

# **EXTENDED PRODUCER RESPONSIBILITY AND MANAGEMENT OF PLASTIC WASTE POLLUTION: AN ASSESSMENT OF TANZANIA'S LEGAL FRAMEWORK**



**AUGUST, 2024**

## LIST OF ABBREVIATIONS/ACCRONYMS

AG	Attorney General
AO	Agriculture Officer
BMUs	Beach Management Units
CAG	Controller and Auditor General
CEO	Chief Executive Officer
CMA	Commission for Mediation and Arbitration
COAF	College of Agricultural Science and Food Technology
COMESA	Common Market for Eastern and Sothern Africa
CSO	Civil Society Organisation
CTI	Confederation of Tanzania Industries
DoE	Division of Environment
EAC	East African Community
EIA	Environmental Impact Assessment
EMA	Environmental Management Act
EMO	Environment Management Officer
EPR	Extended Producer Responsibility
FDGs	Focus Group Discussions
GG	Government Gazette
GN	Government Notice
HUDEFO	Human Dignity and Environmental Care Foundation
IAWP	International Alliance of Waste Pickers
IUCN	International Union for Conservation of Nature
JWPI	Juza Waste Pickers Initiative
KEPRO	Kenya Extended Producer Responsibility Organisation
LGA	Local Government Authority
LGAs	Local Government Authorities
MC	Municipality
MEO	<i>Mtaa</i> (Street) Environmental Officer
MIT	Ministry of Trade and Industry
NABU	NABU International Foundation for Nature
NEMA	National Environment Management Authority
NEMC	National Environment Management Council
NEP	National Environmental Policy
NGO	Non-Governmental Organisation
No.	Number
Nos.	Numbers
OSHA	Occupational Safety and Health Authority

PETpro	PET Recycle Company (T) Ltd
Ph.D.	Doctor of Philosophy
PO-RALG	President's Office-Regional Administration and Local Government
PPP	Polluter Pays Principle
PROs	Producer Responsibility Organisations
SADC	Southern African Development Community
SAGCOT	The Southern Agricultural Growth Corridor of Tanzania
SUPs	Single Use Plastics
TALRO	Tanzania Landscapes Restoration Organisation
TARESO	Tanzania Environmental Recyclers Society
TBS	Tanzania Bureau of Standards (TBS)
TCAF	Tanzania Circular Action Forum
TIRDO	Tanzania Industry Research and Development Organisation
TLS	Tanganyika Law Society
UDSM	University of Dar es Salaam
UN	United Nations
UNIDO	United Nations Industrial Development Organisation.
UWAWAMA	<i>Ushirika wa Wanawake Wavuja Jasho Manzese</i> (Manzese Working Women Cooperative)
VPO	Vice President's Office
WEO	Ward Environmental Officer
WWF	World-Wide Fund for Nature (WWF International)



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We would, however, wish to specifically extend our sincere appreciation to all those at HUDEFO and NABU International for providing the required funding and the much-needed logistical and timely support. This enabled timely convening of stakeholders' meetings, workshops and other consultation forums.

Officials at the Vice President's Office also deserve special acknowledgment. They were easily accessible and provided critical insights, experiences and valuable contacts within government institutions and agencies. Officials from NEMC, PO-RALG, CTI, PETpro and representatives of waste pickers also provided very useful comments that have shaped this study.

Prof. Hamudi Ismail Majamba  
(Consultant)

## PREFACE

Human Dignity and Environmental Care Foundation, is a Non-Governmental Organisation established in February 2016 under the Non-Governmental Organisation Act, 2002, with Registration No. ooNGO/R/0308. Our work is rooted in the belief that a healthy environment is fundamental to human well-being and progress. We strive to achieve our mission through research, advocacy, capacity building, and community engagement, engaging on sustainable waste management, environmental conservation, and climate change through advocacy, training, and consultation.

In line with this commitment, HUDEF0 has been implementing a one and half year project focusing on Extended Producer Responsibility (EPR) for plastic waste management in Tanzania. The project was designed as a multi-stakeholder project in which HUDEF0 collaborated with Waste Pickers, Recyclers, Government Agencies, Manufacturers, Academia, CSOs, NGOs, and Development Partners as part of the Dar es Salaam- Hamburg twin-city partnership. The project is supported by Hamburg's Ministry for Environment, Climate, Energy and Agriculture (BUKEA), Hamburg's municipal waste company (SRH), and NABU International Foundation for Nature. It was within this framework that HUDEF0 commissioned the study titled "An Assessment of Tanzania's Legal Framework of Extended Producer Responsibility and Management of Plastic Waste Pollution." This report represents a significant step in our ongoing efforts to contribute to effective environmental governance and sustainable waste management in Tanzania.

Tanzania, like many developing nations, faces a significant and escalating challenge from plastic waste pollution. The rapid increase in plastic consumption, coupled with inadequate waste management infrastructure, has led to widespread environmental degradation in the country. Plastic waste clogs drainage systems, contributing to urban flooding and the spread of waterborne diseases. It contaminates agricultural land, reducing soil fertility and impacting food security. Furthermore, plastic debris pollutes rivers, lakes, and coastal areas, harming aquatic life, disrupting ecosystems, and threatening the livelihoods of communities dependent on these natural resources. The pervasive nature of plastic waste also detracts from the aesthetic beauty of natural landscapes and urban areas, impacting tourism and public health. Addressing this multifaceted problem requires a comprehensive approach that targets the entire lifecycle of plastic products,

from production to disposal, emphasizing sustainable practices and effective regulatory frameworks.

The report titled "An Assessment of Tanzania's Legal Framework of Extended Producer Responsibility and Management of Plastic Waste Pollution" delves into the Extended Producer Responsibility (EPR) strategy within Tanzania's legal framework, examining its current application and effectiveness in managing plastic waste. Through comprehensive desktop research, stakeholder consultations, and expert insights, the report identifies gaps and opportunities for strengthening the legal and regulatory landscape. It notes that while EPR is a relatively new concept for many government officials, and further that the Environmental Management Act (EMA) does not adequately address plastic waste through an EPR lens, there are elaborate Regulations, made under EMA, that address electrical and electronic waste, offering a precedent for future reforms.

The report's findings and recommendations are crucial for policymakers, industry stakeholders, civil society organizations, and the public. They underscore the urgent need for the government to integrate the EPR strategy into the legal framework, particularly concerning plastic waste. Furthermore, the report emphasizes an inclusive reform process that draws from international best practices while considering Tanzania's unique socio-economic and cultural context.

HUDEFO strongly believes that the insights contained within this report will serve as a valuable resource for informed decision-making and catalyze collaborative action towards a cleaner and more sustainable Tanzania.



Sarah Pima

Director HUDEFO



## LIST OF EPR-RELATED LEGISLATION REFERRED TO FROM OTHER JURISDICTIONS

1. BURUNDI
  - (a) Law No. 1/010 of 30th June 2000 (on the Code of Environment), 2000
  - (b) Decree No. 100/099 of August 8, 2018 30
2. DEMOCRATIC REPUBLIC OF CONGO
  - (a) Environmental Protection Act, 2011
  - (b) Decree No. 17/018 of December 30, 2017
3. EGYPT
  - (a) Egyptian Environment Law No. 4 of 1994
  - (b) Egyptian Waste Management Law 202/2020
4. KENYA
  - (a) Environment Management and Coordination Act, 1999, (Cap. 387)
  - (b) Gazette Notices Nos. 2334 and 2356 of 2017
  - (c) The Draft Environmental Management and Coordination (Plastics Bags Control and Management) Regulations, 2018
  - (d) Gazette Notice No. 4858
  - (e) Extended Producer Responsibility (“EPR”) Regulations, 2021
  - (f) Sustainable Waste Management Act 2022
5. MOZAMBIQUE Decree 79/2017, 28 December 2017
6. NIGERIA
  - (a) The EPR Act, 2022 (R.A. 11898)
  - (b) The National Environmental (Sanitation and Waste Control) Regulations, 2009. S.I. No. 28
  - (c) The National Environmental (Food, Beverages and Tobacco Sector) Regulations, 2009. S.I. No. 33
  - (d) The National Environmental (Chemicals, Pharmaceuticals, Soap and Detergents Manufacturing Industry) Regulations, 2009. S.I. No. 36
  - (e) The National Environmental (Domestic and Industrial Plastic, Rubber and Foam Sector) Regulations, 2010. S.I. No. 17
7. RWANDA
  - (a) Law N°48/2018 on the Environment
  - (b) Law No. 17/2019 (Relating to the Prohibition of Manufacturing, Importation, Use and Sale of Plastic Carry Bags and Single-Use Plastic Items)
  - (c) Law n° 025/2024 of 16/02/2024 governing Biosafety

8. SOMALIA
  - (a) Environmental Management Law No. 79 of 2018.
  - (b) Customs Act Regulations, Regulation No. 03/2019
9. SOUTH AFRICA
  - (a) The National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)
  - (b) Extended Producer Responsibility Regulations, 2020 (GN 1184 in GG 43879 of 5 November 2020)
10. SOUTH SUDAN The Environmental Protection Act, 2001
11. UGANDA
  - (a) National Environment Act, No. 5 of 2019
  - (b) The National Environment (Waste Management) Regulations, Uganda Statutory Instrument No. 49 of 2020. Uganda Gazette No. 18 of 2020
12. ZIMBABWE
  - (a) Environmental Management Act (Chapter 20:27)
  - (b) Plastic Packaging and Plastic Bottles Regulations, Plastic Packaging and Plastic Bottles Regulations 2010 (S.I. No. 98 of 2010)
13. INDIA Environment Protection Act, 1986
14. PHILIPPINES
  - (a) Republic Act (RA), No. 9003
  - (b) Ecological Solid Waste Management Act, 2000 No. 9003 of 2000
15. SRI LANKA
  - (a) National Environmental Act No.47 of 1981
  - (b) National Environmental (Plastic Material Identification Standards) Regulations No.1 of 2021 implemented Special Regulation No.2211/50
  - (c) National Environmental (Prohibition of open burning of refuse and other combustible matters inclusive of plastics) Regulations No.1 of 2017
16. EUROPEAN UNION Packaging and Packaging Waste European Directive (94/62/EC)
17. GERMANY German Packaging Act (also known as *VerpackG* or German EPR Law)
18. UNITED KINGDOM Producer Responsibility Obligations (Packaging Waste) Regulations 1997

## EXECUTIVE SUMMARY

This study examines Tanzania's legal framework with a view of establishing the extent to which it addresses the Extended Producer Responsibility (EPR) strategy in the context management of plastic waste pollution. Data for the study was obtained through a combination of desk top research and stakeholder consultations. The desk top research focused on website searches, review of literature and examination of international and regional legal instruments. Lessons on the application of EPR in the context of plastic waste management laws from other jurisdictions (see list of EPR related Legislation referred to from other foreign jurisdictions), including decisions of authoritative court cases have also informed this study. Stakeholders' views were obtained through interviews, Focus Group Discussions, deliberations at workshops and consultative forums and meetings. Stakeholders who provided data for the study were drawn from the private sector, academia, civil society organisations, non-governmental organisations and government departments and agencies. (See the Annex to this report, providing for a comprehensive list and contact details of the stakeholders).

The findings of the study reveal that the EPR concept is a relatively new phenomena to most government officials charged with management of environment waste. Also, the EPR strategy for the management of solid waste in Tanzania, including plastic, is not comprehensively addressed by the Environmental Management Act (EMA) although Regulations for managing e-waste made under EMA have provision for EPR. The government has also commenced initiatives to include the EPR strategy in plastic waste management Regulations. Findings also reveal that most manufacturers of plastics in the private sector are not aware of EPR. Some of those who are aware have adopted the strategy in their operations on a voluntary basis in order to address plastic waste pollution. These have worked closely with the government in this endeavour.

It is recommended that the government should fast track the incorporation of the EPR strategy into the legal framework for environmental management in general (through EMA) and in the management of plastic waste, in particular. This should be backed up by constitutional guarantees for citizens' right to a clean and healthy environment. Further, the reform process should be inclusive, engaging all key stakeholders and draw from experiences of other jurisdictions, taking into account social, economic and cultural factors prevailing in Tanzania.

## INTRODUCTION

Tanzania, like any other developing country has been facing challenges in its attempt to reduce huge volumes of plastic waste, especially Single Use Plastics (SUPs), produced mainly through industrial production.<sup>1</sup> The damage that SUPs have caused in the country is evidenced in, among other critical areas, waterways that end up causing significant damage to the marine environment. Plastic waste and its related pollution also have detrimental effects on public health and local economies in the country.<sup>2</sup> Reference to Tanzania, in the context of this study is limited to Mainland Tanzania. This is because Tanzania Zanzibar has a separate legislative and policy regime that regulates environment in general and plastic waste pollution in particular. This is by virtue of the Constitution of the United Republic of Tanzania, 1977.<sup>3</sup> This confinement is mainly due to the dictates of the terms of reference that the study had to be restricted to.

