land Acquisition Act of 1967; the Mining Act of 2010; the Wildlife Conservation Act; and the Tanzania Investment Act of 1997.

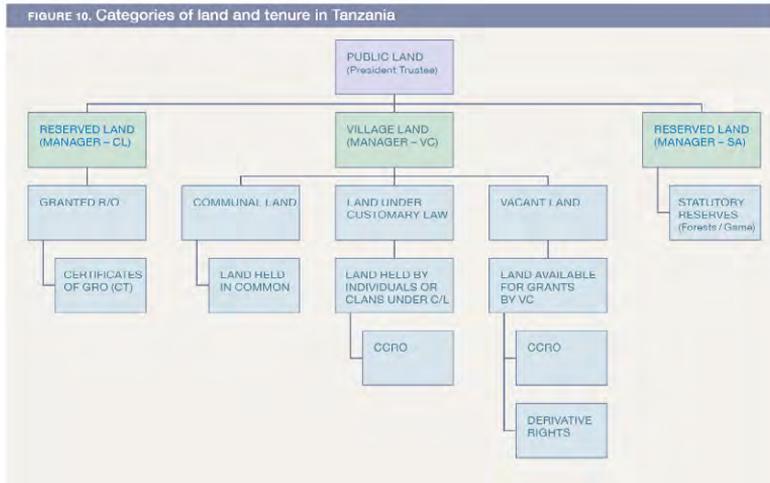
Currently, land in Tanzania is classified into the following three categories:

- **General land** - all public land which is not reserved land or village land includes unoccupied or unused village land;
- **Village land** - land declared to be village land under and in accordance with section 4 (of the Land Act of 1999) and includes any transfer land transferred to a village; and
- **Reserved land**⁴¹⁷ - land reserved, designated or set aside under the provisions of the Forests Act [Cap. 323]; National Parks Act [Cap. 282]; Ngorongoro Conservation Area Act [Cap. 284]; Wildlife Conservation Act [Cap. 283]; Marine Parks and Reserves Act [Cap. 146]; Urban Planning Act [Cap. 355]; Roads Act; [Cap. 167]; Public Recreation Grounds Act [Cap. 320]; Land Acquisition Act [Cap. 118]; 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 in accordance with the provisions of this Act to be hazardous land.

⁴¹⁶ Issa G. Shivji, *Land Tenure Problems and Reforms in Tanzania (supra)*.

⁴¹⁷ Land protected under any law applicable in the particular sector. Reserved land includes forests, national parks, conservation areas and hazardous land.





Picture 4.1: Categories of land and tenure in Tanzania

Source: African Natural Resources Centre of the African Development Bank⁴¹⁸

All land in Tanzania is public land and is vested in the President as trustee for and on behalf of all the citizens of Tanzania.⁴¹⁹ Village land is regulated by the Village Land Act, CAP 114 [RE 2019], and includes communal land.⁴²⁰ All other land is regulated by the Land Act, CAP 113 [RE 2019]. Both land laws recognize two forms of land tenure:

- Granted right of occupancy (regulated by the Land Act)
- Customary right of occupancy – included deemed right of occupancy (regulated by the Village Land Act)

Citizens/individuals, groups and institutions can be granted land for certain periods of time, as specified in the land laws. They enjoy granted right of occupancy and a right derivative of a granted right of occupancy (defined by the Land Act as a right to occupy and use land created out of a right of occupancy and includes a lease, a sub-lease, a licence, a usufructuary right and any interest analogous to those interests).⁴²¹ Non-citizens can only acquire land for purposes of investment, following approval by the Tanzania Investment Centre (TIC).⁴²² The Land designated for investment purposes is identified, gazetted and allocated to the TIC, which then creates derivative rights to investors.⁴²³ The law also allows a citizen to partially transfer land for purposes of investment, for instance through a partnership with a foreign investor.⁴²⁴

⁴¹⁸ See African Natural Resources Centre of the African Development Bank (2019), *Review of land tenure systems to support the creation of an enabling environment for agricultural transformation: Report on Tanzania*, African Development Bank Group, at <https://www.afdb.org/en/documents/document/review-of-the-land-tenure-systems-report-on-tanzania-109426>, accessed 8th August 2022.

⁴¹⁹ Section 4(1) of the Land, CAP 113 [RE 2019].

⁴²⁰ Section 13(1) of the Village Land Act, CAP 114 [RE 2019].

⁴²¹ Section 19(1) of the Land Act, CAP 113 [RE 2019].

⁴²² Ibid, Sections 19(2) & 20(1).

⁴²³ Ibid, Section 20(2).

⁴²⁴ Ibid, Section 19(2).



Land as a human rights issue

Land is very essential for Tanzanians, forming a base for them to enjoy other human rights, including right to life and right to adequate standard of living. Land is even more important for Tanzanians since the country is still heavily dependent on the agricultural sector. Land is therefore a prerequisite for sustainable development, helping to increase agricultural productivity and food security.⁴²⁵

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 main law government land acquisition in the country is the Land Acquisition Act, CAP 118 [RE 2019]. According to this law, land is acquired for public purposes when it is:⁴²⁶

- for exclusive Government use, for general public use, for any Government scheme, for the development of agricultural land or for the provision of sites for industrial, agricultural or commercial development, social services or housing;
- for or in connection with sanitary improvement of any kind, including reclamations;
- for or in connection with the laying out of any new city, municipality, township or minor settlement or the extension or improvement of any existing city, municipality, township or minor settlement;
- for or in connection with the development of any airfield, port or harbour;
- for or in connection with mining for minerals or oil; and
- for use by any person or group of persons who, in the opinion of the President, should be granted such land for agricultural development.

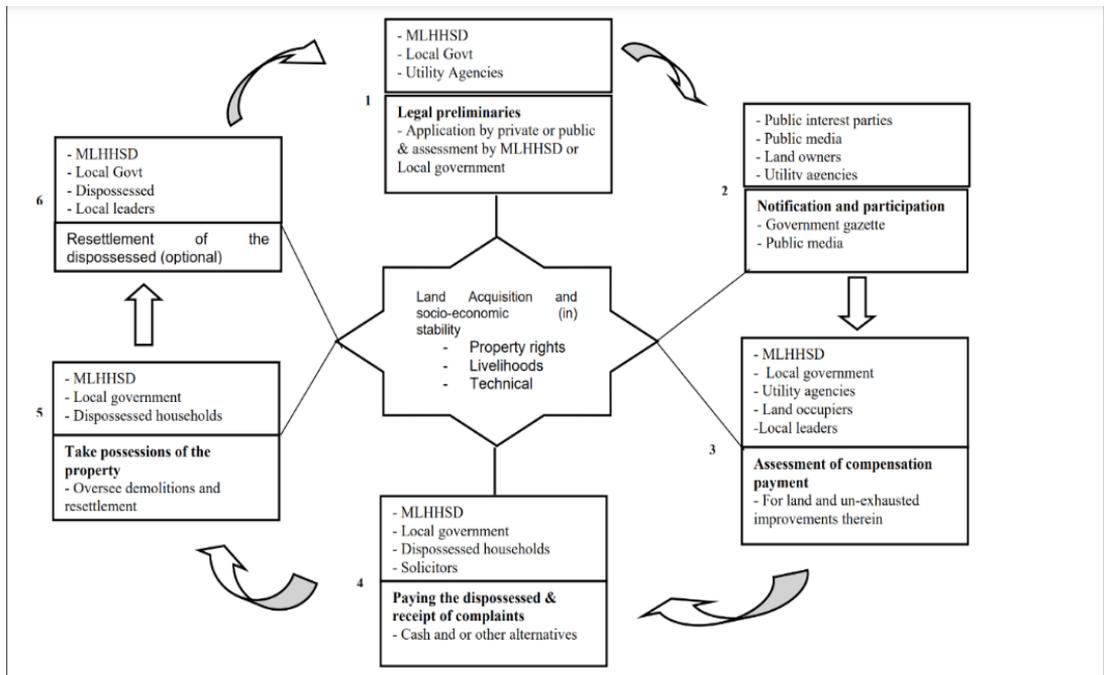
Compulsory land acquisition in Tanzania can be summarised into four key steps, namely: planning and the decision to acquire land; legal preliminaries, including getting statutory authority and serving notices; field investigations, including valuation; and payment of compensation to person(s) dispossessed of land.⁴²⁷ These steps are discussed under Part II (a) of the Land Acquisition Act, CAP 118 [RE 2019].

⁴²⁵ 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 20th August 2022.

⁴²⁶ Section 4(1) of the Land Acquisition Act CAP 118 [RE 2019].

⁴²⁷ Wilbard 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 8th August 2022.





Picture 4.2: Key processes and actors in compulsory land acquisition in Tanzania

Source: Wilbard Kombe⁴²⁸

Part II (b) of the Land Acquisition Act CAP 118 [RE 2019] provides for compensation following compulsory land acquisition. In this part, the law clearly stipulates that where any land is acquired for public purposes, the Government, through the Minister responsible for lands, has to pay compensation.⁴²⁹ 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.⁴³⁰ The Act further states that compensation shall not be awarded in respect of any land which is vacant ground and it shall be awarded subject to the value of the unexhausted improvements of land where the land acquired, whether in urban or rural area, is inadequate.⁴³¹

In line with the Constitution of the United Republic of Tanzania of 1977, which recognizes the right of every person to own property and right to protection of such property,⁴³² compensation following compulsory land acquisition must be **fair** and **adequate**. The relevant provision under Article 24 of the Constitution reads:⁴³³

⁴²⁸ Ibid.

⁴²⁹ Section 11(2) of the Land Acquisition Act, CAP 118 [RE 2019].

⁴³⁰ Ibid, Section 11(2).

⁴³¹ Ibid, Section 12(1) & (2).

⁴³² Article 24(1) of the Constitution of the United Republic of Tanzania, 1977.

⁴³³ Ibid, Article 24(2).



“Subject to the provisions of subarticle (1), it shall be unlawful for any person to be deprived of his property for the purposes of nationalization or any other purposes without the authority of law which makes provision for fair and adequate compensation.”

The law also stipulates that in case of any compensation disputes, the Minister responsible for land or any person holding or claiming any interest in the land may institute a suit in Court for determination of the dispute.⁴³⁴ Such dispute may arise out of the amount of compensation; the right to acquire land; identity of persons entitled to compensation; the application of section 12 to the land; any right, privilege or liability conferred or imposed by the Act; and apportionment of compensation between the persons entitled to the same.⁴³⁵

The Land Acquisition Act, under section 14, lays down the following conditions in assessment of compensation by the Minister or the Court:

- take into account the value of such land at the time of the publication of a notice under section 8 without regard to any improvement or work made or constructed thereon thereafter or to be made or constructed in the implementation of the purpose for which it is acquired;
- when part only of the land belonging to any person is acquired, take into account any probable enhancement of the value of the residue of the land by reason of the proximity of any improvements or works made or constructed or to be made or constructed on the part acquired;
- take into account the damage, if any, sustained by the person having an estate or interest in the land by reason of the severance of such land from any other land or lands belonging to the same person or other injurious effect upon such other land or lands;
- not take into account any probable enhancement in the value of the land in future;
- not take into account the value of the land where a grant of public land has been made under the provisions of subsection (2) of section 11; and
- assess such compensation in accordance with such principles, in addition to and not inconsistent with the principles specified in this section, as may be prescribed.

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.⁴³⁶ The interest rate is 6% per annum and is calculated from the date when possession is taken until such compensation is paid to such person or paid into the Court.⁴³⁷

⁴³⁴ Section 13 of the Land Acquisition Act, CAP 118 [RE 2019].

⁴³⁵ Ibid.

⁴³⁶ Ibid, section 15(1).

⁴³⁷ Ibid.



4.2.2. Compensation or Adequate Compensation following Acquisition of Land for Investment

Community members who responded to the survey were asked whether adequate and timely compensation is provided when land is acquired for purposes of investment. Like in the previous survey, 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 remained at 5%, like in the previous survey. However, the percentage of community members who indicated compensation granted fair but untimely increased from 16% in 2021 to 19% in 2022, while the percentage of those who said it is unfair but timely increased from 6% in 2021 to 9% in 2022.

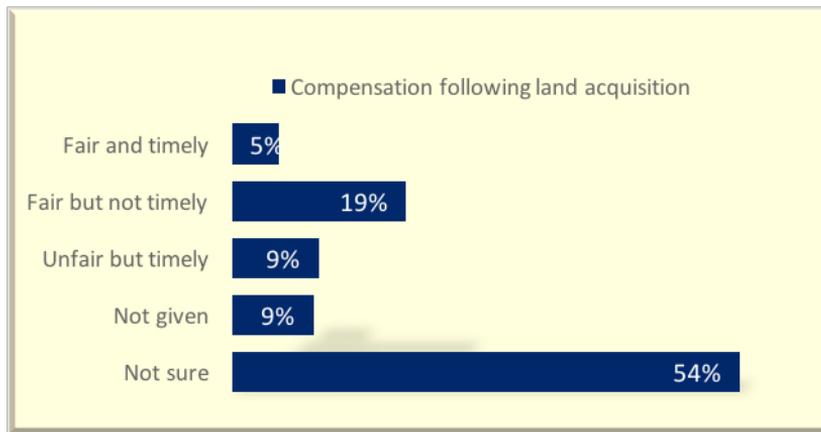


Figure 4.1: Community perceptions on compensation following land acquisition (N=813)

Source: Field data, 2022

4.2.3. Disputes and Complaints Related to Compensation

The survey across 14 regions of Tanzania Mainland found that compensation-related complaints and disputes following land acquisition were mostly made and reported in Pwani, Morogoro, Geita, Mara, Iringa, Mbeya and Mtwara Regions. For instance, in Pwani, the survey team met a community member in *Picha ya Ndege* area in Kibaha District who complained about non-payment of compensation to community members by *KEDS Tanzania Co. Ltd*, following land acquisition for investment.⁴³⁸ The community member added that even for the few who had been paid compensation, such compensation was unfair and untimely.

In Morogoro, most of the compensation-related complaints were made in Kilosa District, mostly against the Standard Gauge Railway (SGR) project, implemented by the Government.⁴³⁹ Some of the interviewed community members alleged that they had not been paid any compensation. However,

⁴³⁸ Human Rights and Business Survey 2022: Pwani Field Report.

⁴³⁹ Human Rights and Business Survey 2022: Morogoro Field Report.



when interviewed by the survey team regarding the claims, a land officer in Kilosa District said that they were first confirming the names and other information of compensation claimants first, then they would pay the affected community members fair compensation. Complaints related to compensation in the region were also made by some of the residents of Kionda Viwandani area in Morogoro DC and Ilonga Village against an investor in Kilosa District. In Ilonga Village, one the villagers told the survey team that an investor had been granted an area they were using for agriculture but were not provided with any compensation.⁴⁴⁰ They accused village authorities and LGA of siding with the investor in oppressing them.

In Geita, some of the community members who responded to the survey in Mtakuja Ward in Geita Town Council said they had a compensation dispute with **Geita Gold Mine** (GGM). They alleged that they had not been compensated since they were evicted from their lands in 1999.⁴⁴¹ They added that the area they relocated lacks essential social services such as electricity, health, and water services. Some of them said since they have no access to clean and safe water, they are forced to use unsafe water.⁴⁴² An official at the water authority in the region, GEUWASA, confirmed existence of a land dispute between villagers in Nyamalembo Village and GGM, adding that they can only move to provide water services once the dispute is settled. A land official in the region also acknowledged existence of such a dispute and went on to say:

'GGM claimed that it had paid compensation to all affected community members, but what they failed to do is to develop the land, leaving it unutilized for a long time and not putting any demarcation pillars or fence around the area. Consequently, community members used and developed the land and therefore they demand compensation to end this dispute, which all leaders have failed to resolve.'

In Mara, majority of interviewed respondents in Tarime Districts said compensation granted is usually not fair, compared the market value of land property and unexhausted improvements made on the land by the landowner or occupier.⁴⁴³ Most of the complaints were levelled against **Barrick Gold Mine**, which operates in the district. One of the interviewed respondents said the gold mine, which is owned by Acacia, delayed payment of compensation for nine months between August 2019 and May 2020 and only paid 80% of agreed compensation, stating that 20% had been deducted because errors were made during land valuation.

Some of the community members in Rungemba Ward in Mafinga District, Iringa Region, also had compensation-related complaints, levelled against **Lush Chanzo Wood Industry Company**.⁴⁴⁴ They claimed that the company

⁴⁴⁰ Human Rights and Business Survey 2022: Morogoro Field Report.

⁴⁴¹ Human Rights and Business Survey 2022: Geita Field Report.

⁴⁴² Ibid.

⁴⁴³ Human Rights and Business Survey 2022: Mara Field Report.

⁴⁴⁴ Human Rights and Business Survey 2022: Iringa Field Report.



had cut down their trees (about 5 hectares) to pave way for installation of electric power poles heading to the company and failed to pay them compensation.⁴⁴⁵ One of the community members added:

‘..I smelled corruption given the fact that all the local leaders we approached to complain about this issue did not want to accord us any cooperation, and thus I figured even our lives could be in danger if persist with the issue..’



Picture 4.3: Some of the trees in Rungemba Ward allegedly cut down to pave way for installation of electrical power poles heading to Lush Chanzo Wood Industry Company in Mafinga District, Iringa Region

In Mbeya, the survey team received an allegation from some of the interviewed community members in Mbarali District of their land being acquired by an investor without being paid compensation. They accused the investor, Haroun PM Mohamed, of acquiring about 3,200 hectares of land from 11 villages surrounding the Mbarali Highland Estate without paying compensation.⁴⁴⁶ They also accused TANAPA of taking their land without consultant and compensation, calling what happened ‘land grabbing.’ They called for intervention of stakeholders in the matter, including LHRC.

In Mtwara, some of the community members who responded to the survey claimed that they had not been paid compensation following land acquisition since 2021.⁴⁴⁷ Compensation-related disputes were revealed in Msimbati, Madimba and Nanguruwe. However, an LGA official claimed compensation had been granted to affected community members.⁴⁴⁸ The survey team in the region also came across the case of ***Ahmad Musa Njoba & 56 Others versus Dangote Cement Factory***, whereby the complainants claimed the company had not paid them compensation when it acquired their land 2012. They decided to file a case against the company in 2014 in ***the District*** and Housing Tribunal, where they won the case and awarded

⁴⁴⁵ Ibid.

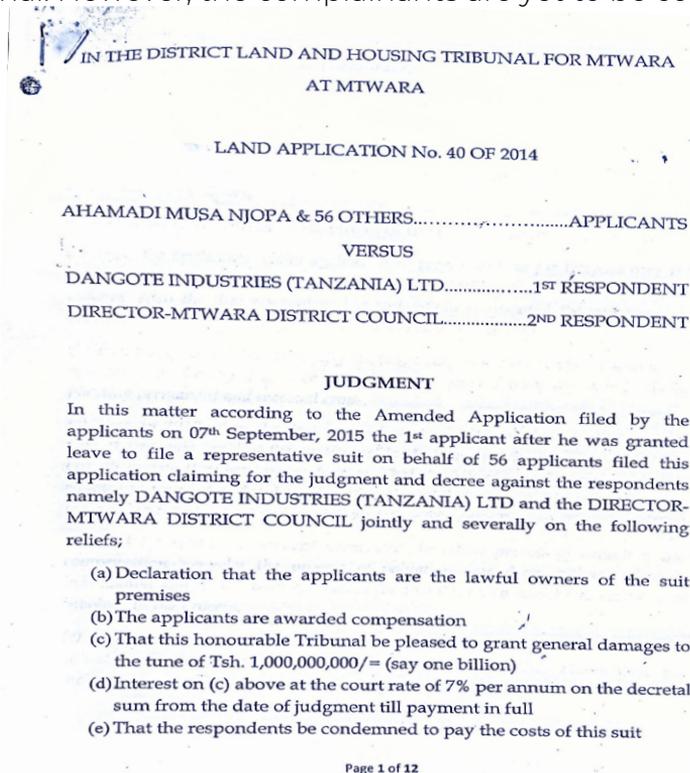
⁴⁴⁶ Human Rights and Business Survey 2022: Mbeya Field Report.

⁴⁴⁷ Human Rights and Business Survey 2022: Mtwara Field Report.

⁴⁴⁸ Ibid.



compensation and granted general damages to the tune of Tshs. 1 billion. The respondent appealed to the High Court, but the Court affirmed the decision of the tribunal. However, the complainants are yet to be compensated.



Picture 4.4: Judgement of the Mtwara District Land and Housing Tribunal in the case of Ahamadi Musa Njopa & 56 Others versus Dangote Industries (Tanzania) Ltd & Mtwara District Council

Another compensation-related dispute in Mtwara was found in Msimbati area, between villagers and M & P Company (investor). Some of the interviewed villagers claimed that their issue with the investor was not compensation, as they gave part of their land on their own free will and were happy with the compensation. The problem is that they are not allowed to use part of the land they still owned near the gas pipeline, in terms of burning weeds as part of farm preparation, because of the explosion that might occur. According to them, this constitutes interference with the land rights, and suggested a solution of the investor acquiring more land from them and compensate them accordingly. One of the villagers stated that: *'We gave part of our land on our own free will...we provided 10 metres of our farms each so allow installation of the gas pipeline; thus our farms start after the 10 metres. However, we are not allowed to burn weeds within part of the land we still own because we are told the gas might explode, and sometimes explosions do occur and damage our trees and products. We thus want the investor to acquire more segments of land from us to*



effectively accommodate the gas pipeline and compensate us accordingly so that we can continue to freely develop and use our farms, because our livelihoods depend on the farm products.'



Picture 4.5: An area in Msimbati in Mtwara Region subject to a boundary dispute between community members and M & P

The survey also found that such complaints were more common in rural and semi-urban areas and less common in urban areas. This can be explained by more land being available in rural and semi-urban areas compared to urban areas.

4.3. Participation of Community Members in Land Acquisition for Investment

4.3.1. Overview

Community participation in making decisions that affect their lives has emerged as important principle that needs to be adhered to safeguard community rights and achieve sustainable development.⁴⁴⁹ In the context of land tenure and administrative, this principle has become essential in protecting land tenure rights, ensuring community members participate in the process of land acquisition, including for investment purposes.⁴⁵⁰

⁴⁴⁹ Leonard I. Chirenje, Richard A. Giliba & Emmanuel B. Musamba (2013) Local communities' participation in decision-making processes through planning and budgeting in African countries, Chinese Journal of Population Resources and Environment, 11:1, 10-16, DOI: [10.1080/10042857.2013.777198](https://doi.org/10.1080/10042857.2013.777198)

⁴⁵⁰ 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>, accessed 9th August 2022.



Tanzanian land laws recognize community participation in the land acquisition process. However, several challenges and gaps have been identified in laws and practices in the past, and most of these challenges still exist to date. The key question is to what extent participation of affected community members is meaningful, and in this regard, there are several barriers which hinder mean participation of community members in the process of land acquisition for investment.⁴⁵¹ These barriers include:

- ***Capacity of local communities to participate meaningfully and effectively in decision-making processes related to land allocation:*** Most community members do not have the capacity to understand land laws and the land acquisition process. This is mainly contributed by low levels of education and knowledge of land laws and rights. It is therefore difficult for them to comprehend technical information. This being the case, community members are usually not adequately prepared for consultation process, and reports show government officials make little or no effort to help them prepare. As such, communities do not usually have critical information such as who the investor is, what the planned investment will be, what land is being requested, or how much money the investor stands to profit from the proposed venture. NGO presence may help negotiate better terms for community members, but is usually unwelcome by investors and government agents.
- ***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.

⁴⁵¹ Ibid.



- **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.
- **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 actually 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 actually being involved in the decision-making process and women and other vulnerable groups rarely or never participating. Consent, as envisioned under the FPIC principles, is a collective decision, made by members of the affected community in their capacity as rights holders.
- **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 leaders.
- **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. According to FAO Guidelines, **Free** means consent is given voluntarily and is based on a process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, intimidation, or manipulation, as well as expectations or timelines that are externally imposed. **Prior** means consent is sought sufficiently in advance of any authorization or commencement of activities (including early stages of a development of investment plan). **Informed** means information provided should be accessible, clear, consistent, accurate, constant, and transparent. Information should also be delivered in appropriate language and culturally appropriate formant and should include the objective, covering both the positive and negative potential and consequences of giving or withholding consent; should be complete, covering the spectrum of potential social, financial, political, cultural, environmental impacts, including



scientific information with access to original sources in appropriate language; delivered with sufficient time to be understood and verified; and reach the most remote, rural communities, women and the marginalized.

4.3.2. Survey Findings on Community Participation in Land Acquisition Process

Community members who responded to the survey were asked about meaningful community participation in the land acquisition process in their communities. Only just above a quarter of the respondents (28.4%) said there is meaningful community participation, which is a slight increase compared to the percentage of community members who had a similar view in the previous survey (22%). Majority of the respondents (45.6%), said they were not sure whether there is meaningful participation or not, while the remaining 26% said there is no meaningful participation in case of land acquisition for investment.

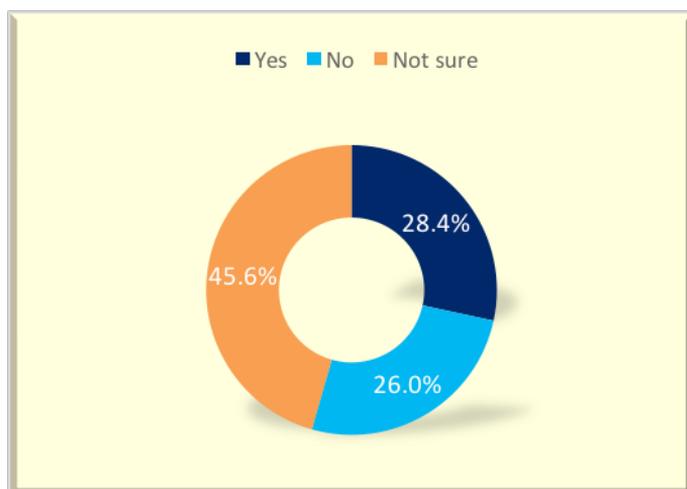


Figure 4.2: %Responses on meaningful community participation in land acquisition process (N=812)

Source: Field data, 2022

Percentage of community members who are of the opinion that there is meaningful participation of community members is almost the same among male and female community members who responded to the survey, at 28% and 29% respectively. The same can be said for those who think there is no meaningful participation, at 30% and 22% respectively, as shown in Figure 4.3 below.



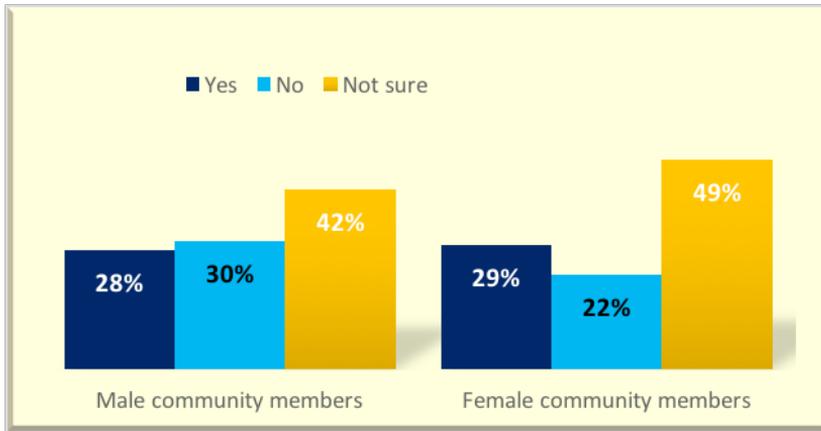


Figure 4.3: %Responses on meaningful community participation by sex

The survey also observed regional variations in responses of community members over meaningful community participation or involvement in the land acquisition for investment process. The highest percentage of community members who said there is meaningful community participation was observed in Mara (57%), followed by Mwanza (43%), Mbeya (41%), and Dar es Salaam (39%). The lowest percentage was observed in Arusha, Dodoma, and Iringa (0%).

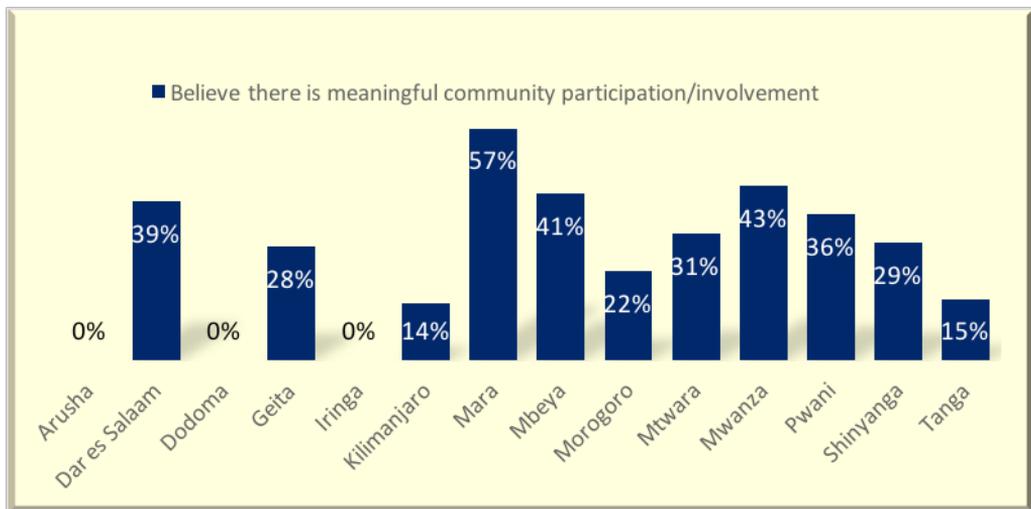


Figure 4.4: Community members' perceptions on meaningful community participation in land acquisition process by region

Business enterprises that were visited were also asked about community participation/involvement in the land acquisition process. They were specifically asked whether they have in place a policy or guidelines that compel them to consult with all affected parties (including women and elders) prior to acquisition or/and use of their lands and other properties.



Interestingly, only 5.9% of the respondents said they have such a policy or guidelines, with the overwhelming majority (58.9%), saying they did not. The remaining 35.6% of the respondents said they were not sure whether there is such a policy or guidelines in place.

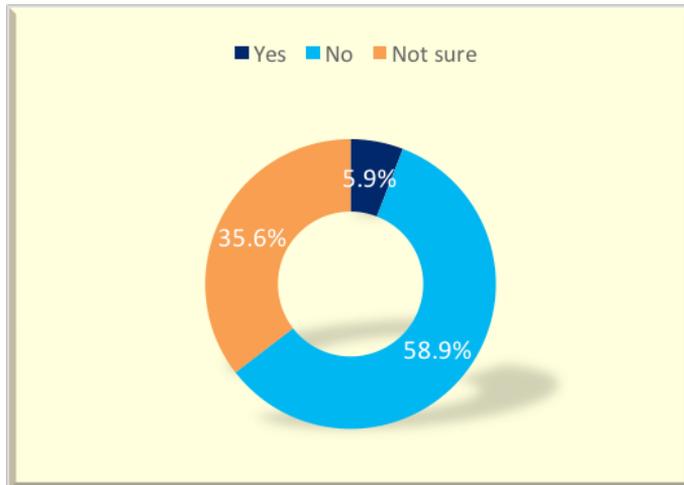


Figure 4.5: %Responses on whether corporate entities have policies or guidelines which compel them to consult with all affected parties (including women and elders) prior to acquisition or/and use of their lands and other properties

During the survey, community members who responded to the surveys in various regions provided instances of violation of the principle of community participation in the land acquisition for investment process. These instances were mentioned in Pwani, Morogoro, Dodoma, Geita, Iringa, Mbeya, Mtwara, and Tanga Regions. Key issues raised include language barrier for community members, community members not provided with sufficient information regarding investment project, local and village leaders dominating the consultation meetings, land grabbing/alienation, low awareness about land laws and rights, local leaders siding with investors, lack of knowledge about true value of village land, and lack of transparency.

For instance, in Pwani, survey respondents identified language barrier as one of the challenges they face in participating in land acquisition for investment process. They noted that investors use English and Swahili Language, and usually provide technical information that is not very well understood.⁴⁵² They also accused their local leaders of not representing the interests of the entire community when negotiating or bargaining with investors, but ward leaders in Mkuranga District also hit back, accusing community members of bypassing them and only seeking their help when a dispute occurs. A government official in the district mentioned that investors usually go straight and do most of the negotiating at district council level and do no

⁴⁵² Human Rights and Business Survey 2022: Pwani Field Report.



or little engagement of community members before land acquisition. A similar claim was made by a government official in Nyang'hwale District, Geita Region.⁴⁵³

In Iringa, **Lush Chanzo Co. Ltd** was accused of not involving community members before cutting down their trees and installing electrical power poles.⁴⁵⁴ The same allegations were made against **Neelkath Lime Ltd**, an investor called Mr. Liemba, and government authorities in Tanga Region, whereby it was revealed that community members did not receive adequate compensation because they were not provided with sufficient information regarding the investments and true value of their land.⁴⁵⁵ They also claimed lack of transparency in the process.

In Morogoro, there were allegations of land alienation, made by the National Network of Small-Scale Farmers Groups in Tanzania (MVIWATA). According to an official from the network, there are many land disputes related to compulsory land acquisition for investment in the region and land alienation/grabbing is a serious issue in Kilosa District. He said:

'90% of the land in Morogoro, especially in Kilosa District, is in the hands of investors. The Government has taken land and given it to investors, who have accumulated large tracts of land (plantations) for a long time. The investors lease parts of the lands to community members and also use the lands as security for bank loans. Some of the plantations were reclaimed by the Government but were not returned to community members, thus causing a shortage of land. The population is expanding while the amount of available land is not increasing.'

The survey in Morogoro also found that there is a dispute in Ilonga Village between villagers and an investor who had invested in pastoralism.⁴⁵⁶ It was reported that the investor, known as Swai, was brought by the District Commissioner and had been allowing his cattle to enter farms and plantations to feed. One of the survey respondents mentioned that the Village Council could not take any action since the investor was sent by the District Commissioner.⁴⁵⁷

In Mbarali District in Mbeya Region, the survey team was informed by some of the interviewed community members about the situation of the Mbarali Estates, owned by **Highland Estates Limited**. Mbarali Estates is primarily a rice irrigation farm, but other aspects of the project include a water bottling factory, dairy farm, poultry farm, a fishery and fruits and vegetable plantations.⁴⁵⁸ Survey respondents in the district claimed that they did not

⁴⁵³ Human Rights and Business Survey 2022: Geita Field Report.

⁴⁵⁴ Human Rights and Business Survey 2022: Iringa Field Report.

⁴⁵⁵ Human Rights and Business Survey 2022: Tanga Field Report.

