

FINDINGS OF ARD/MSI ASSESSMENTS OF DEMOCRATIC TRANSITIONS
TANZANIA AND GHANA

TANZANIA

A. ARD. The Transition to Democratic Governance in Tanzania: An Assessment and Guidelines for Near-Term Action, March 1994, Tina West et al.

1 Approach effort to integrate analysis on the part of a number of specialists (political economists--Lofchie, Ruth Qorro), political scientists--parties and interest groups (Charlick with Max Mmuya), specialist in non-governmental associations (Tripp), and legal-constitutional analysts (West, with Ibrahim Juma), into a single report, with each specialist contributing data for the overall analysis. There is a very clear orientation toward policy relevance in general and toward USAID's potential role in particular. The overall framework employed in Tanzania was a form of institutional analysis employing the six democratic disciplines as guides to understanding both progress toward democratic governance, and rule conflicts and compatibilities providing incentives for observable political behavior. State-society analysis was also employed explicitly in this assessment.

2 Findings Tanzania has made significant progress toward the liberalization both of its political system and its economic system. The democratization process, however, is in its early phase with the acceptance of competitive multiparty electoral processes and of increased public freedom of expression, but with serious lags in others areas of democratization, particularly in putting into place a legitimate system of rule of law and in enhancing mechanisms for public participation in deliberation and for heightened public accountability. While civil society, particularly informal and small-scale associational life is very dynamic, it is not well connected to governmental policy making.

3 Institutional Evidence and Limits of Tanzania's Democratic Transition

a. State Institutions

1 Constitutional reform, thus far has been manipulated and controlled by the CCM for its own purposes. Reforms embodied in the patchwork amended constitution do not provide adequate checks on abuses of central or executive power.

2 Legal reform is very incomplete, and most recommendations for reform which would bring law in conformity with newly ratified constitutional guidelines have been at least selectively ignored.

3 Parliament, as currently constituted provided cannot be said to be highly representational. It is only an elected body in part, and block voting on the part of appointed MPs and MPs from the islands nearly always assure victory by the executive and current CCM executive committee. Even the proposed legislature to be elected will not change this political reality significantly. Neither collectively, nor individually, can deputies function with significant independence.

4 Electoral law and practice is currently dominated by highly partisan mechanisms. While the practice of the Electoral Commission has been fairer than might be anticipated, its structure raises serious questions about its long-term non-partisanship.

5 Political parties are still under considerable legal constraint by CCM dominated governmental institutions, such as the Registrar of Political Parties, and District Commissioners

6 The performance and independence of the Tanzanian judiciary appears to be improving. It confronts serious material difficulties, and problems of uncertain legal principles and confusing and contradictory legal codes (such as the Land Tenure Act). Enforcement, however, is much more partisan and selective, compromising the legitimacy of law in application

b Civil society

1 Freedom of association and expressions have expanded dramatically in recent years, but are vulnerable due to the maintenance of restrictive and probably unconstitutional laws which are still invoked by government. Rights accorded to "civil society" actors, now that some of them have been formally separated from the CCM, are incomplete, creating considerable uncertainties about the rights of union and cooperative association. The Cooperative Societies Act of 1991, for example, retains for the government appointed Commissioner of Cooperatives, many of the same powers over approval of budgets, registration of new groups, approval of changes in by-laws previously held under the 1982 law. The difference is the sense that these restrictive provisions will not be rigorously applied.

2 NGOs while greatly expanding, also operate under an ambiguous legal and regulatory environment. In 1993-94, for example, the CCM government proposed two separate initiatives to exercise greater control over NGOs, with hardly any public discussion or consultation (The NGO Liaison Unit in the Prime Minister's Office, and the proposal by the Ministry of Community Affairs to exercise similar oversight over Women's NGOs). NGOs, such as the Tanzanian Media Women's Association, have experienced difficulty with the government dominated registration process.