This study was commissioned by Human Dignity and Environmental Care Foundation (HUDEFO), a Non-Governmental Organisation (NGO) established in 2016 and registered under the Non-Governmental Organisation Act, 2002.<sup>4</sup> HUDEFO engages stakeholders on issues ranging from sustainable waste management, environmental conservation and climate change through advocacy, training and consultation.<sup>5</sup> HUDEFO, with financial support from NABU International Foundation for Nature (NABU), is implementing a one-year project focusing on Extended Producer Responsibility (EPR) for plastic waste management in Tanzania. The project forms part of the twin-city partnership between Dar es Salaam and Hamburg.<sup>6</sup>

HUDEFO engaged a legal consultant to, among other things, review Tanzania's legal framework for the management of plastic waste focusing on obligations and roles of manufacturers of plastic

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<sup>1</sup> IUCN-EA-QUANTIS, 2020, National Guidance for plastic pollution hotspotting and shaping action, Country report Tanzania (Available at [https://plastichotspotting.lifecycleinitiative.org/wp-content/uploads/2021/05/Tanzania\\_final\\_report\\_2021.pdf](https://plastichotspotting.lifecycleinitiative.org/wp-content/uploads/2021/05/Tanzania_final_report_2021.pdf))

<sup>2</sup> Makando, D. D, & Muguba, S. E. (2023). The Plastic Waste And its Management in Tanzania: A Case of Arusha Municipality. *The Accountancy and Business Review*, 15(1), 43–54. <https://doi.org/10.59645/abr.v15i1.92> (Available at: <https://journals.iaa.ac.tz/index.php/abr/article/view/92/49>)

<sup>3</sup> See the Second Schedule of the Constitution, where environment is not among the Union matters, except for related international agreements and treaties.

<sup>4</sup> Act No. 24 of 2002: Available at: <https://www.fiu.go.tz/NGOact.pdf>

<sup>5</sup> See: <https://hudefo.or.tz/>

<sup>6</sup> One of NABU's aim is focused on protection and the conservation of biological diversity. (See: <https://www.vgp-foundation.eu/en/projects/>)

products in addressing plastic waste pollution. The consultant was also required to provide suggestions on law reform to enable effective incorporation of the EPR strategy in the management of plastic waste in Tanzania.

## METHODOLOGY

The methodology employed in the course of undertaking research for this study was predominantly desk top research using credible internet sources. Literature comprising of reports, media outlets, journal articles and court decisions on the management of plastic waste pollution generally and those with a bearing on the EPR in particular were reviewed. Legislation from Tanzania and other selected countries that regulate plastic waste pollution were also examined.

The desk top research was supplemented with interviews with stakeholders purposefully selected from the private sector. These included PET Recycle Company (T) Ltd (PETpro), which practices voluntary EPR in the country.<sup>7</sup> Representatives of the informal sector and those engaged with the informal sector, comprising plastic waste pickers from different parts of Tanzania were also interviewed. These included Eco Hub Tanzania (Dar es Salaam), Morogoro Services Providers, Tanzania Environmental Recyclers Society (TARESO) (Dar es Salaam) and Juza Waste Pickers Initiative (JWPI) (Dar es Salaam).

Consultative meetings with officials from the National Environment Management Council (NEMC) and the Vice President's Office (VPO)-Division of Environment were held in Dar es Salaam and Dodoma where issues relating to the enforcement of plastic management laws were deliberated. Officials from the Ministries of Trade and Industries, Water, Agriculture, Livestock and Fisheries were also interviewed.

Officials from the Tanzania Industry Research and Development Organisation (TIRDO), Tanzania Bureau of Standards (TBS), and the President's Office - Regional Administration and Local Governments were also consulted in Dodoma. Personnel from the Local Government Authorities (LGAs) from Kinondoni, Temeke, Kigamboni and Ubungu Municipalities provided insightful comments during interactive sessions organised by HUDEFO.

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<sup>7</sup> For more details on PETpro, see more details: <https://petpro.co.tz/>

Focus group discussions were conducted with purposefully identified officials from the NEMC, the VPO, Ministry of Industry and Trade, Ministry of Agriculture, Livestock and Fisheries, Local Government Authorities and the private sector engaged in recycling and individual waste pickers from Dar es Salaam and Dodoma.

Information and data were obtained from presentations at workshops organised by HUDEFO where invited stakeholders made presentations. These included experts from Kenya, South Africa and Germany who shared experiences from their jurisdictions and elsewhere on the application of EPR in managing solid waste.<sup>8</sup> Views and comments of participants who were later engaged in plenary discussions were synchronized and critically reviewed. (See the Annex to this report, providing for a comprehensive list and contact details of the stakeholders).

## GLOBAL INITIATIVES IN ADDRESSING PLASTIC WASTE POLLUTION: AN OVERVIEW

Over the past few decades, the increase in waste pollution in the oceans, which cover close to 70% of the earth's surface has developed into a crisis attracting concerns from environmentalists as a result of the damage on planet earth. Among the waste found in the oceans is plastic, with approximately 33 billion pounds finding its way into the global marine environment yearly. This has caused significant damage to the marine ecology with irreversible impacts.<sup>9</sup> Legislation to address plastic waste pollution is also increasingly gaining prominence in many jurisdictions across the globe, with many countries enacting such laws with an EPR focus.<sup>10</sup>

Among the most recent global initiatives that have sought to address plastic waste pollution is by the United Nations (UN) which has initiated efforts to put in place a Plastic Agreement. The Agreement seeks to catalyze global action with a view to transforming the way humankind produces and disposes of plastics, by end of 2024. A draft text of the international binding Treaty on plastic pollution was in place in April 2024.<sup>11</sup> Even before this UN initiative, African governments

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<sup>8</sup> The German EPR legislative model has provided guidance for many countries. See for example: Balachandra, B.A.K. S and T.B. Abeysekara, T.B (2021), Producer Responsibility in Managing Plastic Packaging Waste in Sri Lanka: A Legal Framework Based on Lessons Learned from Germany, K.D.U. *Journal of Multidisciplinary Studies (K.J.M.S.)* Volume 3. Issue 2 November 2021 K.J.M.S. 2021 VOL.3 (2): 11-25 DOI: <http://doi.org/10.4038/kjms.v3i2.24>

<sup>9</sup> Ukpanah, I. (2024). Ocean Pollution: A Deep Divide into Current Statistics and Trends, (available at: <https://www.greenmatch.co.uk/ocean-pollution-facts>)

<sup>10</sup> Some of the global plastic laws can be accessed at <https://www.globalplasticlaws.org/>

<sup>11</sup> <https://www.unep.org/inc-plastic-pollution/session-4>



had already put in place policy and legislative frameworks to ban single use plastic.<sup>12</sup> Until 2020, over half of the countries in Africa had put in place legislation to combat plastic waste pollution.<sup>13</sup>

## EXTENDED PRODUCER RESPONSIBILITY AND MANAGEMENT OF PLASTIC WASTE POLLUTION

Side by side with putting in place policy, legislative and institutional frameworks, governments in different parts of the globe have established strategies to support these frameworks by establishing EPR schemes to address plastic waste pollution. In essence, the EPR strategy, in this context, is an environmental policy that seeks to pass on the responsibility of pollution caused by polluters of plastic waste to the manufactures. It makes such manufacturer liable for the entire life cycle of the plastic product. The strategy places an obligation on the manufacturer to provide schemes for taking back the plastic product by way of buying back waste materials/containers from consumers after use and recycling such materials and taking part in their final disposal. The EPR strategy also seeks to provide incentives for such manufacturers to develop resource efficient and low impact plastic products.<sup>14</sup>

The EPR strategy has gained significant worldwide recognition and support as an environmental policy seeking to achieve environmental standards. It is traced to a 1990 report prepared for the Swedish government by Thomas Lindhqvist. The report was subsequently published as a Ph.D. dissertation in 2000.<sup>15</sup> Since then, there has emerged EPR legislation aimed at minimizing environmental impact of waste materials generally and plastic waste in particular. The EPR scheme has also been associated with the Polluter Pays Principle (PPP) of environmental law.<sup>16</sup> PPP is a

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<sup>12</sup> Upcycleafrica (2024), Plastic Waste Challenges in Sub-Saharan Africa: A Complex Issue (Available at: <https://upcycleafrica.org/plastic-waste-crisis-in-africa/>)

<sup>13</sup> See: State of Affairs: Policies, Regulations and Laws that Address the Harmful Effects of Single-Use Plastics in the East African Community (2023). (Available at: <https://www.africa21.org/wp-content/uploads/SUP-report-April-2023-FINAL.pdf>) and Nyathi, B and Togo, C. A, (2020). Overview of Legal and Policy Framework Approaches for Plastic Waste Management in African Countries, *Hindawi Journal of Environmental and Public Health*, (Available at: <https://www.hindawi.com/journals/jeph/2020/8892773/>)

<sup>14</sup> UNEP: See, <https://www.unep.org/reducing-plastic-pollution-through-extended-producer-responsibility>

<sup>15</sup> Lindhqvist, T. (2000). *Extended Producer Responsibility in Cleaner Production: Policy Principle to Promote Environmental Improvements of Product Systems*. [Doctoral Thesis (monograph), The International Institute for Industrial Environmental Economics]. IIIEE, Lund University, Sweden. (Available at: <https://lup.lub.lu.se/search/files/4433708/1002025.pdf>)

<sup>16</sup> This has been noted by the UNEP: See [https://apps1.unep.org/resolutions/uploads/integrate\\_epr\\_within\\_the\\_international\\_treaty\\_on\\_plastics\\_pollution\\_1.pdf](https://apps1.unep.org/resolutions/uploads/integrate_epr_within_the_international_treaty_on_plastics_pollution_1.pdf)

sustainable development Principle, traced to Principle 16 of the 1992 Rio Declaration. It tasks polluters to bear the cost of managing the pollution they have caused to prevent damage to the environment.<sup>17</sup>

Governments in Africa have established EPR related laws to address plastic waste. For example, Zimbabwe's Plastic Packaging and Plastic Bottles Regulations also address EPR.<sup>18</sup> South Africa also made amendments to its EPR regulatory regime, addressing critical issues relating to the management of plastic waste pollution in 2020.<sup>19</sup> Nigeria has also established a similar scheme.<sup>20</sup> In the East African region, legislative enactments to regulate plastic waste pollution generally are found in Kenya, Uganda, Rwanda, Democratic Republic of Congo, Somalia and Tanzania.<sup>21</sup> Uganda's Waste Management Regulations provide specifically for the enforcement of the EPR strategy with regard to plastic waste.<sup>22</sup> Rwanda's Law 17 of 2019 that prohibits manufacturing, importing and use of plastic bags also has aspects of EPR.<sup>23</sup> By the time of undertaking this study, Kenya was in the process of developing comprehensive draft EPR regulations that have a bearing on plastic waste management.<sup>24</sup>

Further to the legislative provisions incorporating the EPR strategy, courts of law have been engaged in litigation related to plastic waste pollution across the globe. In the process of resolving plastic waste pollution related disputes, the courts have developed and further clarified related

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<sup>17</sup> Organisation for Economic Co-operation and Development (OECD) (1995). Environmental Principles and Concepts (Available at [https://one.oecd.org/document/OCDE/GD\(95\)124/En/pdf](https://one.oecd.org/document/OCDE/GD(95)124/En/pdf))

<sup>18</sup> See Regulation 4 (1) (a) – (c) of the Plastic Packaging and Plastic Bottles Regulations 2010 (S.I. No. 98 of 2010). Available at: <https://faolex.fao.org/docs/pdf/zim171720.pdf>

<sup>19</sup> See: Amendments to the Regulations and Notices Regarding Extended Producer Responsibility, 2020. Available at: [https://www.gov.za/sites/default/files/gcis\\_document/202105/44539gon400.pdf](https://www.gov.za/sites/default/files/gcis_document/202105/44539gon400.pdf)

<sup>20</sup> Kunlerea I.O and Ajana I.A (2019) Implementation of the Extended Producer Responsibility (EPR) Policy in Nigeria: Towards Sustainable Business Practice, *Nigerian Journal of Environment and Health* 2 (2019) 44–56 (Available at: [https://www.researchgate.net/publication/341565113\\_Implementation\\_of\\_the\\_Extended\\_Producer\\_Responsibility\\_EPR\\_Policy\\_in\\_Nigeria\\_Towards\\_Sustainable\\_Business\\_Practice](https://www.researchgate.net/publication/341565113_Implementation_of_the_Extended_Producer_Responsibility_EPR_Policy_in_Nigeria_Towards_Sustainable_Business_Practice))

<sup>21</sup> Nyathi, B and Togo, C. A, (2020). Overview of Legal and Policy Framework Approaches for Plastic Waste Management in African Countries, *Hindawi Journal of Environmental and Public Health*, p.5 (Available at: <https://www.hindawi.com/journals/jeph/2020/8892773/>)