⁴⁵⁶ Human Rights and Business Survey 2022: Morogoro Field Report.

⁴⁵⁷ Ibid.

⁴⁵⁸ See Estates Tanzania "Mbarali Estates" at <https://www.estates.co.tz/services/agriculture-activities/mbarali-estates>, accessed 9th August 2022.



effectively participate in the land acquisition process of the estates, which were formerly-state owned under NAFCO but later privatised to **Highland Estates Limited**, which is owned by their Member of Parliament, Haroon Mulla Pirmohammed.⁴⁵⁹ They indicated lack of sufficient information regarding investment project and potential impacts, as the situation has dramatically changed from the days of NAFCO. For instance, it was reported that during the NAFCO days, farmers were leased plots within the estates for purposes of cultivation of rice for Tshs. 35,000 per hectare, while under the new investor they are required to pay Tshs. 390,000 for the same, and the still have to maintain or repair irrigation infrastructure constructed during the NAFCO administration. Consequently, it was revealed that only farmers with a big capital have remained in the estates, as the majority (small farmers) cannot afford the rental/lease charges.⁴⁶⁰ One of the survey respondents also alleged that the new investor demands equal share of paddy rice harvested (usually 16 bags), regardless of whether the harvest is good or bad (allegation of unfair contract terms).⁴⁶¹ The **Mbarali Estates** land row is further discussed in subchapter 4.5.2 below, including some key developments.

4.4. Access to Unutilized Land Reserved for Investment

As discussed above, not all the land acquired by investors in Tanzania is put to use immediately. Some of the land stays idle for a long period of time. In such cases, the best practice is to allow local community members access to investment land that is not yet utilized. Both investors and community members were asked regarding access to unutilized land. The investors were asked whether they allow local communities to access and use part of the unutilized land for activities such as grazing, hunting, farming, and traditional rituals. Only 12.9% of the businesses enterprises confirmed that they allow community members to access land for livelihood activities, declining from 15% in the previous survey.

When the community members were asked whether investors allow them to access unutilized investment land for their economic activities, only 19.8% said they do, increasing from 11% in the previous survey. Majority of the community members, over half of them (56.7%) said they are not allowed access to unutilized investment land.

⁴⁵⁹ Human Rights and Business Survey 2022: Mbeya Field Report.

⁴⁶⁰ Ibid.

⁴⁶¹ Human Rights and Business Survey 2022: Mbeya Field Report.



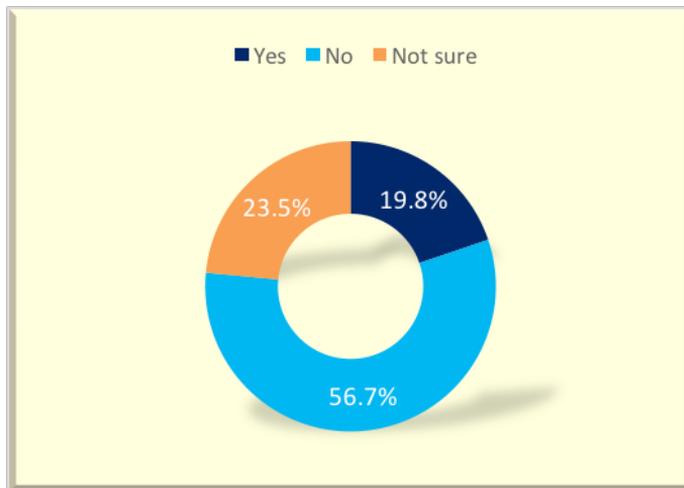


Figure 4.6: %Responses of community members on businesses enterprises or investors allowing them to access unutilized investment land for their economic activities (N=813)

In Dar es Salaam and Iringa, while majority of investors were found not to allow part of their unutilized land to be accessed by community members, it was observed that some of the investors allowed food vendors (popularly known as *mama ntilie*) to use part of their land outside the walls for their food business.⁴⁶² A similar observation was made at **Geita Gold Mine** (GGM) in Geita Region, where some of the interviewed food vendors said they are allowed to sell food outside GGM, usually to artisanal miners in Mtakuja Ward, but also added that sometimes they are chased away or harassed by the mine security guards.⁴⁶³ GGM Community Relations Officer said, *'We allow community members to conduct small economic activities such as cattle or livestock herding, firewood collection, and conducting other businesses such as food vending, but we don't allow construction of permanent structures and mining activities.'*

⁴⁶² Human Rights and Business Survey 2022: Dar es Salaam Field Report; Human Rights and Business Survey 2022: Iringa Field Report. [e.g. around the investment area occupied by Yi Sen International Investment Company in Iringa]

⁴⁶³ Human Rights and Business Survey 2022: Geita Field Report.





Picture 4.7: Food vendors allowed to conduct business at an investment area in Chang'ombe area in Dar es Salaam

In Pwani, the survey team observed that some of the investment companies in the region such as **Coast Concrete Poles Co. Ltd** and **Hangajian Steel Co. Ltd** allow community members surrounding their investment areas access to unutilized land for purposes such as herding cattle and children's playground. One of the community members living near **Hangajian Steel Co. Ltd** in Mkuranga District said, *'The people from that company have not problem regarding the issues, they allow us to herd goats.'*

At Kionda Viwandani area in Morogoro, some of the community members told the survey team that the investors allow them to use unutilized parts of their lands, usually for cattle herding.⁴⁶⁴ But they also mentioned that they are allowed to do some farming, including maize farming.



Picture 4.8: Unutilized land at Kionda Viwandani investment area which community members are allowed to access for purposes of conducting economic activities

⁴⁶⁴ Human Rights and Business Survey 2022: Morogoro Field Report.



In Shinyanga, the few community members who claimed they were allowed access to unutilized land by investors (28%), noted that such land is being used for purposes such as farming, animal grazing and passage.⁴⁶⁵ Businesses such as **Bulyanhulu Gold Mine** and **Buzwagi Gold Mine** were reported to allow surrounding community members to use land for similar purposes. A similar observation was made in Arusha, where the survey team was shown an areas reserved by **USA Limited** for community members to graze their cattle.⁴⁶⁶



Picture 4.9: Animal grazing activity observed within the investment area owned by Bulyanhulu Gold Mine in Kahama DC, Shinyanga – July 2022

In Iringa, companies such as **Yi Sen International Investment Company Limited** and **En Xin Co. Ltd** were praised by some of the community members for allowing them access to unutilized land to conduct economic activities. One of the community members in Kinyanambo C in Mafinga District said, *'As you can see, we are growing vegetables, we were also growing maize but thieves have increased, so we have instead concentrated on vegetables, including tomatoes. This area belongs to the pyrethrum industry. I sell the vegetables and get some money.'*

⁴⁶⁵ Human Rights and Business Survey 2022: Shinyanga Field Report.

⁴⁶⁶ Human Rights and Business Survey 2022: Arusha Field Report.





Picture 4.10: Part of the land belonging to at Pyrethrum Company of Tanzania (PCT) that community members use for farming activities in Mafinga District, Iringa Region

In Tanga, the survey discovered that *Huaxin Cement Co. Ltd* was one of the investors in the region which allow community members to access unused land. The survey team observed part of the land reserved by the company was being used by community members for livelihood activities such as cattle grazing.⁴⁶⁷



Picture 4.11: Part of the land under Huaxin Cement Co. Ltd where community members are allowed access

Complaints of denial of access to unutilized land were mostly made in some of the districts in Pwani, Mara, Iringa, Arusha, and Morogoro Regions.

In Morogoro, it was reported that about three quarters of land in Kilosa District was under investment, while the community members were struggling for farming land.⁴⁶⁸ Some of the interviewed community members singled pointed out *Farm Agrofocus Tanzania Ltd* as one of the investors which had

⁴⁶⁷ Human Rights and Business Survey 2022: Tanga Field Report.

⁴⁶⁸ Human Rights and Business Survey 2022: Morogoro Field Report.



acquired large land but was denying them access to unutilized land. They alleged that the company had acquired 13,000 acres of land, most of which was unused.⁴⁶⁹ One of the community members added that the company only uses about 5 acres of land, and that in 2020 a security guard within the investment area shot and killed a community member for ‘trespassing.’

In Kilosa District, it was further reported that the government had taken measures against some of the investors who had acquired lands or plantations without developing or using them.⁴⁷⁰ The Government reclaimed plantations from more than 10 investors in the district and revoked their rights of occupancy/title deeds.⁴⁷¹

A. MASHAMBA YALIYOBATILISHWA

| Na. | Namba ya Shamba | Idadi | Mahali Lilipo | Mmiliki | Ukubwa (Ekari) | Tarehe ya Ubatilisho |
|-----|-----------------------|-------|------------------|------------------------------------|-------------------------------|----------------------|
| 1 | M31 | 1 | Magole/Mateteni | Yakubali K. Talibu | 514 | 02/10/1982 |
| 2 | 615A & 615B | 2 | Chanzuru | Mamlaka ya Mkonge | 298 | 1999 |
| 3 | 43/4 | 1 | Chanzuru | K.S Mohamed & M.S Mohamed | | |
| 4 | Manyenyerere farm | 1 | Kwarukwambe | I.M Nahdi & M. Nahdi | 1,235.7 | 2004 |
| 5 | M10 | 1 | Magole/Mateteni | Magole farmers enterprises | 525 | 16/11/2004 |
| 6 | 6 & 7 | 2 | Msowero/Mambegwa | Agro Industries Ltd | 6-1,008 7- 1,384 | 16/11/2004 |
| 7 | 10 | 1 | Msowero/Mambegwa | Darbrew Ltd | 1,005 | 28/03/2017 |
| 8 | 4,5 & 8 | 3 | Msowero/Mambegwa | Shanta Estate Company Ltd | 4-1,200 5- 1,000 8- 974 | 28/03/2017 |
| 9 | Msowero Sisal Estate | 6 | Msowero | New Msowero Farms Ltd | 1,769 | 28/03/2017 |
| 10 | 32 - 36 | 5 | Mvumi & Gongwe | Noble Agricultural Enterprises Ltd | 2,691 | 28/03/2017 |
| 11 | 615C1, 615C2 na 615C3 | 3 | Chanzuru | Sandrudin Rajabali Meghji | 1,598 | 24/09/2018 |
| 12 | 120 | 1 | Kivungu | Sumagro | 5,690 | 2021 |
| 13 | 121 | 1 | Madoto | Sumagro | 7,712 | 2021 |
| 14 | 363 | 1 | Kimamba | Sino Development T.Ltd | 6,945 | 2021 |
| 15 | - | 1 | Dodoma Isanga | Abdallah Islam | 307 | 2021 |
| 16 | M1 | 1 | Magole | Mifugo Magairo | 489 | 2021 |
| 17 | M2 | 1 | Magole | Mason | 466 | 2021 |

Figure 4.12: Some of the plantations in Kilosa District, Morogoro, which were reclaimed by the Government from investors

Following the repossession of plantations by the Government in Kilosa District, the National Networks of Farmers' Groups in Tanzania (MVIWATA) pleaded with the Government to allow community members of Mvumi and Msowero Wards in the district to use the plantations/lands for farming.

⁴⁶⁹ Ibid.

⁴⁷⁰ Human Rights and Business Survey 2022: Morogoro Field Report.

⁴⁷¹ Ibid.



Some of the community members from the two wards claimed that, for a long time, they had a contractual arrangement with the previous owners to use the lands for farming, but since the investors lost possession of the plantations they can no longer continue with their agricultural activities. However, it was reported that district authorities in the region had informed MVIWATA that a plan to re-distribute or re-allocate the lands to community members was underway.⁴⁷²

Some of the businesses enterprises claimed that they did not allow access to unutilized land because the available land was small and not suitable for economic activities.⁴⁷³ In Pwani, most of the interviewed investors said they do not encourage people to access their unutilized land because some of the community members tend to later claim ownership and become reluctant to relinquish the land when needed by investor.⁴⁷⁴ This concern was also expressed by some of the investors in Tanga Region, including *East Usambara Tea company*, and Mtwara.

4.5. Land Disputes and Land Dispute Settlement Mechanisms

4.5.1. Introduction

4.5.1.1. Land Disputes: Causes of land disputes

Common types of land disputes in Tanzania are boundary disputes between individuals/clans, disputes/conflicts between farmers and pastoralists, disputes between community members and investors, and disputes between community members and government authorities. One the major causes of land disputes is land acquisition by investors.⁴⁷⁵ 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.⁴⁷⁶

Over the years, some of the investors in Tanzania have been accused of not fully following land acquisition procedures stipulated in laws governing the land, especially skipping free and informed consent of community members before acquiring land. Some village leaders have also been implicated in corrupt practices for offering land to prospective investors without seeking approval of village assembly as required by the Village Land Act of 1999,⁴⁷⁷ revised in 2019.

⁴⁷² Human Rights and Business Survey 2022: Morogoro Field Report.

⁴⁷³ Human Rights and Business Survey 2022: Dodoma Field Report. [e.g. ALAF Ltd, CETAWICO and Morena Hotel]

⁴⁷⁴ Human Rights and Business Survey 2022: Pwani Field Report.

⁴⁷⁵ 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 9th August 2022.

⁴⁷⁶ Ibid.

⁴⁷⁷ Past LHRC reports on business and human rights have documented such allegations.



Land disputes, especially between the community members and investors or community members and government authorities may also arise due to land acquisition that is not followed by timely and fair compensation.⁴⁷⁸ Poor governance issues such as corruption, nepotism, and disregard of regulations also contribute to land disputes. Additionally, lack of transparency and appropriate land use plans, as well as communication or miscommunication may cause land disputes/conflicts.⁴⁷⁹

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.

4.5.1.2. Legal Framework on Land Dispute Settlement Mechanisms

The legal framework on land dispute settlement mechanisms in Tanzania is mainly provided in the Land Act of 1999, the Village Land Act of 1999 and the Courts (Land Disputes Settlement) Act of 2002 (all revised in 2016). These laws establish various bodies vested with mandate to settle land disputes at different levels. Part XIII of the Land Act covers land dispute settlement. It provides a list of courts vested with exclusive jurisdiction to determine land disputes, namely:⁴⁸⁰

- The Court of Appeal
- The High Court
- The District Land and Housing Tribunal
- The Ward Tribunal
- The Village Land Council

The Village Land Act also recognizes the courts above as having exclusive jurisdiction to determine land disputes,⁴⁸¹ as does the Land Acquisition, which requires every dispute or complaint concerning land to be instituted in these courts, with the Village Land Council being the lowest level of dispute settlement and the Court of Appeal of Tanzania being the highest level.⁴⁸²

The land dispute bodies above have different mandates when it comes to land dispute resolution. For instance, the mandates of Villange Land Council and Ward Tribunal are limited to mediation

⁴⁷⁸ Wilbard 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.

⁴⁷⁹ Ibid.

⁴⁸⁰ Section 167(1) of the Land Act, CAP 113 [RE 2019].

⁴⁸¹ Section 62(2) of the Village Land Act, CAP 114 [RE 2019].

⁴⁸² Section 3(1) & (2) of the Land Acquisition Act CAP 118 [RE 2019].



and reconciliation so that parties can be helped to arrive at mutually acceptable settlement. The District Land and Housing Tribunal now enjoys the power of the first court of instance when it comes to determination of land disputes, while the High Court enjoys original jurisdiction in proceedings for recovery of possession of immovable property in which value of property exceeds 300 million shillings, as well as mandate to determine appeals from the District Land and Housing Tribunal. The Court of Appeal has jurisdiction to hear and determine appeals from High Court.

4.5.1.3. Challenges in the Land Dispute Settlement System

In June 2020, land rights NGOs, *HakiArdhi, Tanzania Land Alliance (TALA)*, and *Landesa*, conducted an analysis of land dispute settlement mechanism in Tanzania.⁴⁸³ One of the topics discussed in the analysis document is issues in the land dispute settlement system, identifying various challenges in the land dispute settlement system. These challenges include:

- Use of customs and traditions in resolving land disputes, which has been questionable given the diversity within the communities, and most of the land dispute settlement bodies prefer adjudication rather than mediation
- Most of the Village Land Councils, Ward Tribunals, and District Land and Housing Tribunals being poorly financed and understaffed, leading to poor service delivery
- Lack of capacity among dispute settlement bodies (Village Land Council and Ward Tribunal) due to lack of regular training, including on mediation
- Lack of land dispute settlement bodies in some of the districts. For instance, there are 55 District Land and Housing Tribunals, while there are 139 districts in Tanzania Mainland
- Multiple accountability challenges, especially for Ward Tribunals
- Lack of clear coordination among institutions managing the land dispute settlement machinery
- Corruption, exorbitant fees, high cost of hiring advocates and time taken in hearing and determination of land disputes (long), hence delayed justice

Some of the issues and challenges highlighted above were observed in some of the surveyed regions and are discussed below.

4.5.2. Reported Investment-Related Land Disputes

The survey on business and human rights conducted in 14 regions of Tanzania Mainland, found several investment-related land disputes, some of which have been discussed above. These disputes are summarized in the table below. Some of them are further discussed as case studies below.

⁴⁸³ HakiArdhi, TALA & Landesa, *ANALYSIS OF LAND DISPUTE SETTLEMENT MECHANISM; PERSPECTIVE FROM THE LAND SECTOR BASED CIVIL SOCIETY ORGANISATIONS*, June 2020.



Table 4.1: Some of the land disputes observed in surveyed regions in Tanzania Mainland

| Region | Type & Parties | Description/Claims |
|-----------|--|---|
| Mbeya | <u>Land grabbing</u> 11 villages ¹ versus Highland Estates Limited | Residents of 11 villages accused Highland Estates Limited of grabbing their land, claiming investor annexed their farms, which are outside two NAFCO farms acquired by investor. |
| Tanga | <u>Sell of disputed land</u> East Usambara Tea Company Ltd versus a community member | Company claimed land sold by son of former employee to another investor belonged to company. |
| Morogoro | <u>Compensation</u> Community members at Kionda Viwandani Area versus MW Ltd | Community members in the area claimed eviction without compensation. The District Commissioner (DC) did not help, instead told them it is an industrial area. |
| | <u>Trespass/boundary</u> Villagers in Illoga Village versus investor (pastoralism) | Farmers in the village accused investor (Swai) of trespassing into their property (farms and plantations), allowing livestock to enter and feed. Farmers also claimed investor is in good terms with and protected by the DC. |
| | <u>Land grabbing</u> Nasibu Yusuphu Madurufu versus Kilosa District Council | Accused the DC of forcefully evicting him from his land, despite decision of the Kilosa District Land and Housing Tribunal ruling in his favour. He wrote a letter to the Prime Minister in 2018, seeking his intervention. |
| | <u>Compensation</u> Community members versus SGR project | Some of the interviewed community members alleged that they had not been paid any compensation. Land officer said verification was being conducted first, then compensation would follow. |
| Shinyanga | <u>Trespass & compensation</u> Njudu Mipawa versus El-Hilal Minerals Co. Ltd | Claimed investor trespassed on this land and that of other villagers (10 acres) and did not compensate them, despite promising to do so when the matter was taken to the Kishapu DC in June 2016. Shinyanga District Land and Housing Tribunal delivered exparte judgement in his favour, following a case filed in 2018. |



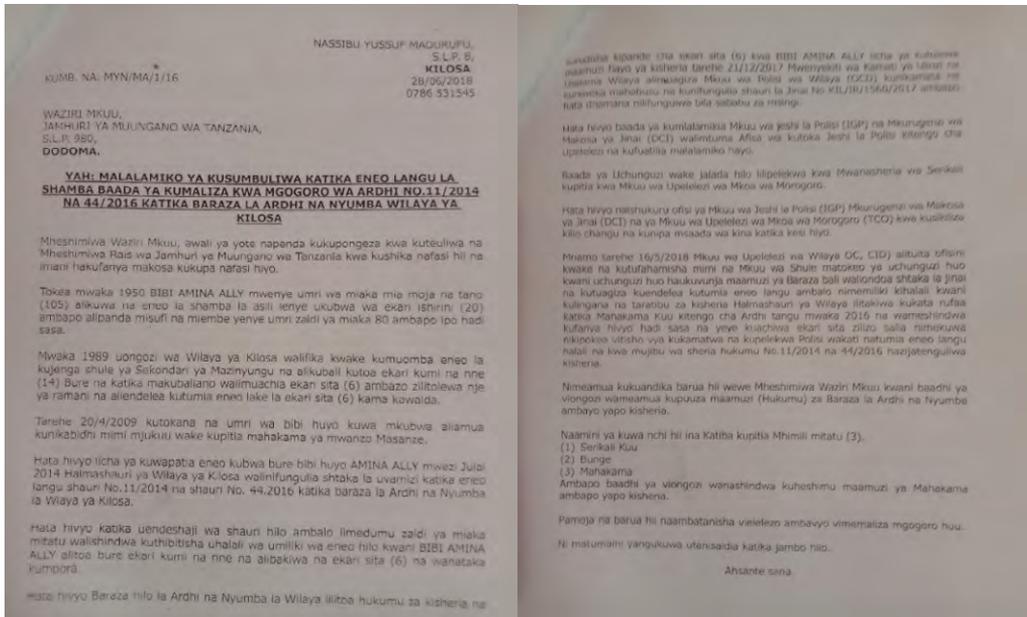
| Region | Type & Parties | Description/Claims |
|--------|---|---|
| Pwani | <u>Compensation</u> Community members versus KEDS Tanzania Co. Ltd | Some community members claimed investor did not pay them compensation, others saying compensation paid to them was unfair. |
| Geita | <u>Compensation</u> Community members in Mtakuja Ward versus Geita Gold Mine (GGM) | Some of the community members alleged that they had not been compensated since they were evicted from their lands in 1999. GGM claimed compensation was paid. |
| Mara | <u>Compensation</u> Community members in Tarime District versus Barrick Gold Mine | Some of the community members claimed they were paid unfair compensation (below market value), including a 20% deduction, while others lamented delayed compensation payments. |
| Iringa | <u>Compensation</u> Community members in Rungemba Ward versus Lush Chanzo Wood Industry Company | Some of the community members claimed that the company had cut down their trees (about 5 hectares) to pave way for installation of electric power poles heading to the company but failed to pay them compensation. |
| Mtwara | <u>Compensation</u> Ahmad Musa Njoba & 56 Others versus Dangote Cement Factory | Complainants claimed the company had not paid them compensation when it acquired their land 2012. They decided to file a case against the company in 2014 at the District and Housing Tribunal, won the case and were awarded compensation and granted general damages to the tune of Tshs. 1 billion. Factory appealed to the High Court, but the Court affirmed the decision of the tribunal. However, the complainants claimed they are yet to be compensated. |
| | Villagers in Msimbati area versus M & P Company | Some of the villagers said they agreed for part of the land to be taken for gas pipeline installation by investor and compensation was granted. However, they are not allowed to burn weeds in part of their land near the gas pipeline because explosion might occur. They provided a solution of the investor acquiring more land from them and granting compensation. |

Source: Field data, 2022



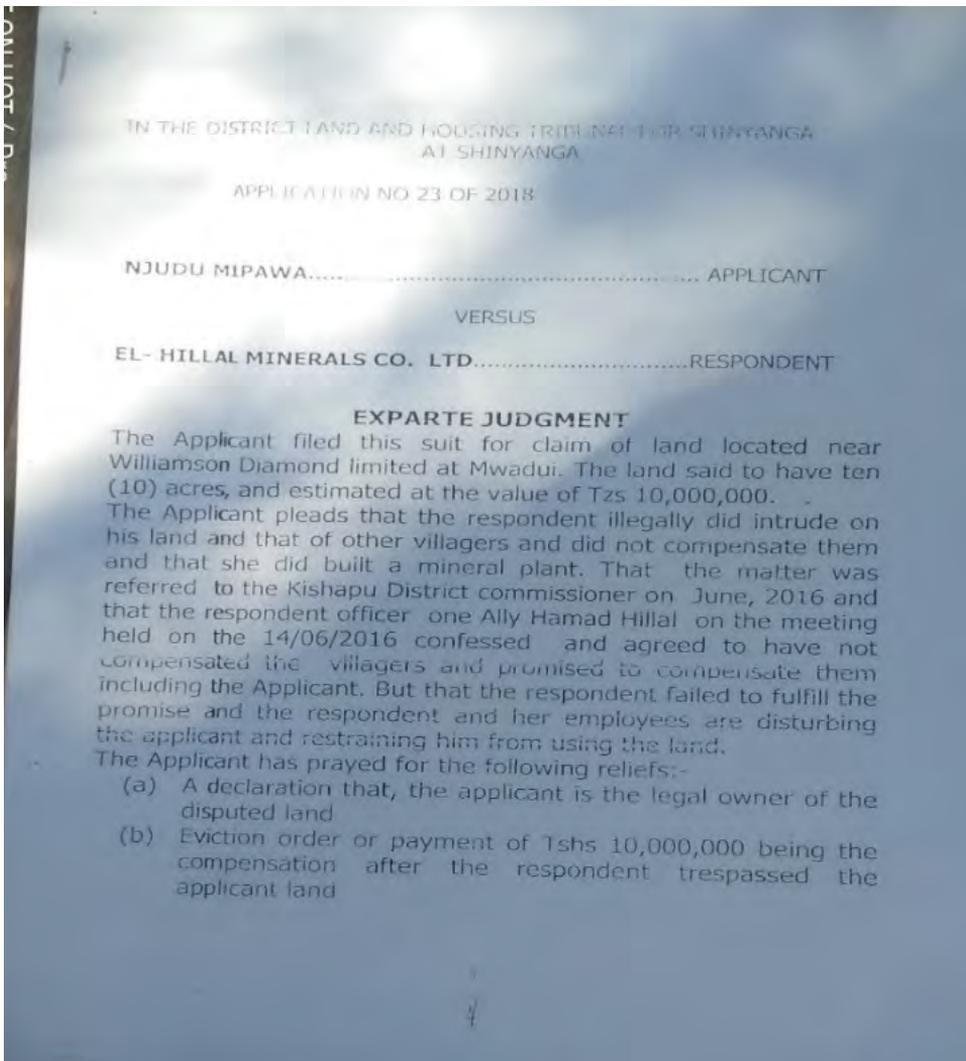


Picture 4.13: Ruling of the Kilosa District Land and Housing Tribunal (left) in favour of Mr. Yusuph Madurufu (right)



Picture 4.14: A 2018 letter from Yusuphu Madurufu to the Prime Minister, seeking his intervention to protect his land rights after district authorities decided not to respect the decision of the Kilosa District Land and Housing Tribunal





Picture 4.15: An exparte judgement delivered in favour of Njudu Mipawa against El-Hillal Minerals Co. Ltd by the Shinyanga District Land and Housing Tribunal



Case Study: The Mbarali Estates Land Row in Mbarali District, Mbeya

Mbarali district is the most famous area for rice farming. The district is home to Kapunga Rice Project and Mbarali Estates. Mbarali Estates is the biggest asset and sector of Highland Estates Limited.² It is primarily a rice irrigation farm, but other aspects of the project include a water bottling factory, dairy farm, poultry farm, a fishery and fruits and vegetable plantations.³ Rice farming in Mbarali has a long history, dating back at least to the 1920s and intensified at independence with the construction of the first rice state farm in Rujewa.⁴ The rice farm was built by the Chinese in between 1971 and 1977, recognized as China's most extensive agricultural aid project in Tanzania.⁵ Chinese Government signed an agreement to develop a rice station at Mbarali in 1964.⁶ The estates was developed as a self-contained state farm, with its own irrigation and drainage, barrages to control floods, a hydropower system, piggery, dairy farm, poultry farm, rice mill, and staff housing. It was developed as a highly mechanised system with many workers, and according to Chinese sources, it supplied 25% of Tanzanian market demand when at full production and was able to repay the initial investment within six years.⁷ Chinese teams of experts provided technical assistance in rotation from 1971 to July 1999, staying after the farm was formally handed over to the Government in 1977.⁸

In 2001, talk of privatizing Mbarali began, and in the 2003/04 budget speech, the then Minister of Agriculture stated that Mbarali and Ruvu would be privatized to smallholders, but in 2004/05, the Government announced instead that the farm would be put up for sale. The farm was later purchased by Highland Estates Limited, having been under the National Food Company (NAFCO).

Since the privatization of the farm, there has been land disputes between the company and surrounding community members, specifically 11 villages, namely: Nyeregete, Iboola, Ubaruku, Utyego, Mayota, Warumba, Urinda, Ibumila, Imalilosongwe and Mwanavala.

Residents of the 11 villages in Mbarali District claimed that the company had grabbed their land, annexing over 3,200 acres of their farmland.⁹ In December 2019, they wrote an open letter to former President, the late John. Pombe Magufuli, recalling that his directive to return their land, which was made during the President's visit in the district early in May, is yet to be fulfilled.

However, to date the company maintains that the villagers are the ones who had invaded the farms, hence had to be evicted.¹⁰ It was reported in May 2019 that the then Minister of Lands, Housing and Human Settlements Development, Hon. William Lukuvi, informed President Magufuli that the managements of Kapunga and Mbarali had agreed to surrender 4,675 and 1,300 hectares, respectively, following a government verification exercise.¹¹



Case Study: Persistent Land Disputes and Conflicts in Kilosa District, Morogoro

Kilosa District is one of the six administrative districts of the Morogoro Region. The district has a history of resource-related conflicts surrounding land and forest tenure and management, stemming from a mix of environmental, social, economic and political factors that have aggravated resource-related tensions between pastoralists and farmers in the region.¹² Dominant types of disputes in the district are between farmers and pastoralists and between community members and investors.

Land disputes in Tanzania, including in Kilosa District, are said to be driven by various factors, including poor land governance, inappropriate or lack of land use plans, inadequate land policies, land tenure insecurity, corruption and population increases.¹³ Lack of meaningful participation/involvement of locals in land acquisition process and 'land grabbing' usually fuel land disputes/conflicts between community members and investors in the region.

Land conflicts between farmers and pastoralists in the district have been a common occurrence over the years, leading to violence tensions and killings, in extreme cases. Distrust of local authorities has been a key issue, amid corruption allegations.

In June 2022, it was reported that farmers in the district formed a small committee that would seek audience with the Prime Minister, Hon. Kassim Majaliwa, as part of the efforts to find a permanent solution to land conflicts that have lasted more than 10 years in the district.¹⁴ The farmers stated that their conflicts with pastoralists is contributed by shortage of land caused by investors who acquire huge tracts of land without developing them. They indicated that they distrust district and regional authorities, as they have been seeking their help for a long time without any success, hence the need to see the Prime Minister. They acknowledged that the land conflicts in Kilosa have severely affected livelihoods, causing poverty, deaths, stress, and criminal prosecution. For instance, in the period of 2018 to 2021, MVIWATA documented 77 criminal cases against farmers, involving 89 farmers (75 male, 14 female). In the period of January to June 2022, the network collected 22 cases against farmers.¹⁵

4.5.3. The Loliondo Land Dispute Saga

4.5.3.1. Background of the Land Dispute in Loliondo

Loliondo is a division within Ngorongoro District, located in Arusha Region. It borders Serengeti National Park to the west, Ngorongoro Conservation Area to the south, and Kenya to the north. The division reportedly has an estimated 4,000 square kilometres with 1,500 of them allocated for conservation while the rest is for human activities.⁴⁸⁴

⁴⁸⁴ "Loliondo land saga in new controversy" The Citizen Newspaper (online), 11 June 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/loliondo-land-saga-in-new-controversy-3845480>, accessed 20th August 2022.



Numerous reports indicate that the land dispute in Loliondo has a long history, dating back 30 years.⁴⁸⁵ At some point, the dispute has involved local communities, conservationists and the Ministry of Natural Resources and Tourism.⁴⁸⁶ However, the dispute has mostly coincided with the the arrival of Otterlo Business Corporation (OBC), an investor given a hunting block in Loliondo in 1992.⁴⁸⁷ It has been reported that the UAE-based company acquired an exclusive hunting permit for 4,000 square kilometres in Loliondo, with critics alleging that the firm has also been lobbying for 1500 square kilometres of the land cleared of human settlement for uninterrupted trophy hunting.⁴⁸⁸



Picture 4.16: Aerial view in Ngorongoro

Picture source: Mwananchi Newspaper

⁴⁸⁵ See Lucas Yamat & Pablo Manzano, Loliondo evictions: bad for people, conservation and pastoralism, PASTRES, 24 June 2022, at <https://pastres.org/2022/06/24/loliondo-evictions-bad-for-people-conservation-and-pastoralism/>, accessed 20th August 2022; “Tanzania spends millions to move, build new life in Tanga for Loliondo Maasai” The East African Newspaper (online), 26 June 2022, at <https://www.theeastafrican.co.ke/tea/news/east-africa/tanzania-relocates-loliondo-maasai-to-tanga-3860046>, accessed 20th August 2022.

⁴⁸⁶ Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism*, PASTRES, 24 June 2022.

⁴⁸⁷ Ibid.

⁴⁸⁸ “Tanzania spends millions to move, build new life in Tanga for Loliondo Maasai” The East African Newspaper (online), 26 June 2022, at <https://www.theeastafrican.co.ke/tea/news/east-africa/tanzania-relocates-loliondo-maasai-to-tanga-3860046>, accessed 20th August 2022.



In January 2022, reports of planned eviction of the Maasai population in the division emerged, as they did before in 2009, 2013, and 2017.⁴⁸⁹ It was reported that Maasai community leaders in Loliondo were told of the Government's 'tough' decision to remove the Maasai people from their 1500 km² area of village land any time in 2022.⁴⁹⁰ In June 2022, the Government started the removal of the Maasai people in the division, relocating them to Msomera in Tanga Region.

4.5.3.2. Maasai Case for Ancestral Land and Reaction to Removal from Land

Maasai claim of forceful eviction, resulting into loss of ancestral land

It has been widely reported in various media and other reports that the removal of the Maasai people in Loliondo amounts to forceful eviction, forcing them to cut ties with their ancestral land.⁴⁹¹ Some of the reports have gone as far as indicating that the Maasai pastoralists have legal recognition of this land and any attempts to evict them are unlawful, unjust and discriminatory under national law and the international human rights obligations and commitments of the Government of Tanzania.⁴⁹² Displacement of 70,000 Maasai people as well as loss of ancestral land/cultural heritage have been raised as key concerns.⁴⁹³ Some of the Maasai community members have also cited inability to effectively engage in the same economic activities in new lands that are far away from their ancestral lands. They have reportedly raised concerns over loss of livelihoods and extinction of the Maasai way of life.⁴⁹⁴

⁴⁸⁹ IWGIA, 70,000 Maasai in Loliondo, Tanzania, face another forceful eviction, 26 January 2022, at [HTTPS://WWW.IWGIA.ORG/EN/NEWS/4597-MAASAI-LOLIONDO-TANZANIA-FORCEFUL-EVICTION.HTML](https://www.iwgia.org/en/news/4597-maasai-loliondo-tanzania-forceful-eviction.html), accessed 20th August 2022.