3 Government constraint on media freedom have been maintained in part through establishing what is perceived as confiscatory taxes on vital inputs, through the withholding of parastatal advertising from private media, and through control over the Tanzanian Journalists Association. The blatantly unconstitutional 1976 Newspapers Act, according government and the CCM a monopoly control over all forms of public communication, remains in effect and has been used to close down objectionable newspapers. The effort on the part of government in 1993 to create a Tanzania Media Council with power to register all journalists was beaten back, but indicates the uncertain status of media independence in law and practice.

4 Policy Recommendations

General Approach- employs the six democratic disciplines as way of measuring progress toward improved democratic governance, and of identifying opportunities for support in terms of most critical gaps in specific behavioral constraints, and finds that given the low level of public accountability currently found in Tanzania, priority should be accorded to focusing on the demand side for better governance--ie on promoting capacity for civic action by civil society associations. Institutional constraints, such as the need for a constitution making process and for greater legal accountability can, at this stage, be served better by supporting civic action in civil society than by directly supporting the formal judiciary or legislature.

- a Constitutional Limits AID can provide moral support for a renewed social compact, embodied in a new constitutional process, and for dealing with abuses of public rights guaranteed under the current patchwork constitution, through high-level informal policy dialogue, and through selective support to civic action in civil society It can also help by supporting journalists in dealing with legal and constitutional issues
- b Rule of Law and Judicial Discipline-- Tanzanian courts need a lot of support, but priority should be to support Tanzanians in their demand for better governance and more respect for rule of law through support to civil society associations involved in legal reform
- c Deliberative, or Legislative Discipline-- until a competitively selected national parliament exists, and a clear separation therefore exists between the CCM and the parliament, AID should support public participation in deliberation through supporting the policy advocacy and organization building skills of civil society actors, not through direct support to the legislature
- d Popular limits-- our mission was explicitly asked not to deal with issues of electoral support US government involvement in this area is being managed by the Embassy through the DCM group, led by the Scandinavians Our study, however, reveals that the National Electoral Commission, while poorly equipped and organized, could play an important role in assuring a higher level of electoral legitimacy and fairness Opposition political parties, thus far, however, are very weak and direct non-partisan support to them may be useful, but is likely to produce only marginally better popular accountability in the near-term
- e Open Public Realm- While the public realm has become significantly more free in the past few years, it remains extremely vulnerable to renewed governmental efforts to assert central control AID can help both through an on-going policy dialogue in this issue, and through support to the media in the form of training in policy-oriented reporting, so that the media can become a more effective instrument of public linkage
- f Multi-tiered governance-- not a USAID area of priority in Tanzania, although AID and other donors can support the involvement of lower level governments and of civil associations in decision making and program implementation in its own sectoral activities

5 Priority actions for AID

- a Support reform in the legal regulatory environment through support to civil associations with civic action objectives, and through policy dialogue
- b Support broadening of public participation and linkage of civil society to governmental processes, primarily by supporting capacity building in selected civil society actors, and communication linked among these actors
- c Support linkage of the public to state governmental processes by supporting training for the media, limited non-partisan training for political parties, and sponsorship of policy fora where representatives of the state and of civil society can meet to discuss specific issues, including issues of law

6 Tanzania Policy Relevant Assumptions

a USAID is one of a number of donors in Tanzania, and is by no means the lead donor in size or potential leverage AID's role in supporting democratization in Tanzania must be selective and modest

b The U S G and other donors may emphasize support to improved and more competitive electoral processes as opportunities arise, but this should not be a major AID/D objective in Tanzania at this stage in the political transition

c Until Tanzanian civil society is able to recover from the devastation it suffered under Ujamma, there will be little incentive or opportunity for political leaders to carry governance reform very far, either in terms of adherence to democratic rules and subsequent behaviors, or in terms of more transparent, effective and accountable government This means that the emphasis must be on supporting civic minded civil associational life, and emerging linkage institutions

II. GHANA

A ARD The Consolidation of Democratic Governance in Ghana: How Can USAID Respond?