<sup>22</sup> See Regulation 35 (4) (c) of the National Environment (Waste Management) Regulations, Uganda Statutory Instrument No. 49 of 2020. Uganda Gazette No. 18 of 2020. Available at: <https://ulii.org/akn/ug/act/si/2020/49/eng@2020-03-20/source.pdf>

<sup>23</sup> Law Relating to the Prohibition of Manufacturing, Importation, Use and Sale of Plastic Carry Bags and Single-Use Plastic Items. See also [https://elaw.org/resource/rw\\_plasticlaws](https://elaw.org/resource/rw_plasticlaws)

<sup>24</sup> WWF (2022), Extended Producer Responsibility for Single Use Plastic and Plastic Packaging for Waste Systems: An Assessment for Kenya. (Available at: [https://wwfke.awsassets.panda.org/downloads/extended\\_producer\\_responsibility\\_report.pdf](https://wwfke.awsassets.panda.org/downloads/extended_producer_responsibility_report.pdf))

provisions of laws, principles and doctrines. This has provided guidance in the application and interpretation of the plastic waste pollution in different legal regimes. Examples of such cases are found in India.<sup>25</sup> Also, in a case from South Africa the court dealt with prevention of environmental pollution by industrial tyres waste in order to maintain economic and social development.<sup>26</sup> In other parts of the globe, including Africa, courts have decided suits brought by manufactures of plastic products against governments for enacting plastic waste management legislation. Further, in the process of litigation, courts dealt with specific issues relating to the application of EPR schemes in controlling plastic waste pollution.<sup>27</sup>

## REGULATORY FRAMEWORK FOR MANAGING PLASTIC WASTE POLLUTION IN TANZANIA

The government of Tanzania has committed to efforts at the international and regional levels by signing and ratifying treaties and conventions relating to plastic pollution. These include the Basel, Bamako and the Stockholm Conventions, which seek to reduce the negative impacts of plastic waste, marine plastic litter and micro plastics.<sup>28</sup> These legal instruments also emphasize the importance of reducing the use of plastics and ensuring environmentally sound management of plastic waste worldwide. The government of Tanzania has also been engaged in regional economic blocs' efforts to address plastic waste management through the Southern African Development Community (SADC), East African Community (EAC) and Common Market for Eastern and Sothern Africa (COMESA).<sup>29</sup>

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<sup>25</sup> See: <https://www.casemine.com/search/in/EXTENDED%2BPRODUCER%2BRESPONSIBILITY>

<sup>26</sup> *Minister of Environmental Affairs vs. Recycling and Economic Development Initiative of South Africa NPC*, High Court of South Africa, Western Cape Division, Cape town Case No. 9675/2017 (Available at: <https://www.saflii.org/za/cases/ZAWCHC/2017/101.html>)

<sup>27</sup> Varvastian, S. (2023), The Role of Courts in Plastic Pollution Governance, *International and Comparative Law Quarterly*, Vol 72, Issue 3, July 2023, pp. 635-669: (Available at: <https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/role-of-courts-in-plastic-pollution-governance/9738157DDF3BE8304DD8FE7BBC8F56FE>)

<sup>28</sup> Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (adopted 22 March 1989, entered into force 5 May 1992) 1673 UNTS 57. 63 UNEP, Basel Convention Plastic Waste Amendments' <http://www.basel.int/Implementation/Plasticwaste/Amendments/Overview/tabid/8426/Default.aspx>: Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa (adopted 30 January 1991, entered into force 22 April 1998) 2101 UNTS 177. (Available at: [https://au.int/sites/default/files/treaties/7774-treaty-0015\\_-\\_bamako\\_convention\\_on\\_hazardous\\_wastes\\_e.pdf](https://au.int/sites/default/files/treaties/7774-treaty-0015_-_bamako_convention_on_hazardous_wastes_e.pdf)): Stockholm Convention on Persistent Organic Substances, 2001 (as amended in 2009) [https://www.env.go.jp/chemi/pops/treaty/treaty\\_en2009.pdf](https://www.env.go.jp/chemi/pops/treaty/treaty_en2009.pdf), respectively.

<sup>29</sup> See: <https://www.sadc.int/pillars/waste-management>; <https://aln.africa/wp-content/uploads/2023/05/East-Africa-Regional-Workshop-on-Single-Use-Plastics-SUPs-Report.pdf> and <https://comesabusinesscouncil.org/wp->

At the national level, the government promulgated a new framework policy for management of the environment, the National Environmental Policy (NEP) in 2021. This policy seeks to address sustainable use of environmental resources and is supplemented by other sector natural resources policies, which address environmental damage to resources. These include water, forests, wildlife areas, fisheries, land, agriculture and marine life where plastic waste pollution is usually rife, causing significant damage.<sup>30</sup> The NEP supersedes these other sector policies in case of conflict on issues related to the conservation, management and protection of environmental resources. The NEP lays down strategies to guide the government and other stakeholder to address waste pollution in general. It does not address plastic waste in particular.<sup>31</sup> Accordingly, NEP calls for the government to put in place a legislative framework to implement its strategies, including addressing waste pollution. NEP further echoes the need for the government to ratify and implement international and regional legal instruments to achieve this objective. As noted above, Tanzania has ratified regional and international legal instruments in implementing the NEPs clarion call.

It is interesting to note here that the predecessor of NEP, the National Environmental Policy of 1997, had in place very specific and detailed paragraphs for addressing environmental damage caused by plastic pollution. Also, as will be noted later below, it had called for specific measures to encourage an EPR strategy in the country through economic instruments to address environmental pollution in general and plastic waste pollution, in particular. Paragraphs 75 and 76 of the repealed Policy provided that:

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content/uploads/2022/10/CBC-Policy-Brief-Business-Perspectives-on-Harmonisation-of-Plastic-Waste-Control-in-COMESA.pdf, respectively.

<sup>30</sup> See: IUCN (2021): Tanzania National Guidance for Plastic Pollution Hotspotting Report: 29 thousand tonnes of plastic leaked to ocean, rivers and lakes in 2018 –proposed solutions to close the plastic tap (Available at: <https://www.iucn.org/news/eastern-and-southern-africa/202106/tanzania-national-guidance-plastic-pollution-hotspotting-report-29-thousand-tonnes-plastic-leaked-ocean-rivers-and-lakes-2018-proposed-solutions-close-plastic>) : Datta, N (2022), Forests and Plastic Wastes: A Natural Parasitic Relationship with the Concept of Sustainable Forestry, *Journal of Sustainable Materials Processing and Management*, Vol. 2, No. 1 (2022) 47-55. (Available at: [https://www.researchgate.net/publication/360247536\\_Forests\\_and\\_Plastic\\_Wastes\\_A\\_Natural\\_Parasitic\\_Relationship\\_with\\_the\\_Concept\\_of\\_Sustainable\\_Forestry](https://www.researchgate.net/publication/360247536_Forests_and_Plastic_Wastes_A_Natural_Parasitic_Relationship_with_the_Concept_of_Sustainable_Forestry)) and Ntakamulenga, R (2012) The Status of solid waste management in Tanzania. Available at [https://globalmethane.org/documents/events\\_land\\_120910\\_11.pdf](https://globalmethane.org/documents/events_land_120910_11.pdf).

<sup>31</sup> See section 1.2.6: National Environmental Policy, 2021 (Available at: <https://www.vpo.go.tz/uploads/publications/sw-1644923087-NATIONAL%20%20ENVIRONMENTAL%20POLICY%202021%20new.pdf>)

75. While economic instruments are not necessarily the most effective means of choice for every environmental problem, their application can be linked to specific environmental problems, so that they are made relevant in their design and application to the problems. Already, deposit refund schemes are practised in Tanzania primarily to encourage the return of beverage containers, and shall be used for other products which can be recycled or recovered, and which create environmental problems if not disposed of (off) in an acceptable manner, such as acid batteries and oils, or plastics with long life cycles.

76. As far as possible the preventive approach to environmental problems shall be given top priority. Liability for environmental pollution shall not be passed on. The polluter-pays principle shall be adopted and implemented deterrently. In principle it shall be the responsibility of those who pollute to repair and bear the costs of pollution caused and rehabilitation, where appropriate.<sup>32</sup>

It is surprising and rather unfortunate that the drafters of the 2021 NEP did not take into account the innovative strategies of the old National Environmental Policy of 1997 relating to the control of plastic waste pollution in the country in the context of EPR. However, despite not addressing plastic pollution specifically in the 2021 NEP, the government has put in place various strategies to address plastic pollution. These include the development of a National Inventory report on plastic pollution which guide the development of strategies and action plans, reform of policy and legislative frameworks and promoting partnership between the government, the private sector, civil society organisations, local community members and other stakeholders.<sup>33</sup>

In order to effectively implement its international and regional obligations on management of environment, including addressing negative impacts of plastic waste pollution, the government of Tanzania has been actively involved in regional and international efforts to address this vice. It has put in place a legal framework to reflect its obligations under the regional and international instruments in this regard.<sup>34</sup>

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<sup>32</sup> The National Environmental Policy, 1997 (Available at: <https://www.nemc.or.tz/uploads/publications/sw-1576228807-NEP%201997.pdf>)

<sup>33</sup> IUCN-EA-QUANTIS, 2020, National Guidance for plastic pollution hotspotting and shaping action, Country report Tanzania [https://plastichotspotting.lifecycleinitiative.org/wp-content/uploads/2021/05/Tanzania\\_final\\_report\\_2021.pdf](https://plastichotspotting.lifecycleinitiative.org/wp-content/uploads/2021/05/Tanzania_final_report_2021.pdf)

<sup>34</sup> See; <https://leap.unep.org/en/countries/case-studies/africa-region-plastic-pollution-and-marine-litter-law-and-policy> and Sustainable Manufacturing and Environmental Pollution Programme *et al* (2023), Report: East Africa Workshop on Single Use Plastics (SUPs): Capacity Building for Environmental Authorities and Legislators in East Africa

Also, like most jurisdictions which have sought to address plastic waste pollution, Tanzania's National Environmental Policy of 1997, as noted above, sought to do so through the EPR strategy for the protection of the environment and advocated for the application of the PPP in the process. Despite not reflecting the clarion call of the old 1997 policy on EPR in the new 2021 NEP, the government has put in place a legislative framework that advocates for the EPR strategy.

## CONSTITUTION OF THE UNITED REPUBLIC OF TANZANIA

Constitutions in various jurisdictions in the world where environmental litigation has been developed by courts and environmental defenders and stakeholders, have very explicit provisions guaranteeing citizens the right to a clean and healthy environment.<sup>35</sup> In the absence of an express provision guaranteeing this right, its enforcement by citizens is left in a limbo as principal and subsidiary legislation maybe changed often and for the latter, overnight. Reliance on court decisions to ensure this right is also risky as precedent may not be consistent. The Constitution of the United Republic of Tanzania of 1977 does not explicitly provide for this right. Fortunately, the High Court of Tanzania, as is the case in courts in other jurisdictions, came to the rescue by interpreting Article 14 of the Constitution and declaring that it indeed provides for the right to a clean, safe and healthy environment.<sup>36</sup> The Article is explicit: *“Every person has the right to live and to the protection of his life by the society in accordance with the law.”*

By extension, the High Court's interpretation, and in the context of plastic pollution and associated waste, the Article, clearly provides for the right to be protected from plastic waste pollution, which can adversely affect the right to life. Although the decision of the High Court is a welcome development, the application of the doctrine of precedent does not guarantee its sustainability.

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on Issues of Plastics (Available at: <https://aln.africa/wp-content/uploads/2023/05/East-Africa-Regional-Workshop-on-Single-Use-Plastics-SUPS-Report.pdf>)

<sup>35</sup> Ebeku, K. S. A (2003), The Right to a Satisfactory Environment and the African Commission, Vol. 3 African Human Rights Law Journal, (Available at: <https://www.corteidh.or.cr/tablas/R21584.pdf>)

<sup>36</sup> *Festo Balegele et al vs Dar es Salaam City Council* Misc. Civil Cause No. 90 of 1991 High Court of Tanzania at Dar es Salaam (see: <https://www.informea.org/en/court-decision/festo-balegele-and-794-others-v-dar-es-salaam-city-council>) and *Mehta v. Kamal Nath et al* [1997] 1 SCC 388; and *M K Ranjitsinh et al vs. Union of India et al*, Civil Appeal No. 3570 of 2022 (Supreme Court of India) Original Civil Jurisdiction Write Petition (Civil) No. 838 of 2019: (Available at: [https://main.sci.gov.in/supremecourt/2019/20754/20754\\_2019\\_1\\_25\\_51677\\_Judgement\\_21-Mar-2024.pdf](https://main.sci.gov.in/supremecourt/2019/20754/20754_2019_1_25_51677_Judgement_21-Mar-2024.pdf)), respectively.