⁴⁹⁰ Ibid; Amnesty International "Tanzania: Halt brutal security operation in Loliondo" at <https://www.amnesty.org/en/latest/news/2022/06/tanzania-halt-brutal-security-operation-in-loliondo/>, accessed 20th August 2022.

⁴⁹¹ ICCA "Alert: Maasai in Tanzania are being forcefully evicted from their ancestral lands" at <https://www.iccaconsortium.org/index.php/2022/06/12/tanzania-maasai-loliondo-ngorongoro-conservation-eviction/>, accessed 20th August 2022; IWGIA, 70,000 Maasai in Loliondo, Tanzania, face another forceful eviction, 26 January 2022, at [HTTPS://WWW.IWGIA.ORG/EN/NEWS/4597-MAASAI-LOLIONDO-TANZANIA-FORCEFUL-EVICTION.HTML](https://www.iwgia.org/en/news/4597-maasai-loliondo-tanzania-forceful-eviction.html), accessed 20th August 2022; IWGIA & IPRI, URGENT ALERT: Around 70,000 Maasai in Loliondo, Tanzania, face another forceful eviction, gross violation of human rights and breach of Rule of Law, 26 January 2022, at https://iprights.org/images/resources/downloadables/IWGIA_IPRI_Urgent_Alert_Loliondo_Tanzania_Jan_2022_ENG.pdf, accessed 20th August 2022;

⁴⁹² IWGIA, *70,000 Maasai in Loliondo, Tanzania, face another forceful eviction (supra)*.

⁴⁹³ CIVICUS LENS, TANZANIA: MAASAI PEOPLE RESIST FORCED EVICTIONS, 13 July 2022, at <https://lens.civicus.org/tanzania-maasai-people-resist-forced-evictions/>, accessed 20th August 2022.

⁴⁹⁴ Ibid.



Maasai claim of lack of meaningful participation/consultation

Some Maasai people and representatives have reportedly claimed that there was no meaningful participation of the Maasai community before their removal process commenced, accusing the Government of not making genuine efforts to consult them.⁴⁹⁵ For instance, in June 2022, it was reported that the Maasai people had submitted reports to the Government authorities a month earlier discuss the contested area, but the authorities moved ahead with the demarcation of the area without the locals being afforded the opportunity to respond.⁴⁹⁶ Other reports suggested that the authorities were unwilling to negotiate, claiming that the purported tourism and conservation benefits justify their decisions.⁴⁹⁷

Claims of disregard of injunction imposed by the East African Court of Justice

Numerous reports also indicated claims of the Government disregarding injunction imposed by the East African Court of Justice (EACJ) in 2018.⁴⁹⁸ It has been reported that in 2018, the EACJ granted an injunction prohibiting the Tanzanian Government from evicting Maasai communities from 1,500 square kilometers (580 square miles) of ancestral, legally registered land in the Loliondo division. The injunction placed a temporary block on relocation, pending a final court decision.

Maasai protest

Maasai protest were widely reported on mainstream and social media.⁴⁹⁹ There were videos and images which social media

⁴⁹⁵ UN Office of the High Commissioner for Human Rights, Tanzania: UN experts warn of escalating violence amidst plans to forcibly evict Maasai from ancestral lands, Press Release, 15 June 2022, at <https://www.ohchr.org/en/press-releases/2022/06/tanzania-un-experts-warn-escalating-violence-amidst-plans-forcibly-evict>, accessed 20th August 2022.

⁴⁹⁶ Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra).

⁴⁹⁷ CIVICUS LENS, TANZANIA: MAASAI PEOPLE RESIST FORCED EVICTIONS, 13 July 2022, at <https://lens.civicus.org/tanzania-maasai-people-resist-forced-evictions/>, accessed 20th August 2022.

⁴⁹⁸ “Loliondo land saga in new controversy” The Citizen Newspaper (supra); Laurel Sutherland “Tanzania, siding with UAE firm, plans to evict Maasai from ancestral lands” MONGABAY, 18 February 2022, at <https://news.mongabay.com/2022/02/tanzania-siding-with-uae-firm-plans-to-evict-maasai-from-ancestral-lands/>, accessed 20th August 2022; CIVICUS LENS, TANZANIA: MAASAI PEOPLE RESIST FORCED EVICTIONS, 13 July 2022, at <https://lens.civicus.org/tanzania-maasai-people-resist-forced-evictions/>, accessed 20th August 2022; Amnesty International “Tanzania: Halt brutal security operation in Loliondo” at <https://www.amnesty.org/en/latest/news/2022/06/tanzania-halt-brutal-security-operation-in-loliondo/>, accessed 20th August 2022.

⁴⁹⁹ “Loliondo land saga in new controversy” The Citizen Newspaper (online), 11 June 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/loliondo-land-saga-in-new-controversy-3845480>, accessed 20th August 2022; ICCA “Alert: Maasai in Tanzania are being forcefully evicted from their ancestral lands” at <https://www.iccaconsortium.org/index.php/2022/06/12/tanzania-maasai-loliondo-ngoron->



showed scenes of a Maasai community gathering to protest against the demarcation exercise in defense of their ancestral rights to the lands.⁵⁰⁰



Picture 4.17: Maasai gathering at Oloirien Village in protest against the decision to relocate them in June 2022

Picture source: Oakland Institute/Mongabay

Conservation argument questioned

Some of the critics of the Government's relocation stance have also poked holes on the conserving the environment argument. Some of them have branded the conservation argument a thinly veiled justification, given the primary motivations of foreign investment and hunting operations,⁵⁰¹ while others have argued that the "eviction" is not the answer to conserving the environment and that wild ecosystems do not exist in isolation.⁵⁰²

[goro-conservation-eviction/](#), accessed 20th August 2022.

⁵⁰⁰ Ibid.

⁵⁰¹ ICCA Consortium "Alert: Maasai in Tanzania are being forcefully evicted from their ancestral lands" at <https://www.iccaconsortium.org/index.php/2022/06/12/tanzania-maasai-loliondo-ngorongoro-conservation-eviction/>, accessed 20th August 2022.

⁵⁰² Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra).



Response of international actors, including the UN

International actors and stakeholders, including the United Nations (UN), also expressed concerns over situation in Ngorongoro. On 15th June 2022, the United Nations (UN) human rights experts issued a statement on the Loliondo saga, expressing concerns over human rights violations and highlighting violation of the free, prior and informed consent, as required under international human rights law and standards.⁵⁰³ The experts also stated that it seemed impossible to guarantee that the relocation exercise did not amount to forced evictions and arbitrary displacement under international law.⁵⁰⁴ Their statement further indicated that they were “concerned at Tanzania’s plans to displace close to 150,000 Maasai from the Ngorongoro Conservation Area and Loliondo without their free, prior and informed consent, as required under international human rights law and standards. They called upon the Government “to immediately halt plans for relocation of the people living in Loliondo and the Ngorongoro Conservation Area and begin consultations with the Maasai Indigenous Peoples, including direct contact with the Ngorongoro Pastoral Council, to jointly define current challenges to environmental conservation and best avenues to resolve them, while maintaining a human rights-based approach to conservation.” They also urged the Tanzanian authorities to demonstrate transparency by accepting requests for external scrutiny, including responding to country visit requests by the UN Special Rapporteur on the Right to Adequate Housing and the UN Special Rapporteur on the Rights of Indigenous Peoples.⁵⁰⁵

Amnesty International, an international human rights advocacy NGO, called for the Government to halt demarcation and security operation in Loliondo and “ensure there are sufficient remedies offered to all affected persons and investigate the appalling violence.”⁵⁰⁶ It also called on Tanzanian authorities to end the security operation and suspend any land acquisition plans until the community has given their free, prior and

⁵⁰³ UN Office of the High Commissioner for Human Rights, Tanzania: UN experts warn of escalating violence amidst plans to forcibly evict Maasai from ancestral lands, Press Release, 15 June 2022, at <https://www.ohchr.org/en/press-releases/2022/06/tanzania-un-experts-warn-escalating-violence-amidst-plans-forcibly-evict>, accessed 20th August 2022.

⁵⁰⁴ Ibid.

⁵⁰⁵ Ibid.

⁵⁰⁶ Amnesty International “Tanzania: Halt brutal security operation in Loliondo” at <https://www.amnesty.org/en/latest/news/2022/06/tanzania-halt-brutal-security-operation-in-loliondo/>, accessed 20th August 2022.



informed consent in genuine consultations.⁵⁰⁷ Other actors urged the Government to consider the community proposals and recommendations outlined in their reports, to ensure the interests of nature conservation and livelihoods are balanced.⁵⁰⁸

Some of the Maasai people reportedly happy with relocation

Various local media outlets reported that some of the Maasai people happily relocated to Tanga given the promise of better life and social services.⁵⁰⁹ Educational and health facilities have been reportedly built, in addition to provision of houses and farm or grazing land, to make life more amenable in Msomera.⁵¹⁰

4.5.3.3. Government's Position

Relocation, not eviction - essential for conservation

Throughout this saga, the Government has maintained its position that what has been happening in Loliondo division is not eviction, but rather relocation for purposes of conservation.⁵¹¹ The Prime Minister, Hon. Kassim Majaliwa, has reiterated that the Government was planting beacons to demarcate the 1,500 square kilometre conservation area in Loliondo from the part allocated for human activities.⁵¹² The Government has also maintained that relocation of the Maasai pastoralists seeks to achieve conservation for the best interests of the nation at large, amid growing populations of people and livestock.⁵¹³

Better life awaits in Tanga

There have been reports by the government and various media sources of investment done by the Government in Msomera Village in Tanga, to facilitate smooth relocation of the Maasai people removed from Ngorongoro District.⁵¹⁴ On 26th June 2022,

⁵⁰⁷ Ibid.

⁵⁰⁸ Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra).

⁵⁰⁹ Damas Kanyabwoya "Why It's Important for Government to Allow Free Flow of Information in the Ongoing Ngorongoro Saga" The Chanzo Initiative, 14 June 2022, at <https://thechanzo.com/2022/06/14/why-its-important-for-government-to-allow-free-flow-of-information-in-the-ongoing-ngorongoro-saga/>, accessed 20th August 2022.

⁵¹⁰ Ibid.

⁵¹¹ "Loliondo land saga in new controversy" The Citizen Newspaper (online), 11 June 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/loliondo-land-saga-in-new-controversy-3845480>, accessed 20th August 2022.

⁵¹² Ibid.

⁵¹³ Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra); "Tanzania spends millions to move, build new life in Tanga for Loliondo Maasai" The East African Newspaper (online), 26 June 2022, at <https://www.theeastafrican.co.ke/tea/news/east-africa/tanzania-relocates-loliondo-maasai-to-tanga-3860046>, accessed 20th August 2022.

⁵¹⁴ "Tanzania spends millions to move, build new life in Tanga for Loliondo Maasai" The East African Newspaper (online), 26 June 2022, *ibid*.



it was reported by one media outlet that more than 200 people had been moved to the village, located 600 kms away from their ancestral land in Loliondo division. Among the measures taken by the government in Msomera is construction of houses and infrastructure, as well as renovation of schools.⁵¹⁵ The government plan in the area also includes provision of better social services and grazing land. For locals in Msomera, the government investment in their ‘backward place’ to facilitate arrival of the Maasai people has been seen as a blessing and a welcome development.

People with bad intentions spreading lies

The Government has also accused some people with bad intentions, including activists, of “spreading lies and misleading information” about the situation in Ngorongoro, especially Loliondo.⁵¹⁶ In June, the Prime Minister debunked a video clip and images circulating on social media depicting a confrontation between the indigenous Maasai pastoralists and the police, and the Speaker of the National Assembly, Hon. Tulia Ackson (MP), urged the government to take action against people “spreading lies” about the situation in Ngorongoro.⁵¹⁷ She suggested that the Loliondo saga was part of an ‘economic war’ against Tanzania by other countries.⁵¹⁸

4.5.3.4. Allegations of Human Rights Violations and Involvement of OBC

Reports of human rights violations

Several allegations of human rights violations have been widely reported locally and internationally, including excessive use of force during removal of those who have refused to voluntarily relocate to Msomera.⁵¹⁹ Other reported incidents of human

⁵¹⁵ Ibid.

⁵¹⁶ “Loliondo land saga in new controversy” The Citizen Newspaper (supra); Damas Kanyabwoya “Why It’s Important for Government to Allow Free Flow of Information in the Ongoing Ngorongoro Saga” The Chanzo Initiative, 14 June 2022, at <https://thechanzo.com/2022/06/14/why-its-important-for-government-to-allow-free-flow-of-information-in-the-ongoing-ngorongoro-saga/>, accessed 20th August 2022.

⁵¹⁷ Ibid.

⁵¹⁸ Ibid.

⁵¹⁹ ICCA Consortium “Alert: Maasai in Tanzania are being forcefully evicted from their ancestral lands” (supra); Damas Kanyabwoya “Why It’s Important for Government to Allow Free Flow of Information in the Ongoing Ngorongoro Saga” (supra); Amnesty International “Tanzania: Halt brutal security operation in Loliondo” (supra); Lucas Yamat & Pablo Manzano, Loliondo evictions: bad for people, conservation and pastoralism (supra); IWGIA, 70,000 Maasai in Loliondo, Tanzania, face another forceful eviction, 26 January 2022, at [HTTPS://WWW.IWGIA.ORG/EN/NEWS/4597-MAASAI-LOLIONDO-TANZANIA-FORCEFUL-EVICTION.HTML](https://www.iwgia.org/en/news/4597-maasai-loliondo-tanzania-forceful-eviction.html), accessed 20th August 2022; Laurel Sutherland “Tanzania, siding with UAE firm, plans to evict Maasai from ancestral lands” MONGABAY, 18 February 2022, at <https://news.mongabay.com/2022/02/tanzania-siding-with-uae-firm-plans-to-evict-maasai-from->



rights violations include arbitrary arrests and detention, malicious prosecution, denial of legal representation and family access for detainees, extortion, harassment, and intimidation.⁵²⁰

Security officers were accused of using massive force to deal with protesters, resulting into injuries.⁵²¹ More than 30 people were reportedly injured and one man reportedly died of his injuries after confrontations in June. Some reports indicate that dozens of people were detained without charge, including ruling party CCM district chairperson.⁵²² Some were charged with conspiracy to commit murder and causing the death of the police officer.⁵²³ The Government has denied involvement of law enforcement officers in any reported human rights violations in the division.

Claims of OBC being behind the relocation of Maasai people by Maasai community members and international organizations

Allegations have also been made by some Maasai representatives and critics from outside Tanzania, including human rights stakeholders, that the OBC hunting and tourism company is the one which has been pushing for removal of the Maasai people from their ancestral lands,⁵²⁴ although the company has refuted these claims and reiterated its good intentions in Ngorongoro District.⁵²⁵ For instance, it was reported that in February 2022, the Maasai of Loliondo called out for support through a petition to the Government of Tanzania following threats of evictions from their lands, purportedly to create a game reserve to be controlled by OBC, which runs hunting excursions for the United Arab Emirates' royal family and guests.⁵²⁶

[ancestral-lands/](#), accessed 20th August 2022; CIVICUS LENS, TANZANIA: MAASAI PEOPLE RESIST FORCED EVICTIONS (supra).

⁵²⁰ Ibid.

⁵²¹ Amnesty International "Tanzania: Halt brutal security operation in Loliondo" (supra).

⁵²² Ibid.

⁵²³ ICCA Consortium "Alert: Maasai in Tanzania are being forcefully evicted from their ancestral lands" (supra); Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra).

⁵²⁴ IWGIA, *70,000 Maasai in Loliondo, Tanzania, face another forceful eviction*, 26 January 2022, at [HTTPS://WWW.IWGIA.ORG/EN/NEWS/4597-MAASAI-LOLIONDO-TANZANIA-FORCEFUL-EVICTION.HTML](https://www.iwgia.org/en/news/4597-maasai-loliondo-tanzania-forceful-eviction.html), accessed 20th August 2022; Laurel Sutherland "Tanzania, siding with UAE firm, plans to evict Maasai from ancestral lands" (supra); Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra); CIVICUS LENS, *TANZANIA: MAASAI PEOPLE RESIST FORCED EVICTIONS* (supra); "KAMPUNI YA OBC YAHUSISHWA MGOGORO WA LOLIONDO" Arusha Press Club, at <https://arushapressclub.blogspot.com/2022/06/kampuni-ya-obc-yahusishwa-mgogoro-wa.html>, accessed 20th August 2022.

⁵²⁵ "Baada ya miaka 20, maridhiano yasakwa Loliondo" Mwananchi Newspaper (online) 2 January 2015, at <https://www.mwananchi.co.tz/mw/habari/habari-ya-ndani/baada-ya-miaka-20-maridhiano-yasakwa-loliondo-2777228>, accessed 20th August 2022,

⁵²⁶ ICCA Consortium "Alert: Maasai in Tanzania are being forcefully evicted from their ancestral lands"



They reportedly made a similar statement in Nairobi, Kenya, during the fourth round of negotiations on the post-2020 global biodiversity framework.⁵²⁷ Critics have claimed that the UAE-based company seeks to create a wildlife corridor for trophy hunting and elite tourism.⁵²⁸ A report by Arusha Press Club, based in Arusha Region, also shows that some villagers in Loliondo had accused OBC of pushing to evict them so that they can use the area for hunting, a source of their 30-year-old land dispute with the company.⁵²⁹

4.5.3.5. LHRC's View

Whether investment-related or not, the Loliondo land saga benefits no one and it is imperative that all voices are heard so that an amicable solution is found. The principle of Free, Prior, Informed Consent (FPIC) is very important to guarantee meaningful participation and consultation of community members in case of land acquisition for investment and other purposes. In LHC's view, the Government did not make enough efforts to adhere to this principle, something it should consider doing better in this and other future cases of land acquisition. It is imperative that the Government works with civil society, conservationists, human rights experts, and communities to plan management and utilization of natural resources in Loliondo and other contested areas in Tanzania to safeguard human rights and prevent future land disputes and conflicts. The human rights-based approach to land acquisition requires consideration of views and concerns of community members, and in this case balancing the need for conservation and the needs of affected communities. The human-rights based approach to development also requires Governments to refrain from and prevent human rights violations while conducting operations.

4.5.4. Effectiveness of Land Dispute Settlement Mechanisms

Survey respondents in different regions that were surveyed were asked to give their views on the effectiveness of land dispute settlement mechanisms. Majority of them indicated that they were mechanisms are not effective enough to address land disputes in the community. They raised the following issues and concerns regarding the land dispute settlement mechanisms:

(supra); Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra).

⁵²⁷ Ibid.

⁵²⁸ Laurel Sutherland "Tanzania, siding with UAE firm, plans to evict Maasai from ancestral lands" (supra).

⁵²⁹ KAMPUNI YA OBC YAHUSISHWA MGOGORO WA LOLIONDO" Arusha Press Club (supra).



- Lack of capacity among the members of village and ward land tribunals: This was raised as a concern in most of the surveyed regions. Lack of regular training was cited as a contributing factor. Kilosa District Land and Housing Tribunal Chairperson said, *'In truth, there is a challenge, especially for workers of village and ward land tribunals, because they are not educated enough. At least the law should require a law school graduate to be chairperson.'*
- Corruption: This was raised as an issue in all surveyed regions.
- Shortage of funds/insufficient budget:
- Length of dispute settlement: Duration of dispute settlement was also cited as an issue of concern for community members.
- Poor infrastructure/buildings in bad condition: This was reported as an issue in regions such as Dodoma, Morogoro, and Shinyanga particularly for the case of village and ward land tribunals
- Political interference: This was raised as a concern in some of the regions, including Shinyanga.
- Non-implementation of decisions of councils and tribunals: Sometimes district authorities tend to disregard/disrespect and not implement decisions of village and ward land tribunals, and in some cases District Land and Housing Tribunal

4.6. 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 2021/22 are compared with those of the year 2020/21.



Table 4.2: Comparison of some of the key performance indicators on land rights and standards

| Land Rights Standard | Performance Indicators | |
|--|---|---|
| | 2020/21 | 2021/22 |
| Meaningful participation in land acquisition process | <ul style="list-style-type: none"> 21% of the respondents said community members were involved in the land acquisition process, 71% said they were not involved in the process, and 8% said they were not sure. | <ul style="list-style-type: none"> Only just above a quarter of the respondents (28.4%) said there is meaningful community participation |
| Compensation | <ul style="list-style-type: none"> 16% said compensation is fair but not timely, 6% said the compensation is unfair but timely, 11% said there is no compensation granted at all. While 5% said the compensation is fair and timely, 63% were not sure whether compensation is granted and timely. | <ul style="list-style-type: none"> 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 is fair but untimely. 16% said compensation granted fair but untimely. 9% said compensation is unfair but timely |
| Access to unutilized land | <ul style="list-style-type: none"> 71% of the community members said that they are not allowed to access the unutilized land, 11% said they are allowed to access the land while 18% were not sure if they were allowed or not. | <ul style="list-style-type: none"> 19.8% 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. |



CHAPTER FIVE

BUSINESS COMPLIANCE WITH TAX OBLIGATIONS

5.1. Introduction

5.1.1. Taxation as a Human Rights Issue

In response to the growing impact of business activities on the enjoyment of economic, social and cultural rights,⁵³⁰ 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.”⁵³¹ 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.”⁵³² 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.”⁵³³ CESCR further reminds states that in order to combat corporate tax abuses, they should combat transfer pricing practices and deepen international tax cooperation.⁵³⁴

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 ability of the Government to meet its human rights

⁵³⁰ 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.

⁵³¹ 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, accessed 19th April 2022.

⁵³² Ibid, para 37.

⁵³³ Ibid, para 10.

⁵³⁴ Ibid, para 37.



obligations. Taxation plays a crucial part in realization of human rights,⁵³⁵ especially economic, social and cultural rights. It is essential for achieving economic growth⁵³⁶ as one of the major sources of government revenue.

5.1.2. Legal, Policy and Institutional Framework on Taxation

Tanzania has in place legal and institutional taxation frameworks, which have been reformed over the years to improve taxation system and revenue collection. There are various tax laws, including the Income Tax Act,⁵³⁷ the Value Added Tax Act,⁵³⁸ Stamp Duty Act⁵³⁹ and the Tanzania Revenue Authority Act.⁵⁴⁰ The Tanzania Revenue Authority Act, revised in 2019, establishes the Tanzania Revenue Authority (TRA), which is the main body tasked with administration of tax in Tanzania, revenue collection being among its key functions. In the mining sector, the Mining Act also contains tax-related provisions. TRA performs the several key functions, including: to administer and give effect to the laws or the specified provisions of the laws on assessment, collection, and accounting for revenue; to monitor, oversee, coordinate activities and **ensure fair, efficient and effective administration of revenue laws** by revenue departments in the jurisdiction of the Union Government; to monitor and ensure collection of fees, levies, charges or any other tax collected by any Ministry, Department or Division of the Government; and **to promote voluntary tax compliance to the highest degree possible.**⁵⁴¹ There are various types of taxes paid in Tanzania, including P.A.Y.E, withholding tax, excise duty, import duty, stamp duty, income tax for individuals, corporate tax and VAT. This chapter focuses on taxes paid by businesses, including corporate tax.

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,

⁵³⁵ 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 19th April 2022.

⁵³⁶ See Actionaid, *Tax responsibility: The business case for making tax a corporate responsibility issue* at

⁵³⁷ CAP 332, R.E 2008.

⁵³⁸ Act No. 5 of 2014.

⁵³⁹ CAP 189, R.E 2006.

⁵⁴⁰ Act No. 11 of 1995.

⁵⁴¹ Section 5 of the The Tanzania Revenue Authority Act [CAP. 399 R.E 2019].



associations and other unincorporated bodies.”⁵⁴² 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).⁵⁴³ Businesses are required to estimate taxable income for the year and pay tax on that income in four quarterly installments.

5.2.1. Revenue Collection Trends

Despite the setback caused by the COVID-19 pandemic, progress in revenue collection has been reported to be steady, with TRA making significant progress in revenue collection from collecting an average of Tshs. 850 billion per month in 2015/16 to Tshs. 1.3 trillion per month in 2019/20.⁵⁴⁴ Overall, revenue collected by TRA has increased from Tshs. 9.9 trillion in 2014/15 to Tshs. 17.6 trillion in 2020/21.⁵⁴⁵

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.⁵⁴⁶ In December 2021, the revenue collection body had reportedly Tshs. 2.3 trillion, setting a record in Tanzania’s revenue collection history, and in March 2022, it was reported that Tshs. 2.06 trillion had been collected, above the Tshs. 1.98 trillion target that was set.⁵⁴⁷ Speaking to the media in April 2022, the TRA Commissioner General, Mr. Aphayo Kidata, stated that the success in revenue collection was mainly attributed to willingness to pay taxes, improved relations between TRA and taxpayers, timely resolving of issues (handling of taxpayer complaints) and the current growth of business and economic activities in the country.⁵⁴⁸

In terms of corporate taxes, trends show that corporate taxes collected has significantly increased in the past seven years, increasing from

⁵⁴² See TRA “What is Corporation Tax?” at <https://www.tra.go.tz/index.php/corporation-tax/108-what-is-a-corporation-tax>, accessed 19th April 2022.

⁵⁴³ Victor Mrema “Taxation System in Tanzania” at <https://beakolaw.co.tz/taxation-system-in-tanzania/>, accessed 8th August 2022.

⁵⁴⁴ See Policy Forum’s Tax Justice Working Group Position Statement on the 2021/2022 National Budget, at <https://www.thecitizen.co.tz/tanzania/supplement/policy-forum-s-tax-justice-working-group-position-statement-on-the-2021-2022-national-budget-3421988>, accessed 8th August 2022.

⁵⁴⁵ TRA, Tax collection statistics, at <https://www.tra.go.tz/index.php/tax-collection-statistics>, accessed 8th August 2022.

⁵⁴⁶ 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 8th August 2022.

⁵⁴⁷ Ibid.

⁵⁴⁸ Ibid; “Tanzania Tax Collection Reaches Record During First 3 Quarters of FY 2021/22” TanzaniaInvest, 4 April 2022, at <https://www.tanzaniainvest.com/economy/tra-tax-collection-first-three-quarters-fy-2021-2022#:~:text=In%20addition%2C%20in%20March%202022,it%20collected%20TZS%201.67%20Trillion.>, accessed 8th August 2022.



Tshs. 1.18 trillion in the financial year 2014/15 to Tshs. 2.57 trillion in 2019/20.⁵⁴⁹ There was 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 the good thing is that it is still above the Tshs. 2 trillion mark, first achieved in the previous financial years, as shown in Figure 5.1 below.



Figure 5.1: Amount of corporate taxes collected in Tanzania Mainland from the financial years 2014/15 to 2020/21 (million Tshs.)

Source: TRA Tax collection statistics

5.3. Tax Obligations and Fairness: Perceptions of Companies and Small Business Owners

Survey respondents at the surveyed business enterprises were asked whether they perceive taxes imposed by the Government to be affordable or fair. 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. In comparison with the previous survey, the percentage of business owners who perceive taxes imposed by the Government to be affordable/fair has decreased by 8.3%.

⁵⁴⁹ TRA, Tax collection statistics, at <https://www.tra.go.tz/index.php/tax-collection-statistics>, accessed 8th August 2022.



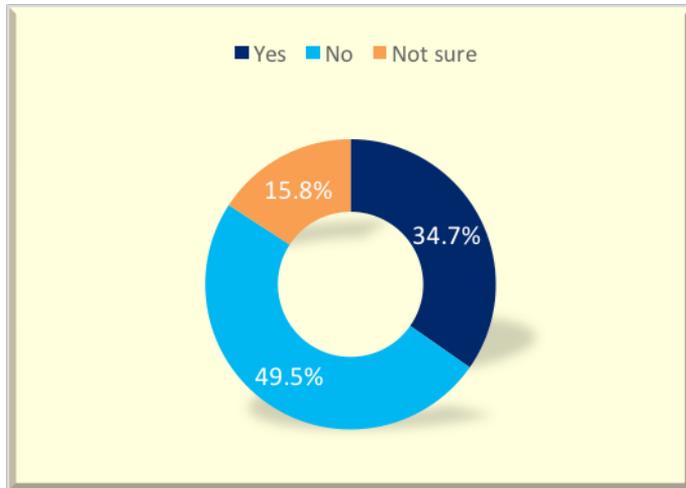


Figure 5.2: %Responses of businesses on whether taxes imposed by the Government are affordable/fair

As shown in Figure 5.2 above, majority of business owners, including small businesses such as shops, were not happy with the taxes they pay, perceiving the amount they pay to be unfair. When interviewed, majority of them mentioned multiplicity of taxes, collected by TRA and LGAs, as a key concern. This concern was expressed by corporate management officials in nearly all surveyed regions, especially Dar es Salaam, Pwani, Morogoro, Mwanza, Shinyanga, Mara, Iringa, and Mbeya. In Pwani, among the workplaces where such concern was raised are **CPL 'T' Grain Processing and Storage Co. Ltd** and **Coast Concrete Poles**. At the latter company, a corporate management official said it was difficult for them as investors to do business because of existence of multiple taxation.⁵⁵⁰ In Morogoro, an official at **WhatsAfrica Ltd** also claimed the taxes imposed by TRA and LGA to be too many and called for the Government to reconsider them.⁵⁵¹ At **Flomi Hotel**, one official said, **'We pay VAT, and at the same time we have to pay bed night levy, not to mention other levies imposed by the LGA.'**

In Mwanza and Mara, complaints about taxes were mainly made by hotel owners and small industries, whereby business owners complained about having to pay too much tax.⁵⁵² One of them said, **'As you can see, our industry is still young, but we pay high tax, we request the Government to consider us so that we can also make profit.'**

⁵⁵⁰ Human Rights and Business Survey 2022: Pwani Field Report.

⁵⁵¹ Human Rights and Business Survey 2022: Morogoro Field Report.

⁵⁵² Human Rights and Business Survey 2022: Mwanza Field Report; Human Rights and Business Survey 2022: Mara Field Report.



At **Chai Bora Company** in Iringa, a corporate management official who responded to the survey pointed out that initially VAT was not imposed on tea but has since been introduced and increased tax expenses.⁵⁵³ He called upon the Government to reduce taxes to improve business environment. At **Iringa Food and Beverage Ltd**, a management official also expressed concern over taxes, especially increased taxation on sweets. He said, *'The taxes are not fair at all. They are too high, and they have also increased tax on sweets, while it is the sweets which give value to one hundred shillings. Is there any product which costs less? We are the ones who make products that give value to coins. I was at the Parliament yesterday regarding this increased tax. They should also think about us, as we provide jobs in the community.'*

Some of the survey respondents recommended for some taxes to be scrapped or combined. For instance, in Mara, a hotel owner recommended for bed night levy to be scrapped and maybe only imposed on tourist hotels in or around national parks.⁵⁵⁴ Another respondent recommended for Fire and OSHA levies to be combined. In Iringa, a survey respondent at **Lumilo Classical Hotel and Tours** also recommended some of the taxes to be combined to reduce inconvenience and time wasting in tax payment.⁵⁵⁵ A similar claim was made by an official at **Ally Rich Company** in Mbeya⁵⁵⁶ and at **Xinghao Group Ltd** in Tanga.⁵⁵⁷

Some of the corporate management officials that were interviewed, including in Dar es Salaam, told the survey team that despite being financially hit by the COVID-19 pandemic and suffering losses, they were still required to pay the same amount of taxes.⁵⁵⁸ Other surveyed respondents, especially in Mara, also complained about harsh or unfriendly treatment by tax collectors.⁵⁵⁹ This issue of harsh treatment has also been observed by Policy Forum's Tax Justice Working Group (TJWG), in statement issued in June 2022.⁵⁶⁰ One of the recommendations provided by TJWG in this regard is for TRA and LGAs to ensure revenue collection is conducted in a more customer friendly manner, calling for government officials to refrain from use of threats and coercion.

⁵⁵³ Human Rights and Business Survey 2022: Iringa Field Report.

⁵⁵⁴ Human Rights and Business Survey 2022: Mara Field Report.

⁵⁵⁵ Human Rights and Business Survey 2022: Iringa Field Report.

⁵⁵⁶ Human Rights and Business Survey 2022: Mbeya Field Report.

⁵⁵⁷ Human Rights and Business Survey 2022: Tanga Field Report.

⁵⁵⁸ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

⁵⁵⁹ Human Rights and Business Survey 2022: Mara Field Report.

⁵⁶⁰ See Policy Forum's Tax Justice Working Group Position Statement on the 2021/2022 National Budget, at <https://www.thecitizen.co.tz/tanzania/supplement/policy-forum-s-tax-justice-working-group-position-statement-on-the-2021-2022-national-budget-3421988>, accessed 8th August 2022.



In some of the surveyed regions, some of the respondents also expressed concern over how the tax revenue collected is being used. They noted that they had not seen much in terms of how the tax collected has translated into better infrastructure and provision of social services such as water services.⁵⁶¹ In Mbeya, some of the corporate management officials also called upon the Government to reduce the percentage of P.A.Y.E, imposed on employees.⁵⁶²

5.4. Key Issues and Challenges in Revenue Collection

5.4.1. Tax avoidance and evasion

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”, and others.⁵⁶³ According to the UN Practical Manual on Transfer Pricing for Development Countries, transfer pricing refers to setting of prices for transactions between associated enterprises involving the transfer of property or services.⁵⁶⁴ It is “the general term for the pricing of cross-border, intra-firm transactions between related parties.”⁵⁶⁵ A good example is when Company A sells equipment to Company B, the latter being a subsidiary company (affiliated to Company A).

Despite the positive trends in revenue collection, including collection of corporate taxes, revenue loss caused by tax avoidance and evasion continue to be challenges in Tanzania. In November 2021, the Tax Justice Network⁵⁶⁶ published *The State of Tax Justice 2021 Report*, which shows that countries across the globe are losing a total of \$483 billion in tax a year to global tax abuse committed by multinational corporations and wealthy individuals.⁵⁶⁷ In Tanzanian context, the

⁵⁶¹ Human Rights and Business Survey 2022: Mbeya Field Report.

⁵⁶² Ibid.

⁵⁶³ 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 20th August 2022.

⁵⁶⁴ United Nations (2013), *United Nations Practical Manual on Transfer Pricing for Developing Countries*, Department of Economic and Social Affairs, p. 2.

⁵⁶⁵ Ibid.

⁵⁶⁶ 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.