July, 1994, Tina West, et al

1. Approach- effort to integrate analysis on the part of a number of specialists (political economists (Jon Kraus), political scientists-parties and interest groups (Sandbrook with Kwame Ninsin), local organization experts (Green with Rene Lemarchand and Sam Asibuo), and legal-constitutional analysts (Mozaffar and West, with Kojo Bensî-Enchil), into a single report, with each specialist contributing data for the overall analysis. There is a very clear orientation toward policy relevance in general and toward USAID's potential role in particular. The overall framework employed in Ghana was a form of institutional analysis employing the six democratic disciplines as guides to understanding both progress toward democratic governance, and rule conflicts and compatibilities providing incentives for observable political behavior.

2. Findings There are encouraging signs that democratic consolidation is "taking hold." Nonetheless, the process is only beginning to be consolidated, it is fragile, and there are some specific constraints which must be addressed to help assure further progress in specific forms of democratic behavior.

a Institutional Evidence--

1. State Institutions

a parliament has proven surprisingly effective despite lack of formal opposition, govt does respond to questions

b judiciary- confidence in its independence is being restored, govt is upholding Supreme Court cases which go against it, but courts in general are hampered by material constraints and concern about interpretation of the 1993 Courts Act

c In general constitutional rules provide for wide areas of ambiguity which do not guarantee institutions sufficient independence--parliamentary role in budgets, and role and status of national commissions

2. Civil society

a churches legal groups, women's groups, are using open realm more and dialoguing more with govt

b legal awareness is growing with civic education

3. Linkage institutions-

a the media is playing an important watchdog role-particularly print media

3. Limits-- there are three competing sets of rules-- democratic and participatory, traditional (often supporting norms of hierarchy and respect for authority which limits direct accountability), and authoritarian military norms (which depart radically from traditional accountability, but build on some traditional norms of hierarchy and deference)

- a Democratic rules are by no means widely accepted--particularly the role of opposition and right of dissent
- b highly partisan atmosphere in which either with govt or against it, leads to fear of participation and being labeled an enemy This is particularly notable with regard to economic actors--and the relationship between the state and business community actors seen as opposition supporters, versus the preference of government to support its dominant role in the economy rewarding its own supporters with public sector employment
- c Limited will to use new democratic rules to discipline authority when it exceeds constitutional limits
- d There is still a culture of suspicion of the NDC and its future actions to repress those who get out too far on the path of dissent and alternative political organization

4 Policy Recommendations.

General Approach- recommends use of the six democratic disciplines as was of measuring progress toward improved democratic governance, and of identifying opportunities for support in terms of most critical gaps in specific behavioral constraints

- a Constitutional Limits only moral support needed to continue to test and refine constitutional principles for limiting abuse of authority Specifically, donors should seek opportunities to support non-partisan civics which have this objective
- b Rule of Law and Judicial Discipline-- courts need a lot of support, but priority is to helping Ghanians plan a widely accepted court system, and then systematically reform the corpus of law to bring it into conformity with the constitution Donors can help with training and some material resources on this latter task
- c Deliberative, or Legislative Discipline-- before pouring material resources into parliament, donors need to assist Ghanians in clearing up issues of financial independence of parliament and of the national commissions
- d Popular limits-- support electoral reform as suggested above need some work with parties on finance and organization and on building genuine popular bases of support
- e Open Public Realm- support to civil society to enhance policy dialogue
- f Multi-tiered governance--- not a USAID area of priority U K ODA is focusing on this

5 Priority actions for AID

- a Support the integrity of the electoral process by broadening participation (including explicitly opposition party participation) both in plans to conduct elections, and in training to assure well observed election Also raise level of training of National Electoral Commission to conduct a good election
- b support growth of non-partisan discussion of issues and of progress toward democratic governance in various ways

c support citizen involvement in political decision making by supporting improved availability of information, helping to build info capacity of NGOs, and better training of journalists
Stress specific activities rather than particular actors, particularly avoiding stress on picking winners

6 Ghana Policy Relevant Assumptions:

a there is a role for donors in working with the Ghanaian state in some specific areas, such as electoral reform,

b but there must be a priority on building up civil society, and in Ghana civic society capability

c civic education will be important in the consolidation of Ghanaian democracy and should preferentially take the form of improving capacity of civic associations to dialogue with govt and to make demands and take actions to help enforce constitutional limitations on centralized authority, in the framework of an increasingly accepted rule of law