The decision does not bind other High Court judges.<sup>37</sup> Also, the High Court decision may be overruled by the Court of Appeal, rendering it no longer good law.<sup>38</sup>

Article 27 (1) of the Constitution of the United Republic of Tanzania is also relevant in the context of protection of the environment since it places a duty on citizens to protect natural resources and to guard against all forms of waste. It states that:

*“Every person has the duty to protect the natural resources of the United Republic, the property of the state authority, .... All persons shall be required by law... to combat all forms of waste... and to manage the national economy assiduously ....”*

The phrase ‘natural resources’ includes aspects of the environment.<sup>39</sup> Along the same line, the Constitutional provision also addresses the duty to combat ‘waste’ in the context of plastic waste pollution, an environmental concern.

The ruling on the right to a clean and safe environment, that had been hitherto recognized only by the High Court of Tanzania in the case of *Festo Balegele*, was clearly incorporated into law in 2004 through the Environmental Management Act, (EMA).<sup>40</sup> Subsequently, some Regulations made under EMA have concretized the right focusing specifically on the management of plastic waste and the EPR strategy in Tanzania. We must admit that the enactment of the right to a safe and clean environment in EMA is a progressive development. However, it does not *ipso facto* guarantee this right. This is because attempts have been made to render similar provisions in EMA useless through amendments.<sup>41</sup> As noted above, in countries where the right to a clean environment is entrenched in Constitutions there is more guarantee for citizens to ensure the right is not blotted

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<sup>37</sup> See for example the case of *Pili Saiba Mwakipwete vs Eliud Mwalupeta* (Misc. Land Appeal 6 of 2020) [2020] TZHC 4077 (12 November 2020) p. 7 (Available at: <https://tanzlii.org/akn/tz/judgment/tzhc/2020/4077/eng@2020-11-12>)

<sup>38</sup> See: *Tanzania Breweries Limited vs Anthony Nyingi* (Civil Appeal No. 119 of 2014) [2015] TZCA 580 (Available at <https://tanzlii.org/akn/tz/judgment/tzca/2015/580/eng@2015-03-25>)

<sup>39</sup> See <https://www.britannica.com/science/natural-resource>

<sup>40</sup> Section 4 of EMA

<sup>41</sup> See amendments on the Basic Rights and Duties Enforcement Act, which seek to regulate public interest litigation (*locus standi*), including such litigation if brought under the provisions of EMA. See also Shivji, I.G (2020) “Tanzania abolishes Public Interest Litigation (A Comment on the Amendment of Basic Rights and Duties (Enforcement) Act (Cap. 3 of the Revised Laws of Tanzania)” (Available at: <https://journals.udsm.ac.tz/index.php/ealr/article/view/5157/4406>)

out, either by courts or through amendments.<sup>42</sup> A review of the overall legislative framework for the management and control of plastic waste pollution would now be in order.

## ENVIRONMENTAL MANAGEMENT ACT (EMA)

This framework environmental legislation supersedes all other laws with a bearing on conservation and management of environmental resources in Tanzania. It clearly provides for a right to a safe, clean and decent environment. Its provisions also seek to regulate the management of waste pollution in general and plastic waste in particular.

As noted above, the PPP has been associated with the earliest developments of the EPR strategy. Despite the NEP of 2021 not reflecting EPR as was the case with its predecessor, Section 7 of EMA makes direct reference to the application and promotion of the PPP. Further, it also refers to the EPR strategy in environmental management in general and plastic waste in particular. For example, EMA lays emphasis on recycling waste in sections 63 (h), 80 (2) and 230 (2) (f) section. Section 80 (2) (f) of EMA empowers the Minister to make Regulations to encourage return of plastics for recycling and proper disposal.

Further, section 114 (1) (a-c) of EMA, dealing with the waste management of solid waste, provides the overall call for considering EPR in addressing waste in general and plastic waste in particular. It directs Local Government Authorities (LGAs) to put in place schemes for ensuring solid waste is minimized by prescribing separating waste at source and involve Non-Governmental Organisations (NGOs) and the private sector and manufacturers in these initiatives. Section 114 (2) (d) directs LGAs to *“ensure the appropriate sorting of waste is made right at the source and in accordance with standards or specifications prescribed by the local government authority concerned,”* while section 115 (2) clearly targets plastic waste where it provides that:

*“(2) In the determination of the appropriate storage or disposal for solid waste generated by different types of markets, business centres or areas and institutions within their respective areas,*

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<sup>42</sup> Daly, E (2012) *Constitutional Protection for Environmental Rights: The Benefits of Environmental Process*, *International Journal of Peace Studies*, Volume 17, Number 2, Winter 2012. (Available at [https://www3.gmu.edu/programmes/icar/ijps/Vol17\\_2/DalyConstitutionalProtection.pdf](https://www3.gmu.edu/programmes/icar/ijps/Vol17_2/DalyConstitutionalProtection.pdf))

local government authorities shall ensure that the solid waste is classified and appropriately stored depending on whether it is organic waste, **plastics**, glass or metals....”

The powers granted to LGAs in combating plastic waste pollution, ostensibly also through the EPR and PPP, noted above are further amplified by EMA’s call for the application of economic instruments in addressing environmental damage. More specifically, Section 80 (1) provides: “*For purposes of minimising environmental damage, the Director of Environment shall periodically prepare proposals on packages of economic instruments and financial incentives and forward the same to the Minister.*” Section 80 (2) makes provision for the enactment of Regulations and Rules on economic instruments which may prescribe on-

- (a) how best to oblige individuals or firms when making decisions about production, consumption and investment, to consider the environmental consequences;*
- (b) measures to be adopted to internalise environmental costs without relying on the pricing mechanism;*
- (c) price-based measures, user charges and subsidies to internalize environmental costs and benefits;*
- (d) subsidies, tax deductions and rebates to be paid to advance environmental protection; promotion of cleaner production and sustainable consumption of goods and services;*
- (e) special grants for particular programmes and projects, including environmental projects;*
- (f) ... return of bottles, plastics and metals for recycling and proper disposal.*

Section 80 (3) provides for further application of elements of the EPR strategy where it states:

*“(3) The Minister may, on approval of the Minister responsible for finance, further prescribe the following incentives and financial measures for the protection of the environment-*

- (a) effluent charges, based on the content and quantity of discharges into the air, water, or sewerage system;*
- (b) user charge fee for using such natural resource and for others being provided with a service such as garbage collection;*
- (c) product charges, such as charges on plastic or bottle packaging that are used to discourage disposal...or encourage recycling; and:*

*(d) sales and excise taxes that give environmentally friendly products a price advantage over polluting products.*

The definition of economic instruments provided for by section 80 (4) further lays emphasis on aspects of the EPR strategy where it states that economic instruments ‘includes...deposit refund systems...’

LGAs have not officially prescribed any mechanism by way of by-laws or Regulations to address plastic waste pollution, nor the EPR strategy, as required by EMA as noted above. The Minister, however, has enacted Regulations under EMA in this regard, despite EMA not expressly making provision for EPR. All the same, to some extent, as will be noted below, the Regulations have to a greater extent progressively specifically addressed plastic waste pollution and the ERP strategy. Hopefully the on-going government process of reviewing EMA will also address this gap.<sup>43</sup>

#### ENVIRONMENTAL (SOLID WASTE MANAGEMENT) REGULATIONS, 2009 GN 263 OF 2009 <sup>44</sup>

The Environmental (Solid Waste Management) Regulations of 2019 provide a general framework for regulating the whole corpus of solid waste. In terms of the focus of this study, Regulations 35 – 43 of these Regulations address the management of plastic waste. However, these only make remote reference to the EPR strategy, without mentioning the term at all. In this regard, they lay emphasis on recycling and the application of the PPP and Precautional Principles in relation to management of solid waste.<sup>45</sup> The government through the VPO and NEMC is in the process of amending these Regulations to take on board recent developments at the national, regional and international levels in addressing solid waste management. From engagement with officials of the VPO, amendments to these Regulations will also address the EPR strategy and pave the way for its application in the context of plastic waste management.

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<sup>43</sup> Information obtained by the author from interviews with personnel at the Vice President’s Office, Division of Environment and verified by officials of NEMC in the course of undertaking this study.

<sup>44</sup> A hard copy of these Regulations is in the custody of the author from VPO’s office. Not available on line.

<sup>45</sup> Regulations 5 (b), 40 (1) (a) and 5, respectively.

## ENVIRONMENTAL MANAGEMENT (PROHIBITION OF MANUFACTURING, IMPORTATION AND USE OF PLASTIC SACHETS FOR PACKAGING DISTILLED AND OTHER ALCOHOLIC BEVERAGES) REGULATIONS, 2017<sup>46</sup>

The earliest effort, through Regulations under EMA to address plastic waste pollution was in 2017 with the enactment of the Environmental Management (Prohibition of Manufacturing, Importation and Use of Plastic Sachets for Packaging Distilled and Other Alcoholic Beverages) Regulations, 2017.

As stated in the objectives part, (Regulation 14 (1), these Regulations sought to *“impose a total ban on the manufacturing, importation and use of plastic sachets for packing distilled and other alcoholic beverages regardless of their thickness.”* Accordingly, Regulation 3 defines a plastic sachet as made of plastic film used for packaging distilled and other alcoholic beverages. The Regulations do not make any reference, even remotely, to the EPR strategy or its elements in the context of management of plastic waste pollution.

## ENVIRONMENT MANAGEMENT (PROHIBITION OF PLASTIC CARRIER BAGS) 2019<sup>47</sup>

Two years after the enactment of the Regulations to address sachets, followed another milestone with the enactment of the Regulations under EMA to address plastic waste pollution. These were the Environment Management (Prohibition of Plastic Carrier Bags) in 2019 now revoked. The primary objectives of these Regulations were provided for in Regulation 4, which were to:-

- “(a) impose a total ban on the import, export, manufacturing, sale, and use of plastic carrier bags regardless of their thickness;*
- (b) protect human and animal health as well as the environment from the likely adverse effects of utilization of plastic carrier bags; and*
- (c) provide economic and financial incentives for the production an importation of alternative carrier bags.”*

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<sup>46</sup> Government Notice No. 76 of 2017. Available at: <https://tanzlii.org/akn/tz/act/gn/2017/76/eng@2017-02-24/source.pdf>

<sup>47</sup> Government Notice No. 394 published on 17/05/2019. Available at: <https://fbattorneys.co.tz/wp-content/uploads/2019/05/GN-394-of-2019-The-Prohibition-Of-Plastic-Carries-Bags-Regulations-2019.pdf>

As is evidenced by (c) above, the Regulations also, albeit remotely, contemplated the application of the EPR strategy where it makes reference to “economic incentives.”

The banned targeted carrier bags were defined by Regulation 3 as: *“bag(s) made of plastic film, with or without handles, or gussets and to which its layer is in any thickness;”* The Regulations, under Regulation 5, also prohibited importation, export, manufacture, sale or storing or supplying such bags within Mainland Tanzania. However, the Regulations, under Regulation 9 made provision for exemption to the general prohibition for plastics where they were to be used for *“medical services or industrial products or construction industry or agricultural sector or food processing or sanitary and waste management.”* The Tanzania Bureau of Standards (TBS) was charged with the mandate of ensuring that those exempted complied with standards it prescribed under Regulation 11.

As indicated above, the Environment Management (Prohibition of Plastic Carrier Bags), 2019 were subsequently revoked and replaced 3 years later by section 34 of the Environmental Management (Prohibition of Plastic Carrier Bags and Plastic Bottle Cap Seals) Regulations in 2022. The 2022 Regulations make an attempt to apply the EPR strategy in addressing plastic waste pollution.