⁵⁶⁷ 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, accessed 8th August 2022.



report shows that the country lost \$212,803,177 in tax every year to global tax abuse, which is equal to 3.7% of tax revenue and equivalent to \$4 per member of population.⁵⁶⁸ The revenue lost is greater than the global average revenue loss (2.9%) but less than the regional average tax revenue loss of 4.3%.

When the lost revenue was broken down, it was revealed that Tanzania lost \$193 million to global tax abuse committed by multinational corporations and \$20million to tax evasion committed by private individuals.⁵⁶⁹ In terms of social impact of lost tax, the report shows that tax loss is enough to fully vaccinate 12,372,278 people (23.26%) against Covid-19 and equivalent to 30.06% of the health budget.⁵⁷⁰

According to Tax Justice Network, corporate tax abuse by large and multinational corporations undermines tax morale and compliance throughout the society, with smaller businesses wondering why they should fully meet their tax obligations while the larger ones benefit from tax abuse, including cross-border tax abuse.

Other reports have suggested that African countries lose at least \$50 billion in taxes, more than the amount of foreign development aid.⁵⁷¹ Multinational corporations, especially in the energy and resource sectors, have been accused of leading in tax abuse, followed by small and medium-sized enterprises, including safari organizers in countries such as Kenya, Tanzania, South Africa and even Egypt.⁵⁷² International companies extracting gas and minerals in Tanzania and Mozambique have been said to pay very little taxes and using subsidiaries tax haven countries to avoid and/or evade taxes.

Tax evasion methods among medium-sized and small businesses in Dar es Salaam

The survey in Dar es Salaam, especially in Kariakoo, found that businesses owners use various method to evade taxes. One of the methods using one receipt to deliver more than one product.⁵⁷³ Another method is issuing delivery invoice instead of providing EFD receipt when delivering items.⁵⁷⁴ One of the survey respondents at in

⁵⁶⁸ Ibid; Tax Justice Network, Country Profiles: Tanzania, at <https://taxjustice.net/country-profiles/tanzania/>, accessed 8th August 2022.

⁵⁶⁹ Ibid.

⁵⁷⁰ Tax Justice Network, Country Profiles: Tanzania (supra).

⁵⁷¹ Antonio Cascais "Africa's problem with tax avoidance" DW, 17 June 2021, at <https://www.dw.com/en/africas-problem-with-tax-avoidance/a-48401574>, accessed 8th August 2022.

⁵⁷² Ibid.

⁵⁷³ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

⁵⁷⁴ Ibid.



Kariakoo trade area also told the survey team that there is a group of youth who ‘buy’ used receipts and return them to shops so that they can be used for other items/products sold to customers. This way, some business owners report less percentage of sales (under-reporting of company sales) for purposes of tax. Another method, which is usually used by large businesses, including in the extractives sector, is overstating losses.

5.4.2. Tax haven and incentives

Another way through which revenue is lost in Tanzania is through tax haven and incentives. This issue has been discussed in various CAG reports. A 2021 report on tax justice by Tax Justice Network Africa (TJNA), **Corporate Tax Haven Index⁵⁷⁵ (CTHI 2021)**, shows that Tanzania is among 70 countries in the world which allow multinational corporations to underpay corporate income tax, responsible for 0.1% of the world’s corporate tax abuse risks,⁵⁷⁶ leading to lower revenue collections. According to the report, Tanzania is ranked 65th in terms of how much scope for corporate tax abuse its tax and financial systems allow, with the heaven score of 48/100.⁵⁷⁷

Regarding tax incentives, Tanzania has been known as one of the countries in Africa that provide generous tax incentives in a bid to boost investment. The incentives include tax exemptions, which constitute a significant portion of the Gross Domestic Product (GDP), usually worth billions of Tanzanian shillings. Recent CAG reports have attested to this, indicating “unreasonable incentives in tax” for investment companies.⁵⁷⁸ Major beneficiaries of tax exemptions are multinational investors which possess certificates of incentives from the Tanzania Investment Centre (TIC).⁵⁷⁹

Tax incentives are provided in the name of attracting foreign direct investment (FDI), including in mining, petroleum, agriculture, and Export Processing Zones.⁵⁸⁰ However, it has been argued that

⁵⁷⁵ The Corporate Tax Haven Index is a ranking of jurisdiction most complicit in helping multinational corporations underpay corporate income tax. The Corporate Tax Haven Index thoroughly evaluates each jurisdictions tax and financial systems to create a clear picture of the world’s greatest enablers of global corporate tax abuse, and to highlight the laws and policies that policymakers can amend to reduce their jurisdiction’s enabling of corporate tax abuse.

⁵⁷⁶ Tax Justice Network Africa (TJNA), **Corporate Tax Haven Index – 2021**, at <https://cthi.taxjustice.net/cthi2021/country-list.pdf>, accessed 2nd June 2021.

⁵⁷⁷ Ibid.

⁵⁷⁸ CAG Report 2015/2016.

⁵⁷⁹ Twaweza, **Tanzania’s Tax Exemptions: Are they too high and making us too dependent on foreign aid?**, Policy brief TZ.12/2010E, at <https://twaweza.org/uploads/files/Tax%20Exemptions.PDF>, accessed 12th Jun 2022.

⁵⁸⁰ See Victor Mrema, **Taxation System in Tanzania**, at <https://beakolaw.co.tz/taxation-system-in-tanzania/>, accessed 8th August 2022; Mark Curtis, **The One Billion Dollar Question: How can**



countries that have been most successful in attracting FDI have not offered large tax or other incentives, but rather due to good quality infrastructure, low administrative costs of setting up and running businesses, political stability and predictable macro-economic policy.⁵⁸¹ Regional tax competition among the East African Countries, especially Tanzania, Kenya, and Uganda, has also contributed to the situation of tax incentives, due to pressure to offer incentives to attract more FDI.

5.4.3. Illicit financial flows

Illicit financial flows refer to transfers of money from one country to another that are forbidden by law, rules or custom.⁵⁸² Such flows deprive public budgets of available resources and increase dependency on foreign aid to support national budgets.⁵⁸³ They describe movement of money that is legally acquired, transferred or spent across borders.⁵⁸⁴ The sources of funds of the transfers are mainly: corruption, such as bribery and theft by government officials; criminal activities, such as drug trading and human trafficking; and tax evasion and transfer mispricing.⁵⁸⁵

According to the *The State of Tax Justice 2021 Report*, in terms of vulnerability to illicit financial flows, Tanzania is most vulnerable to outward trade (electronics) and vulnerability score is 64/100 (100 being worst).⁵⁸⁶ Trading partners most responsible for vulnerability are Kenya, China, and Rwanda.

5.4.4. Narrow tax base

Over the years, concerns have been raised over Tanzania's pool of taxpayers, which has been considered to be small and burdening few Tanzanians,⁵⁸⁷ especially in the formal sector. Repeated calls have been made to expand the tax base, most recent in the wake of presentation of the 2022/23 national budget in Parliament.⁵⁸⁸ The narrow tax base

Tanzania Stop Losing So Much Tax Revenue, Interfaith Standing Committee on Economic Justice and the Integrity of Creation, June 2012, at <https://www.kirkensnodhjelp.no/contentassets/eee95927f11a440281a902c8cd6b1c35/one-billion-dollar-question.pdf>, accessed 8th August 2022.

⁵⁸¹ Mark Curtis, *The One Billion Dollar Question: How can Tanzania Stop Losing So Much Tax Revenue*, Interfaith Standing Committee on Economic Justice and the Integrity of Creation, June 2012.

⁵⁸² Global Alliance for Tax Justice, Public Services International and Tax Justice Network, *The State of Tax Justice 2021* (supra).

⁵⁸³ Ibid.

⁵⁸⁴ See Transparency International "Illicit Financial Flows" at <https://www.transparency.org/en/corruption/illicit-financial-flows>, accessed 8th August 2022.

⁵⁸⁵ Ibid.

⁵⁸⁶ Tax Justice Network, Country Profiles: Tanzania (supra).

⁵⁸⁷ See Victor Mrema, *Taxation System in Tanzania*, at <https://beakolaw.co.tz/taxation-system-in-tanzania/>, accessed 8th August 2022.

⁵⁸⁸ "Why Tanzania needs to expand its tax base" The Citizen Newspaper (online), 13 June 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/why-tanzania-needs-to-expand-its-tax-base-3846894>,



reduces potential for revenues and creates more dependency on a small section of the society.⁵⁸⁹ Despite accounting for nearly 50% of GDP and more than a half of the workforce, the informal sector remains largely untaxed,⁵⁹⁰ despite efforts to increase tax base in recent years.

5.4.5. Gaps in the management of revenue collection in the mining sector

The CAG report on management of mechanisms for revenue collection in the mining sector, released in February 2022, shows that there are several gaps in the management of revenue collection in the mining sector.⁵⁹¹ These gaps include inadequate mechanisms to ensure effectiveness of the model for revenue collection; ineffective procedures for mineral valuation, whereby the Mining Commission was found to have inadequate resources to enable effective valuation; and inadequate monitoring of the taxable income in the mining activities, contributed by resource capacity constraints compared to the available number of mining companies.⁵⁹²

5.4.6. Mismanagement of Tax Revenues

In June 2022, the Tax Justice Working Group (TJWG), working under Policy Forum (PF), released a position statement on the 2021/22 national budget, among other things, expressing various concerns over revenue collection and expenditure in Tanzania.⁵⁹³ One of the concerns is serious mismanagement of public funds by public institutions, as highlighted in the recent CAG reports.⁵⁹⁴ For instance, the 2020 audit report shows that seven entities had conducted between 9 and 13 Board meetings during the financial year 2019/20 contrary to Circular No. 12, 2015 of the Treasury Registrar. Among the entities implicated in the report are TASAC, which conducted 13 board meetings; and TPB Bank, National Housing Corporation (NHC) and Tanzania Communications Regulatory Authority (TCRA), which conducted 11 board meetings. Billions of monies are spent on such meetings and seminars.⁵⁹⁵

accessed 8th August 2022.

⁵⁸⁹ Mark Curtis, *The One Billion Dollar Question: How can Tanzania Stop Losing So Much Tax Revenue (supra)*.

⁵⁹⁰ Ibid.

⁵⁹¹ See United Republic of Tanzania, National Audit Office, *Performance Audit Report on the Management of Mechanisms for Revenue Collection in the Mining Sector*, Controller and Auditor General, February 2022, at https://www.nao.go.tz/uploads/reports/DEVELOPMENT_AND_MANAGEMENT_OF_MECHANISMS_FOR_COLLECTION_OF_REVENUE_IN_MINING_SECTOR.pdf, accessed 9th August 2022.

⁵⁹² Ibid.

⁵⁹³ See Policy Forum's Tax Justice Working Group Position Statement on the 2021/2022 National Budget, at <https://www.thecitizen.co.tz/tanzania/supplement/policy-forum-s-tax-justice-working-group-position-statement-on-the-2021-2022-national-budget-3421988>, accessed 8th August 2022.

⁵⁹⁴ Ibid.

⁵⁹⁵ Ibid.



The CAG reports have also observed continued misuse of public funds within LGAs. According to the reports, the number of LGAs with qualified opinion increased from 9 in 2018/19 to 53 in 2019/20, and adverse opinion increased from 0 in 2019/19 to 8 in 2019/20.⁵⁹⁶ TJWG also stated that there have been expenditures in public corporations and Government agencies that seem to be done without conducting proper assessment of costs and benefits.⁵⁹⁷

In LHRC's view, mismanagement and misuse of public funds could negatively impact revenue collection in the long, discouraging people and businesses in tax payment and attracting tax avoidance and evasion. The ideal situation is for Tanzanians to see the taxes they pay are managed properly for the benefit of the whole nation.

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, which are guaranteed under the International Covenant on Economic, Social and Cultural Rights (ICCPR) of 1966. As a party to ICCPR, having ratified the human rights instrument in 1976, Tanzania is obligated to ensure progressive realization of social, economic and cultural rights of Tanzanians depending on availability of resources.⁵⁹⁸ To achieve this, the Government needs to mobilize its resources, taxation being one of the major sources of revenue. To this 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. In order 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 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.

⁵⁹⁶ Policy Forum's Tax Justice Working Group Position Statement on the 2021/2022 National Budget (supra).

⁵⁹⁷ Ibid.

⁵⁹⁸ Article 2(1) of the International Covenant on Economic, Social and Cultural Rights, 1966.



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 2021/22 are compared with those of the year 2020/21.

Table 5.1: Comparison of some of the key performance indicators on taxation

| Taxation issue | Performance Indicators | |
|--------------------|--|--|
| | 2020/21 | 2021/22 |
| Revenue collection | <ul style="list-style-type: none"> ■ Trends indicate a general increase in direct taxes collected by TRA. In October 2019, TRA announced that it had collected a total of Tshs. 1.76 trillion in the month of September 2019, breaking a record since the authority was established in July 1966. This is equal to 97.2% of the target, which was Tshs. 1.81 trillion, and a 29.18% increase compared to revenue collected in September 2018. ■ TRA collected Tshs. 1.25 trillion in July 2019, equal to 91.92% of the target. In December 2019, this record was also broken after TRA announced that it had collected Tshs. 1.98 trillion during that period. ■ TRA announced that it had collected Tshs. 2.088 trillion in the month of December 2020, equal to 101% of the target. This broke the record revenue collection set in December 2019. ■ Trends also show that corporate taxes collected increased from Tshs. 1.18 trillion in the financial year 2014/15 to Tshs. 2.57 trillion in 2019/20. | <ul style="list-style-type: none"> ■ Overall, revenue collected by TRA has increased from Tshs. 9.9 trillion in 2014/15 to Tshs. 17.6 trillion in 2020/21. ■ 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. ■ In March 2022, it was reported that Tshs. 2.06 trillion had been collected, above the Tshs. 1.98 trillion target that was set. ■ Trends also show that corporate taxes collected has significantly increased in the past seven years, increasing from Tshs. 1.18 trillion in the financial year 2014/15 to Tshs. 2.57 trillion in 2019/20. ■ 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. |



| | | |
|--|--|--|
| Tax abuse loss | <ul style="list-style-type: none"> ■ Tanzania is currently losing USD299,485,211 worth of tax annually, of which USD279,081,381 (93%) is the annual tax loss due to corporate tax abuse and USD20,403,830 is the annual tax loss due to offshore tax evasion. ■ The total tax revenue loss of USD299,485,211 is equivalent to 40.76% of the total tax loss as percent of public health expenditure or annual salaries of 135,577 nurses. | <ul style="list-style-type: none"> ■ Tanzania losing \$212,803,177 in tax to global tax abuse, which is equal to 3.7% of tax revenue and equivalent to \$4 per member of population. ■ Revenue lost greater than the global average revenue loss (2.9%) but less than the regional average tax revenue loss of 4.3%. ■ Tanzania lost \$193 million to global tax abuse committed by multinational corporations and \$20million to tax evasion committed by private individuals. ■ Tax loss enough to fully vaccinate 12,372,278 people (23.26%) against Covid-19 and equivalent to 30.06% of the health budget |
| Fairness/ affordability of taxes | <ul style="list-style-type: none"> ■ 43% of the respondents claimed the taxes are affordable/fair, a 4% less compared to those who participated in the previous survey in 2019. Another 43% of the respondent said the taxes are not affordable/fair, while the remaining 14% said they were not sure. | <ul style="list-style-type: none"> ■ 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. |



CHAPTER SIX

CORPORATE SOCIAL RESPONSIBILITY, LOCAL CONTENT REQUIREMENTS AND CONSUMER PROTECTION

6.1 Perspectives on Socially Responsible Conducts

The aspect of 'social responsibility' as part of obligations of business enterprises is not specifically or directly provided for under the UN Guiding Principles of Business and Human Rights of 2011 (UNGPBHR). Instead, the generality of international legal framework on business and human rights (BHR) impliedly address it. For instance, the duty of business enterprises to **respect** human rights as provided for under Principles 13 to 15 among others of UNGPBHR of 2011.

Principle 13 in particular, requires business enterprises to (a) avoid causing or contributing to adverse **human rights impacts through their own activities**, and address such impacts when they occur; and, (b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their **operations, products or services** by their business relationships, even if they have not contributed to those impacts. The 'operations', 'products' or 'services' which the business enterprises are required to observe e.g. by avoiding or preventing or mitigating harms into human and environments make the concept of corporate social responsibility (CSR) wide and subject to numerous interpretations. But generally, it is all about **'the responsibility of enterprises for their impacts on society'**, as defined by the European Commission in its renewed EU Strategy of 2011-2014 for Corporate Social Responsibility.⁵⁹⁹

It is emphasize by the European Commission (cited above) that, 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.

⁵⁹⁹ See: http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-socialresponsibility/index_en.htm



A number of international standards are increasingly offering a link between sustainable businesses, society and surrounding environments⁶⁰⁰ including a need for consumer protection and consideration of benefits to the local communities (i.e. local contents).

This chapter presents the trends on how all these (CSR, local content requirements and consumer protection) have been adhered to by the business enterprises. Other CSR's aspects e.g. environmental justice and labour rights are discussed in chapters seven and three respectively.

6.2 Corporate Social Responsibility

6.2.1 Meaning and Scope of CSR

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.⁶⁰¹ It can also be defined as strategies used by companies that are designed to ensure that its operations are ethical and beneficial for the society.⁶⁰² It includes environmental responsibility; human rights responsibility; philanthropic responsibility; and economic responsibility.⁶⁰³

This means that managements of business enterprises are not only or should not only seek to maximise profits or shareholders' value but also protect the interests of other members of the society, including workers, consumers, and the community as a whole (social responsibility of businesses)⁶⁰⁴ as said above. The ILO⁶⁰⁵ indicates five core elements that characterized CSR, namely:-

- i) Enterprises voluntarily adopt socially responsible conduct by going beyond their legal obligations.
- ii) The fact that it is an integral part of company management.
- iii) The fact that CSR actions are systematic not occasional.
- iv) Its link with the concept of sustainable development.

⁶⁰⁰ Note: The ECD Guidelines for Multinational Enterprises (OECD Guidelines), adopted in 1976 and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) adopted in 1977. Note: The Organization for Economic Co-operation and Development (OECD) is an international organization that works to build better policies for better lives. More information about this organization can be accessed from its website <https://www.oecd.org/about/>

⁶⁰¹ See UNIDO "What is CSR?" at <https://www.unido.org/our-focus/advancing-economic-competitive-ness/competitive-trade-capacities-and-corporate-responsibility/corporate-social-responsibility-market-integration/what-csr>, accessed 10th July 2022.

⁶⁰² See Corporate Finance Institute (CFI) "What is Corporate Social Responsibility (CSR)?" at <https://corporatefinanceinstitute.com/resources/knowledge/other/corporate-social-responsibility-csr/>, accessed 10th July 2022.

⁶⁰³ Ibid.

⁶⁰⁴ See Subho Mukherjee "Social Responsibility of Business" at <https://www.economicdiscussion.net/business/social-responsibility/social-responsibility-of-business/10141>, accessed 2nd June 2022.

⁶⁰⁵ See ILO, International Instruments and Corporate Social Responsibility. A Booklet to Accompany Training on Promoting labour standards through Corporate Social Responsibility. 2007. Accessed on 20th August 2022 through https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/instructionalmaterial/wcms_227866.pdf



v) Its consideration of the impact of business operations on society.

The LHRC subscribes to a wide definition of CSR, with consideration of all business enterprises' social responsibilities or obligations relating to its operations, products and services including observance of fair employment practices; supplying consumers safe products (i.e. consumer protection) prevent harm; considering environmental justice e.g. doing their best to mitigate the damage by adopting a high standard of environmental protection;⁶⁰⁶ considering societal benefits (e.g. local content); etc.

It has also been LHRC's position that, whether CSR would remain to be 'voluntary' or 'mandatory' in nature, a need for it being regulated by specific and comprehensive law and regulations is still highly emphasized. This would cure some critical practicability of CSR in Tanzania for instance, management of financial support (funds) offered by the business enterprise; monitoring of the same; and, rights of the targeted community members decide on their priorities. There is also an avenue for CSR to be partially regulated, which is also another type of CSR.

Currently, all these are not regularized by any law and the practice seems to be haphazard e.g. in some places, it's the business enterprises themselves which construct schools, hospitals, etc., while in other places, LGAs treat funds obtained through CSR as part of their revenues and therefore, decide the modality of its use. Both could be good practices; but, have to be regularized with certain terms and conditions by a specific law. Below are some findings on CSR that were gathered from the consultations made during this survey.

6.2.2 Communities' Perceptions on CSR Practices and Its Benefits

Almost all business enterprises (90% +) consulted for this survey claimed to have been practicing CSR some with institutionalized schemes on the same like 'foundations.' Indeed, this trend is highly commended. It is an advanced trend compared with a situation way back in 2013/2014 when LHRC started to research on and advocating for BHR in Tanzania. The concepts of BHR and CSR are no longer 'aliens.'

Apparently, it is from that positive growing trend that even the communities' understanding and following up of CSR issues is on increase. For instance, community members who responded to the survey were asked to give their views on benefitting from CSR as a community.

Over a-half of them (59.3%) said they do see the benefit of CSR performed by companies in their community, increasing from 54% in the previous survey. Just over a third of the respondents (36%) said as a community they do not benefit from CSR, decreasing from 43% in the previous survey.

⁶⁰⁶ See Subho Mukherjee "Social Responsibility of Business" at <https://www.economicdiscussion.net/business/social-responsibility/social-responsibility-of-business/10141>, accessed 2nd June 2022.



Less than 5% of the respondents said they were not sure whether their community benefits from CSR or not.

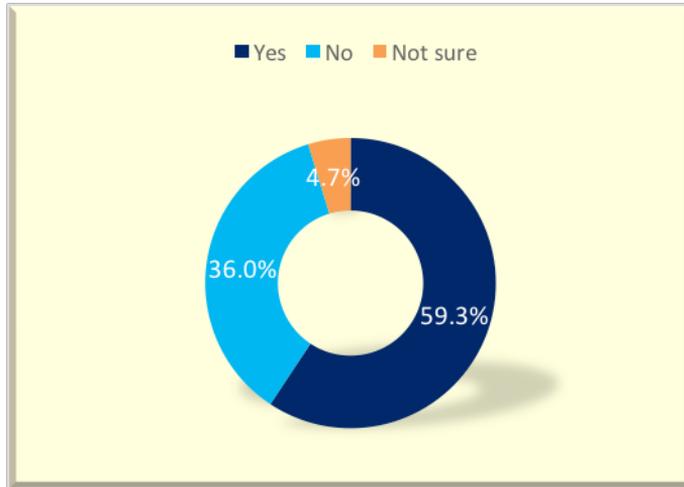


Figure 6.1: %Community members' responses on whether they benefit from operations of businesses through CSR activities (N=813)

Source: Field data, 2022

Among the community members who said they benefit from CSR conducted businesses as a community, the percentage was slightly higher among female community members (61%) than male community members (57%). The opposite was observed regarding male and female community members who said they do not benefit from CSR, at 39% and 34% respectively.

In terms of regional variations in responses, percentage of community members who believed as a community they do not benefit from CSR was highest in Geita (94%) and lowest in Pwani (10%). Other positive regional responses ranged from 18% in Dodoma to 80% in Tanga and Kilimanjaro, as shown in Figure 6.2 below.



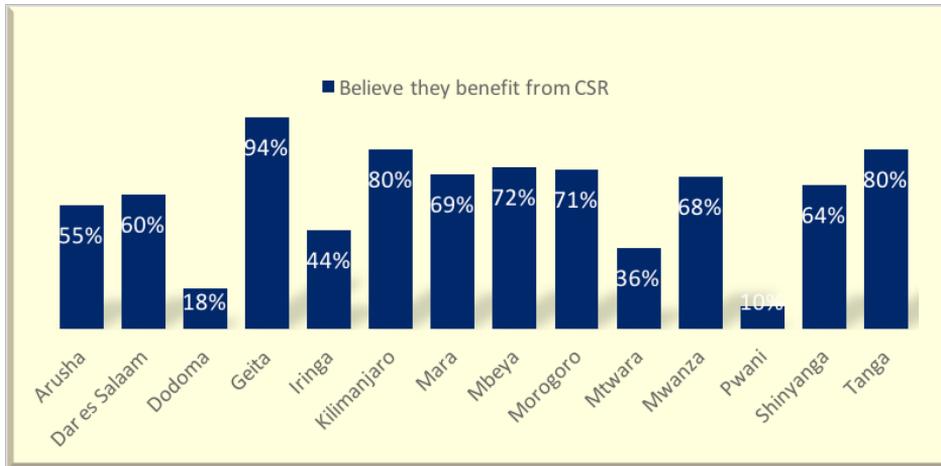


Figure 6.2: Regional percentages of community members who believe they benefit from CSR

Source: Field data, 2022

6.2.3 Positive CSR Trends by Business Enterprises

It is established by this survey that, despite the dwindling of business activities due to COVID-19's outbreak around this reporting period, a trend of giving back to the communities by business enterprises remained positive – to the extent in which such enterprises were able to offer, according to most of them.

The CSR activities performed by businesses in surveyed regions can be categorized into groups of education, water, health, employment, LGA contributions to support development initiatives and other CSR activities. Like it was observed in the previous surveys, most CSR activities were performed in employment and education sectors. Below is a highlight of such practices, mostly covering some best practices.

6.2.3.1 CSR in Education

Education-related CSR activities were mostly observed in Morogoro, Dodoma, Shinyanga, Mara, Iringa, Mbeya, Arusha, Tanga, and Mtwara Regions. CSR activities performed include construction of classrooms, renovation of school buildings, provision of desks, construction of teacher offices, donation of wheelchairs to pupils/students with disability, and building dormitories.

In Morogoro, education-related CSR activities were performed by companies such as **Alliance One Ltd**, which constructed a wall fence around Kingolwira Primary School; **Kimamba Fibbers Ltd**, which donated classroom construction materials; and **Flomi Hotel Ltd**, which donated Tshs. 1 million to Kilombero Secondary School for purposes of purchasing desks.⁶⁰⁷

⁶⁰⁷ Human Rights and Business Survey 2022: Morogoro Field Report.





Picture 6.1: Part of a wall fence at Kingolwira Primary School in Morogoro, reportedly constructed by Alliance One Ltd

In Dodoma, the survey team found that **Feza Schools** (as a services and business entity) had donated three wheelchairs to pupils with disability at N'gon'gona Primary School.⁶⁰⁸ The education business company also reportedly sponsored school fees and pocket money for 25 pupils from poor families at Ipagala Primary School (9), Kisasa Primary School (4), Ng'ong'ona Primary School (6), Mahomanyika Primary School (4), and Dodoma-Makulu Primary School (2).



Picture 6.2: Three pupils with disabilities at N'gon'gona Primary School in Dodoma on wheelchairs donated by Feza Schools

⁶⁰⁸ Human Rights and Business Survey 2022: Dodoma Field Report.



In Shinyanga, education related activities were performed by business enterprises such as **GAKI Company Ltd**, **Afrasian Ginning Ltd**, **Bulyanhulu Gold Mine**, and **Williamson Diamond Limited**.⁶⁰⁹ Activities performed include construction of classrooms, building a fence around a school, and latrines.



Picture 6.3: Ongoing construction of a classroom (left) and a toilet (right) at Mwadui Lohumbo Secondary School in Kishapu DC, funded by Williamson Diamond Limited

In Mara, **Barrick's North Mara Gold Mine** (Barrick Gold Mining Limited) was credited with most of the education-related CSR activities, including construction of classrooms, dormitories for girls, and teacher houses.⁶¹⁰



Picture 6.4: A girls' dormitory (left) and a teacher house (right) constructed by Barrick Gold Mining Limited at Julius Kambarage Nyerere High School in Mara

⁶⁰⁹ Human Rights and Business Survey 2022: Shinyanga Field Report.

⁶¹⁰ Human Rights and Business Survey 2022: Mara Field Report.



In Iringa, business enterprises which were found to perform education-related CSR activities included **Evergreen Company Limited, Sao Hill Forest**, and **CRDB Bank**.⁶¹¹ The activities included school donations and construction of classrooms.



Picture 6.5: Classrooms constructed by CRDB at Iringa Girls Secondary School in Iringa

In Mbeya, CSR performers in education which stood out included **Lulu SACCOS Limited, NMB Bank, Ally Rich Company, City Coffee Ltd**, and **PML Mining Company**.⁶¹² For instance, it was reported that **City Coffee Ltd** donated a total of Tshs. 91,000,000 in 2021 to support education at Vwawa Secondary School, Regional Girls Secondary School, Ichesa Secondary School, and Ipyana Primary School. **Lulu SACCOS Limited** provided a similar support to Mlimani Primary School, Itezi Primary School, and Nyigamba Primary School.⁶¹³



Picture 6.6: Desks donated by NMB (left) and Lulu SACCOS Ltd (right) in Mbeya

⁶¹¹ Human Rights and Business Survey 2022: Iringa Field Report.

⁶¹² Human Rights and Business Survey 2022: Mbeya Field Report.

⁶¹³ Ibid.



In Arusha, **Sunflag (T) Ltd.** was found to be among top CSR performers.⁶¹⁴ Their contribution included construction of classrooms and donation of desks to school such as Mery Primary School and Mrisho Gambo Secondary School. **Dekker Chrysanten (T) Ltd** also claimed to make various donations to support education.

In Tanga, CSR activities in education included construction of classrooms by **Neelkanth Lime Ltd** and **Trianon Investment Limited**.⁶¹⁵ The former was credited with construction of classrooms at Kiomoni Primary School, while the latter was said to have done the same at Kwabutu Secondary School.



Picture 6.7: Certificate of appreciation granted by Kwabutu Secondary School to Trianon Investment Limited

In Mtwara, CSR performers in education included **Dangote Cement Factory, M & P,** and **Xinghao Group**.⁶¹⁶ The activities they performed in this regard included construction of schools and teacher houses, donation of desks, and construction of toilets.

⁶¹⁴ Human Rights and Business Survey 2022: Arusha Field Report.

⁶¹⁵ Human Rights and Business Survey 2022: Tanga Field Report

⁶¹⁶ Human Rights and Business Survey 2022: Mtwara Field Report.





Picture 6.8: A teacher house build with the support of M & P (right) and classrooms AT Kyobya Primary School constructed with the support of Dangote Cement Factory in Mtwara

There were also two business enterprises in Mwanza, which were said to be good performers in CSR in the region. These are **Alpha Choice Ltd**, whose CSR activities include construction of 3 classrooms at Bugabu Primary School in Kahanghala Ward; and **Lugeye Cotton Investment Ltd**, whose CSR activities include supporting education in Magu District in the region.⁶¹⁷

All such supports in education are highly appreciated by the community members and their leaders. For instance, a ward executive officer (WEO) in Kahanghala Ward in Magu District, while commenting on support of the **Apha Choice Ltd**, he told the survey team that, '*... this company has been doing a lot to support our community development, especially in terms of construction of classrooms and when we face other developmental challenges....they have been of great help to us.*' Same sentiments and not of appreciations were heard all over the locations sampled for this survey. On the other hand, there were observed emerging changes in the performance of some of the schools supported. On this, specific data to link between CSR and the performances were not immediately obtained. However, in the next publications of this report, this will be assessed.

6.2.3.2. CSR Supports to Water Services

The government has adopted a number of policies and laws in this regard, main ones being the National Water Policy of 2002; and, the Water Supply and Sanitation in 2019, which among other things, establishes the Rural Water Supply and Sanitation Agency (RUWASA). As a result government's and other stakeholders' efforts, coverage of

⁶¹⁷ Human Rights and Business Survey 2022: Mwanza Field Report.



water supply has been improved from 48% in June 2015 to 70% by December 2019. In the same category for urban centers, coverage increased from 72% in June 2015 to 85% December 2019.⁶¹⁸

Despite such government's efforts to ensure sustainable supply of water and sanitation services throughout the country, scarcity of water is still a reality. Apparently, this is where a support of non-state actors including the business enterprises comes in. This survey observed presence of quite impressive supports offered through CSR by the said enterprises. Below are a few case studies that were mapped.

Water-related CSR activities were mostly observed in Morogoro, Dodoma, Shinyanga, Geita, Mara, Iringa, and Kilimanjaro. Business enterprises found to perform activities in this regard include **WhatsAfrica Ltd** and **Alliance One Company**.⁶¹⁹ The former helped community members in Msolwa Ujamaa Village access clean and safe water, while the latter installed a modern water pump at Kingolwira Primary School.⁶²⁰

In Shinyanga, **Buzwagi Gold Mine**, **Williamson Diamond Limited**, and **Jambo Food Products** said they provide access to clean and safe water to community members as part of their CSR.⁶²¹ In Geita, it was reported that **Kazi Co. Ltd**, located in Geita TC, constructed a water well for community members.⁶²² In Iringa, **Chai Bora Company** reportedly renovated a water tank in Mafinga District.⁶²³ In Kilimanjaro, **Bonite Bottlers Company Ltd**, was also said to provide surrounding community members with clean and safe water.⁶²⁴

⁶¹⁸ See URT, Water Sector Status Report of June 2020. Page v.

⁶¹⁹ Human Rights and Business Survey 2022: Morogoro Field Report.

⁶²⁰ Ibid.

⁶²¹ Human Rights and Business Survey 2022: Shinyanga Field Report.

⁶²² Human Rights and Business Survey 2022: Geita Field Report.

⁶²³ Human Rights and Business Survey 2022: Iringa Field Report.

⁶²⁴ Human Rights and Business Survey 2022: Kilimanjaro Field Report.





Picture 6.9: A modern water pump installed by Alliance One Ltd at Kingolwira Primary School in Morogoro (left) and a water tank renovated by Chai Bora Company in Iringa (right)

Much as LHRC commends for all these efforts as said earlier on, it is of the view that there is a need to adopt needs-based CSR in water and other social service sectors. This is a case because there is uneven spread of support to water supply services especially in rural areas. It could appear that, the support are directed only to the ‘conspicuous’ areas where the visibility of the business enterprises could be easily seen i.e. urban areas – which is marketing strategies. This observation is linked LHRC’s recommendation on a need to have specific law and regulations or national guidelines on CSR so that, such support could be more meaningful and targeting most needy populations like the hard-to-reach remote areas, which are hardly considered.

6.2.3.3. CSR Support to Health Care Facilities and Services

One of the social service sectors which Tanzania has given an earnest attention is the health sector. Indeed, there are progressive improvement of this sector in terms of facilities, human resources and therefore services rendered. A number of health related policies⁶²⁵ and laws⁶²⁶ have been enacted to govern all aspects of this sector including medical supply and professionalism. As for facilities in particular, as of 2020, Tanzania counted a total of 8,458 health facilities. Dispensaries constituted the majority, nearly 7,200. That same year, there were 369 hospitals and 926 health centers in the country. The number increased slightly from 8,446 in the previous year (2019), keeping an upward trend since 2017.⁶²⁷

⁶²⁵ For instance the National Health Policy of 2007; the National HIV/AIDS Policy of 2001; etc.

⁶²⁶ For instance the Medical Practitioners and Dentists Act, Cap. 152; the Pharmacy Act of 2011; the Health Laboratory Practitioners Act, Cap. 48; the Nurses and Midwives Registration Act, Cap. 325; etc.

⁶²⁷ Reference: Statista, Number of Health Care Facilities in Tanzania from 2016-2020. Accessed on 3rd



Despite such positive and progressive development, more is desired including a need for more facilities and medical equipment. The business enterprises respond to these and other health care related need. This time around, the survey noted fewer support directed to health sector through CSR. Below is an account of the CSR trends as it was observed from the sampled regions.

Health-related CSR activities were mostly observed in regions such as Morogoro, Iringa, and Mbeya. In Morogoro, health-related CSR activities that were reportedly performed include, provision of health services (Kimamba Fibbers Ltd).⁶²⁸ In Iringa, CSR initiatives in the health sector included a neonatal health facility built by **Asas Company** in Iringa MC and a clinic in Ziano Village whose construction was partly funded by **Pyrethrum Company of Tanzania**.⁶²⁹

In Mbeya, such activities include supporting construction of a laboratory at Iyunga Health Centre by **Marmo E. Granite Mines (T) Limited**.⁶³⁰ An official at the hospital also mentioned that they had been supported by **TBL**, **Cocacola** and **Pepsi** beverage companies in terms of hospital equipment.



Picture 6.10: Neonatal unit built by Asas Company at Iringa Regional Hospital in Iringa MC (left) and a laboratory at Iyunga Health Centre in Mbeya (right), whose construction was partly funded by Marmo Granito Mine Ltd

LHRC suggests that there would be a need for a very specific analysis to establish total value of supports to health sector that the country has benefited from CSR. This will also inform of the areas which mostly need such support plus the nature and extend of the support needed. Moreover, as suggested earlier, there is a need to have national guidelines on CSR that will facilitate equal distribution of supports from CSR that the business enterprises would be offering.

September 2022 from <https://www.statista.com/statistics/1249272/number-of-health-facilities-in-tanzania/>

⁶²⁸ Human Rights and Business Survey 2022: Morogoro Field Report.

⁶²⁹ Human Rights and Business Survey 2022: Iringa Field Report.

⁶³⁰ Human Rights and Business Survey 2022: Mbeya Field Report.



The current haphazard approach leave some areas especially in hard-to-reach unable to benefit even when they host businesses in their localities. The next survey will dig deeper on all these aspects.

6.2.3.4. CSR Support to Employment Creation

A need for creating employment opportunities is one of the critical macro and micro economic agenda. Private sector, basing on generalized perception, is the key employer. On this, according to the National Bureau of Statistics (NBS), results from the projections reveals that the unemployment rate in Tanzania has been decreasing from 10.3 percent recorded in 2014 to 9.7 percent in 2018. This reveals that the economy has been doing well in absorbing the ever increasing labor force in the country.⁶³¹ Therefore, presence and performance of the business enterprises are of great essence.

Generally, creation of employment activities was said to be a good CSR practice in some of the surveyed regions, including in Mara, Kilimanjaro, Mtwara, Geita, and Iringa. In Mara, a village leader from Kwinyinyu Village in Tarime District commended Barrick's North Mara Gold Mine for providing jobs for some of the community members from his village. He said:

'There are some youth from our village who have been provided with jobs at the mine, some skilled and others not skilled...for instance there is one young man from our village who has been employed as an accountant at the mine, and there are other university graduates from our village who have also secured jobs at the mine.'

In Kilimanjaro, another community member had this to say regarding creation of jobs by *Bonite Bottlers Company Ltd*: *'..The company has done a lot for the surrounding community, first by providing for free clean and safe drinking water, which tastes like the Kilimanjaro bottle water that other people buy, and second and more important providing jobs for many youths, including my brother Fred.'*

The ongoing national census is expected to come out with updated national statistics on the extent to which the enterprises have contributed to the employment creation countrywide. LHRC is also of the view that, there is a critical need to assess the value of employment opportunities created by business enterprises in terms of positions which the citizen of Tanzania are assigned in corporate companies as well as wages and other entitlements offered to them e.g. against the foreigners. Observance of all other labor standards is also critical issue. Therefore, CSR's contribution to employment is a matter of quantity and quality as well.

⁶³¹ NBS, Labour Market Information in Tanzania, 2018. Accessed on 2nd September 2022 from: https://www.nbs.go.tz/nbs/takwimu/labour/Employment_Estimates_for_Tanzania_Mainland2018.pdf



6.2.3.5. Enterprises' Contributions to LGAs in Support of Development Initiatives

A trend of contributing some funds to LGAs is also growing up, which is also quite positive move on LHRC's perception. This happens to an extent that, some of LGAs e.g. at district and village level, have 'institutionalize' the CSR funding e.g. by creating budget lines with expectation of being financed by business entities through CSR. This, indeed, is not prohibited under the legal frameworks governing LGAs e.g. the Local Government Finance Act, Cap. 290 provided that, the sources of funds are lawful.

The survey team was told by some of business enterprises that, apart from contributing directly to the host communities, they do the same to the LGAs e.g. as CSR levy. The regions mentioned to have been benefiting from CSR include Dar es Salaam, Shinyanga, Geita, Mbeya, Arusha, and Mtwara. For instance, in Geita, it was reported that **GGM** contributed more than Tshs. 7 billion to Geita TC, while **Bulyanhulu Gold Mine** contributed more than Tshs. 4 billion.⁶³² In Mbeya, it was reported that Lulu SACCOS Ltd contributed the amount of Tshs. 27 million in the period of 2020/21.⁶³³

In the budget speech for the Ministry of Minerals for the financial year 2022/2023, the Minister of Minerals, Hon. Dr. Doto Mashaka Biteko (MP), revealed that in the period of July 2021 to March 2022, a total of 13 mines contributed a total of Tshs. 16.1 billion to support health, education, water, road, and economic projects in LGAs in Tarime, Msalala, Nyang'hwale, Kahama, Songwe, and Geita Districts.⁶³⁴ In the 2021/2022 budget speech for the ministry, the Minister revealed that GGM emerged as the biggest CSR contributor in the financial year 2020/2021, after contributing Tshs. 5.1 billion to Geita Town Council.⁶³⁵

6.2.3.6. Other CSR Supports

Other CSR activities performed by business enterprises in surveyed regions include discounts in products or materials sold by companies to support provision of social services (**ALAF Ltd** in Dodoma); bridge and road construction (**Sandvick Company** in Mwanza); orphanage centre donations (**Sai Energy and Logistics Ltd** and **Chair Bora Company** in Iringa); and **Sunflag Company** in Arusha); LGA, ward and district office construction and renovation (**Evergreen Limited Company** in Iringa;

⁶³² Human Rights and Business Survey 2022: Geita Field Report.

⁶³³ Human Rights and Business Survey 2022: Mbeya Field Report.

⁶³⁴ See HOTUBA YA WAZIRI WA MADINI, MHESHIMIWA DKT. DOTO MASHAKA BITEKO (MB.), AKI-WASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2022/202, at https://www.madini.go.tz/media/HOTUBA_YA_WAZIRI_WA_MADINI_2022.23_.pdf, accessed 9th August 2022.

⁶³⁵ See HOTUBA YA MHESHIMIWA DOTO MASHAKA BITEKO (MB.), WAZIRI WA MADINI AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA 2021/2022, at <https://www.parliament.go.tz/uploads/documents/whatsons/en/1619683617-HOTUBA%20YA%20BAJETI%20WIZARA%20YA%20MADINI.pdf>, accessed 9th August 2022.



WAJA Company in Mbeya); and construction of police station (*Irvines' Tanzania Company* in Kilimanjaro; *Xinghao Group* in Tanga).

6.2.4 Summary: Issues of Concern Regarding CSR Supports

Most of the concerns regarding CSR expressed by stakeholders, including community members, keep recurring. As said earlier on, these concerns include CSR not being mandatory or rather, regularized by all legal frameworks (e.g. country lacks specific and comprehensive law or policy or national guideline on CSR), except in the mining sector; some business enterprises, especially medium and small-scale companies regarding CSR to be for big companies only.

Moreover, there are complaints by businesses about being harassed by LGAs to give certain amounts of money (without legal justifications); conflicting priorities between investors and LGAs; and some investors not doing well in most or other aspects of CSR.

Other key issues which were raised during the current survey include accountability for the funds contributed to LGAs, some business enterprises providing too little in comparison with their status and profits they make, some business enterprises mainly using CSR as advertisement tool, quality and sustainability of some of the CSR projects, and poor knowledge regarding CSR and its importance.

6.2.4.1. CSR not being mandatory (regulated by specific law), except in the mining sector

As reported in the previous survey, CSR remains voluntary for most businesses as there is still no law to regulate CSR practices. Only businesses which operate in the extractives/mining sector need to comply with CSR as a legal requirement, following amendment of the Mining Act, 2010 in 2017.

LHRC recommends the Government to learn from countries such as India and Mauritius which have made CSR mandatory for all business enterprises,⁶³⁶ not just those in the mining sector, and see how we adopt similar measures in consideration of the context. Competitive disadvantage for business enterprises is not an issue, especially when a uniform percentage can be applied, and while the CSR levy may negatively impact profits, it has the potential to pay higher returns in the future if viewed as an investment.⁶³⁷ Business enterprises

⁶³⁶ See Ruchika Chitravanshi "India's new CSR regulations make philanthropy compulsory for companies" Business Standard Magazine (online), 9 February 2021, at https://www.business-standard.com/article/companies/new-csr-regulations-the-rise-of-compulsory-philanthropy-in-india-121020801724_1.html#:~:text=Indian%20corporations%20have%20never%20been,first%20country%20to%20have%20done, accessed 10th August 2022; Ramdhony, Dinesh. (2018). The Implications of Mandatory Corporate Social Responsibility—A Literature Review Perspective. Theoretical Economics Letters. 08. 432-447. 10.4236/tel.2018.83031.

⁶³⁷ Ibid.



should be obligated to issue CSR Reports, and the reports should be regulated and made accessible to the public.

6.2.4.2. Inadequate monitoring of compliance with mandatory CSR in the mining sector

In a recent audit report on LGAs for the financial year 2020/21, released in March 2022, the CAG has pointed out some CSR projects are not implemented without reasonable justification.⁶³⁸ He noted that he found a mining company that prepared a CSR annual action plan and submitted it to Songwe DC in Songwe Region, listing projects to be implemented in the financial year 2020/21 worth Tshs. 634.19 million. However, upon reviewing the Council's project implementation report, he found that there were not projects implemented by the company under CSR or any contribution made by the company to the Council for implementation of the projects indicated in the CSR plan. He reiterated the Council's obligation to ensure the planned projects are adequately implemented and called upon the Council to make follow up with the company to ensure fully compliance with the CSR plan in line with section 105(1),(2) and (4) of the Mining Act, Cap 123 [R.E 2019].⁶³⁹

6.2.4.3. Some businesses, especially SMEs regarding CSR to be for big enterprises only

One of the observations made during the survey is that most businesses do not engage in CSR because 'they are not yet big enough to be able to give back to the community.' This is an excuse that was given by many SMEs and other businesses that are not ready to give back to the community or understand the essence of CSR. This perception was mostly observed in regions such as Kilimanjaro, Dodoma, Morogoro, Arusha, and Tanga. Most of them claimed that they have not started making enough profits to start giving back to the community. But in line with the UN Guiding Principles on Business and Human Rights, they can still make small contributions as part of their CSR programmes. In Arusha a corporate official at *USA Limited* said they have not started engaging CSR activities because they are still growing as a company, so currently they 'have nothing to give.'⁶⁴⁰

6.2.4.4. Complaints by businesses about being harassed by LGAs

Some of the corporate management officials who responded to the survey indicated that they are sometimes regularly harassed by LGA officials to provide funds, especially in Dar es Salaam, Geita, Shinyanga, and Mbeya with demands to make contributions.

⁶³⁸ 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, accessed 9th August 2022.

⁶³⁹ Ibid.

⁶⁴⁰ Human Rights and Business Survey 2022: Arusha Field Report.



6.2.4.5. Conflicting priorities between businesses and LGAs

This is why we need a CSR law, which among other things, would include provisions on CSR priorities. In the absence of a comprehensive law regulating CSR, there are conflicting CSR priorities between businesses and LGAs. Discretion on the part of business enterprises with regard to CSR activities means they may focus on areas which are not a priority around their areas of production or operations.

6.2.4.6. Some businesses not doing well in most or other aspects of CSR

As discussed above, while some business enterprises did well or better in CSR, they did fare well in terms of respect and protection of labour rights. Some of the business enterprises in some of the surveyed regions were also found to violate environmental rights, as discussed below. This points to the need to have CSR reports, so that they can be regulated.

6.2.4.7. Accountability for the funds contributed to LGAs

Concerns over accountability for CSR levy were also raised by some of the interviewed corporate management officials. They expressed dissatisfaction with management of the funds, noting that they fear most of the money does not end up the address of community members, but rather a large chunk end up lining pockets of some LGA officials. One corporate management official in Dar es Salaam, who did not want their name and company to be disclosed, said:

'We contribute a lot of funds to support developmental activities, but they [LGA] do not give us any receipts. There is also no specific procedure for provision of the funds, as each leader comes up with their own requests for funds, which becomes very inconvenient for us as investors.'

Some of the community members and LGA officials accused some 'big' business enterprises of providing too little CSR contributions, while they make a lot of profits. For instance, in Pwani District, one LGA officials criticized CSR practices by **Bakhresa Food Production**, noting that the company has given back to the community too little in comparison with the 'status' of the company.⁶⁴¹ CSR practices by **KEDS Co. Ltd** in the region were also criticized by some of the interviewed community members within Picha ya Ndege Ward in the region.

Similar claims were made by some of the community members against some of the business enterprises in Morogoro.⁶⁴² In Mara, a community member in Nyamongo claimed that *'the foreign investors make huge profits but deceive us with small things that even we (community members) can do, like constructing classrooms and*

⁶⁴¹ Human Rights and Business Survey 2022: Pwani Field Report.

⁶⁴² Human Rights and Business Survey 2022: Morogoro Field Report.



*buying desks and tables, instead of focusing on big things like road construction and building hospitals.*⁶⁴³

6.2.4.8. Some business enterprises mainly using CSR as advertisement tool

Some of the business enterprises, including banks, were accused by some of the interviewed community members in regions such as Dar es Salaam and Mbeya, of providing CSR mainly for the purpose of advertising their products (visibility), giving examples of desks and buildings with 'big' labels and colours of respective companies.⁶⁴⁴ Again, this points to the need to have CSR reports, so that they can be regulated.

6.2.4.9. Quality and sustainability of some of the CSR projects

Some of the community members also questioned the quality and sustainability of the CSR projects, including water projects, as has the Government.⁶⁴⁵ This issue was raised in regions such as Mtwara, Morogoro, and Pwani. Some of the interviewed respondents expressed such as quality of such products and maintenance.

6.2.4.10. Poor knowledge regarding CSR and its importance

Some of the corporate management officials who responded to the survey demonstrated poor knowledge about CSR and its potential benefits. Naturally, because of this issue some of them seemed to oppose the whole idea, much less making it mandatory. This observation was mostly made among SMEs, especially in the hospitality sector.⁶⁴⁶

LHRC suggests that (i) corporate companies should always demand for the accountability reports of the support they have granted to the government authorities. There is also a need for them (as a union of investors) to have a collective monitoring and assessment of their contributions to the government authorities in order to avoid duplication of efforts; (ii) the CAG should be keen to identify an unbudgeted financial and other support which the government authorities receive from business enterprises as part of CSR; and (iii) an institutional assessment should be conducted by anyone to ascertain whether presence or absence of such (CSR) support has an adverse implication on the ability of government authority to collect revenue from other sources. The law should also demand LGAs to make reports on CSR to check implementation.

⁶⁴³ Human Rights and Business Survey 2022: Mara Field Report.

⁶⁴⁴ Human Rights and Business Survey 2022: Dar es Salaam Field Report; Human Rights and Business Survey 2022: Mbeya Field Report.

⁶⁴⁵ See also HOTUBAYA MHESHIMIWA DOTO MASHAKA BITEKO (MB.), WAZIRI WAMADINI AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2021/2022, at <https://www.parliament.go.tz/uploads/documents/whatsons/en/1619683617-HOTUBA%20YA%20BAJETI%20WIZARA%20YA%20MADINI.pdf>, accessed 9th August 2022.

⁶⁴⁶ Human Rights and Business Survey 2022: Mara Field Report.



Despite much visible CSR investment in some host communities by mining companies, nothing more is seen to benefit communities where mines are located. This situation may be contributed by the fact that revenue is deposited into a consolidated fund managed by the Central Government and later redistributed based on parliamentary approved budget allocations.

6.2.5 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 e.g. more business enterprises practices it, some institutionalized with specific budget e.g. GGM; 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 year.

Table 6.1: Performance indicators on CSR in 2021/22 in comparison with 2020/21

| CSR Issue | Performance Indicators | |
|-------------------------------|--|--|
| | 2020/21 | 2021/22 |
| Laws/ Regulations. | <ul style="list-style-type: none"> ■ No law to regulate CSR practices, except for the mining sector. ■ CSR promises usually not documented. | <ul style="list-style-type: none"> ■ Still not law or regulations to regulate CSR in Tanzania, save for the mining sector. ■ CSR promises still usually not documented. |
| Satisfaction with CSR. | <ul style="list-style-type: none"> ■ 54% of the community members expressed satisfaction with the CSR activities performed by businesses in their areas of residence. | <ul style="list-style-type: none"> ■ Over a-half of them (59.3%) said they do see the benefit of CSR performed by companies in their community, increasing from 54% in the previous survey. |
| Engagement in CSR activities. | <ul style="list-style-type: none"> ■ Only a few companies effectively engage in CSR practices. ■ Most CSR activities directed towards education, health and water sectors. | <ul style="list-style-type: none"> ■ Slight improvement, but majority of companies still not engaging in CSR. ■ Most CSR activities in employment, education and health sectors. |



6.3 Corporate Local Content Requirements

6.3.1 Overview

Local content requirements (LCR) can be defined as incidence of domestic inputs—including capital, labour, and intermediate products—into the value chain. It can also be defined as specifications for local labour involvement, purchases of local inputs and services, and local ownership of firms. As such, LCR require companies to use domestically manufactured goods or domestically supplied services in order to operate in an economy. They encourage local employment and the use of local goods and services, an attempt to ensure realisation of the right to enjoy and benefit from natural resources.

LCR policies are becoming increasingly popular in different parts of the world and have created proponents and critics among scholars and stakeholders in the extractives and industrial sectors. It has been reported that approximately 90% of resource-rich countries in adopted some form of LCR policies.

Proponents of LCR argue that LCR policies and regulations create a platform for domestic or indigenous companies to contribute immensely towards the growth of economy. Others argue that this can indeed be achieved, if LCR are designed currently. Other proponents of LCR go further to insist on close monitoring of implementation of LCR policy and wide stakeholder consultation and participation to guarantee positive and significant impact on local value creation.



Picture 6.11: Some of the locally produced goods in Tanzania

Picture credit: IPP Media

Critics of LCR argue about competitive disadvantage, noting that while LCR may help government achieve short-term objectives (such as improving domestic employment and industrial performance), they undermine long-term competitiveness. They say that LCR may lead to loss of international competitiveness, causing a decline in global imports



and exports and in the long-term undermining growth and innovation. Others argue that LCR policies may often create an environment for rent seeking, corruption and non-productive lobbying or domestic alliance building. There is also a concern over the opposing interests of international and domestic enterprises, and the fact that the World Trade Organization (WTO) Agreement on Trade-Related Investment Measures (TRIMS) prohibits making it mandatory for investors to purchase local products. The critics essentially argue that the costs outweigh the benefits.

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.'

A similar definition has been adopted for local content in petroleum sector, in which local content refers to 'the quantum of composite value 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.'

6.3.2 Legal Framework on Local Content in Tanzania: Case of Mining Sector

In the period of 2016 to 2018, Tanzania enacted several laws on local content, but all of them relating to mining sector generally. These are:-

- i) The Natural Wealth and Resources Contracts (Review and Re-negotiation of Unconscionable Terms) Act (the Unconscionable Terms Act) of 2017.
- ii) The Natural Wealth and Resources (Permanent Sovereignty) Act of 2017.
- iii) The Written Laws (Miscellaneous Amendments) Act (Miscellaneous Amendments Act), 2017 - amending the Mining Act of 2010.
- iv) The Mining (Local Content) Regulations of 2018.
- v) The Petroleum (Local Content) Regulations of 2017.

The Mining Local Content Regulations of 2018 (as amended in 2019) has several objectives, namely:-

- i) To promote the maximization of value-addition and job creation through the use of local expertise, goods and services, businesses and financing in the mining industry value chain and their retention in Tanzania.
- ii) To develop local capacities in the mining industry value chain through education, skills transfer and expertise development, transfer of technology and know-how and active research and development programmes.



- iii) To achieve the minimum local employment level and in-country spend for the provision of the goods and services in the mining industry value chain.
- iv) To increase the capability and international competitiveness of domestic businesses;
- v) To create mining and related supportive industries that will sustain economic development;
- vi) To achieve and maintain a degree of control by Tanzanians over development initiatives for local stakeholders;
- vii) To provide a robust and transparent monitoring and reporting system to ensure delivery of local content policy objectives;
- viii) To provide for the submission of the local content plan and related sub-plans by contractors, subcontractors, licensees and any other allied entity involved in the mining industry
- ix) To supervise and coordinate the implementation and monitoring of local content

The Regulations establish a Local Content Committee; provide for their functions, chief of which is overseeing implementation of the Regulations; and contain the following key provisions and statements on LCR:-

- i) Development of local content plan: Under Regulation 7 a mining companies and entities engaged in mining activities are required to ensure that local content is a component of such activities. They must submit a local content plan, subjected to approval by the Mining Commission (Regulation 10(1)). The plan must have employment and training sub-plan; research and development sub-plan; technology transfer sub-plan; legal services sub-plan; and financial services sub-plan (Regulation 12).
- ii) Setting up local office: Mining companies are required to set up project office within the district where the project is located (Regulation 9).
- iii) Mandatory joint venture arrangement for supply of goods and services: This is provided for under Regulation 8(6), requiring a non-indigenous Tanzanian company to incorporate a joint venture company with an indigenous Tanzanian company and afford the latter an equity participation of at least 20%.
- iv) Preference for indigenous Tanzanian companies in granting of a mining license: This is provided under Regulation 8(1). For a company in the mining sector to be considered as an 'indigenous Tanzanian Company' at least 20% of its equity should be owned by Tanzanian shareholders (Regulation 3).
- v) Preference to local service providers and locally manufactured goods: This is stipulated under Regulation 12, but goods and services must meet specifications of the mining industry.
- vi) Use of local insurance and financial services: This is covered under Regulations 30 and 34, requiring mining entity to only retain the services of Tanzanian insurance and financial institutions. There is



- also a requirement of maintaining a bank account with an indigenous Tanzanian bank and transact business through banks in the country (Regulation 36). Bank should have no less than 20% Tanzanian shareholders to qualify as Tanzanian bank.
- vii) Use of local legal services: This is covered under Regulation 32A, requiring use of legal services provided by local law firms or legal practitioners.
 - viii) Preference to qualified Tanzanians in employment and on-job training: This is covered under Regulations 12 and 20.
 - ix) Employment of only Tanzanians in junior level or middle level positions: This is covered under Regulation 22.
 - x) Promotion of technology transfer: This is covered under Regulations 26, 27A and 28, requiring promotion of technology transfer to Tanzania in relation to the mining industry. There is submission of technology transfer report (Regulation 29A).
 - xi) Succession plan: This is covered under Regulation 21, requiring mining entities to submit to the Mining Commission a succession plan for any employment position that is occupied by non-Tanzanian.
 - xii) Reporting obligations: There are various reporting obligations, including under Regulation 21(1) and Regulation 37 (local content performance reporting).
 - xiii) Common Qualification System: Under Regulation 40, the Mining Commission, in consultation with stakeholders in the mining industry, is required to establish a Common Qualification System, serving as the sole system for registration and pre-qualification of local content in the mining industry (Regulation 41).

The Mining Local Content Regulations of 2018 also provide for offences and penalties. A person who submits a plan, returns, report or other document and knowingly makes false statement is said to have committed an offence. Penalty for such an offence includes a fine of not less than Tshs. 50 million or not less than 2 years in prison, or both.

For the case of Petroleum (Local Content) Regulations, 2017, most of the LCR provisions and statements are similar to those in the Mining (Local Content) Regulations, 2018. These include: development and submission of a local content plan, which includes sub-plans such as employment and training; succession plan; procurement of works, goods, and services from Tanzania; technology transfer requirement; use of local insurance and financial services; use of local legal services; employment of Tanzanians in semi-skilled and unskilled jobs; reporting obligations; and operating a bank account in Tanzania.

6.3.3 Status of Compliance with Local Content Requirements: Some Cases

A few studies have assessed the situation of implementation and compliance with LCR in Tanzania, particularly in the mining sector.



Some positives have been identified, including increased employment for Tanzanians and local provision of services in the mining sector. For instance, in 2007 all mining firms used foreign catering services, but by 2016, a Tanzanian catering firm, AKO catering, has managed to become the primary supplier of catering services to large-scale mines.

Increased market share for the catering company was made possible by provision of high-quality services but a much lower price than charged by foreign firms. It has also been reported that foreign mining companies employ a significant percentage of Tanzanians and spend much more on training than domestic companies.

In the budget speech for the Ministry of Minerals for the financial year 2022/2023, the Minister of Minerals, Hon. Dr. Doto Mashaka Biteko (MP), revealed that in the period of July 2021 to March 2022, the number of Tanzanians employed by mining companies and service providers in the mining sector reached 14,308, increasing from 7,151 during the same period in the financial year 2020/21, equal to 100% increase. He also pointed out that during this reporting period, mining companies spent Tshs. 5.2 trillion on locally produced products and provided services, increasing from Tshs. 2.4 trillion during the financial year 2020/2021.

Contribution of the mining sector to the national economy has also been steadily increasing, having increased from 5.2% in 2019 to 6.7 in 2020.



Picture 6.12: Some of the minerals available in Tanzania

In 2022, Ministry of Minerals, through Mining Commission, also announced that it had received and reviewed a total of 378 local content plans in the mining sector in the period of July 2021 to March 2022. For the financial year 2020/2021, the Mining Commission had received and reviewed 113 local content plans. During this financial year, the Ministry reported to have visited GGM, North Mara, Shanta and Tancoal Mines to check on



implementation of LCR Regulations, and observed that there was a good progress in compliance and implementation. According to the ministry, Tanzanians accounted for 90% of employees at the mines, with all of Shanta workers found to be Tanzanians (100%). At Tancoal, the ministry found that 95% of the products/goods and services were produced and provided locally.

However, several factors have been identified as obstacles to effective implementation of LCR. One such factor is overlapping institutional authorities, which is caused by existence of multiple MDAs which regulate LCRs. It has been observed that there are at least nine MDAs with regulatory authority in petroleum and mining sectors. These include Ministry of Energy, Ministry of Minerals, the Mining Commission, State Mining Corporation (STAMICO), Petroleum Upstream Regulatory Agency (PURA), Tanzania Petroleum Development Corporation (TPDC), Energy and Water Utilities Regulatory Authority (EWURA), National Economic Empowerment Council (NEEC), Public Procurement Regulatory Authority (PPRA). Overlaps and lack of clarity have made it challenging for these various agencies to work together, creating coordination difficulties.

Overlapping issues also occur in specific LCR components, such as training and skills development and development of SMEs, and affects monitoring and enforcement of LCR Regulations. This is another key challenge in implementation of LCR, and this and lack of mutual coordination have ensured that there is not enough transparency and accountability in implementation of the LCR.

The Government of Tanzania has also acknowledged that some of the Tanzanians lack the professional skills required for some of the positions at mining companies. There are also challenges such as gaps in taking full advantage of existing business opportunities in the mining sector, lack of sufficient capital among some of the potential domestic service providers, lack of capacity to supply large quantity of goods timely, and low awareness among Tanzanians about the available opportunities. To address these challenges, the Government has stated that it has directed mining companies to develop succession plans to accommodate professional Tanzanians in some of the positions, link local producers and service providers to financial institutions to boost their capital so that they can take full advantage of business opportunities in the mining sector, and continue raising public awareness.

The survey on business and human rights conducted by LHRC in 14 regions across Tanzania Mainland in 2022 also attempted to probe on the implementation and compliance with LCR. Evidence of compliance was found at some of the surveyed regions. For instance, in Shinyanga some businesswomen in Bulyanhulu who responded to the survey, acknowledged that the ***Bulyanhulu Gold Mine*** receives tenders from local businesses.



However, their major issue was that most of the tenders are granted to businesses owners from Dar es Salaam and Mwanza, and from within the surrounding community in the region. A similar concern was expressed with regard to employment opportunities by some of the interviewed community members surrounding the *Williamson Diamonds Mine*. One of them said:

'My brother we, the locals, do not get enough job positions here because those who are responsible for recruitment usually bring their own relatives from other regions, taking advantage of their relations with the mine owner.'

In Mara, the survey found that implementation of LCR plan at Barrick's *North Mara Gold Mine* appeared to be good, as it was observed that most of the services provided to the mine, including security services, as well as goods supplied, were from Tanzanian companies or service providers.

In Geita, the survey team found that majority of employees at GGM (about 80%) were Tanzanian, with some of them occupying management positions.

At *Bulyanhulu Gold Mine* in Shinyanga, the Community Relations Officer told the survey team that when the mine wants to procure goods and services, they check for availability of such services at village level first, then move on to other higher levels. He said:

'When we want to procure goods and services we start looking for service providers at village level, if not available then we move toward level, regional level, up to national level. If such service provider is still not found, then we look at international level.'

In Mbeya, one of the interviewed workers at *Giant Gold* in Chunya DC gave of a testimony of benefitting from on-job training to improve his skills.

He noted that he arrived at the mine without any knowledge and skills but was able to acquire such knowledge and skills through on-job training.

6.4 Consumer Protection

6.4.1 Legal and Regulatory Framework on Consumer Protection

Despite the fact that Tanzania does not have specific and comprehensive law on consumer protection, it (consumer protection) ensured through in several pieces of laws and regulations - line with its international human rights obligations (to a certain extent). Chief among them 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.'*

The said law establishes the Fair Competition Commission, whose functions include to ensure protection of consumers' interests and provide remedies. There is also the National Consumer Advocacy Council, whose functions include: representing the interests during consultations with



the Fair Competition Commission, regulatory authorities, and government ministries; and received and disseminate information and views on matters of interest to consumers.

Under the Fair Competition Act of 2003, any person in trade is prohibited from engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. In connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services, the Act provides for several prohibitions, including:

- a) Falsely representing that goods are of a particular standard, quality, grade, composition, style or model or have had a particular history or particular previous use.
- b) Falsely representing that services are of a particular standard or quality or grade.
- c) Falsely representing that goods are new.
- d) Falsely representing that a particular person has agreed to acquire goods or services.
- e) Representing that goods or services have sponsorship, approval, performance, characteristics, accessories, uses, or benefits they do not have.

Sections 18 and 19 of the Fair Competition Act of 2003 prohibit misleading conducts in relation to goods and services, in terms of nature, characteristics, suitability or quantity of goods or services. Section 49 provides that no person is allowed to supply goods to consumers if such goods do not comply with product safety standards or have been banned.



Picture 6.13: A TBS official inspecting some of the goods at a supermarket in Kasulu – Kigoma in September 2021

Picture source: MillardAyo



There are also other laws that ensure consumer protection, including those which establish regulatory authorities such as the 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. For instance, the Land Transport Regulatory Authority Act of 2019 establishes the LATRA and the Consumer Consultative Council, whose functions include protection of consumer interests. The Tanzania Communications Regulatory Authority (TCRA) has protection of telecom industry service users among its functions, including through the Postal Communications (Consumer Protection) Regulations of 2018, which entered into force in April 2021. TMDA and TBS work to protect consumers against counterfeit and substandard products by ensuring consumer product safety.

Despite existence of various laws and regulations on consumer protection, counterfeit and substandard products continue to flood domestic market. These products have been said to usually originate from China, India, the United Arab Emirates (Dubai), Indonesia, Taiwan, Singapore, Pakistan, Hong Kong, South Korea, Bahrain, Malaysia, Burma and Thailand. Identifying and reporting counterfeit and substandard products is also an issue for most consumers, while challenges inadequate budget allocated for relevant authorities; poor governance and corruption; and lack of effective enforcement of laws persist.

6.4.2 Hotspots for Counterfeit and Substandard Products

Dar es Salaam region has been identified as the biggest hotspot for counterfeit and substandard products in Tanzania. Problematic areas in the city include the Kariakoo Market, where counterfeit risk factor is said to be very high, and all products, including electronics, auto spare parts and clothing, are sold. Another key problematic area in the region is Manzese Market. Other regions which have been identified as hotspots for counterfeit and substandard products include Arusha, Mwanza, Mara, and Kilimanjaro.

The survey on business and human rights also found that regions located along borders with neighbouring countries, such as Zambia, Malawi, and Kenya, are also hotspots for counterfeit and substandard products. These regions include Mara and Mbeya.

6.4.3 Existence and Impact of Counterfeit and Substandard Products

Community members who responded to the survey were asked various questions to probe existence and impact of counterfeit and substandard products and how they respond when they come across such products.

The first question they were asked was whether they tend to inspect goods or products to check if they have expired or of not required standard before buying them. Half of the respondents (50.2%) said do the inspection,



decreasing from 54% in the previous survey. 42.9% of the respondents (4 out of 10) said they do not inspect goods/products before buying them, about the same percentage as in the previous survey, while the remaining 6.9% indicated they were not sure or did not remember.