### ENVIRONMENTAL MANAGEMENT (PROHIBITION OF PLASTIC CARRIER BAGS AND PLASTIC BOTTLE CAP SEALS) REGULATIONS, 2022<sup>48</sup>

The objectives of the 2022 Regulations have a better reflection of the EPR strategy in relation to addressing plastic waste pollution. However, like its predecessor, it does not specifically mention the word EPR. Regulation 4 (d) specifically provides that, among other things, the Regulations seek to:

*“...d) provide economic and financial incentives for the production and importation of alternative carrier bags.”*

One of the requirements of EPR strategy in addressing plastic waste pollution is the requirement of the take back system for purposes of recycling or disposal in a manner provided for by the law. Accordingly, Regulation 29 of these Regulations provides for a mandatory take back scheme, reflecting the EPR strategy, as it explicitly states:

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<sup>48</sup> Government Notice No. 291 of 2022 – available at: <https://www.vpo.go.tz/uploads/files/291.pdf>



*“...Any manufacturer or suppliers of products contained in plastic bottles shall set-up, operate or participate in a take-back system of collecting their respective waste plastic bottles for recycling or disposal purposes, provided that no additional price is chargeable for that service.”*

## ENVIRONMENTAL MANAGEMENT (CONTROL AND MANAGEMENT OF ELECTRICAL AND ELECTRONIC WASTE) REGULATIONS, 2021<sup>49</sup>

The Environmental Management (Control and Management of Electrical and Electronic Waste) Regulations, make direct reference to EPR and expounds the strategy in the management of e-waste. Regulation 3 defines EPR as the *“...responsibility of any producer of electrical or electronic equipment, for their products beyond manufacturing until environmentally sound management of their end of life;”*

Regulation 52 (1) expounds upon the application of EPR where it provides that:

*“A manufacturer or authorized dealer of electrical and electronic equipment shall-*

*(a) ensure that e-waste generated during the manufacture of electrical and electronic equipment are channeled for dismantling, refurbishing, recycling or disposal in environmentally sound manner;*

*(b) ensure that e-waste generated from the end of life of their products is collected in line with the principle of extended producer responsibility' and channeled to a licensed dismantler or recycler;*

*(c) ensure that collection centres or take back systems are set up either individually or collectively;*

*(d) finance and organise a transparent system, either individually or by joining a collective scheme, to meet the costs involved in the environmentally sound management of e-waste generated from the end of life of its own products; and*

*(e) provide contact details such as address, telephone numbers or helpline number of authorized collection centres to consumers or bulk consumers so as to facilitate take back of used electrical and electronic equipment.”*

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<sup>49</sup> Government Notice No. 388 of 2021-available at: [https://www.nemc.or.tz/uploads/publications/sw-1645446706-e\\_WASTES%20REGULATIONS\\_2021.pdf](https://www.nemc.or.tz/uploads/publications/sw-1645446706-e_WASTES%20REGULATIONS_2021.pdf)

The penalty for those who fail to comply with the EPR strategy provided for under the Regulations is substantial and deterrent. Regulation 52 (3) is unequivocal:

*“A manufacturer or authorized dealer of electrical and electronic equipment who fails to discharge his responsibilities stated under this provision commits an offence and, upon conviction, shall be liable to a fine of not less than five million shillings and not exceeding one billion shillings or imprisonment for a term of not less than seven years or both fine and imprisonment.”*

### *Role of Consumers*

The Regulations also task consumers of electronic products in the context of the EPR strategy.

The Regulations make a distinction between a bulk consumer and a consumer. Accordingly, Regulation 3 defines a ‘bulk consumer’ as one *“who uses electrical and electronic equipment such as Central Government or local government authorities, departments, public organisations, banks, educational institutions, multinational organisations, international agencies, and private companies, it also applies to any individual who deals with the business of electrical and electronic equipment”* whereas a ‘consumer’ is defined as *“any person using electrical and electronic equipment excluding the bulk consumer.”*

In terms of responsibilities, Regulation 53 (1), places a mandatory responsibility on consumers to:

- “...(a) ensure that e-waste generated by him is channeled to a dealer in e-waste or is returned through take back services to the manufacturer or authorised dealer;*
- (b) segregate safely e-waste from other wastes and deposit separately into receptacles;*
- (c) ensure personal sensitive or confidential information which contained in the e-waste is removed before taken to the dealer in e-waste; and*
- (d) comply with these Regulations and guidelines issued under these Regulations.”*

Under Regulation 53 (2) consumers of e-waste who contravene this regulation would be committing an offence and would be liable, upon conviction to a fine not less than fifty thousand shillings and not exceeding one million shillings. In addition to this, Regulation 53 (3) empowers courts to order such consumer to clear up and remove deposited e-waste within such a period and to such a place as may be specified in the court’s order. And in case of a habitual offender,

the court may direct that he be sent to prison for a term not exceeding twelve months under Regulation 53 (4).

The Regulations also place EPR related responsibility on a bulk consumer of electrical and electronic equipment. Accordingly, Regulation 54 (1) provides that such consumer shall: -

*“...(a) ensure that e-waste generated by him is collected, sorted, stored and channeled to a dealer in e-waste or is returned through take back services to the manufacturer or authorised dealer;*

*(b) segregate safely e-waste from other wastes and store separately into receptacles;*

*(c) identify e-waste which contains sensitive or confidential information and channel it to the appropriate dealer in e-waste; and*

*(d) comply with these Regulations and guidelines issued under these Regulations.”*

A bulk consumer under this category who contravenes the provisions of this regulation would face a similar penalty that is imposed on a consumer.

## INFORMAL SECTOR, PLASTIC WASTE MANAGEMENT AND EPR

The informal sector, and specifically individuals who engage in the business of collecting waste, comprises one of the most critical stakeholders in the ERP strategy in the management of solid waste.

The United Nations Environment Programme (UNEP) has recognized this important category of stakeholders and provides a clear definition of who they are, their role and relevance where it states that waste pickers are:

*Workers who recover recyclable products and materials from public spaces, open dumpsites, landfills or from waste generators in an informal or semi-formal capacity, as own-account workers, or in cooperative settings. Waste pickers (including informal waste collectors) sell the recovered items and materials to intermediate or apex traders or drop them at formal or informal collection points.*

The above definition has been discussed and agreed between UNEP, UN-HABITAT, WIEGO and is an evolution of the UN Habitat definition of waste pickers and waste collectors, as well as the definition included in the constitution of the International Alliance of Waste Pickers (IAWP).<sup>50</sup>

The Global Alliance for Waste Pickers represent close to 20 million members and has been recognized at the international level. This organisation has lobbied for international recognition and inclusion in the EPR related governance structure throughout the world.<sup>51</sup> Indeed, a number of jurisdictions have enacted legislation which formally recognize waste pickers in principal and subsidiary legislation and related EPR schemes.<sup>52</sup> Such legislation, as will be noted later, has helped in developing the jurisprudence of plastic litigation in the world, the EAC region and Tanzania.

It is evident that the e-waste Regulations, which have pioneered the EPR strategy into the legal system in Tanzania do not address this critical category as is the case in other jurisdictions.<sup>53</sup> This shortfall may lead to a bad precedent for legislation that seek to address the application of EPR in other waste management schemes, such as in the management of plastic waste pollution where the informal sector in general and waste pickers, in particular have played a pivotal role.<sup>54</sup>

The evolution of informal waste pickers in environmental management and economic contribution and their integration and inclusion in the governance models for solid waste management in cities has been explored extensively.<sup>55</sup> In Tanzania, waste pickers in Dar-es-Salaam have played a key role in collecting plastic waste bottles. For example, 'Mtandao Wa Waokota Taka Rejeshi Dar es

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<sup>50</sup> See: <https://leap.unep.org/en/taxonomy/term/5772>

<sup>51</sup> Talbott, C et al (2022). Extended Producer Responsibility (EPR) and Waste Pickers. WIEGO Technical Brief No. 15. Manchester, UK: WIEGO. (Available at <https://www.wiego.org/sites/default/files/publications/file/technical-brief-no-15.pdf> )

<sup>52</sup> See: [https://leap.unep.org/en/knowledge/toolkits/plastic/legislation-explorer?search\\_api\\_fulltext=&f%5B0%5D=plastic\\_tags%3A5772](https://leap.unep.org/en/knowledge/toolkits/plastic/legislation-explorer?search_api_fulltext=&f%5B0%5D=plastic_tags%3A5772)

<sup>53</sup> Tiwari, D et al (2020) Systemic Economic Viability of Informal Sectors: E-Waste Management, *Nature Environment and Pollution Technology: An International Quarterly Scientific Journal*, Vol. 22 No. 3 pp. 1431-1445 (Available at: [https://neptjournal.com/upload-images/\(29\)B-4017.pdf](https://neptjournal.com/upload-images/(29)B-4017.pdf))

<sup>54</sup> Palfreman, J (2014) Waste Management and Recycling in Dar es Salaam, Tanzania Technical Report · February 2014 DOI: 10.13140/2.1.3196.4482 (Available at: [https://www.researchgate.net/publication/271441207\\_Waste\\_Management\\_and\\_Recycling\\_in\\_Dar\\_es\\_Salaam\\_Tanzania](https://www.researchgate.net/publication/271441207_Waste_Management_and_Recycling_in_Dar_es_Salaam_Tanzania)) and Department of Environment, Forestry and Fisheries and Department of Science and Innovation (2020). Waste picker integration guideline for South Africa: Building the Recycling Economy and Improving Livelihoods through Integration of the Informal Sector. DEFF and DST: Pretoria. (Available at: <https://wasteroadmap.co.za/wp-content/uploads/2021/02/Waste-Picker-Integration-Guidelines.pdf> )

<sup>55</sup> Dias, S. M (2016). "Waste Pickers and Cities," Environment and Urbanization, Volume 28, Issue 2, October 2016, Pages 375-390 (<https://doi.org/10.1177/0956247816657302>)

Salaam’ (MTAWADA) – ‘Dar es Salaam Waste Pickers Network’ (DAWANET), which is an association of all waste pickers in Dar es Salaam. Other waste pickers from Ilala District, Dar es Salaam (including some individuals from MTAWADA) have also formally registered their NGO referred to as JUZA Waste Pickers Initiative (JWPI). These have been actively engaged in stakeholders’ consultative processes.<sup>56</sup> Despite their critical role in providing assistance in the management of plastic waste in most cities in Tanzania, waste pickers have faced challenges ranging from being despised and in some cases brutally injured or killed.<sup>57</sup>

## REVIEW OF EPR RELATED LITIGATION IN EAST AFRICA

As noted above, courts in many jurisdictions, have played a critical role in expounding principles related to the application of the EPR strategies following law suits instituted against manufacturers by environmental activities and conservationists for not complying with EPR provided for in legislative enactments. In some cases, manufacturers have sued governments challenging the application of EPR legislation. The EPR related litigation to a great extent has been developed and since acted as a monitoring and evaluation tool for the application of EPR in addressing plastic waste pollution.

Court decisions in the EAC have not been left at the periphery in espousing principles in plastic pollution litigation. Indeed, one of the first courts in the world to explicitly recognize the symbiotic relationship between plastic pollution and violation of human rights was the High Court of Uganda in 2002.<sup>58</sup> This was in the celebrated case of *Greenwatch v Attorney General*, where an environmental NGO convinced the court to grant a declaratory relief to the effect that the production, distribution, use and disposal of often used plastic bags, plastic food wrappers, and

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<sup>56</sup> The Citizen Reporter, (2024) “Environmental stakeholders commit to combat plastic bottle,” Citizen Newspaper, Thursday, February 15, 2024 (See: <https://www.thecitizen.co.tz/tanzania/news/national/environmental-stakeholders-commit-to-combat-plastic-bottles-4527774>)

<sup>57</sup> See: The Chanzo Initiative (June, 23, 2023), Plastic Waste Pickers: The Shunned and Scorned Environmental Warriors in Tanzania,” available at: <https://thechanzo.com/2022/06/23/plastic-waste-pickers-the-shunned-and-scorned-environmental-warriors-of-tanzania/>

<sup>58</sup> Varvastian, S. (2023), The Role of Courts in Plastic Pollution Governance, *International and Comparative Law Quarterly*, Vol 72, Issue 3, July 2023, pp. 635-669: p. 650 (Available at: <https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/role-of-courts-in-plastic-pollution-governance/9738157DDF3BE8304DD8FE7BBC8F56FE>)

other plastic products, was in violation of the constitutional right to a healthy environment.<sup>59</sup> It is clear that *Greenwatch v Attorney General* did not raise issues of EPR in the context of plastic waste management. However, it is very likely that the decision would serve as a useful precedent for parties litigating under the EPR-plastic waste management theme in future.

In Kenya, one of the earliest pollution litigation cases was instituted in 2017, via *Kenya Association of Manufacturers v Cabinet Secretary*.<sup>60</sup> The petitioners in this case were a representative organisation for manufacturing value-added industries, importers, exporters, wholesalers and retailers of plastic bags and a lawyer, calling himself a “a public spirited individual and a human rights defender.” The respondents were the Minister for Environment and Natural Resources and the National Environmental Authority (NEMA), the Attorney General (AG) and an NGO engaged in the conservation of the environment. The Minister and NEMA had issued a 2017 national legislative ban on the use, manufacture and importation of plastic bags used for commercial and household packaging. The petitioners sought to challenge this ban. The court dismissed the petition. This case did not concern the application of the EPR strategy per se, but provides indicators on the likely litigation approaches to be taken by some stakeholders in the country’s manufacturing industry and environmental conservation NGOs and civil society if the matter concerned the management of plastic waste and related pollution.

In Tanzania, courts have been called upon to address disputes relating to the application of Regulations made under EMA banning use of plastic bags. However, the disputes have not addressed plastic pollution as such. The case of *Editha Florian Karoli et al vs. Megatrade Investment Ltd*, is an example.<sup>61</sup> The applicants in this case were employed by the respondent company which was engaged in the business of manufacturing, importing and using plastic sachets for packaging distilled and other alcoholic beverages. The government of Tanzania enacted and published the Environmental Management (Prohibition of Manufacturing, Importation and Use of

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<sup>59</sup> No 140 of 2002 (High Court of Uganda, 5 October 2012). <https://greenwatch.or.ug/judicial-decisions/greenwatch-vs-attorney-general-and-nema>

<sup>60</sup> Petition No 32 of 2017 (Environment and Land Court, 22 June 2018). Available at: <http://kenyalaw.org/caselaw/cases/view/155269>

<sup>61</sup> Labour Revision No. 18 f 2019, High Court of Tanzania at Arusha, (Available at: <https://tanzlii.org/akn/tz/judgment/tzhc/2021/5393/eng@2021-07-26/source.pdf>)



Plastic Sachets for Packaging Distilled and Other Alcoholic Beverages) Regulations, 2017, already discussed above, practically declaring the company's business unlawful.