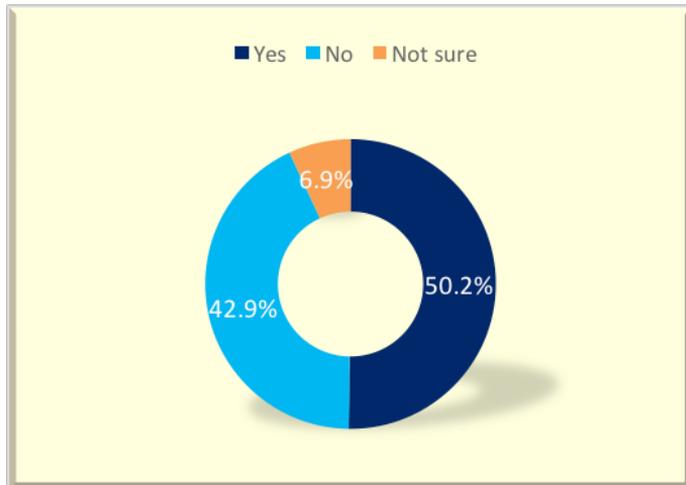


Figure 6.3: %Response of community members on whether they inspect goods or products before buying them (N=812)

Source: Field data, 2022

Further analysis of field data showed slight variations in terms of tendency to inspect goods or products among male and female community members. Percentage of community members who inspect goods inspect the goods or products was found to be higher among female community members (51%) than their male counterparts (49%).

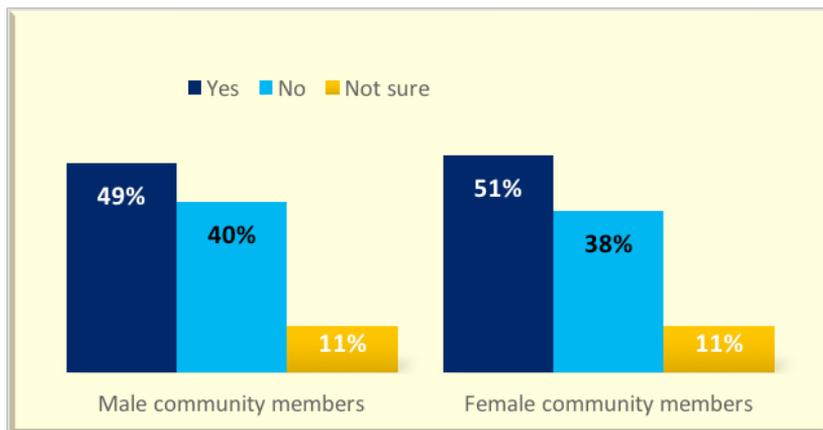


Figure 6.4: %Responses of community members on whether they inspect goods or products before buying them by sex

Source: Field data, 2022



The second question that community members were asked was whether they have ever bought a fake or substandard product. 27% of the respondents said they had bought a fake or substandard before, decreasing from 37% in the previous survey. The majority of them (61.6%) said they had not bought such product, while the remaining percentage said they did not remember. However, since nearly half of the respondents acknowledged that they do not usually inspect products, the percentage of those who have bought fake or substandard products could be much higher, since there is possibility of many buying such products without knowing. Percentage of those who said they had bought or come across a fake or substandard product was slightly higher among female community members (22%) compared to male community members (21%).

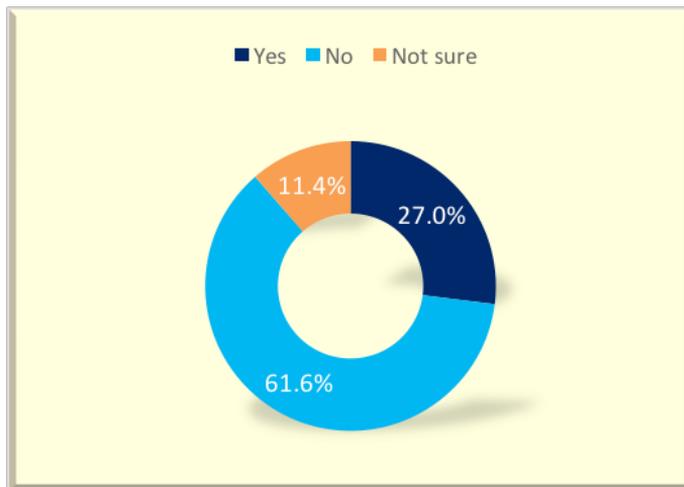


Figure 6.5: %Responses on coming across or buying counterfeit or substandard product (N=812)

Source: Field data, 2022

The survey also found that people in rural areas are more vulnerable to fake/counterfeit and substandard products, since they are usually less informed about products. One of the survey respondents in Dar es Salaam stated that some traders take fake and substandard products from markets such as the **Kariakoo Market** to sell them upcountry, especially in rural areas. As stated above, **Kariakoo Market** is one of the hotspots for counterfeit and substandard products in the country.

The third question that the survey respondents were asked (those who had come across or bought such products) was action taken after coming across or buying a fake or substandard product. Like in the previous survey (50%), majority of the respondents (48%) said they did not take any action, while 43% said they returned the product to the seller. Only 9% said they reported the matter to relevant regulatory authorities, increasing from 4% in the previous survey.



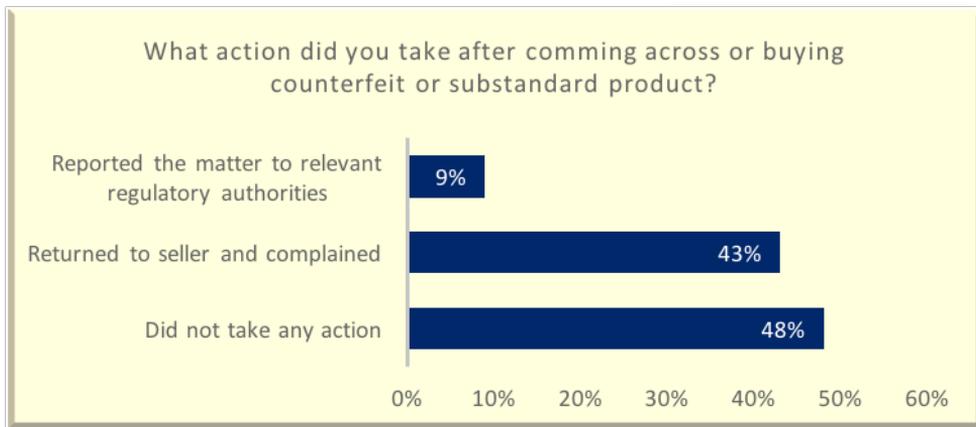


Figure 6.6: Responses on action taken by community members after coming across counterfeit or substandard product (N=219)

Source: Field data, 2022

Lastly, the survey respondents who said they had bought fake or substandard products were asked if they had suffered any harm after using such product. 20.6% of the respondents responded “Yes.” In the previous survey, 31% of the respondents confirmed suffering harm as a result of consumption of counterfeit or substandard product.

In Dar es Salaam, the survey found that some community members do not know how to inspect or check products to determine whether they are fake or substandard. In Iringa, some of the interviewed community members said that they usually do not inspect goods or products before buying them because ‘they are in a hurry.’ One of them said, *‘sometimes you are in a hurry, and you need to grab something quickly and go, so you even forget to check the product. However, I occasionally check the products before buying them.’*

In Kilolo District, Iringa Region, another community member pointed out that expiry date labels on most products, especially food products, are usually not visible, hence people usually do not bother to inspect them. Another respondent in the region, resident of Mufindi District, said that another thing people do not usually bother about is reporting counterfeit or substandard products. He said, *‘to tell you the truth, I usually don’t take any action when I come across fake products, because I know nothing will be done anyway.’*





Picture 6.14: Drugs, one of the fake and/or substandard products sold in Tanzania

In Mbeya, an interview with trade officers in Mbeya City Council and Chunya DC revealed existence of counterfeit and substandard products, but people usually do not report such cases. One of the trade officers noted that most of the products, especially Chinese products, sold are either fake or substandard, including electronics. It was further reported in the region that it has been very difficult to control cross-border movements that promote importation of counterfeit and/or substandard goods, including the borders with Zambia and Malawi, through which fake cosmetics are imported. Shortage of manpower to inspect and prevent spread of such products was said to be a challenge. At Mbeya City Council, a trade officer revealed that a fine of Tshs. 50,000 to 1,000,000 is imposed on traders found with fake or substandard products, which may not be sufficient to curb the problem.

Some of the interviewed community members in Mbeya pointed out that there is a challenge of some of the labels on products not being visible, making it difficult for a common *mwananchi* to read. They also recommended for the language used to describe products to be simplified and members of the public to be regularly informed or educated about counterfeit and substandard products.

LHRC calls for comprehensive national consumer protection framework that will guide standardization of legal and policy protections of consumers against goods and services produced in or imported from abroad. Hints of what should be reflected in the said framework are indicated above from the views gathered during this survey. The framework proposed should also direct law and policy makers to reflect human rights standards or norms e.g. as per UNGPBHR of 2011



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.” Businesses, especially companies, now have a duty to improve their environmental performance and protect the environment.

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.”**

To ensure corporate environmental responsibility, Tanzania has put in place various laws, regulations, policies, and rules. These include the Environmental Management Act of 2004; the Public Health Act of 2009; and the National Environmental Policy of 1997. The National Environment Management Council (NEMC), established under the Environmental Management Act, is the major body tasked with protection and management of environment in Tanzania. It has a task of protecting the right to clean, safe and healthy environment, which is protected under the Environmental Management Act.

7.1.2. Key milestone: Right to environment now officially a human right

In 2021, the United Nations (UN) Human Rights Council recognised, for the first time, that having a clean, healthy and sustainable environment is a human right. The recognition was made through adoption of Resolution 48/13, called on States around the world to work together, and with other partners, to implement this newly recognised right. Delighted by this key milestone, the UN High Commissioner for Human Rights, Michelle Bachelet, issued a statement, calling on States to take bold actions to give prompt and real effect to the right to a healthy environment, following a UN Human Rights Council’s landmark decision. She also paid tribute to the efforts of a diverse array of civil society organisations, including youth groups, national human rights institutions, indigenous peoples’ organizations, businesses and many others worldwide who have been advocating for full international recognition of this right. Additionally, she stressed the importance that the rights to participation, access to information and access to justice are also respected



in order for the human right to a healthy environment to be fully realized.

In another resolution, Resolution 48/14, the Human Rights Council also increased its focus on the human rights impacts of climate change by establishing a Special Rapporteur dedicated specifically to that issue.

7.1.3. Compliance with Environmental Obligations

When checking compliance with environmental obligations, the survey probes on issues of adoption of environmental management policies by businesses enterprises, conducting environmental impact assessments (EIA), and conducting social impact assessments (SIA). Corporate officials at the surveyed businesses were asked whether they have in place environmental management policy. Only 45.4% of the businesses were said to have such policy in place, while the majority 49.5% were found to not have in place the policy. The remaining 5% of the respondents indicated that they were not sure whether their companies had such policy in place. Compared to the previous, in which only 34% of businesses said they had adopted environmental management policies, these survey findings represent a slight improvement.

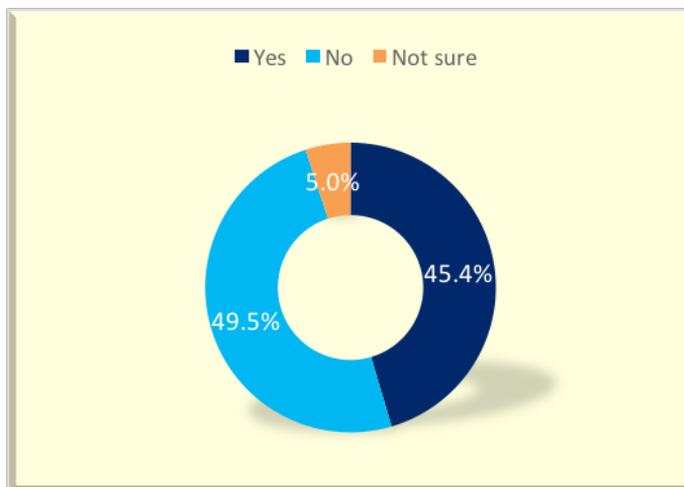


Figure 7.1: %Responses of corporate officials on companies having in place an environmental management policy

Source: Field data, 2022

However, while nearly a half of the companies said they have the policy, only a few of them were able to produce copies when asked by survey teams. Majority of them could not share copies of the policy.

When asked whether community members participate or are usually involved in social impact assessment, the overwhelming majority of the respondents (90.5%) said they do not. Only 1.4% of the respondents said they do.



In the previous survey, only 1% of the community members who responded to the survey said they community members are usually involved in such assessments.

In Morogoro, the survey team found that *Kilombero Sugar Company Ltd* had adopted an environmentally friendly method of producing electricity for industrial use. They use sugarcane pulp (bagasse) to produce electricity. The biomass residue from the sugar production process, bagasse, is used to generate electricity through cogeneration. This is commendable effort by the company, in line with its environmental obligations. The UN Guiding Principles on Business and Human Rights of 2011 and the UN Global Compact Ten Principles emphasize on use of environmental-friendly technologies. The latter encourages the development and diffusion of environmentally friendly technologies.

7.1.4. 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.” It also refers to “the presence in the environment of an agent which is potentially damaging to either the environment or human health.” 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.

Community members who responded to the survey were asked about different forms of environmental pollution experienced in their areas of residence. Incidents of environmental pollution were reported in 13 out of the 14 regions (93%), namely Dodoma, Iringa, Dar es Salaam, Pwani, Morogoro, Shinyanga, Geita, Mara, Iringa, Mbeya, Arusha, Tanga, and Mtwara. These incidents fell in the categories of air pollution, water pollution, land pollution, and noise pollution, and are briefly discussed below. In total, 37 incidents of environmental pollution were reported by interviewed community members.

As shown in Figure 7.2 below, air pollution constituted the largest percentage of reported environmental pollution (40.5%), followed by land pollution (27%), and water pollution (21.7%). Noise pollution accounted for the smallest percentage, at 10.8%.



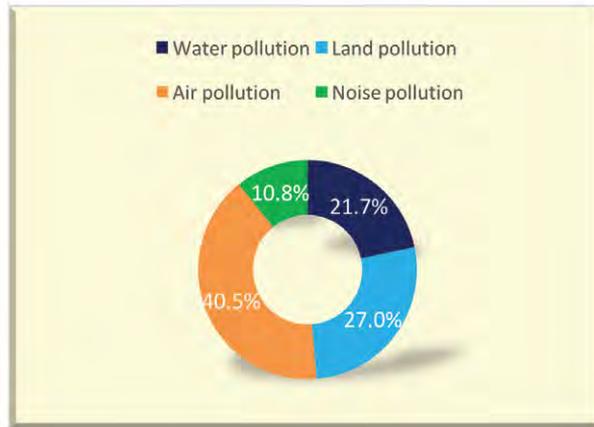


Figure 7.2: %Reported incidents of environmental pollution by type (N=37)

Source: Field data, 2022

7.1.4.1. Air Pollution

Air pollution incidents were reported in regions such as Dodoma, Iringa, Dar es Salaam, Pwani, Morogoro, Geita, Mara, Iringa, Mbeya, Arusha, Tanga, and Mtwara. In Dodoma, an incident of air pollution was reported by some of the residents of Kilimani Ward, who claimed operations of CETAWICO, a wine production company in the ward, were producing unpleasant odours/smells, which spread across their street (Chinyonyo Street).

One of the residents said:

'...they told you they don't produce wine here, but it is not true...if you stick around until 1:00pm you shall smell the odour, a very bad smell produced when they open their winery fermentation tanks to start making wine from grapes. The odour is so unpleasant that we can't stay inside. We have reached out to our local street leaders for their intervention, but it appears they are of no help..'



Picture 7.1: CETAWICO industrial premises in Kilimani Ward in Dodoma, where neighbours claim wine production takes place and produces unpleasant odour pollution



In Iringa, some of the interviewed community members residing near the Mlandege Abattoir (slaughterhouse) in Iringa Municipality also complained about the bad smells coming from the slaughterhouse.

One of the survey respondents said the odour pollution is caused by lack of a proper drainage system at the slaughterhouse. Another respondent, who claimed to have a shop nearby, said the smell is so bad that sometimes he is forced to close the shop before time. He also said he sometimes experiences difficulty breathing and nasal obstruction.



Picture 7.2: Mlandege Abattoir in Iringa MC which is said to produce unpleasant odours

In Dar es Salaam, complaints about industrial pollution in the form of air pollution were made by some of the interviewed respondents residing around the Mikocheni industrial area. One of them said that the situation is worse during the night hours, and one might think a house is burning due to the amount of smoke that is produced, accompanied by unpleasant odour.

In Pwani, some of the residents of Picha ya Ndege in Kibaha District complained about industrial pollution in the form of smokes produced by **KEDs Tanzania Co. Ltd.** Similar complaints were made against **Hong Yu Steel (T) Ltd** by some of the interviewed community members in the district, and one of the community members pointed out that the company had even received a warning from the Minister responsible for environment for industrial pollution, but nothing has changed.

In Morogoro, some of the survey respondents in Kingolwira Ward in Morogoro DC expressed concerns over industrial pollution caused by operations of **Alliance One Ltd**, a tobacco company. One of the residents in the ward said sometimes the dust produced from the industry spreads into the air and settles on top of water. In Kilosa



District, some of the survey respondents lamented what they called ‘the outdated practice’ by **Kilombero Sugar Company Ltd** of burning sugarcane crops before harvest, producing some heavy smoke in the process that contaminates the air.

In Mara, some of the residents and local and traditional leaders in Tarime District expressed their concerns over air pollution caused by mining activities of Barrick’s **North Mara Gold Mine**, particularly the dust produced. One of the residents said that the dust emissions (particles) in the air as a result of mining activities may have been responsible for the deaths of his livestock. He noted that the situation is worse at night because it is when more dust is emitted, allegedly containing poisonous particles. In Mtwara, some of the interviewed villagers in Mbuo Village said dust pollution caused by operations of **Dangote Cement Factory** was one of the challenges they were facing.

In Iringa, IFP Company was implicated in industrial air pollution by some of the residents in Kitwiru area. They complained about the heavy smoke coming from the industry. In neighbouring Mbeya, air pollution caused by operations at rice mills was said to be a big concern for nearby residents, especially in Mbarali DC. Mill owners were accused of not taking measures to prevent or reduce dust emissions. Dust emissions were also mentioned as a challenge in Chokaa Village in Chunya DC.



Picture 7.3: Some of the rice mills within Makambako Industrial Area - Ubaruki Village in Mbarali DC, which have been said to cause dust pollution

In Arusha, air pollution complaints were made by some of the interviewed respondents against **Grande Demam Limited**, milk factory. It was reported that there is a pit for washing milk containers which produces intolerable smells and cause discomfort for residents nearby the factory. Complaints about air pollution were also levelled against **Fiberboard Limited**.





Picture 7.4: A pit at Grande Demam Limited in Arusha, said to produce intolerable smells and causing air pollution

In Tanga, complaints over dust pollution were mainly made against **Neelkanth Lime Ltd.**, located in Kiomoni Ward in Tanga MC. Dust emissions from the operations of the company were said to affect air quality, with community members around the area noting that the situation gets worse on windy days. It was reported that various government leaders, including Ummy Mwalimu and Mussa Sima, have called upon the industry to address the dust pollution problem, but nothing been done so far. One community member residing near the industry said, *'..many government leaders have come here, including ministers and the Vice-President – who visited last year. When they leave things continue to be as they were. We were told the industry would be moved from here, but it is still here. We have complained a lot, but we just have to get used to this situation, there is nothing more we can do..'*





Voice of Bongo
@voiceofbongo

Waziri wa Mazingira Umyy Mwalimu ametembelea Kiwanda cha kutengeneza Chokaa cha Neelkanth Chemical Limited na kumwagiza mwekezaji wa kiwanda hicho Bw. Rashid Hamoud (Liemba) kutumia teknolojia rafiki wa mazingira katika kiwanda hicho ili kupunguza changamoto za mazingira



8:35 PM · Feb 22, 2021 · Twitter for Android



Description

Vumbi linaloathiri wafanyakazi kiwanda cha Neelkanth Limited kuchunguzwa

Azam TV

7

Likes

589

Views

2020

May 15

Tanga #NEMC #AzamTVUpdates

Naibu Waziri ofisi ya Makamu wa Rais Muungano na Mazingira, Mussa Sima, ameliagiza baraza la hifadhi na usimamizi wa Mazingira #NEMC kufanya ukaguzi kwenye kiwanda cha kuzalisha chokaa na kemikali cha Neelkanth Limited kilichopo kata ya Kiomoni jijini Tanga, ili kubaini chanzo cha uwepo wa vumbi ambalo linaathiri wafanyakazi pamoja na wanachi wanaozunguka eneo hilo.

#AzamTVUpdates

Picture 7.5: Extracts of media reports covering the dust pollution situation at Neelkanth Lime Ltd

7.1.4.2. Water Pollution

Water pollution incidents were reported in regions such as Pwani, Mwanza, Geita, Mara, and Mbeya. In Pwani, residents of Pichaya Ndege in Kibaha District complained about the water pollution caused by chemical waste produced at *KEDs Tanzania Co. Ltd*. One of the interviewed residents told the survey team that the chemical waste contaminates water streams community members use for economic activities such as farming. She noted that the contaminated water damages their food crops, including cassava and greens. *Bakhresa Food Production Ltd* was also implicated in water pollution by some of the interviewed community members in the region. Large amounts of rice husk were found abandoned around the rice mills.





Picture 7.6: Chemical waste from KEDs Tanzania Co. Ltd allegedly contaminating water streams in Kibaha District, Pwani Region

In Mwanza, the survey team observed a polluted river, Mirongo River, which was said to be polluted by businesses in Ilemela District. In Geita, some of the residents of Nyamalembo Village alleged that they fear water from the river they fetch water from had been contaminated by chemical waste from Geita Gold Mine (GGM).



Picture 7.7: Polluted Mirongo River in Ilemela District, Mwanza (left) and water source feared to be contaminated by chemical waste produced by GGM in Geita (right)

In Mara, Barrick's *North Mara Gold Mine* was implicated in contamination of Tigite River, whose water flows into Mara River. It was reported that a chemical waste pipe from the mine burst and caused chemical waste to escape into the river. The matter was reportedly investigated by the National Environmental Management Council (NEMC) and culminated into the mine being punished to pay a fine of Tshs. 1 billion by NEMC. Contaminated water in the rivers was also said to contribute to deaths of livestock in Tarime District. Apart from the fine, there were no reports of any other action taken



against the mine, including in relation to the fate of the surrounding community members who may be or might be affected by the pollution of the river water, considering it is their main source of water for domestic and other uses.

In Mbeya, water pollution was observed in Chokaa Village in Chunya DC. Artisanal miners were implicated in contamination of water sources in the village.



Picture 7.8: Water said to be contaminated by mining activities of artisanal miners in Chokaa Village, Chunya DC

Since women and girls are often primarily responsible for water collection, water pollution affects them more. This is because without safe drinking water, adequate sanitation and hygiene facilities at home and in places of work and education, it is disproportionately harder for women and girls to lead safe, productive, healthy lives. The responsibility of collecting water women and girls usually bear is often very time-consuming and arduous, which means that in a nearby water source is polluted then they have to walk long distances in search of clean water while leaving an uncomfortable life in terms of personal hygiene due to water scarcity. This also leaves them more vulnerable to different forms of violence, both at home and on the way to collect water, including sexual violence.

7.1.4.3. Land Pollution

Land pollution incidents were reported in regions such as Morogoro, Dodoma, Shinyanga, Iringa, Mbeya, and Tanga. In Morogoro, MVIWATA official revealed during an interview with the survey that use of advanced machinery and chemicals such as fertilizers and pesticides was disturbing soil ecosystem and causing loss of soil fertility.



In Dodoma, land pollution claims were levelled against **Bhanji Transport Company** in Makole Ward, accused of allowing chemical waste and oil from its carwash and garage into the streets. In Iringa, **Evergreen Industry** was also implicated in land pollution.

In Mbeya, land pollution was observed at SIDO market area in Mwanjelwa. Overflowing garbage bins were observed at the area, and some of the garbage was spread across the road, preventing easy vehicle passage, and posing health risks.



Picture 7.9: Large amount of garbage found at SIDO market area in Mbeya

In Tanga, sinkholes were observed near Neelkanth Lime Ltd, caused by need for raw materials needed at the industry. It was reported that some community members extract the raw materials and sell to the industry.



Picture 7.10: Sinkholes observed near Neelkanth Lime Ltd in Tanga



7.1.4.4. Noise Pollution

Noise pollution incidents were reported in regions such as Pwani, Mara, and Tanga. In Pwani, residents of Picha ya Ndege in Kibaha District complained about the noise pollution produced by generators and machines at **KEDs Tanzania Co. Ltd.**

Similar complaints were made against **Prime Timber Company** in Muheza District, Tanga Region.

7.1.5. The Mara River Pollution Saga

7.1.5.1. Introduction: Reports of Pollution in the River & Impact

The Mara River basin covers a surface of 13,504 sq km, of which about 65% is in Kenya and 35% in Tanzania. From its sources in the Kenyan highlands, the river flows for about 395km, draining into Lake Victoria in Mara Region, Tanzania. In early March 2022, reports of pollution of river water emerged, with dead fish observed floating on the river. It was reported that the pollution had caused foul smell, death of the fish, and change of water colour to black.



Picture 7.11: The Mara River

Picture source: WWF

Impact of the water pollution in the river include loss of fish in the river due to hundreds of them being killed, consequently severely impacting people's livelihoods. Surrounding community members, whose main economic activity is fishing, lost their daily earnings, affecting their ability to support their families.

An investigative report by **Nipashe**, a local newspaper, revealed that pollution in the Mara River has caused various health problems to surrounding community members who depend on the river water for domestic use and fishing activity. Health problems suffered include skin diseases, including itching; diarrhea; vomiting, including blood vomiting (haematemesis); and stomach inflammation/bloating (gastritis). Apart from health complications, the river water



pollution has been said to cause deaths of fish and cattle, severely affecting the livelihoods of the community members in surrounding villages. Interviewed village leaders revealed that the pollution problems started becoming serious in 2018 and they have been experiencing them ever since. Some of the community member also expressed concerns over accessing health services, given the distance between their residences and health services facilities.

7.1.5.2. Government Reaction: Investigative Team and Report

Following reports of water pollution, the Government banned fishing in the river and suspended water use. The Government also formed an investigative team, a National Technical Committee of 11 experts from various public institutions to investigate the source and cause of Mara River pollution and provide recommendations. The investigative team, led by Prof. Samwel Manyele from the University of Dar es Salaam, reportedly conducted field surveys along the river to take rapid tests of polluted water (including oxygen levels), identify hotspots for pollution, and collect water samples, solid sediments from riverbed, decaying plants, and dead fish samples. It was also reported that the team interviewed residents of affected villages, namely Kirumi, Ryamisanga, and Kitasakwa in Butiama District; Kwibuse, Kwibwe, Bisarwi, and Kuruya in Rorya District; and Nyabichume, Matongo, Mjini Kati (Nyamongo), Bisarwi and Mrito in Tarime District. The data collection tool (questionnaire) collected data related to livelihood status and opinions in respect of the pollution on the river wetland area from respondents such as farmers, fishermen, livestock keepers and miners.



Picture 7.12: Environmental experts taking samples from Mara River following reports of water pollution in March 2022

Picture source: Mwananchi Newspaper



Key findings of the investigation, released in a reported dated 22nd March 2022, were:

- The pollution was not caused by petroleum products in the river, as the hydrocarbons detected on the surface of waters within the wetlands were mostly biogenic in nature having been generated from dead and decomposed plants in the area over a period of time;
- There was depletion of dissolved oxygen in the river water as extremely low levels of such oxygen was tested, which largely contributed to the observed deaths of fish that were seen floating;
- The high load of organic matter seen within the wetland area which is directly linked to severe depletion of dissolved oxygen, is attributed to decomposed plants biomass and waste (cow dung and urine) generated from the large number of herds of cattle pasturing in the higher wetland areas. Decomposition of the organics also caused blackening of the river water and bad odour;
- Concentration of suspected toxic chemicals tested in the water and dead fish samples were insignificant and were found to be within acceptable levels based on the standards set by the Tanzania Bureau of Standards (TBS) and the World Health Organization (WHO); and
- Tested water samples were found to be within the acceptable levels, reflecting that there was no infiltration of polluted water from the river into the nearby wells used by the villagers.

In light of the findings above, the National Technical Committee recommended several short-, medium-, and long-term measures to be taken by the Government, including:

- Acceptable economic and social activities that are environmentally friendly to continue as before since the suspected hazardous chemical substances contained in the water samples from the river were found to pose no threat to human health;
- Active and effective enforcement of relevant laws and regulations governing the wetland and water resources in the area;
- The Government to designate the Mara River Wetland Area a protected area in view of its uniqueness in terms of the large size, its proximity to Lake Victoria, as a water source, and its proneness to invasion from livestock keepers and peasants in search of pastures and other resources available in the area;
- Further detailed research in the wetland area to be conducted to determine the available species (flora and fauna) and develop means of eradicating invasive species which are thriving and expanding on surface waters; and



- Establishment of a joint conservation programme of Mara River Wetland which will involve all sectors that have a stake to the wetland.

7.1.5.3. Public Reaction to the Investigative Team Report

According to the findings of the government investigative team, pollution in the river was caused by a toxic spill of cow excrement and urine. The report showed that about 1.8 million tons of livestock sludge and 1.5 billion liters of cow urine had been discharged into the river. The Government ruled out discharge of chemical waste from the nearby gold mining, North Mara Gold Mine, as the source of water pollution and fish deaths, but some environmentalists have indicated that this might actually be a more plausible explanation.

The report by the National Technical Committee was widely criticized by members of the public, including human and environmental rights stakeholders and Members of Parliament (MPs). Among the human and environmental rights stakeholders who were critical of the report findings were the Legal and Human Rights Centre (LHRC) and Lawyers' Environmental Action Team (LEAT). Among MPs who criticized the report was the MP for Tarime Rural, Hon. Mwita Waitara, who claimed the committee did not interview community members from the most affected areas. He also accused the committee of not involving MPs from the affected areas in conducting the investigation. Another MP who was critical of the report was Prof. Kitila Mkumbo, who questioned the report findings in relation to recommendations provided. One of the MPs also questioned why the Ministry of Health and the Tanzania Bureau of Standards (TBS) were not involved in the investigation. Having disputed the report of the committee, the MPs recommended formation of a new independent committee to re-investigate the source of pollution in Mara River. Such call was also made by the ACT-Wazalendo, an opposition political party via a press statement issued on 23rd March 2022.

Following the criticism of the report, the Government team came out to defend the report, reiterating that no contaminations were discovered and that the fish died because they were deprived of oxygen, and oxygen depletion was caused by high load of cow dung and urine generated from large number of herds of cattle pasturing in the wetland areas over the years. The team, led by Prof Samwel Manyele, insisted that their investigation was confined to what transpired on 7th February 2022, based on their Terms of Reference (ToRs), which did not require them to look into long-term challenges of the Mara River.



7.1.5.4. LHRC and LEAT Factfinding and Views

The fact-finding by LHRC and LEAT was conducted in March 2022, around the same time the government committee was conducting their own investigation. The probe team visited some of the villages and affected areas to determine the cause of the river pollution, including Kirumi and Bisarwi Villages in Tarime District, which were reported to be among the most affected villages.

The probe team found existence of long-term problems that led to some people suffering from skin diseases and caused death of a large number of livestock after consuming water from the river. According to the fact-finding report, a total of 800 livestock were killed after consuming water believed to be polluted in the Mara River Basin in the period of 2018 to 2022, while in the period of 1st to 15th March 2022 alone, a total of 54 livestock were reportedly killed under similar circumstances. The dead animals were also said to have changed colour into black after dying and declared unsafe for human consumption. The probe team was also informed that skin diseases had become a common occurrence among community members, especially in 2020 and 2021, whereby affected individuals were said to excessively scratch their bodies to deal with their uncontrollably itchy skins, popularly termed "**Kwangua Vocha**." It was reported that sometimes affected people have to use items such as pieces of firewood or maize cobs to scratch themselves. There were also reports of 3 fishermen who frequented the Mara River dying after vomiting blood for 2 to 3 days and people who experienced health problems, including diarrhea, after consuming fish believed to be affected by contaminated water in the river.

Like other critics, the organizations disputed the claim that contamination of Mara River was caused by animal faeces and decomposed weeds. LHRC and LEAT also pointed out lack of civil society representation in the government probe team; conflicting reports by the Lake Victoria Basin Water Board and the government probe team regarding source of pollution; some of the key information/explanations missing from the government report; and the committee led by Prof. Manyele failing to interview pollution victims.

Like other stakeholders, including MPs, LHRC and LEAT recommended formation of an independent committee, which shall include prominent environmental experts, to re-investigate the source of pollution in Mara River and impact caused to surrounding communities. They also recommended for affected community members to be freely interviewed and government to clean the affected areas and thereafter apply the **Polluter Pay Principle**. Another key recommendation from the LHRC and LEAT probe team



was granting of fair and timely compensation to all community members affected by the pollution and subsequent problems caused by it.

7.1.6. Concerns over Mine Closure Planning

Mine closure is a process that considers environmental, social and economical aspects during mine closure planning and implementation. Many governments across the world now require mining companies to prepare Mine Closure Plans (MCPs). These plans are important because communities are often left with polluted environment when mines finish their lifespans. In Tanzania MCPs are a legal requirement under the Mining Act of 2010 (as revised in 2019) and the Environmental Management Act, No. 20 of 2004. Preparation and submission of MCPs is specifically required under the Mining (Safety, Occupational Health and Environment Protection) Regulations of 2010. The Mining Commission formed the National Mine Closure Committee (NMCC) which is mandated to review and approve the MCPs submitted by all holders of the Mining and Special Mining Licences.

Historically, Tanzania has been faced with the challenge of non-compliance with the requirement of preparing and submitting MCPs, whereby very few holders of the Mining and Special Mining Licences have been submitting MCPs in the past 30 years. For instance, in 2019, it was reported that 190 out of 200 mining companies had not submitted their mining landscape information.

Using Buzwagi Gold Mine as a case study, *HakiRasilimali*, a local extractives sector NGO, has recently (in 2021) highlighted several challenges associated with adherence to mine closure planning requirements in Tanzania. Such challenges include dispute on the modality of the rehabilitation to be undertaken; MCPs being secret documents (lack of transparency); lack of constant monitoring of the rehabilitation process as indicated by the fact that at the time of mine closure the two parties were still negotiating on the modality of rehabilitation; and increasing rehabilitation costs. Several recommendations are given, including the NMCC to ensure frequent monitoring of the mine closure plan execution and assessment of the posted rehabilitation in accordance to submitted feasibility study so as to determine the depreciation and appreciation of the bond value, and the need for the MCP and rehabilitation documents to be available all the time to the general public.

LHRC calls upon the Government to ensure all mining companies submit and implement their MCPs as required by the law. This is essential in safeguarding the right to clean and healthy environment, which has been recently recognized by the international community as a human right.