As a result, the company informed the applicants that their employment contracts would not be renewed due to such changes and accordingly dismissed more than 150 employees. The applicants, who were among the dismissed employees, were aggrieved by that decision hence filed a complaint before the Commission for Mediation and Arbitration (CMA). The CMA decided in favour of the respondent noting that the termination was fair. On appeal, the High Court upheld that the CMA award.

It is clear that the case of *Editha Florian Karoli et al vs. Megatrade Investment Ltd*, was premised on a labour dispute and had no bearing on plastic pollution in the context of this study. However, it illustrates that courts in Tanzania should be prepared to deal with litigants who may pursue environmental rights under EMA Regulations, including those related to EPR and plastic waste pollution.

In fact, the potential of extending the application of EPR to plastic waste pollution in water bodies in Tanzania was evident a year later in the case of *Editha Florian Karoli et al*. This was in the case of *Imani Mbugi vs. Songea Municipal Council*,<sup>62</sup> where the Court of Appeal of Tanzania, approved the application of section 57 (1) of EMA read together with section 8 of the Water Utilization (General) Regulations (GN No. 370 of 1997) to prohibit undertakings that may cause pollution of water sources.

Two years after the Court of Appeal's decision in *Imani Mbugi vs. Songea Municipal Council*, the High Court in the case of *Moses Msokwa vs. Water Board for Lake Rukwa Basin et al*<sup>63</sup> re-echoed the necessity of conserving waterways. In doing so, the court cited with approval section 57 (1) of EMA which restricts conducting activities that could pollute water bodies, including oceans and river banks. As noted above, plastic waste pollution has seriously affected water bodies in Tanzania.

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<sup>62</sup> Civil Appeal No. 168 of 2020, Court of Appeal of Tanzania at Iringa. Available at: <https://tanzlii.org/akn/tz/judgment/tzca/2022/241/eng@2022-05-02/source.pdf>

<sup>63</sup> Civil Case No. 2 of 2022, High Court of Tanzania at Sumbawanga. Available at: <https://tanzlii.org/akn/tz/judgment/tzhc/2022/9693/eng@2022-05-30/source.pdf>

The case of *Centaza Plastic Ltd v Occupational Safety and Health Authority*, although not directly relevant to plastic waste pollution is significant in a discussion on the matter.<sup>64</sup> The respondent, the Occupational Safety and Health Authority (OSHA), was undertaking its statutory duty on the premises of the appellant company, Centaza Plastic Ltd. OSHA is a government agency which is by law, required to, among other things, ensure the workplace safety and the health of employees.<sup>65</sup> The company's basic activities was the production of plastic bags. In the course of enforcing the law, OSHA found the appellant company negligent for causing bodily harm to one of its employees, by not adhering to health requirements. The parties entered into a consent judgment with the company accepting liability and promising to compensate the employee.

The *Centaza* case reveals that manufacturers of plastic waste in Tanzania can be held liable by government enforcement agencies for their negligence related to lack of adhering to environmental health standards. It is submitted that this case can be used by counsel in future to influence courts in the process of plastic waste management litigation generally and those related to EPR in particular.

It is evident that the plastic litigation court cases discussed above have not directly addressed the EPR strategy in the context of management of plastic waste and related pollution. Litigation in this specific realm has not evolved, compared to other jurisdictions. It is also clear that the informal sector in general and waste pickers, in particular, have not been engaged in such litigation. In other jurisdictions, such as Columbia and India courts of law have formally recognized the human rights of waste pickers in the management of plastic waste pollution.<sup>66</sup> Also, the High Court in South Africa in the case of *Mkhatshwa Owen et al vs New Africa Development (PYT) et al*, ordered the return and rebuilding of shelters occupied by plastic waste pickers in Pretoria who had been unlawfully evicted and their shelters destroyed by developers.<sup>67</sup>

It is noted from the selected cases that the rigor in which stakeholders have reacted to the legislative enactments that have sought to ban plastic waste pollution and the approach the courts

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<sup>64</sup> High Court of Tanzania at Dar es Salaam, Civil Appeal No. 64 of 2019: Available at: <https://tanzlii.org/akn/tz/judgment/tzhc/2020/629/eng@2020-03-10/source.pdf>

<sup>65</sup> Act No. 5 of 2003, available at: <https://procedures.tic.go.tz/media/OSHA%20ACT,%202003.pdf>

<sup>66</sup> See: <https://www.wiego.org/waste-pickers-and-law>

<sup>67</sup> High Court of South Africa, Gauteng Division, Pretoria Case No. 2023-011837 (Available at [https://groundup.org.za/media/uploads/documents/mkhatshwa\\_v\\_new\\_development.pdf](https://groundup.org.za/media/uploads/documents/mkhatshwa_v_new_development.pdf))

have taken in determining these cases, serves as important lessons for EPR – plastic pollution waste management litigation. The setting of the approach by a wide range of stakeholders provides some indicators of future litigation extending to the EPR- management of plastic waste pollution link. This link will further develop the jurisprudence of litigation in this realm. Such precedents would be useful in future plastic litigation cases in the EAC region in general and Tanzania in particular.

It is also apparent from among the EAC court cases relating to plastic waste pollution that those from Tanzania are comparatively less developed. A number of factors may be attributed to this state of affairs, but generally the absence of a grounded environmental public interest litigation base comprising of spirited legal counsel, NGOs and civil society generally, may be another cause.<sup>68</sup>

## ANALYSIS OF STAKEHOLDERS' VIEWS

### *(a) MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES*

Environmental officers from the Ministry of Agriculture, Livestock and Fisheries interviewed in Dar es Salaam and Dodoma noted that plastic pollution has affected traditional compost making techniques due to the effects of plastic and microplastic pollution in compost and soil as more plastic is found in compost. According to them, the soil is also increasingly contaminated with plastic that degrades its health.

Officers pointed out that plastic waste, specifically microplastics which are tiny plastic particles formed through the breakdown of larger plastic items in water and soil impacts living organisms that includes fish in Tanzania's aquaculture industry. As a result, fish ingesting microplastics may die, negatively impacting those involved in the aquacultural sector, particularly those who lack proper training and education on this issue. We noted that the Ministry cooperates with Beach Management Units (BMUs) to conserve marine environment and provides education in using dustbins for storing marine litter, including plastics.

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<sup>68</sup> Majamba, H. I (2023). Emerging Trends in Addressing Climate Change through Litigation in Tanzania UTAFITI Vol 18 (2023) pp. 1-23 (Available at: [https://www.academia.edu/102531022/Emerging\\_Trends\\_in\\_Addressing\\_Climate\\_Change\\_through\\_Litigation\\_in\\_Tanzania](https://www.academia.edu/102531022/Emerging_Trends_in_Addressing_Climate_Change_through_Litigation_in_Tanzania))

The officers also noted that small scale farmers in Kilombero District in Morogoro region experienced hardship when large piles of plastic that had been used for the SAGCOT run projects were produced from this project. Farmers were encouraged to collect plastic waste for recycling but when the project wound up, they had nowhere to take it leading to plastic littering in their farms, environment and the nearby rivers. In terms of management of plastic waste across sectors, some officers stated that meaningful sectoral coordination is still lacking among the government ministries and agencies. A senior officer in the fisheries sector admitted that he was unaware of EPR and its operations and called for sensitization of all sectors on this issue.

#### *(b) MINISTRY OF TRADE AND INDUSTRY (MIT)*

Respondents from this Ministry noted that it had championed various initiatives in addressing plastic waste management. Accordingly, they noted that it had pioneered the first plastic recycling demonstration plant in Tanzania in 2002, which was still operational. MIT has also established a certification scheme that in turn will promote the development of eco designs. Such a design would promote awareness on economic incentives and technology development, including in the recycling process.

Officials also pointed out that other sectors under their mandate were experiencing challenges in plastic packaging noting that it takes close to 200 to 300 years for the plastic packaging in the soil to decompose, hence contaminating soil and water sources. They also pointed out that some plastics are produced by domestic industries whereas others are imported illegally and are not authorized by regulatory agencies such as TBS. They stated that the Ministry enforces Environmental Impact Assessments (EIAs) for new industries to ensure they do not degrade the environment during operations and take responsibility to handle the impacts caused.

#### *(c) MINISTRY OF WATER*

The Deputy Permanent Secretary at this ministry informed the research team that it was critical to put in place a vibrant legal system to address EPR in the context of plastic pollution as was the case in India, which has made significant strides in this regard in addressing collection and recycling of tyres. Respondents from the Ministry also noted the importance of the water sector as a crosscutting sector connecting different sectors within the country.

They also informed the team of research findings from a research project conducted by the Ministry in Mwanza region around Lake Victoria which revealed that the effects of plastic pollution extend far beyond aquatic life. They observed that the research findings showed that microplastics exist in digestive tracts of fish. This, they observed, raises serious concerns about the potential health risks these microplastics pose to humans who consume contaminated fish.

In order to address these challenges, we were informed, the Ministry actively monitors water sources to identify sources of pollution and develop better conservation strategies. They further support cooperative unions with funding and equipment to promote water resource protection and were open to the concept of EPR in addressing plastic waste pollution challenges.

#### *(d) NATIONAL ENVIRONMENT MANAGEMENT COUNCIL (NEMC)*

NEMC officers informed the research team of the existence of draft EPR guidelines and noted that in designing an EPR scheme in Tanzania aggregators and waste pickers need to be formalized. They observed that regulation on EPR should emphasize that recyclable plastic items should be encouraged in the market.

They also called for the involvement of key stakeholders in sensitizing the public, especially involving the Ministry of Education (MoE) to educate students and young people on plastic waste management and waste sorting at the source, and how to involve communities in EPR awareness sessions. A legal officer at NEMC noted that the main challenge they faced was ensuring compliance to laws, citing the plastic ban of 2019 and other regulations as examples. The officer showed concern in terms of lack of sufficient cooperation between some government agencies, noting that as a result, imported products with no labels and standards for international importers sometimes found their way into the country.

#### *(e) PRESIDENT'S OFFICE, REGIONAL ADMINISTRATION AND LOCAL GOVERNMENT (PO-RALG)*

We were informed that this Ministry is responsible for coordinating and implementing all government ministerial plans. It operates and is decentralized in 26 regions, 3959 wards, and 12318 villages in the country. It also works with other government departments as well as non-state actors to create an enabling environment for CSOs and NGOs, and facilitate their works so that progress can be achieved.

The research team was informed that PO-RALG works with all government agencies and ministries and is responsible in ensuring implementation of all sectorial policies in Tanzania through local governments. It is charged with making and approving by laws but faces challenges in implementing them. The respondents informed the team that important lessons on implementing waste management laws could be borrowed from Moshi and Rwanda.

Officials provided data on plastic waste, noting that between July 2023 and June 2024 20000 tons of plastics waste had been collected in Tanzania. In Dar es Salaam, 18000 kg of plastic waste was recycled whereas 12000 kg of plastic waste was recycled in Dodoma, which has 6 recycling industries. This, according to them, is far from sufficient, if one considers Tanzania's ocean, mangroves, farms and fishing grounds choked with plastics that destroy the ecosystem, affecting carbon sequestration and contributing to climate change.

One official noted that PO-RALG has been in contact with the VPOs office which is in the process of drafting EPR Regulations and noted the problem of enforcing laws, citing the example of plastic carrier bags calling for collective initiatives among the EAC countries to address cross-border illicit trade in plastic.

Another environmental officer noted that there is a need to build capacity on EPR, noting that Tanzania still lacks adequate infrastructure although the 'polluter pays principal' is in place. The official lamented that some producers of plastic waste are not held responsible for waste management once their products have entered the market and called for the development of a local government strategy to address this. It was noted that PO-RALG already supports different initiatives to combat plastic pollution and that developing an effective strategy needs collaboration between all actors across the plastic waste production value chain.

#### *(f) VICE PRESIDENTS OFFICE (DOE)*

Officials at the VPO's confirmed that they have been engaged in a number of initiatives regarding EPR, including putting in place the e-waste Regulations. They noted that the government was developing an institutional framework to be vested at PO-RALG as VPO only oversees environment related matters. The officials informed the research team that they work closely with the Confederation of Tanzania Industries (CTI) and other government agencies in developing guidelines

for EPR where most manufacturers, including those engaged with production of plastic products have been engaged and have shown a keen interest. VPO also cooperates with PETPro in this regard.