7.2. Corporate Respect for Human Rights

7.2.1. Overview: Corporate Responsibility to RESPECT HUMAN RIGHTS

Corporate responsibility to respect human rights stems from 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. This responsibility is contained in the UN Guiding Principles on Business and Human Rights, and five foundational principles namely: business enterprises should respect human rights; the rights that must be respected are those recognized in international human rights instruments, including the international bill of rights; the enterprises should avoid causing or contributing to adverse human rights impacts and seek to prevent or mitigate them; all enterprises must respect human rights, regardless of their size, sector, operational context, ownership and structure; and the business enterprises must have in place policies and processes to facilitate respect for human rights, including human rights due diligence and process for provision of remedy.

In short, when business enterprises fail to comply with the relevant national, regional and international labour and human rights standards, they cause labour and human rights violations. There are several ways this can happen, for instance, when a business activities pose threat to health of workers, which may lead to violations of rights to life and health; a company or industry selling substandard or counterfeit product, which may lead to violations of rights to life and health; or where an employer disregards occupational health and safety, which is tantamount to violation of the right just and favourable working conditions. To prevent all these scenarios of labour and human rights violations, businesses must therefore abide by these standards and avoid causing or contributing to adverse human rights impacts related to **business operations, products made, and services provided**. But where they have failed in this regard or are complicit in human rights abuses, they should ensure the **victims have access to remedy**.

Human rights due diligence comprises four components: a statement of policy articulating the company's commitment to respect human rights; periodic assessments of actual and potential human rights impacts of company activities and relationships; integrating these commitments and assessments into internal control and oversight systems; and tracking as well as reporting performance. Company-level grievance mechanisms can contribute in two ways: under the tracking and reporting component of due diligence they provide the company with ongoing feedback that helps it identify risks and avoid escalation of disputes; they can also provide a remedy, a means of alternative dispute resolution.

This sub-chapter briefly highlights human rights issues and violations arising out of the operations of businesses in surveyed regions.



7.2.2. Human Rights Best Practices

Human rights best practices include having in place policies that promote human rights. These include child labour prohibition policy, environmental management policies, gender policy, disability policy, human resources policy, and HIV/AIDs policy. Some of the business enterprises that were visited by survey teams indicated that they have such policies in place, but only a few showed or provided copies to survey teams.

7.2.3. Reported Human Rights Abuses and Concerns: Survey Findings

Community members who responded to the survey were asked to about common corporate human rights violations. Majority of them (35.2%) said they were not sure, followed by 25.2% who mentioned environmental pollution, and 17% who mentioned violence against women and children. Less than 10% mentioned other corporate human rights violations, such as property/land rights violations, torture by security guards or police, and child labour.



Figure 7.3: Common corporate human rights violations (N=813)

Those who responded 'other' when asked about common corporate human rights violations were asked to mention those other rights. Majority of them mentioned labour rights of workers in their respective communities. They stated that their relatives and friends working at different industries or factories were subjected labour rights violations, including right to fair remuneration. Regarding property/land rights violations, most interviewed community members pointed out 'unfair compensation' granted after their land is acquired.

7.2.4. Access to Remedy and Satisfaction with Grievance Mechanisms

Community members who responded to the survey were also asked about access to remedy. In this regard, they were specifically asked to give their views on availability of community grievance mechanism to address disputes between them and business enterprises. Only just above a third of the respondents (38.6%) said there is such a mechanism in their community,



while the majority (53.5%) said there is no such mechanism, and the remaining 7.9% said they were not sure if such mechanism exists.

Majority of community members who responded to the survey (50%) said they were dissatisfied with the grievance mechanisms. One of their biggest concerns was corruption. They also mentioned grievance mechanisms being ineffective, inadequate compensation, and delays in accessing remedy as key issues.



Figure 7.4: %Responses on community members satisfaction with the business grievance mechanisms (N=813)



CHAPTER EIGHT

GENDER AND OTHER FORMS OF DISCRIMINATION IN THE BUSINESS SECTOR

8.1. Introduction: Gender, Business and Human Rights

8.1.1. An Overview Gender Issues in Business Sector

There is an intrinsic link between gender⁶⁴⁷ issues, economic development e.g. through business and human rights. For instance, women's engagement into and benefits from economic activities including being employed in business enterprises is largely determined by the cultural or social norms, roles, attitudes and beliefs. This is why, as this survey found out, some of the activities in corporate sectors were gendered e.g. receptionists, cleaning, store keeping against managerial positions which were predominantly occupied by men (more than 65%). The discrimination of women and other gender groups on basis of their sex or disability or health status e.g. maternal or other criteria is a human rights issue.

This chapter explores status of involvement of women and persons with disabilities (PWDs), among other vulnerable groups, into business undertakings. Progresses and existing barriers are mapped against the international and national gender rights standards governing business enterprises, women and PWDs rights. Such standards are reflected and directed into a number of legal and policy instruments (national and international levels) including:-

- i) ILO Discrimination (Employment and Occupation) Convention of 1958 (No. 111).
- ii) ILO Equal Remuneration Convention of 1951 (No. 100).
- iii) ILO Violence and Harassment Convention, 2019 (No. 190).
- iv) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979.
- v) Workers with Family Responsibilities Convention of 1981 (No. 156).
- vi) Maternity Protection Convention of 2000 (No. 183).
- vii) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa of 2004 (Maputo Protocol).

⁶⁴⁷ The National Strategy for Gender Development of 2005 of Tanzania defines 'gender' (at paragraph 1.8.1) to refers to the culturally and socially determined characteristics, values, norms, roles, attitudes and beliefs attributed to women and men through constructed identity in a society. Gender relationships differ from one social setting to another and can change from time to time.



- viii) Sustainable Development Goal of 2030 (Goal 5 on Gender Equality).
- ix) SADC Protocol on Gender and Development of 2008 (revised in 2016).
- x) Convention on the Rights of Persons with Disabilities of 2006.
- xi) EAC Gender Policy of 2018.
- xii) National Strategy for Gender Development of 2005 of Tanzania.
- xiii) Persons with Disability Act of 2010.
- xiv) Employment and Labor Relations Act of 2004.

Such instruments generally call for gender equality in a view of reducing inequalities between women and men at workplaces and in all other economic activities. State Parties are obliged to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating discrimination of all forms. For instance, the prohibited grounds of discrimination enumerated include sex as well as race, colour, religion, disability, political opinion, national extraction and social origin.

There are also several other legal instruments safeguarding the rights of children e.g. against worst forms of child labor and certain gender issues like HIV/AIDS. Such instruments include the Minimum Age Convention of 1973 (No. 138); the Worst Forms of Child Labour Convention of 1999 (No. 182); the Domestic Workers Convention of 2011 (No. 189); and, the ILO's HIV and AIDS Recommendation of 2010 (No. 200).

8.1.2. UNGPBHR's Requirements on Gender Issues

On the other hand, the UNGPBHR of 2011 (explained in chapter two) acknowledge and make reference to gender issues in several places. For instance, gender issues are covered or implied in Principles 3, 7, 12, and 20. Among other things, these Principles call for:-

- i) An effective consideration of gender issues, vulnerability and/or marginalization.
- ii) Paying special attention to GBV.
- iii) Business enterprises to consider additional standards if circumstances require.
- iv) Requirement for business enterprises to make particular efforts to track the effectiveness of their responses to impacts on individuals from groups or that may be at heightened risk of vulnerability or marginalization.



The gender references can be divided into three ‘gender windows.’⁶⁴⁸ 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.⁶⁴⁹ The third gender window is the requirement of businesses enterprises to consider **additional standards**.⁶⁵⁰

Despite the existence of gender references in the UNGPs, the UN observed the need to unpack the gender dimension of UNGPBHR, the mandate which was given to the UN Working Group on Business and Human Rights, which started doing so in 2017. In June 2019, the Working Group presented a report on Gender dimensions of the UNGPBHR during the 41st session of the Human Rights Council. The report highlights the differentiated and disproportionate impact of business activities on women and girls and develops a gender framework for the Guiding UNGPBHR.⁶⁵¹

In this regard, the Working Group proposed a three-step gender framework – **gender-responsive assessment, gender-transformative measures** and **gender-transformative remedies** – and uses the framework to develop gender guidance specific to each of the 31 guiding principles. All these and other gender analysis frameworks were considered in assessing the status of compliance of gender rights by business enterprises in Tanzania.

8.2. Key Issues Affecting Women’s Rights in The Business Sector

This survey has noted that, there are commonalities of types of issues of concerns affecting women’s rights in the business sector; and, the attributing factors almost all over the work. The key amongst the attributing factors appears to be insufficient legal protections and enforcement of the laws. For instance, Tanzania lacks specific law on women or GBV, a situation which renders it difficult to have specific attention to women issues.

⁶⁴⁸ 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 10th August 2022.

⁶⁴⁹ Ibid.

⁶⁵⁰ Ibid.

⁶⁵¹ Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (supra).



There are cases to suggest that, presence of specific law on the rights of child (Law of the Child of 2009) in Tanzania, has contributed to reduction of incidents of child labor as data below shows, albeit in generalized perspective.

In 2021 the President of the United Republic of Tanzania, H.E. Samia Suluhu Hassan, acknowledged that economic empowerment for women is crucial to achieving gender equality and her administration is committed to ensure enabling environment for women to attain economic independence.

8.2.1. Key Issues on Women's Rights in Business Sector – Global Context

The Working Group on Business and Human Rights⁶⁵² has highlighted some of challenges facing women's participation and inclusion in the business sector at global level.

Such challenges include various forms of discrimination and violence; non-recognition or undervaluing of women's contribution to economy; overrepresentation of women in informal, casual, and part-time work (as argued in chapter one of this report), as well as in supply chains of numerous industries, where they are more vulnerable to exploitation and abuse; pregnancy and maternity-related discrimination; underrepresentation of women in managerial positions; unequal pay for equal work.

Other key issues include inability of women to play an active role in trade unions, which increases the risk of their human rights concerns being overlooked; perpetuation of gender stereotypes, normalization of discriminatory social norms and objectification and sexualization of women's bodies, resulting in the commodification of women; trade and investment policies that are gender-neutral, which exacerbate existing discrimination against women; impacts of environmental pollution, climate change and land acquisition; and, women affected adversely by business activities face additional barriers in seeking access to effective remedies.

8.2.2. Key Issues Affecting Women's Rights in the Business Sector – Tanzanian Context

Numerous policies on women and economic development, business sector inclusive have all almost consensus on challenges facing women in business sector. Such policies include the National

⁶⁵² Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (supra).



Microfinance Policy of 2019; the National SMEs Policy of 2003; the National Trade Policy of 2003; the National Agriculture Policy of 2017; the National Fisheries Policy of 2015; etc. Key amongst the challenges are mentioned to be lack of sufficient skills; and, discrimination. The attributing factors are said to be some of cultural norms and insufficient legal frameworks (as said earlier).

The survey, which is subject to this report, has ascertained a number of challenges, which could also be termed as barriers for effective women's participation, inclusion and benefits from the business sector, particularly, through business enterprises. The challenges, concerns and attributing factors heard from consultations were:-

8.2.2.1. Women mostly occupying low-paying jobs

The survey also found that most women secure lower-paying jobs, especially sectors such as hospitality and manufacturing, whereby some of them occupy positions such as cleaners and receptionists. In Iringa, the survey found working at Makota Farm in Kilolo District, while men were found occupying administrative positions.⁶⁵³ This situation could be linked by stereotype perception of gendered roles and women's insufficient skills attributed by other social barriers in their communities.

8.2.2.2. Women disproportionately affected by inadequate wages and delays in payment of wages

The survey established that the minimum wages which are paid to workers are not commensurate with the current costs of living, and yet some employers were found to pay even below the minimum wages – as discussed in details in chapter three of this report. This may affect women more, especially when they are occupying low paying positions and are heads of households.

8.2.2.3. Women recruitment as issue at most workplaces in the business sector

At most of the surveyed workplaces, the percentage of women who were employed was very low compared to that of men. For instance, at *Vita Foam (T) Ltd; Coast Concrete Poles;* and, *CPL T Grain Processing & Storage Co. Ltd* in Pwani Region, the survey team found that only 2.3% of employees were female, and there was not PWDs.⁶⁵⁴

⁶⁵³ Human Rights and Business Survey 2022: Iringa Field Report.

⁶⁵⁴ Human Rights and Business Survey 2022: Pwani Field Report.





Picture 8.1: One of the few female employees at industrial workplaces in Pwani Region, found working as machine operator at CPL (T) Grain Processing and Storage Co. Ltd

In Iringa and Tanga, a significant variation was observed in terms of percentage of male and female workers employed at some of the workplaces, with male workers accounting for a very large percentage at most places. However, at some other places, women accounted for the bigger percentage of workers, as shown in the tables below. This was also observed in the cashew nut factories in Mtwara.

Table 8.1: Number of Female workers at some of the surveyed industries/companies in Iringa and Tanga

| Iringa | | | |
|--------------------------------------|-----------------|-------------------------|------------------------|
| Industry/Company | #Workers | # Female Workers | %Female Workers |
| Iringa Food and Beverages Co. Ltd | 508 | 6 | 1% |
| Pyrethrum Company of Tanzania | 214 | 48 | 22% |
| Sai Energy and Logistics Co. Limited | 20 | 10 | 50% |
| Tanga | | | |
| Industry/Company | #Workers | # Female Workers | %Female Workers |
| Neelkanth Lime Co. Ltd | 213 | 20 | 9% |
| Tanga Fresh Ltd | 121 | 34 | 28% |
| Trianon Investment Ltd | 10 | 8 | 80% |

Source: Field data, 2022.



Women were also found to be generally vastly underrepresented in managerial positions. For instance, at one company in Dar es Salaam Region, there was only 1 woman among 27 employees holding managerial positions. Among the corporate management officials, including human resources officers, who were interviewed at workplaces, only 27.7% were females, while the rest were male. Factors attributing to this situation as the same as already elucidated above.

8.2.2.4. Most female workers working as casual laborers

One of the key observations made by the survey is that very few women were found to be employed at the surveyed workplaces. This was found to largely contributed by a negative perception towards women and their ability to handle some of the jobs. LHRC recognizes the spirit of women who break the gender barriers and seek the male dominated jobs, as well as employers who trust in their capabilities regardless of community perception.



Picture 8.2: Left - Women working as casual laborers at Coast Concrete Poles Limited in Bagamoyo – Pwani. Right - Women found working as casual workers at a rice mill in Ifakara, Morogoro

8.2.2.5. Casual female workers facing more discrimination

Female casual workers are disproportionately affected as they face more discrimination and experience various forms of violence, especially verbal abuse and sexual harassment. Pregnant women working as casual labourers are also forced to continue going to work, especially where they are the only breadwinners in the family.

As a result, some of them have miscarriages, as revealed by a nurse at one of the factories that were visited in Tanga, who said that they get many cases of miscarriages at the factory because



some pregnant casual workers are the breadwinners in their families, and they know that if they do not report for work, they will earn a living to support them and their families. The nurse added that there was one pregnant casual worker who fainted while working and was given first aid and then rushed to a hospital. It was revealed that she was eight-month pregnant and advised to rest.

8.2.2.6. Unequal pay for equal work

As discussed above, majority of workers who responded to the survey (40.6%) said they receive unequal pay for equal work, meaning that there are different workers, including women, who use equal skill and effort to perform their job under similar conditions or working environment, but are paid differently.

8.2.2.7. Working environment at some of the workplaces not being women-friendly

Some of the workers who responded to the survey described working environment for women as very poor (10.8%) and poor (24.2%). Additionally, 5.6% and 22.8% of workers said the state of toilets is very poor and poor respectively, and onsite observation revealed that toilets for workers at a significant number of surveyed workplaces were in poor and dilapidated condition. Women visiting workplaces and female workers were found to be disproportionately affected by dirty toilets, especially in terms of increasing the risk of contracting diseases such as UTI. Regarding this issue, one of the workers at ***Africa Zhenyan Group of Companies*** in Iringa, had this to say, ***'our sisters are very much affected by the state of toilets, which are very dirty/filthy and without water. Most of them get UTI.'***

As discussed in the labour chapter above, employers are required to make provisions for other sanitary conveniences such as washrooms, washing facilities, and changing rooms. They are required to provide separate change rooms for males and females. Regarding changing rooms, some of the interviewed workers said there are changing rooms at their workplaces, while others said there were not. Fewer claimed there were separate changing rooms for males and females.



8.2.2.8. Women subjected to different forms of violence and harassment in the workplace

The survey found that women suffer different forms of violence at workplaces, especially sexual violence and harassment. Sexual violence accounted for 21.3% of common forms of violence at workplaces, but the percentage could be higher if awareness about GBV was high among workers. Economic violence is also an issue for women, given they are given low-paying jobs and sometimes paid less than men for doing equal work.

Iringa, CHODAWU and CMA officials who responded to the survey stated that there are many cases of sexual harassment in the region, but most of them are not reported to the formal channels and most lawyers avoid them because they are difficult to prove. In Mafinga DC in the region one of the survey respondents at *En Xin Co. Ltd* alleged that, *'there was a Chinese supervisor who used to touch workers, and we had to inform his boss about his behavior for him to stop.'*

In Mtwara, another female worker at Dangote Cement Factory alleged that, *'there is an Indian supervisor who you used to call female workers to this office and start touching their breasts or buttocks, and he did so to many female workers, and most of us kept quiet. But one day we mobilized ourselves and asked him to stop and he ignored us, thinking we cannot do anything or report him. However, one of us finally reported him and followed her lead. At the end of the day all women in his supervisory unit were removed, such that there are no more women working under him at the moment.'*

In the second half of 2021, LHRC also conducted a mini survey on the rights of journalists that touched on workplace violence and harassment. Majority of respondents acknowledged existence of different forms of violence at workplace and female journalist were identified as the major victims/survivors of such violence. Nearly half of them (42%) said it is a serious problem for female journalists, followed by 40% who said it is a moderate problem. Sexual harassment in its different forms was also mentioned by nearly all respondents as a common. Examples include flirting, making sexually offensive gestures or remarks, inappropriate or unwanted touching of arms or brushing up against a woman, blocking the way or standing in the way, making sexually offensive facial expressions, unwelcome sexual advances, and repeatedly



asking for dates or hook ups. Editors and human resources officers were mentioned the most as perpetrators of sexual violence against female journalists. Other perpetrators include managing directors/managers, media owners, and sources.

Physical violence against women was said to be less common. However, some of the female workers at **CPL Co. Ltd** claimed that their Chinese supervisors sometimes subject them to physical abuse, such as slapping, but this is only ‘when they have not done exactly what they were told or there is a miscommunication, and they are already used to the situation.’ This constitutes normalization of discriminatory social norms.

8.2.2.9. Objectification and sexualization of women’s bodies, especially of female workers in the hospitality sector:

The survey found that bar attendants (ladies) and some female hotel attendants are forced to wear short skirts ‘to attract’ customers and encouraged to ‘respond’ to sexual advances by customers. This was revealed by interviewed respondents in different regions, including CMA Zonal Officer in Iringa, who alleged that, *‘hotel and bar (female) workers are subjected to a very uncomfortable working environment. For instance, they are told to wear short skirts so that customers can see their thighs and be happy, and sometimes they are given such short clothing. At the same time, when they get pregnant they are fired, hence usually abort, killing unborn babies...it is a very dangerous life.’*

8.2.2.10. Women at risk of sexual violence on their way to and from work

In Mafinga DC, Iringa Region, it was reported that some female workers were targeted and subjected to sexual violence while on their way to work and from work to home. This was revealed at **Yi Sen International Investment Company Limited, En Xin Co. Ltd, and Evergreen Wood Company**. One of the survey respondents, who works at **Yi Sen International Investment Company Limited** said that some of the workers, including female workers, live more than 10 km away, hence have to work up very early in the morning when it is still dark, increasing the risk of being raped along the way. At **Evergreen Wood Company**, one of the respondents said some female workers used to arrive too early at work and most of them were raped while on the way, hence the company decided to prohibit workers arriving at workplace before 6:10am.





Picture 8.3: An announcement observed at Evergreen Wood Company in Mafinga, Iringa, prohibiting workers from arriving at work before 6:10am

8.2.2.11. Sextortion and sexual harassment of women seeking employment

Women who seek employment, especially young university graduates, continue to face the challenge of being asked for sex bribe in order to get employment or subjected to different forms of sexual harassment highlighted above to achieve the same.

8.2.2.12. Pregnancy and maternity discrimination at workplaces

Pregnancy and maternity discrimination at workplaces is 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. Discrimination and dismissal of female workers because of pregnancy is prohibited under key international instruments and domestic laws, as discussed above.

During the survey, allegations of denial of maternity leave and incidents of maternity discrimination were made and reported by some of the interviewed respondents in Dar es Salaam, Pwani, Morogoro, Mwanza, Geita, Iringa, and Mtwara. In Dar es Salaam, it was reported that some of the employers dislike employing female workers because they do not want to provide maternity leave in the future. One of the interviewed female worker in the region stated that pregnant workers are less likely to retain their jobs upon returning from maternity leave.



In Iringa, a director at *Iringa Food and Beverage Ltd* said they had only hired male workers because this is because many women became pregnant in the past and could not do their jobs properly. Some of the workers in Dar es Salaam and Pwani said maternity leave is granted but not paid. In Pwani one of the survey respondents also lamented reduction of her maternity leave days, alleging that her leave was cut short by her employer. In Morogoro, the survey team met a woman who claimed to be a former employee of *Mazava Winds Group Ltd* and that she lost her job because of pregnancy.

A similar claim was made by a gas/petrol station worker in Mwanza, who asked the survey team, '*Have you ever see a pregnant woman at gas/petrol station.*' A similar situation was reported during interviews with workers at *Yi Sen International, Evergreen* and *East Africa Zhenyan* in Iringa. In Mtwara, a female security guard at *Kiwango Security Company* said that she got pregnant in the past while working at the company and had to quit her job because of it, but later she returned and successfully re-applied for the job.

8.2.2.13. Some jobs being considered men's jobs only

The survey found that very few women were doing some of the jobs, traditionally considered to be men's jobs. This was especially an issue in the transportation sector, whereby only 1 of the 125 interviewed bus and truck drivers was a woman. The survey also found that some of the women have been made to believe that they cannot do certain kinds of jobs. This was especially found to be the case in Pwani Region, whereby some of the interviewed female workers claimed that most of the jobs are reserved for men because they as women cannot do them.

Some of the women in the community were also said to be reluctant to apply for certain jobs considered to be more suitable for men. In Tanga, one of the interviewed female workers at *Neelkanth Lime Co. Ltd* revealed that most women in Tanga Urban think working at factories is for men, their job is take care of their husbands or partners and 'look good.' She said that most of the women working at factories come from other regions and districts. At Ronglan International Investment Company Limited in Mafinga, a human resources officer said, '*there are only a few women here, mostly doing some cleaning and item arrangement works, but not working in the logging section, that section is for men only.*'



8.2.2.14. Unfair termination from job

Instances of unfair dismissal of female workers were also observed by the survey. For instance, an official at official from the Commission for Mediation and Arbitration (CMA) in Iringa stated during an interview that most of the labour cases they receive are on unfair termination. He noted that cases of female workers unfairly terminated for refusing sexual advances are very common among workers in the hospitality sector, such as those who work at night clubs, bars, and hotels.

8.2.3. Women in the Informal Sector: Some Practical Issues of Concern

Women in the informal sector continued to be faced with various challenge, including limited access to credit because of lack of security to secure loans from financial institutions; underrepresentation in leadership, especially among female market traders; lack of sufficient capital; being subjected to various forms of violence, including sexual violence, psychological violence, and economic violence.

Other challenges that women in the informal sector include low awareness about women's rights, and low level of education and entrepreneurial skills. In Dar es Saalam, a female market trader at Ilala Boma Market in Dar es Salaam said, ***'most of us women do not own property that is considered suitable security by financial institutions so that we can obtain loans. Our husbands are the ones indicated as owners in the title deeds.'***

For women working as market traders, conducive working environment is also a big issue of concern for them. Most marketplaces that were surveyed, including in Dar es Salaam, Shinyanga, and Mwanza, were characterized by poor drainage system, poor sanitary facilities, and dirt around some of the market stalls.

Access to market stalls was also said to be a challenge for some women market traders, some of whom claimed that male market leaders ask for sex bribe from female market traders so that they can get market stalls. In Shinyanga, a female market trader said, ***'take a good look at the market stalls which are in a good condition, most of them are occupied by men. If you see a woman occupying one then know that she has given a bribe, either sex or money, that's her secret.'***



8.2.4. Some of Practical Actions Recommended on Women in Business Sector

LHRC calls for an adoption of special measures to ensure that, all those and other challenges or barriers that women are facing in business sector are ultimately addressed. Some of the recommended actions are:-

- i) the government to formulate and enforce national gender mainstreaming strategy on business sector which should also incorporate some enforcement mechanisms e.g. empowering gender-related structures and systems at LGAs' levels to be used. For instance, the committees on violence against women and children (VAWC) commonly termed as MTAKUWWA under coordination of social welfare officers and regional secretariats can be of help; and,
- ii) to institutionalize gender sensitivity components into the oversight bodies' structures, system and operations so that they can enforce it through their routine mandates. Some of the oversight bodies (i.e. regulatory authorities) are indicated in chapter two of this report.

8.3. Persons With Disabilities (PWDS) in Business and Human Rights

8.3.1. Overview of Legal Framework on Disability Rights

The rights of PWDS are guaranteed internationally, regionally and nationally, including under the UN Convention on the Rights of Persons with Disabilities (CRPD) of 2006; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (not yet ratified by Tanzania); and, the Persons with Disabilities Act of 2010.

Such rights stipulated under CRPD include right to equality and non-discrimination, right to life, right to equality before the law, right to liberty and security of person, freedom from torture, freedom from violence, right to education, right to health and right to work and employment. 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.

In the context of business and human rights, the relevant provisions within the CRPD, including Articles 5, 6, 7, and 27. Under these Articles, States, including Tanzania, are obligated to among other issues:-



- i) Recognize the right of persons with disabilities to work, on an equal basis with others. This includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.
- ii) Safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation.
- iii) Prohibit all discrimination on the basis of disability and guarantee to PWDs equal and effective legal protection against discrimination on all grounds.
- iv) Take specific measures which are necessary to accelerate or achieve de facto equality of PWDs.
- v) Recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

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.

More specifically, to safeguard the right to employment for PWDs, employers are required to, among other issues:-

- i) Give employment to PWDs who meet minimum qualifications where there are vacant posts for them and they apply.
- ii) Ensure 3% of employees are PWDs if workforce is 20 people and above.
- iii) Endeavour to maintain employment of PWDs.
- iv) Not treat a PWD differently from other persons without disability in relation to advertisement of employment, recruitment of persons for employment, creation, classification or allocation of wages, salaries, leave or accommodation, and any other similar benefits; training, advancement, apprenticeship, transfer, promotion or retrenchment, provision of facilities related to or connect with employment and provision of any other benefits or other matters related to employment.



- v) Take all necessary measure to improve work environment to prevent injuries and impairment.
- vi) Provide job accommodation and provision of working tools.
- vii) Ensure safe and healthy working conditions for all employees with disabilities.
- viii) Protect employees with disabilities from harassment.
- ix) Permit employees with disabilities to exercise their labour and trade union rights in accordance with any relevant laws.
- x) Enable employed persons with disabilities to have effective access to general, technical and vocational guidance and continuing training for their carrier and advancement.

Additionally, the PWDs law requires the Minister responsible to ensure promotion of employment for PWDs by applying affirmative action treatment; job retention and return to work for any employee who has obtained disability at workplace; and reasonable changes in provide to PWDs in the workplace.

8.3.2. Trend of Inclusion and Participation of PWDs in Business Sector – General

There are varied statistics indicating the trends of an inclusion and engagement of PWDs in the (formal) business sector e.g. paid up jobs. For instance, the NBS' the Integrated Labour Force Survey 2020/2021 shows that participation of PWDs in economic activities (employment) has increased from 59.1% in 2014 to 63.2% in 2020/21.

The NBS' survey finds further that, the unemployment among PWDs has decreased significantly from 12.4% in 2014 to 6% in 2020/21 - basing on the national statistics.

According to NBS, *'an increased employment has been credited to successful implementation of the 2004 Disability Policy and introduction of a special credit window for PWDs (2% of LGA revenue).'* However, according to the same NBS' survey report, in the private business (non-farm) percentage of employment has declined from 26.6% in 2014 to 22% in 2020/21, and this is more likely to have affected employment of PWDs in business sector.

The NBS' findings on PWDs employability status or trend seem to have dissimilarity with recent (2010s) study on the same subject matter conducted by Comprehensive Community Based Rehabilitation in Tanzania (CCBRT). The different could be attributed to, among other factors that, the mapping of employability status done by NBS included



self-employed PWDs e.g. through economic groups supported under the 2% LGA revenue indicated in their report above; while, the CCBRT one predominantly focused on employed PWDs. The geographical sample sizes are also different.

The CCBRT study (reference indicated above), which was sought to CCBRT to assess the proportion of employed PWDs in education, health and private sectors, employment of PWDs in Dar es Salaam indicates that, among all 24,552 teachers surveyed from all learning institutions (regardless being private or public) in Dar es Salaam, Mara, Lindi, Mbeya, Singida and Tabora only 519 equivalent to 2.1% were PWDs.

Moreover, according to the same study by CCBRT, in the health sector, among all 738 health employees surveyed in Dar es Salaam, only 17 equivalent to 2.3% were PWDs and in **private sector**, the survey associated 72 companies in Arusha, Mwanza, Kilimanjaro, Morogoro and Tanga and among all 20,568 employees surveyed, only 86 equivalent to **0.4%** were PWDs. The said CCBRT report also indicates that there is gender imbalance of employment opportunities to PWDs as men with disabilities are more employed than that of their counterparts and that the working environment are not friendly to PWDs.

8.3.3. Trend of Inclusion and Participation of PWDs in Business Sector – Surveyed Areas

The LHRC's findings on employability status of PWDs, which focused on private sector, particularly business enterprises, coincidentally seem to tally with CCBRT's findings on the same (private sector), but with a slight improvement of 0.8% (say 1%) compared with 0.4% found by CCBRT. The business enterprises interviewed did not have sufficient records on PWDs employed. Almost all of the sampled corporate companies did not comply with the statutory requirement of employing at least 3% of workers with disabilities.

No single best practice on this was obtained from the consultations made in July 2022. For instance, out of nearly 50 business enterprises (companies) interviewed in Dar es Salaam and Pwani, none (**0%**) had an employee with any form of disability. This is critical especially because, these two regions were expected to be enlightened on disability rights probably more than any other one due to presence of hundreds of media outlets (access to information) and having head offices of all organizations and networks of PWDs.



Moreover, in Morogoro, no PWDs were found to be employed at *Flomi Hotel* and *WhatsAfrica Ltd*, as was the case at most other workplaces, except Illovo *Kilombero Sugar Ltd*, where 1 PWD was found to be among the employees.

In Iringa, out of 17 workplaces/employers surveyed, only 1 (*Mufindi Tea and Coffee Ltd*) was found to employ employees with disabilities (10). At *Lumilo Classical Hotel and Tours* in the region, the manager claimed they had attempted to hire one PWD but he lacked the relevant qualifications, so they had to let go of him. He also mentioned that they have been advertising vacancies and encouraging PWDs to apply but not one has come forward so far.

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 (of 3%). 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.

8.3.4. Attributing Factors and Situation on the Ground of PWDs in Employment

The last national census of 2012, which was applicable to the time of this survey indicated that, around 4.2 million (equal to 10%) Tanzanians were living with a disability. Various reports on disability indicate that, PWDs are often among the poorest and most marginalized in society; and that, disability has a significant impact on health, employment and education. For instance, more than half of children with disabilities do not attend school as a result of their health or activity limitations. Moreover, illiteracy among Tanzanians with a disability is said to be **48%**, compared to **25%** among those with one. As such, according to CCBRT, which is also an obvious fact, this trend seriously hinders social and economic development.

Apparently, due to those and several other factors (barriers e.g. institutional, attitudinal and environmental), PWDs are not engaged in formal employment opportunities in equal status with other persons without disabilities even when they all have same qualifications. A few of PWDs in employment were found by this survey at hand facing a lot of challenges, indicated above. Other key findings in this regards include:-



8.3.4.1. Absence of Disability Mainstreaming Policies at Work Places

One of the key findings that may be contributing to this situation is lack of non-discrimination or disability mainstreaming policies at workplaces. The employers who responded to the survey were asked about having in place this policy and 61.4% of them, which nearly two thirds, said they do. However, the remaining percentage of employers indicated that they did not have this policy in place.

8.3.4.2. Perception on Inability of Disability

In Dar es Salaam, the survey on business and human rights found that some employers do not like hiring PWDs because they 'are not as effective as persons without disability.' In Pwani, it was reported that PWDs are not employed at industries because they 'may somehow delay production' and the environment is 'not suitable' for them. Similar claims were made at some of the workplaces in Tanga.

In Dodoma, the survey team met with a mediator at the Commission for Mediation and Arbitration (CMA), who claimed that the fact that no complaints of labour rights violation are ever filed by PWDs shows that most employers in the private sector do not hire PWDs. He added that most employers use a word that is insensitive when explaining why they do not like to employ PWDs, '**unemployable**.' He noted that this is the reason very few PWDs are employed in the private sector, compared to those employed by the Government. In Tanga, one of the employers claimed they avoid employing women or PWDs because they are 'expensive' to accommodate and 'unreliable.'

8.3.4.3. Unfair Working Conditions and Exploitation

As discussed in the labour rights and standards chapter above, the main concern expressed by the respondents at surveyed workplaces was the friendliness of the workplaces to PWDs. About two thirds of the respondents said it poor and very poor, while only 9.7% said it is very good and 27.5% said it is good. In Dar es Salaam, it was observed that the environment at most workplaces (companies and industries) was not friendly to PWDs, with relevant infrastructure missing. SHIVYAWATA official in Tanga also said lack of accessibility to buildings is a big challenge for PWDs.



Lack of supportive environment at workplaces is therefore a concern for PWDs in the business sector. Over half of the surveyed places were observed or said not have relevant infrastructure to support movement and convenience for PWDs. For instance, one worker at *Mabengi Matrix International Ltd* in Dar es Salaam said, *'as you can see, this industrial building is not suitable for a PWD to work here, as the production area is up there in the upper floors and there is no lift, we only use stairs.'*

LHRC's Human Rights Survey 2021 showed that sometimes PWDs who do get work underpaid when it comes to payment. For instance, an official working for an NGO dealing with PWDs in Tanga revealed that PWDs who seek work are usually exploited through underpayment, especially those who cannot talk. He said, *'... sometimes persons with disabilities, especially those who are unable to speak or deaf persons, are made to work and exploited when it comes to payment. For instance, there was one such person who was made to till the land and then paid only Tshs. 2,000, contrary to the original agreement...'*

Ramps were also found to be non-existent at most workplaces, including in at some of the surveyed workplaces in Dar es Salaam, Morogoro, Arusha, Kilimanjaro, Mwanza, Mara, and Mbeya. Disability-friendly toilets were also found lacking at most surveyed workplaces.

8.3.4.4. Some Weaknesses on Enforcement of Disability Law

The survey in 14 regions of Tanzania Mainland found that most of the challenges highlighted and briefly discussed above are contributed by poor implementation of PWDs law, including and especially provisions relating to employment, as highlighted above.

LHRC believes that more effective implementation of the law shall see the situation of employment of PWDs in the private or business sector significantly improving. The ways to enhance enforcement of this law are suggested above e.g. operationalization of disability committees and requiring oversight bodies in business sector to enclose disability monitoring in their routine execution of their mandates.



8.4. Other Forms of Discrimination in Business and Human Rights

Other forms of discrimination that were revealed or alleged at surveyed workplaces include discrimination based on tribe and racial discrimination. These allegations were made by some of the interviewed at some of the workplaces in Shinyanga, Arusha, and Mtwara. For instance, allegations of discrimination based on tribe, in terms of promotion, were made at **Freshno Investment Ltd** in Shinyanga. One of the survey respondents said the workers from a Chagga tribe were being favoured.

A similar allegation of discrimination based on tribe (employment) was made at **Kiwango Security** in Mtwara. Allegations of racial discrimination were made at **Bulyanhulu Gold Mine** and **Jambo Group** in Shinyanga, **Dekker Kilimanjaro** in Arusha, and **Dangote Cement Factory** in Mtwara. Some of the Tanzanian workers at these workplaces complained about preferential treatment given to non-Tanzanian workers, including Europeans, Nigerians and Indians in terms of wages/salaries, promotion, and bonuses.

Basing on the situation on the ground observed by this survey, LHRC reiterates its call for the government of Tanzania to formulate and effectively implement the national gender and disability mainstreaming strategies or frameworks; improvement of law enforcement especially on the rights of PWDs; and, collaborate with other stakeholders, particularly CSOs in raising awareness on gender and disability rights e.g. through associations and unions of employers and workers respectively. All enforcement organs of the disability law should be facilitated to operate as the law requires.



CHAPTER NINE

CONCLUSION AND GENERAL RECOMMENDATIONS

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 improved compared to the previous survey, contributed some notable improvements in compliance with labour rights and standards. However, 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 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.

9.2. Recommendations

To enhance protection of human rights in the business sector, LHRC makes the following recommendations:

9.2.1. 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 and the Judiciary to improve access to remedy in the business sector, including by strengthening key institutions such as the CMA.
- Ensure labour rights are included in the new constitution, should the constitution-making process continue.



- The Government should regularly review the Wage Order in order to safeguard the right to fair remuneration and right to adequate standard of living.
- Community members and employees should report practices that lead to abuse of human rights in the business sector to the relevant authorities, including regulatory authorities.

9.2.2. 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 in order 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 ensure land acquisition process is fair and the affected community members are fairly remedied, including fair and timely compensation.

9.2.3. Business Compliance with Tax Obligations

- The Government to continue closely monitoring 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 should reduce tax exemptions and other tax incentives discussed in this report in order to increase revenue collection.



9.2.4. Corporate Social Responsibility and Local Content Obligations

- 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.

9.2.5. Corporate Environmental Responsibility and Corporate Respect for 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 should take action against businesses that violate human rights as part of its duty to protect human rights and ensure the victims have access to effective remedy.
- 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.

9.2.6. Gender discrimination and other Forms of Discrimination

- The Government should ensure business enterprises adopt affirmative measures to protect PWDs, women and PLHIVs from any form of discrimination at workplace, including when accessing employment.
- 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 ministries, including the ministries responsible for labour, women and PWDs, should ensure that employers have gender and inclusion policies, which are fully implemented.





9.2.7. Regulatory Authorities

- 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.
- Regulatory authorities should increase efforts of raising community awareness about their mandates and functions in order to increase accessibility.
- Regulatory authorities to mainstream gender and ensure that companies and organization have gender responsive policies that promote equality, non discrimination and inclusion.



REFERENCES

Field Reports

Human Rights and Business Survey 2022: Arusha Field Report
 Human Rights and Business Survey 2022: Dar es Salaam Field Report
 Human Rights and Business Survey 2022: Dodoma Field Report
 Human Rights and Business Survey 2022: Geita Field Report
 Human Rights and Business Survey 2022: Iringa Field Report
 Human Rights and Business Survey 2022: Kilimanjaro Field Report
 Human Rights and Business Survey 2022: Mara Field Report
 Human Rights and Business Survey 2022: Mbeya Field Report
 Human Rights and Business Survey 2022: Morogoro Field Report
 Human Rights and Business Survey 2022: Mtwara Field Report
 Human Rights and Business Survey 2022: Mwanza Field Report
 Human Rights and Business Survey 2022: Pwani Field Report
 Human Rights and Business Survey 2022: Shinyanga Field Report
 Human Rights and Business Survey 2022: Tanga Field Report

Books, Reports, Articles & Papers

Abdulkabir Niran Adedeji, Shaufique Fahmi Sidique, Azmawani Abd Rahman, Siong Hook Law, The role of local content policy in local value creation in Nigeria's oil industry: A structural equation modeling (SEM) approach, *Resources Policy*, Volume 49, 2016, Pages 61-73, ISSN 0301-4207, <https://doi.org/10.1016/j.resourpol.2016.04.006>.

Abe, O. (2022). Local Content Requirements in Nigeria's Extractive Sector and the Implications for Sustainable Development. *Journal of African Law*, 66(1), 73-96. doi:10.1017/S0021855321000504.

Abel Kinyondo, Espen Villanger (2016), Local content requirements in the petroleum sector in Tanzania: A thorny road from inception to implementation?, Bergen: Chr. Michelsen Institute (CMI Working Paper WP 2016:6) 28 p., at <https://www.cmi.no/publications/5925-local-content-requirements-petroleum-tanzania>, accessed 9th August 2022.

African Natural Resources Centre of the African Development Bank (2019), *Review of land tenure systems to support the creation of an enabling environment for agricultural transformation: Report on Tanzania*, African Development Bank Group, at <https://www.afdb.org/en/documents/document/review-of-the-land-tenure-systems-report-on-tanzania-109426>, accessed 8th August 2022.



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 8th August 2022.

Africapay “Forced Labour” at <https://africapay.org/tanzania/labour-law/fair-treatment/forced-labour>, accessed 25th May 2022.

Altenburg, T. (2011). ‘Industrial Policy in Developing Countries: Overview and Lessons from Seven Country Cases’. Discussion Paper 4/2011. Bonn: DIE.
among workers in the People’s Republic of China,” **Scandinavian Journal of**
Arlinghaus, A.; Lombardi, D.; Courtney, T.; Christiani, D.; Folkhard, S.; Perry, M.
2012. “The Effects of rest breaks on time to injury – a study on work-related ladder-fall injuries in the United States,” **Scandinavian Journal of Work, Environment & Health**, 38(6).

Bank of Tanzania, **Annual Report 2020/21**, at <https://www.bot.go.tz/Publications/Filter/34>.

Benjamin O. Alli (2008), **Fundamental Principles of Occupational Health and Safety**, International Labour Office-General: ILO, Second Edition, available at http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_093550.pdf, accessed 20th August 2019.

Berkely Legal, **The Impact of the Local Content Act on the Nigerian Oil & Gas Industry**, at <https://www.berkeleylegal.com.ng/2017/06/01/the-impact-of-the-local-content-act-on-the-nigerian-oil-gas-industry/>, accessed 9th August 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>.

Business & Human Rights Resource Centre “Gender, Business & Human Rights” at <https://www.business-humanrights.org/en/big-issues/gender-business-human-rights/>.

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 16 May 2022.



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>, accessed 9th August 2022.

Climate Diplomacy “Conflict over Land Resources in Kilosa, Tanzania” at <https://climate-diplomacy.org/case-studies/conflict-over-land-resources-kilosa-tanzania>.

Committee on Economic, Social and Cultural Rights, General Comment No. 23 of 2016.

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, accessed 19th April 2022.

Confederation of Tanzania Industries, *The State of Counterfeit Goods in Tanzania: Research Report*, October 2017 at https://www.sabaip.com/wp-content/uploads/2020/02/Counterfeit-hotspots-in-Tanzania-that-brand-owners-must-be-aware-of_-World-Trademark-Review.pdf, accessed 11th August 2022.

Corporate Finance Institute (CFI) “What is Corporate Social Responsibility (CSR)?” at <https://corporatefinanceinstitute.com/resources/knowledge/other/corporate-social-responsibility-csr/>, accessed 2nd June 2022.

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>.

Deborah Brautigam and Tang Xiaoyang, *AN OVERVIEW OF CHINESE AGRICULTURAL AND RURAL ENGAGEMENT IN TANZANIA*, January 2012, at https://dev.landmatrix.org/media/uploads/sdeborahbrautigamfileswordpresscom201402brautigam_china-in-tanzaniapdf.pdf, accessed 9th August 2022.

Delloite (2015), *Tanzania Budget Insight 2015: Diving Deep*, available at http://www2.deloitte.com/content/dam/Deloitte/tz/Documents/tax/Tax_Budget%20Insight%202015_TZ.pdf, re-accessed on 15th July 2022.



Eldvik, M.; Flo, E.; Moen, B.; Pallesen, S. 2013. "Insomnia, Excessive Sleepiness, Excessive Fatigue, Anxiety, Depression, and Shift Work Disorder in Nurses Having Less Than 11

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>, accessed 9 Aug. 2022.

European Bank for Reconstruction and Development, *Employee Grievance Mechanism: Guidance Note*, December 2017, at <https://www.ebrd.com/documents/admin/employee-grievance-mechanism.pdf?blobnocache=true#:~:text=A%20grievance%20mechanism%20is%20a,and%20management%20response%20and%20feedback.>, accessed 27th May 2022.

FAO "Child Labour in Agriculture" at <http://www.fao.org/childlabouragriculture/en/>, accessed 17th August 2022.

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, Switzerland at http://ilo.ch/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_516123.pdf, accessed 19 May 2022.

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, accessed 8th August 2022.

Greco, Elisa. (2015). Landlords in the Making: Class Dynamics of the Land Grab in Mbarali, Tanzania. *Review of African Political Economy*. 42. 1-20. 10.1080/03056244.2014.992403.

Gwaleba, M. (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(1). doi:<https://doi.org/10.30564/jesr.v2i1.389>.

HakiArdhi, TALA & Landesa, *ANALYSIS OF LAND DISPUTE SETTLEMENT MECHANISM; PERSPECTIVE FROM THE LAND SECTOR BASED CIVIL SOCIETY ORGANISATIONS*, June 2020.

"HakiRasilimali (2021). Adherence to the National Laws on Mining Closure Plans and Rehabilitation: A Case of Buzwagi Gold Mine. Dar es Salaam, Tanzania" (unpublished).



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

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 24th May 2022.

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 21st May 2022.

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.

ILO, *International Labour Standards on Occupational Safety and Health*, at <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/occupational-safety-and-health/lang--en/index.htm>, accessed 20th August 2022.

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 21st May 2022.

ILO, *Right to collective bargaining* at http://www.ilo.org/empent/areas/business-helpdesk/WCMS_DOC_ENT_HLP_CB_EN/lang--en/index.htm, accessed 20th May 2022.

ILO, *Right to collective bargaining* at http://www.ilo.org/empent/areas/business-helpdesk/WCMS_DOC_ENT_HLP_CB_EN/lang--en/index.htm, accessed 20th May 2022.

International Commission on Occupational Health (ICOH), *International Code of Ethics for Occupational Health Professionals*, available at http://www.icohweb.org/site_new/multimedia/core_documents/pdf/code_ethics_eng_2012.pdf, accessed 20th May 2022.

Issa G. Shivji, *Land Tenure Problems and Reforms in Tanzania*, https://www.academia.edu/35727466/LAND_TENURE_PROBLEMS_AND_REFORMS_IN_TANZANIA, accessed 8th August 2022.



Jesse Salah Ovadia (2017), Local Content in Tanzania's Gas and Minerals Sectors: Who regulates?, Bergen: Chr. Michelsen Institute (CMI Brief vol.16 no. 6) 4 p., at [https://www.cmi.no/publications/6314-local-content-in-tanzanias-gas-and-minerals#:~:text=The%20regulatory%20framework%20for%20public,Procurement%20Regulatory%20Authority%20\(PPRA\).](https://www.cmi.no/publications/6314-local-content-in-tanzanias-gas-and-minerals#:~:text=The%20regulatory%20framework%20for%20public,Procurement%20Regulatory%20Authority%20(PPRA).), accessed 9th August 2022.

JOHAN POTTIER, 'Customary Land Tenure' in Sub-Saharan Africa Today: Meanings and contexts, at <https://issafrica.s3.amazonaws.com/site/uploads/2CUSTOMARY.PDF>, accessed 8th August 2022.

John Ruggie "**Corporate responsibility to protect Human Rights**". Kennedy school of Government and Harvard law school, At <https://corpgov.law.harvard.edu/2010/05/15/the-corporate-responsibility-to-respect-human-rights/#:~:text=The%20corporate%20responsibility%20to%20respect%20human%20rights%20means%20to%20avoid,all%20companies%20in%20all%20situations.&text=Knowing%20and%20showing%20is%20the,through%20human%20rights%20due%20diligence>. Accessed on 24th May 2022.

Land Portal, Tanzania - Context and Land Governance, at <https://landportal.org/tanzania>, accessed 8th August 2022.

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 20th August 2022.

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.

Leonard I. Chirenje, Richard A. Giliba & Emmanuel B. Musamba (2013) Local communities' participation in decision-making processes through planning and budgeting in African countries, Chinese Journal of Population Resources and Environment, 11:1, 10-16, DOI: [10.1080/10042857.2013.777198](https://doi.org/10.1080/10042857.2013.777198)

LHRC (2015). **Mini-Study on Human Rights Compliance in Transportation Section 2013**. Legal and Human Rights Centre.

LHRC (2016), Human Rights and Business Report 2015.

LHRC (2021), Human Rights and Business Survey 2020/21 [www.humanrights.or.tz].



Lombardi, D.; Kezhi, J.; Courtney, T.; Arlinghaus, A.; Folkard, S.; Liang, Y.; Perry, M. 2014. "The effects of rest breaks, work shift start time, and sleep on the onset of severe injury among workers in the People's Republic of China," *Scandinavian Journal of Environmental Health*, 40(2), pp. 146-155.

Mark Curtis, *The One Billion Dollar Question: How can Tanzania Stop Losing So Much Tax Revenue*, Interfaith Standing Committee on Economic Justice and the Integrity of Creation, June 2012, at <https://www.kirkensnodhjelp.no/contentassets/eee95927f11a440281a902c8cd6b1c35/one-billion-dollar-question.pdf>, accessed 8th August 2022.

Martje Theuws & Mariette van Huijstee (2013), *Corporate Responsibility Instruments: A Comparison of the OECD Guidelines, ISO 26000 & the UN Global Compact*, SOMO, at <https://www.somo.nl/wp-content/uploads/2013/12/Corporate-Responsibility-Instruments.pdf>, accessed on 12th June 2022.

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 20th September 2019.

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>

National Bureau of Statistics (NBS), Sub-Divisional Population Projection for Year 2016 and 2017 based on 2012 Population and Housing Census, available at http://www.nbs.go.tz/nbs/takwimu/census2012/Tanzania_Total_Population_by_District-Regions-2016_2017r.pdf, accessed 18th August 2022.

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, accessed 10th August 2022.

OHCHR "OHCHR and business and human rights" at <https://www.ohchr.org/en/issues/business/pages/businessindex.aspx#:~:text=About%20business%20and%20human%20rights&text=Even%20if%20States%20do%20not,with%20which%20they%20are%20involved.>, accessed 16 May 2021.



OHCHR, *Business and Human Rights: A Progress Report*, at <https://www.ohchr.org/documents/publications/businesshren.pdf>, accessed 16 May 2021.
 Olena Mykhalchenkoisabel Santagostino Recavarren “In 38 countries, women can still be fired for being pregnant” World Bank Blogs, May 13, 2022.

Olena Mykhalchenkoisabel Santagostino Recavarren “In 38 countries, women can still be fired for being pregnant” World Bank Blogs, May 13, 2022.

Peter Elias “Behind land disputes in Tanzania” Land Portal, 26 June 2021, at <https://landportal.org/news/2021/08/behind-land-disputes-tanzania>, accessed 9th August 2022.

PolicyForum’s Tax Justice Working Group Position Statement on the 2021/2022 National Budget, at <https://www.thecitizen.co.tz/tanzania/supplement/policy-forum-s-tax-justice-working-group-position-statement-on-the-2021-2022-national-budget-3421988>, accessed 8th August 2022.

Ramdhony, Dinesh. (2018). The Implications of Mandatory Corporate Social Responsibility—A Literature Review Perspective. *Theoretical Economics Letters*. 08. 432-447. 10.4236/tel.2018.83031.

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 10th August 2022.

Sallinen, M.; Kecklund, G. 2010. “Shift work, sleep, and sleepiness – differences between shift schedules and systems,” *Scandinavian Journal of Work and Environmental Health*, 36, pp. 121-133.

Sauti ya TUICO, *Utekelezaji wa Mpango Mkakati wa 2016-2020: Mafanikio, Changamoto na Mwelekeo Mpya*, Toleo Na. 24, Januari – Machi, 2021, at <http://tuico.or.tz/news/sauti-jan-march-2021.pdf>, accessed 8th August 2022.

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..>

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 19th April 2018.



Tax Justice Network Africa (TJNA), *Corporate Tax Haven Index – 2021*, at <https://cthi.taxjustice.net/cthi2021/country-list.pdf>, accessed 2nd June 2022.

TANZANIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (TEITI) THE 11th TEITI REPORT FOR THE PERIOD JULY 1 2018 TO JUNE 30 2019, JUNE 2021, at https://eiti.org/sites/default/files/attachments/11th_teiti_report_final.pdf, accessed 20th August 2022.

Tax Justice Network, Country Profiles: Tanzania, at <https://taxjustice.net/country-profiles/tanzania/>, accessed 8th August 2022.

The United Republic of Tanzania, National Audit Office, *PERFORMANCE AUDIT REPORT ON THE MANAGEMENT OF QUALITY OF PROCESSED FOOD IN TANZANIA*, A REPORT OF THE CONTROLLER AND AUDITOR GENERAL OF THE UNITED REPUBLIC OF TANZANIA, March 2021, at https://www.nao.go.tz/uploads/Management_of_the_Quality_of_Processed_Foods.pdf, accessed 5th June 2022.

TRA “What is Corporation Tax?” at <https://www.tra.go.tz/index.php/corporation-tax/108-what-is-a-corporation-tax>, accessed 19th April 2022.

TRA, Tax collection statistics, at <https://www.tra.go.tz/index.php/tax-collection-statistics>, accessed 8th August 2022.

Transparency International “Illicit Financial Flows” at <https://www.transparency.org/en/corruptionary/illicit-financial-flows>, accessed 8th August 2022.

Tucker, P.; Bejerdot, E.; Kecklund, G.; Aronsson, G.; Akerstedt, T. 2013. *Doctors’ work hours in Sweden: Their impact on sleep, health, work-family balance, patient care, and thoughts about work*, Stressforskningsrapport nr 235, Stockholm University.

http://www.stressforskning.su.se/polopoly_fs/1.233341.1429526778!/menu/standard/file/sfr325.pdf.

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>.

UN Working Group on Business and Human Rights “Key recommendations for connecting the business and human rights agenda to the 2030 Sustainable Development Goals” at <https://www.ohchr.org/en/special-procedures/wg-business/key-recommendations-connecting-business-and-human-rights-agenda-2030-sustainable-development-goals>.



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 2nd June 2022.

United Nations (2013), *United Nations Practical Manual on Transfer Pricing for Developing Countries*, Department of Economic and Social Affairs.

United Nations Conference on Trade and Development (UNCTAD), World Investment Report 2021, (United Nations, 2021), at https://unctad.org/system/files/official-document/wir2021_en.pdf.

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, accessed 9th August 2022.

United Republic of Tanzania, National Audit Office, *Performance Audit Report on the Management of Mechanisms for Revenue Collection in the Mining Sector*, Controller and Auditor General, February 2022, at https://www.nao.go.tz/uploads/reports/DEVELOPMENT_AND_MANAGEMENT_OF_MECHANISMS_FOR_COLLECTION_OF_REVENUE_IN_MINING_SECTOR.pdf, accessed 9th August 2022.

United Republic of Tanzania, National Bureau of Statistics (NBS), *Tanzania in Figures 2020*, June 2021, at https://www.nbs.go.tz/nbs/takwimu/references/2020_Tanzania_in_Figure_English.pdf.

United Republic of Tanzania, National Bureau of Statistics, Integrated Labour Force Survey 2020/21: Key Labour Market Indicators for the United Republic of Tanzania, at <https://www.nbs.go.tz/index.php/en/census-surveys/labour-statistics/688-integrated-labour-force-survey-2020-21>.

Victor Mrema “Taxation System in Tanzania” at <https://beakolaw.co.tz/taxation-system-in-tanzania/>, accessed 8th August 2022.

Wilbard 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 8th August 2022.



World Bank, *Maintaining Tanzania's Lower-Middle Income Status Post-COVID-19 Will Depend on Strengthening Resilience*, Press Release, 3 March 2021, at <https://www.worldbank.org/en/news/press-release/2021/03/03/maintaining-tanzanias-lower-middle-income-status-post-covid-19-will-depend-on-strengthening-resilience#:~:text=DAR%20ES%20SALAAM%2C%20March%2023,%2Dmiddle%2Dincome%20country%20status,> accessed 16 May 2022.

World Economic Forum, The Global Competitiveness Index 2017-2018 Edition. Accessed on 23 July 2022 via: https://www3.weforum.org/docs/GCR2017-2018/03CountryProfiles/Standalone2-pagerprofiles/WEF_GCI_2017_2018_Profile_Tanzania.pdf

World Trademark Review, Counterfeit hotspots in Tanzania that brand owners must be aware of, 20 January 2020.

Media Sources

"ILO: Global cost of work-related injuries and deaths totals almost \$3 trillion" Safety and Health Magazine, at <https://www.safetyandhealthmagazine.com/articles/16112-ilo-global-cost-of-work-related-injuries-and-deaths-totals-almost-3-trillion>, accessed 20th May 2021.

"Mbarali villagers in land row with their legislator, petition JPM" *The Guardian* Newspaper (online), 27 December 2019, at <https://www.ippmedia.com/en/business/mbarali-villagers-land-row-their-legislator-petition-jpm>, accessed 9th August 2022.

"Right to Strike upheld at ILO" at <http://www.industriall-union.org/right-to-strike-upheld-at-ilo>, accessed 20th May 022.

"Tanzania Tax Collection Reaches Record During First 3 Quarters of FY 2021/22" TanzaniaInvest, 4 April 2022, at <https://www.tanzaniainvest.com/economy/tra-tax-collection-first-three-quarters-fy-2021-2022#:~:text=In%20addition%2C%20in%20March%202022,it%20collected%20TZS%201.67%20Trillion,> accessed 8th August 2022.

"WAFANYAKAZI DARAJA LA MAGUFULI WAGOMA, POLISI WAFIKA - "HATUPEWI HAKI ZETU" at <https://tanzania.gazetiapp.one/wafanyakazi-daraja-la-magufuli-wagoma-polisi-wafika-hatupewi-haki-zetu-47957.html>, accessed 8th August 2022.

"Why Tanzania needs to expand its tax base" The Citizen Newspaper (online), 13 June 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/why-tanzania-needs-to-expand-its-tax-base-3846894>, accessed 8th August 2022.



Alvar Mwakyusa “JPM senses foul play in land deal” Land Portal, 3 May 2022, at <https://landportal.org/fr/node/100016>.

Antonio Cascais “Africa’s problem with tax avoidance” DW, 17 June 2022, at <https://www.dw.com/en/africas-problem-with-tax-avoidance/a-48401574>, accessed 8th August 2022.

Bee Wilson “Blood cashews’: the toxic truth about your favourite nut” The Telegraph Newspaper (online), available at <https://www.telegraph.co.uk/foodanddrink/foodanddrinknews/11577928/Blood-cashews-the-toxic-truth-about-your-favourite-nut.html>, accessed on 2nd April 2022.

Hilda Mhagama “REMIT CONTRIBUTIONS TO SOCIAL SECURITY FUNDS, EMPLOYERS URGED” **DAILYNEWS** Newspaper (Online), 14 July 2022, at <https://dailynews.co.tz/news/2022-07-1362cee35c55a16.aspx>.

Jackline Kuwanda “Migogoro ya ardhi Kilosa yaelezwa kudumu kwa takriban miaka 10, ikifanya maisha ya wenyeji wa huko, wengi wao wakiwa ni wakulima na wafugaji, kuwa magumu.” The Chanzo Initiative, 27 June 2022, at <https://thechanzo.com/2022/06/27/migogoro-isiyokwisha-kilosa-yawasukuma-wakulima-kutafuta-kikao-na-majaliwa/>, accessed 9th August 2022.

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 8th August 2022.

Michael Belzer “Truck drivers are overtired, overworked and underpaid” The Conversation Newsletter, July 25, 2018 at <https://theconversation.com/truck-drivers-are-overtired-overworked-and-underpaid-100218>, accessed 11th May 2022.

PolicyForum’s TaxJusticeWorkingGroupPositionStatementonthe2021/2022 National Budget, at <https://www.thecitizen.co.tz/tanzania/supplement/policy-forum-s-tax-justice-working-group-position-statement-on-the-2021-2022-national-budget-3421988>, accessed 8th August 2022.

Ruchika Chitravanshi “India’s new CSR regulations make philanthropy compulsory for companies” Business Standard Magazine (online), 9 February 2021, at https://www.business-standard.com/article/companies/new-csr-regulations-the-rise-of-compulsory-philanthropy-in-india-121020801724_1.html#:~:text=Indian%20corporations%20have%20never%20been,first%20country%20to%20have%20done, accessed 10th August 2022.



Sosthenes Mwita “Tanzania: Fake Goods Cause Huge Economic Losses” DailyNews Newspaper, 26 June 2018 at <https://allafrica.com/stories/201806260688.html>, accessed 14th November 2022.

“Tanzania: ‘Mining Companies Hesitate to Handover Mine Closure Plans’” DailyNews Newspaper (online), 19 December 2019, at <https://allafrica.com/stories/201912190446.html>, accessed 20th August 2022.

United Nations Human Rights Office of the High Commissioner, **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 20th May 2022

National Laws, Policies & Regulations

Constitution of the United Republic of Tanzania of 1977.

Employment and Labour Relations (General) Regulations, GN. 47 of 2017.

Employment and Labour Relations Act [CAP. 366 R.E. 2019].

Environmental Management Act 2004.

Fair Competition Act, 2003.

Labour Institutions (General) Regulations 2017 (GN 45 2017).

Labour Institutions Act, [CAP. 300 R.E. 2019].

Land Acquisition Act CAP 118 [RE 2019].

Land Transport Regulatory Authority Act, 2019.

Land aCT, CAP 113 [RE 2019].

Law of Contract Act, CAP 345

Law of the Child Act 2009.

Mining (Local Content) Regulations, 2018.

National Social Security Fund Act [Cap. 50 R.E 2018].

The National Strategy for Gender Development of 2005.

Non-Citizen (Employment Regulations) Act, 2014.

Occupational Health and Safety Act, 2003.

Occupational Safety and Health (First Aid and Welfare Facilities) Rules, 2015.

Persons with Disabilities Act, No. 9 of 2010.

Petroleum (Local Content) Regulations, 2017.

Public Service Social Security Fund Act, 2018.



United Republic of Tanzania, Ministry of Finance and Planning, NATIONAL FIVE-YEAR DEVELOPMENT PLAN 2021/22 – 2025/26, June 2021, at <https://www.tro.go.tz/wp-content/uploads/2021/06/FYDP-III-English.pdf>.

United Republic of Tanzania, The National Natural Gas Policy of Tanzania 2013.

Village Land Act, CAP 114 [RE 2019].

Workers' Compensation Act, CAP 263, R.E. 2015

International Instruments

Abolition of Forced Labour Convention, 1957 (No. 105); Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

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.

C190 - Violence and Harassment Convention, 2019 (No. 190).

Convention on the Elimination of All Forms of Discrimination against Women, 1979.

Convention on the Rights of Persons with Disabilities (CRPD), 2006.

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)

Equal Remuneration Convention, 1951 (No. 100).

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19).
Forced Labour Convention, 1930 (No. 29)

Forty-Hour Week Convention, 1935 (No. 47); Reduction of Hours of Work Recommendation, 1962 (No. 116).

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30).

Hours of Work (Industry) Convention, 1919 (No. 1).

ILO C158 - Termination of Employment Convention, 1982 (No. 158).

ILO C183 - Maternity Protection Convention, 2000 (No. 183).



International Covenant on Civil and Political Rights (ICCPR), 1966.

International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.

Minimum Age Convention, 1973 (No. 138).

Night Work Convention, 1990 (No. 171).

Occupational Health Services Convention, 1985(No. 161).

Occupational Safety and Health Recommendation, 2006 (No. 197).

R120 - Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120).

Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Safety and Health in Construction Convention, 1988 (No. 167).

Safety and Health in Mines Convention, 1995 (No. 176).

The Ten Principles of the UN Global Compact.

Universal Declaration of Human Rights (UDHR), 1948.

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).

Weekly Rest (Industry) Convention, 1921 (No. 14).

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148).

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18).

Worst Forms of Child Labour Convention, 1999 (No. 182).



Other sources

AfDB, Tanzania- COVID-19 Crisis Response Budget Support Program (TCRBSP). Accessed on 27th July 2022 via: <https://projectsportal.afdb.org/dataportal/VProject/show/P-TZ-K00-016>.

Estates Tanzania “Mbarali Estates” at <https://www.estates.co.tz/services/agriculture-activities/mbarali-estates>, accessed 9th August 2022.

Estates Tanzania “MBARALI ESTATES” at <https://www.estates.co.tz/services/agriculture-activities/mbarali-estates>.

HOTUBA YA MHESHIMIWA DOTO MASHAKA BITEKO (MB.), WAZIRI WA MADINI AKIWASILISHA BUNGENI MAKADIPIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2021/2022, at <https://www.parliament.go.tz/uploads/documents/whatsons/en/1619683617-HOTUBA%20YA%20BAJETI%20WIZARA%20YA%20MADINI.pdf>, accessed 9th August 2022

HOTUBA YA WAZIRI WA MADINI, MHESHIMIWA DKT. DOTO MASHAKA BITEKO (MB.), AKIWASILISHA BUNGENI MAKADIPIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2022/2023, at https://www.madini.go.tz/media/HOTUBA_YA_WAZIRI_WA_MADINI_2022.23_.pdf, accessed 9th August 2022.

ILO website at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103476, accessed 17th May 2021.

ILO, *Q&As on business and working time*, at http://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_TIM_FAQ_EN/lang--en/index.htm, accessed 20th August 2022.

NBS, Labour Market Information in Tanzania, 2018. Accessed on 2nd September 2022 from: https://www.nbs.go.tz/nbs/takwimu/labour/Employment_Estimates_for_Tanzania_Mainland2018.pdf.

LATRA “UTEKELEZAJI WA MFUMO WA TIKETI MTANDAO HADI TAREHE 17.08.2022” at <https://www.latra.go.tz/announcements/utekelezaji-wa-mfumo-wa-tiketi-mtandao-hadi-tarehe-17-08-2022>.

NSSF website at <https://www.nssf.or.tz/pages/overview>, accessed 26th May 2022.

OGEL “Tanzania Mining Commission Ministry of Minerals - Mine Closure Guidelines 2019 - Made under Section 19 of the Mining Act, Cap. 123 - 22 October 2019” at <https://www.ogel.org/legal-and-regulatory-detail.asp?key=23534>, accessed 20th August 2022.

SDG KNOWLEDGE HUB “World Day for Safety and Health at Work 2021”



at <https://sdg.iisd.org/events/world-day-for-safety-and-health-at-work-2021/#:~:text=The%20World%20Day%20for%20Safety,occupational%20accidents%20and%20diseases%20globally,> accessed 20th May 2021.

Speech by Hon. Dr.Jakaya Mrisho Kikwete, President of the United Republic of Tanzania when bidding farewell and dissolving the 10th Parliament of the United Republic of Tanzania, Parliament House, Dodoma on 9th July, 2015.

Statista, Number of Health Care Facilities in Tanzania from 2016-2020. Accessed on 3rd September 2022 from <https://www.statista.com/statistics/1249272/number-of-health-facilities-in-tanzania/>.

Subho Mukherjee “Social Responsibility of Business” at <https://www.economicdiscussion.net/business/social-responsibility/social-responsibility-of-business/1014/>, accessed 2nd June 2022.

Tanzania Meteorological Authority (TMA) website at <http://www.wamis.org/countries/tanzania/tanzSCF-Mar-May2019-swahili.pdf> and www.meteo.go.tz, accessed on 10th July, 2022.

World Bank, accessed on 25 July 2022 through <https://tradingeconomics.com/tanzania/ease-of-doing-business>





Are you passionate about the protection and promotion of Human Rights?

Donate Now!



How to Donate (Airtel Money)

- 1st Step: Dial *150*60# to access your AIRTEL MONEY account.
- 2nd Step: Select 5 - Make Payments.
- 3rd Step: Select 4 - Enter Business Number.
- 4th Step: Enter business number (275454)
- 5th Step: Enter the amount you want to pay.
- 6th Step: Enter the reference number.(1234)
- 7th Step: Enter your "PIN" to confirm.



How to Donate (TigoPesa)

- 1st Step: Dial *150*00# to access your MPESA account.
- 2nd Step: Select 4 - Pay By Mpesa.
- 3rd Step: Select 4 - Enter Business Number.
- 4th Step: Enter Business number (275454)
- 5th Step: Enter the reference number.(1234)
- 6th Step: Enter the amount you want to pay.
- 7th Step: Enter your "PIN" to confirm.
- 8th Step: Enter 1 to confirm the transaction



How to Donate (M-Pesa)

- 1st Step: Dial *150*01
- 2nd Step: Select 4 - Pay Bills.
- 3rd Step: Select 3 - Enter Business Number.
- 4th Step: Enter business number (275454)
- 5th Step: Enter the reference number.(1234)
- 6th Step: Enter the amount you want to pay.
- 7th Step: Enter your "PIN" to confirm.



@humanrightstz



Haki TV



About Legal and Human Rights Centre (LHRC)



For a Just and Equitable Society