In terms of administrative arrangements, we were informed that the VPO faces various challenges relating to management of waste generally. These include:-

- i. Insufficient financial resources hindering full implementation of plastic waste management projects.
- ii. Limited public knowledge about proper waste management.
- iii. Lack of comprehensive data on plastic waste separation and processing making it difficult to track progress; and
- iv. Existence of coloured plastics, for example, black and blue ones, posing challenges due to the need for advanced recycling technologies for these.

#### *(g) ECO-HUB TANZANIA – NGO*

This NGO deals with plastic waste management. Its programme officer noted that the organisation actively participates in community clean-up initiatives, particularly beach clean-ups to prevent plastic waste from entering and polluting complex ecosystems. The plastic waste that is collected is then recycled into new products through innovative upcycling techniques. It also transforms plastic waste into useful products, like flowerpots and facilitating seedling growth. Other ECO-Hub products include domestic decorations, table mats and flowers made from bottle tops and empty bottles. The programme officer was not well informed of the EPR concept. However, she was quick to point out that the NGO supported it as it showcases that good practices are available that contribute to the reduction of plastic waste on streets, in water sources, and the environment as a whole.

#### *(h) UBUNGO MUNICIPALITY*

An official from the Municipality's Department of Solid Waste Management and Cleanliness informed the research team that they were aware of waste pickers. He observed that the pickers' revenues were meager, their working environment hazardous and unrecognized, hence hindering



Municipal Officials to reach out to them in their streets for better education. In order to tackle these challenges, he noted that the Ubungo Municipal Council has been collaborating with different institutions, including HUDEFo in making sure that all waste pickers within the Municipality are registered and organised. According to him, this will enable them to be more visible and that in future they could form cooperatives to enable them easily access loans.

*(i) KIGAMBONI MUNICIPALITY*

An Environmental Officer in this Municipality noted that plastic packaging, specifically microplastic's, affects aquatic species in the area. To address this crisis, the Municipality has established Beach Management Units (BMUs), primarily for conservation of beaches, protection of aquatic environment and resources, and supporting sustainable development of the fisheries sector, thus preventing conflicts in the fisheries sector as well as protecting the beach.

*(j) CONFEDERATION OF TANZANIA INDUSTRIES (CTI)*

CTI respondents noted that it is a business membership organisation, established in 1991 in Tanzania with the mission of facilitating improvements of the business environment and fostering industrial competitiveness in regional and global markets. Respondents from CTI stated that most of its members are aware of and some support the EPR strategy and have commenced voluntary application. Other members, however, have not joined the bandwagon, they noted. The involvement of CTI in EPR was collaborated by officers at the VPO. They further noted that in fact, CTI brings together industries and the government on issues of environmental conservation. Accordingly, it is CTI that initiated and collaborates with PETpro in soliciting for funds from industries in order to conduct environmental conservation projects including plastic waste management.<sup>69</sup>

We were informed by officials at CTI that they encourage compliance with the law relating to conducting Environmental Impact Assessments (EIAs) before new industries are established. Accordingly, this helps to identify potential environmental challenges likely to be caused by the

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<sup>69</sup> See for example, <https://x.com/TanzaniaCTI/status/1791394520061390928>

industry and the corresponding responsibilities the industry must take to mitigate those challenges.

We also noted that CTI works in close collaboration with PETpro to support plastic recyclers in overcoming challenges within the recycling process. However, in doing this, they have faced challenges which include:

- I. Lack of awareness on relevant laws and policies governing their operations among most Tanzanian industrial owners.
- II. Existence of some degree of overlapping responsibilities between industries, municipalities and other administrative bodies regarding solid waste collection licensing. In some cases, qualified waste collection engineers are not issued tenders by the Municipalities. Instead, they handle the collection themselves.
- III. Waste collection is often conducted by individuals, particularly aggregators, rather than by the formal industrial sector or government authorities and the rate of corruption among some recyclers is very high, hence hindering the growth of the sector.

#### *(k) TANZANIA INDUSTRIAL RESEARCH AND DEVELOPMENT ORGANISATION (TIRDO)*

TIRDO is a multi-disciplinary research and development organisation established by an Act of Parliament (No. 5 of 1979), under the MIT. The organisation seeks to assist the industrial sector of Tanzania by providing technical expertise and support services to upgrade their technology base. The respondents at TIRDO re-echoed the MIT respondents noting that it is the pioneer government agency in recycling activities in Tanzania, having set up the first recycling plant in cooperation with UNIDO in Dar es Salaam. The researchers at TIRDO also deal with data. They were aware of EPR and noted that it is in line with one of their core functions of minimizing the current plastic packaging challenge in the country. It also provides training to citizens on better ways of recycling and has trained about 400 community members since it was established.

#### *(l) TANZANIA BUREAU OF STANDARDS (TBS)*

A standard's officer with the TBS informed the team that TBS has for a long time been monitoring plastic packaging wastes. The main challenges faced by TBS in this initiative, it was noted, related

to deception among some producers and users of plastic packaging. It was observed that in some cases, plastics have been illegally imported without authorization from TBS.

#### *(m) MOROGORO SERVICE PROVIDERS*

An official of this waste collection company based in Morogoro noted that there was basically lack of education and knowledge among most residents regarding waste separation at source. The official noted further that almost all households in the Municipality lump plastic packaging, organic and other waste types together before collection. Therefore, low level of waste management knowledge contributes to high rates of plastic waste mismanagement, it was noted. According to the official there is an urgent need for Local Governments to commence educational programmes to improve waste management practices in Morogoro and the country in general, to supplement the EPR initiative.

#### *(n) TANZANIA ENVIRONMENTAL RECYCLERS SOCIETY (TARESCO)*

TARESCO was established in 2008 and officially registered in 2011 with 35 members country-wide. The number has since increased to 2000 members. Located in Dar es Salaam, this organisation's goal is to ensure that plastic waste in Tanzania is recycled. Accordingly, an official whom we interviewed stated that TARESCO supports cooperatives, institutions and individuals who commit themselves to work on recycling of plastic wastes by providing education and training on recycling plastic waste.

The respondent noted that the institution has been facing various challenges relating to non-recyclable plastic packages, bottles and glass, mainly due to lack of funding. The official informed the team that the organisation had little knowledge on EPR but would be ready and willing to assist government initiatives to engage members of the community in the strategy.

#### *(o) WASTE PICKERS FROM DAR ES SALAAM*

In one of the FGDs conducted in Dar es Salaam, a waste picker from Manzese in Dar es Salaam summarized the plight of waste pickers who primarily gather plastic and other materials to earn income and sustain their livelihoods. The respondent noted that they collect plastic waste from households, streets and landfills and finally sell it to middlemen or aggregators who transport it to

industries for recycling. The respondent underlined waste pickers plight which essentially include lack of proper equipment such as gloves, masks, reflectors, overalls and sturdy footwear. It was also noted that they are not trusted by members of households and the general community, experience unstable waste prices, health risks from working in landfills and discrimination due to their appearance and work environment.

At a separate session with 15 waste pickers from three districts: Ubungu, Temeke, and Kinondoni, the research team engaged the pickers in deliberations at a workshop convened by HUDEF in Dar es Salaam. The aim of the workshop was to chart out ways through which they could play a part in the ongoing legal reforms relating to integrating EPR processes in waste management in Tanzania.

The pickers identified a number of challenges which could be addressed in the policy and legislative reform to take on board the informal sector. One of the areas that they sought to address was the fluctuating and inconsistent pricing of recyclable materials. According to them, this was contributed to by several factors including:

- I. Fluctuating Prices: These tend to drop significantly (by 100-150 shillings per kilogram) between December and January. Waste pickers attribute this decline to the departure of foreign industrial waste buyers during the holiday season. In their absence, Tanzanian middlemen take control of the market, and waste pickers suspect these middlemen of manipulating prices for personal gain.
- II. Aggregator Variation: Prices also differ depending on the specific aggregator (waste collection and processing company) that a waste picker sells to.
- III. Geographic Location: Waste pickers' geographic location can also influence the price they receive for collected materials.

They observed that price fluctuations create uncertainty and financial hardship for them, making it difficult to plan their income and meet their basic needs. The potential for exploitation by middlemen during seasonal buyer absence further exacerbates this challenge.

The waste pickers also noted that there existed strained relationship between some waste pickers and some street leaders in their working areas. They also hoped that the reform process would ensure their safety while working on the streets. They highlighted the pervasive suspicion that

portrays them as thieves and untrustworthy individuals, making them vulnerable to violence in many areas. They recounted several horrific incidents which have affected their endeavours to make a living.

#### *(p) PETPRO*

We noted that this Company is funded by eight (8) companies in Tanzania: Coca Cola Kwanza Ltd, SBC Tanzania Ltd (Pepsi), Nyanza Bottling Co. Ltd, Bonite Bottlers Ltd, A-One Products & Bottles Ltd (MeTL), Sayona Drink, Cool Blue Pure Drinking Water and Silafrica Ltd.

We were informed further that the company works with the government and other stakeholders with the aim of ensuring that plastic packaging remains high on the agenda through providing education on solid waste management to individuals as well as developing and implementing projects related to plastic management. It focuses on collection of data on plastic recycling and is currently implementing two major projects on plastics. The first, dubbed '*Coloured Bottle Collection Scheme*' is in its pilot stage. This project seeks to sensitize waste aggregators by providing finances to buy coloured bottles and organise transportation to recycling centers. The other project, '*Recycling for Livelihood Formation*,' seeks to empower some waste pickers by providing them with health insurance and support for rehabilitation from drug addiction, which is, according to the respondents, a problem among some of the waste collectors.

### *LESSONS FROM OTHER JURISDICTIONS*

#### *i. GERMANY*

At a one-day FGD session held at Dodoma on 15<sup>th</sup> May 2024, the research team convened experts from the MIT and Germany (Michael Wiener, a former CEO of Germany's first EPR scheme, "*The Green Dot*," to share his insights gained over 30 years of experience in managing EPR in Germany). Purposefully selected experts from the VPO, PO-RALG, PETpro and NEMC who were conversant with EPR operations and waste management in Tanzania also participated in this session. The topical issues discussed at the session included the following, briefly summarized under respective highlighted headings: -

#### (a) Stakeholders' awareness, integration and coordination

- I. Lack of awareness of EPR as it is a relatively new concept even within some of the government sectors, including the VPO.
- II. Importance of multi-stakeholder involvement for a successful nationwide EPR scheme.
- III. Lack of effective coordination across government institutions remains a challenge. For instance, the VPO develops all environmental policies and regulations that other ministries are tasked with implementing, but collaboration can be unreliable with other actors in the government.
- IV. Noted the importance of the PO-RALG to spearhead local authorities on implementing EPR, emphasizing its potential to lessen their burden in waste management.
- V. Integrating different-sized industries (small, medium, and large) into the EPR scheme, considering their varying production capacities.

#### (b) Access to and data management

- VI. Need for proper data management as a prerequisite for a fair system. This data should be used to determine each industry's financial contribution based on their waste volume. It was emphasized that "only what is measured can be managed."
- VII. An effective and functioning EPR system uses data to define each industry's financial contribution. Based on the materials covered by the EPR scheme (e.g., paper, plastic, glass), individual payments would be calculated based on both the material type and the weight of packaging produced. A key aspect is ensuring fairness – smaller producers with lower production volumes would pay less than larger ones and also different treatment for micro enterprise putting in place a price setting that is not linked to waste production. Noted that this, however, depends heavily on proper data management.
- VIII. Noted that EMA has provision requiring mandatory provision of data from manufactures and that this should be factored into the EPR scheme contemplated in Tanzania.

### (c) Enforcement and compliance

- IX. Enforcement: is critical but could cause challenges. The experience in managing an EPR system in Germany shows that the likelihood of potential resistance from industries that might try to minimize their financial obligations. However, it was emphasized that effective enforcement is essential for collecting funds that can be reinvested in crucial areas like infrastructure development, logistics, innovation, and public education.
- X. Emphasized that enforcement is the "game changer" and the "make-or-break factor" for EPR and goes hand in hand with robust data collection and transparency. This data ensures fairness and accountability – companies are held responsible for the waste they generate through financial contributions to the EPR scheme. Data provision should be mandatory for effective EPR programmes.
- XI. Noted further that enforcement extends beyond ensuring compliance. Strong enforcement creates a ripple effect. When industries understand the rules and consequences, they're more likely to invest in waste management solutions like collection, sorting, and recycling facilities. These investments are crucial for a functional EPR system. Without them, the programme risks failure and leaves existing waste management gaps unaddressed.
- XII. Advocated for harmonized EPR provisions across different ministries' laws and regulations. This alignment would improve understanding, enforcement, and connections between various sectoral laws.
- XIII. Challenges of ensuring compliance among smaller companies were acknowledged. It was noted that unlike large corporations with established compliance mechanisms, smaller players might find ways to avoid their fair share of EPR costs. This creates an uneven playing field and reduces the programme's effectiveness.

### (d) Investment and transparency

- XIV. Investment and transparency were also identified as key pillars for a sustainable EPR system as strong enforcement fosters a climate conducive to investment in waste management infrastructure. A vibrant EPR system should prioritize investments in collection systems, sorting facilities, and recycling technologies to move towards a



circular economy. Without strong enforcement, such investments are unlikely to materialize.

- XV. Transparency is also critical as clear data and transparent practices are essential to ensure companies comply with EPR Regulations. Large multinational corporations such as Coca-Cola, Pepsi etc. are already familiar with these requirements from operating in other countries. For local companies, however, this might be a new concept. It was noted that in countries such as Germany, non-compliance can lead to serious consequences, including bans on product sales, serving as a powerful incentive for adherence.

#### (e) Producer Responsibility Organisations (PROs)

- XVI. Essentially, EPR makes producers responsible for their products by contributing financially to a Producer Responsibility Organisation (PRO) that manages waste collection through private sector initiatives.
- XVII. Lack of legal recognition for PROs, would hinder their registration and licensing, making it critical to have in place a well-defined EPR regulation that clearly outlines PROs roles and responsibilities.
- XVIII. Noted of the potential issues arising from poorly coordinated PRO structures and stressed the value of learning from other countries experiences in designing an effective PRO system for Tanzania.

#### ii. KENYA

James Odongo, a representative from Kenya Extended Producer Responsibility Organisation (KEPRO), shared KEPRO's experience with EPR schemes virtually at a workshop organised by HUDEF0 in collaboration with CTI and PETpro at the Four Points by Sheraton Hotel, Dar es Salaam. It brought together representatives from industries, and government ministries and civil society organisations and sought to sensitize participants on the importance of EPR.

Mr. Odongo noted that KEPRO played a key role in developing resources for waste management stakeholders in Kenya and is participating in discussions on harmonizing EPR legislation across East Africa. He pointed out that KEPRO was established in 2019 and is the country's first multi-material

Extended Producer Responsibility Organisation (PRO) for non-hazardous packaging. He outlined key legislative developments, including the 2010 constitutional guarantee of a clean environment, the 2013 Waste Management Act, and the groundbreaking 2017 ban on single-use plastic bags, which paved the way for EPR as a solution for other packaging materials.

Mr. Odongo noted that KEPRO's activities include establishing mandatory EPR programmes, collecting waste (noted that 15,700 metric tons of flexible plastic at the time), running public awareness campaigns, and providing capacity-building programmes.

In relation to challenges encountered, Mr. Odongo observed that these are large informal waste collection sector and low collection rates. He also pointed out that when the country started to focus on mandatory compliance for bread bag producers, the cost increase for producers was minimal. Other challenges include limited public awareness, a lack of waste data and difficulty integrating informal waste collectors. He informed participants that KEPRO is addressing these challenges through multi-tiered awareness campaigns and a pilot subsidy programme to incentivize waste pickers to formalize their operations.

The other notable challenge according to the KEPRO representative was enforcing EPR related regulations due to the involvement of numerous government enforcement agencies. He expressed hope for a more unified approach under the new initiative by the government to put in place an environmental oversight consolidation body. The limited recycling capacity and producer concerns about financial burdens are additional challenges pointed out by Odongo.

Mr. Odongo acknowledged the crucial role of waste pickers in the waste management system but noted that the lack of formalization within the waste-picking sector creates challenges for KEPRO's operations. To bridge this gap, KEPRO is piloting a subsidy programme to incentivize waste pickers to form cooperatives or community-based organisations. In his opinion, this would allow KEPRO to engage with waste pickers on a more formal basis through contracts. He pointed out that Kenya's competitive PRO environment has led to reduced EPR fees for KEPRO, limiting their ability to subsidize waste pickers.

Despite the challenges, KEPRO's representative noted of the several benefits. These include producers being able to redesign packaging which lead to more environmentally friendly products, creation of employment opportunities (estimated 50,000 to 100,000 jobs) in waste collection and

recycling. There has also been created EPR related partnerships with international organisations, leading to sharing of experiences and more knowledge.

(f) EPR Systems, Operations and Economy

- XIX. Proposed an EPR scheme registration system that would link the government to EPR members through a designated government focal point/portal. This system would facilitate follow-up, report collection, data acquisition and manufacturer tracking to ensure compliance.
- XX. Noted that Germany made mistakes during the development of their EPR system, and emphasized the importance for Tanzania to learn from these experiences.
- XXI. German EPR schemes focused primarily on waste reduction, with limited discussion of circularity. The goal was to assign responsibility for the ever-increasing waste problem. Recycling was a secondary consideration, with the primary objectives being litter reduction, waste minimization, establishment of new businesses, and market development.
- XXII. The German EPR system has had a profound impact. Industries linked to the circular economy now generate a combined revenue of approximately €80 billion. Circularity, encompassing various sectors like wholesale, consulting, transportation, sorting, and processing, has become one of Germany's largest industries. This interconnected system treats all waste streams, including solid and hazardous waste, holistically. Such a comprehensive approach was not envisioned when the programme began in 1990.
- XXIII. An unexpected benefit of the German EPR scheme is increased resource independence through reduced reliance on virgin materials. The system facilitates the collection and recycling of secondary raw materials like paper, glass, plastics, metals, and copper, decreasing the need for external sourcing. The COVID-19 pandemic underscored the vulnerability of global supply chains, making this aspect of EPR even more critical.
- XXIV. The significant financial resources generated by EPR systems can attract fraudulent activities. This challenge should be anticipated during the initial design phase and the government should develop strategies to counter it.

- XXV. An EPR scheme should be paid 100% by industry. There are other models in place, such as in France, where there is co-investment of municipalities into the system. Industry ideally should shoulder the entire financial burden, incentivizing efficient management and market control. Consumers would ultimately bear this cost through slightly higher product prices.
- XXVI. EPR legislation should establish collection and recycling targets to encourage responsible production. These targets can be gradually implemented, starting with lower quotas that increase over time, allowing industries to adjust and manage costs. Collection quotas mandate the collection of a specific percentage of a material (e.g., plastic packaging) while sorting quotas ensure that collected materials are properly categorized for recycling. Also, recycling quotas set a target percentage of sorted materials that must be transformed into new products. Strict EPR regulations, like the European Union's mandated use of recycled content in plastic bottles, can create markets by driving investment in recycling technologies.
- XXVII. A key challenge is determining the programme's cost. The service level agreement between the government and the EPR scheme defines cost-sharing and responsibilities. For instance, the local government might be responsible for collecting residual waste, while the industry, through a designated bin system, handles the collection and sorting of recyclables.
- XXVIII. A collaborative approach within the industry is preferable to a competitive system. Germany also employs an intelligent pricing system where fees for easily recyclable materials are higher, promoting their use and reducing reliance on virgin materials.

#### (g) Piloting EPRs

- XXIX. It is important to consider application of EPR on a pilot basis/programme but there should be established clear service-level agreements between the government and industry from the outset. Piloting has successfully been applied in other jurisdictions, for example, in Egypt.<sup>70</sup>

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<sup>70</sup>See:

[https://www.giz.de/en/downloads/20210602\\_EPR%20Scheme%20for%20Packaging%20Waste%20in%20Egypt\\_barrierefrei.pdf](https://www.giz.de/en/downloads/20210602_EPR%20Scheme%20for%20Packaging%20Waste%20in%20Egypt_barrierefrei.pdf) and WWF (2020): How to Implement Extended Producer Responsibility: A Brief for Governments and

- XXX. The agreements should clearly define the roles and responsibilities of each party, along with associated costs, to ensure a stable foundation for the programme.
- XXXI. It would be wise to establish the initial framework with a renewal period after 2-3 years to allow for adjustments based on experience.
- XXXII. The pilot programme should not be based on selecting a single location. Instead, it could focus on piloting in diverse regions, encompassing areas outside major cities and potentially even rural settings. This broader approach would enable testing the programme's effectiveness in various contexts and identifying its strengths and weaknesses under different conditions.
- XXXIII. Experiences drawn from these pilots could then be used to refine the programme for nationwide implementation, similar to how educational campaigns are improved.
- XXXIV. It would also be appropriate to gauge experiences in data collection and data-driven adjustments based on the pilot experiences before a full-scale launch.

#### (h) Government Operating in EPR Business

- XXXV. The government wouldn't directly profit from an EPR scheme like a private business, it stands to benefit in several ways. A well-functioning EPR system fosters a new taxable industry through the waste management companies involved. Additionally, the government can integrate existing public services, such as curbside collection systems, into the programme. This reduces government spending on waste collection while creating revenue streams through leasing collection space and cleaning services to private companies.
- XXXVI. There are bound to be potential conflicts arising from government involvement, particularly concerning "first refusal rights" for recyclable materials. If the government has the first right to purchase recyclables at market price, it could create an unfair advantage over private companies. This can be addressed through transparent agreements between the government and industry.

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Businesses International in its publication, (Available at:  
[https://wwfint.awsassets.panda.org/downloads/how\\_to\\_implement\\_epr\\_\\_\\_briefing\\_for\\_government\\_and\\_business.pdf](https://wwfint.awsassets.panda.org/downloads/how_to_implement_epr___briefing_for_government_and_business.pdf))

## *EPR Models for Government Involvement in EPR Business*

- XXXVII. Alternative models for government involvement in EPR business should be explored.
- XXXVIII. One approach would involve selling government-owned manufacturing companies or waste management facilities to private entities after initial investment and system development.
- XXXIX. Another option focuses on collaboration, where the industry funds public education campaigns, while local municipalities handle primary school education due to its localized nature.
- XL. A clear service-level agreement outlining shared responsibilities and costs is essential for the success of a collaborative model.
- XLI. The models have worked in Germany and other European countries where successful cooperation between private entities and municipalities within EPR schemes has been established.

### *(i) Consumers and EPR*

- XLII. Consumers ultimately bear the cost of EPR through slightly higher product prices but an industry-driven EPR provides a stronger incentive for efficiency. The profit motive within the private sector would compel manufacturers to find cost-cutting solutions, potentially leading to a more streamlined and cost-effective system compared to a government-run programme.
- XLIII. Noted further that although consumers ultimately pay the EPR costs, an industry-driven scheme incentivizes efficiency. The government's role in establishing clear regulations with enforcement mechanisms fosters fair competition and discourages environmental shortcuts. For instance, the government could set a standard price per ton of plastic packaging, ensuring everyone pays the same base rate.
- XLIV. Competition within the industry is key to driving efficiency. Without competition, companies lack the incentive to innovate and find cost-cutting solutions. EPR would pressure companies to find ways to make plastic bottles cheaper, potentially through increased recycling or optimizing production processes. Consumers would benefit from this arrangement.

## (j) Taxation Issues

- XLV. Potential exploitation or tax evasion by companies seeking an edge, and smaller companies struggling to compete and avoid paying their fair share could be addressed by establishing a central enforcement body.
- XLVI. An enforcement organ created in Germany significantly increased compliance by companies from 50,000 companies to over 800,000 companies in a relatively short period of time.
- XLVII. Success of EPR scheme in relation to taxation hinges on three key factors: legislation, system design, and enforcement.

## MONITORING PLASTIC WASTE POLLUTION AND EPR IN TANZANIA

Compliance with the EPR strategy is often through voluntary self-regulation usually by the main actors, with the manufactures organizing themselves, ordinarily through an association (Producer Responsibility Organisation - PRO).<sup>71</sup> However, where non-compliance occurs, the government usually steps in the process of collecting revenue through penalties that are used to ameliorate plastic waste management in the EPR value chain and related infrastructure. In some cases, as noted above, consumers have been represented in courts of law to challenge non-compliance with EPR schemes. Individual consumers have also joined as parties to such litigation.

The overall monitoring framework for EPR and plastic waste pollution in Tanzania is provided for by EMA which vests this role to the National Environment Management Council (NEMC), LGAs and other regulatory organs such as TBS.<sup>72</sup> Other critical actors are the Ministry of Industries and Trade, the Ministry for Health and OSHA.<sup>73</sup> Aside from these, the Controller and Auditor General (CAG), established by the Constitution also has powers of monitoring EPR in the context of plastic waste pollution, through environmental audit reports.<sup>74</sup> It is not uncommon for entities such as the CAG

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<sup>71</sup> UNEP, see: <https://www.unep.org/reducing-plastic-pollution-through-extended-producer-responsibility>

<sup>72</sup> TBS was re-established by the Standards Act, No. 2 of 2009 (Available at: [https://www.tbs.go.tz/uploads/publications/en-1627548034-en-1589278779-Standards\\_Act\\_2009.pdf](https://www.tbs.go.tz/uploads/publications/en-1627548034-en-1589278779-Standards_Act_2009.pdf))

<sup>73</sup> See the Industrial Consumer Chemicals (Management and Control) Act, No. 3 of 2003; the Public Health Act, No. 1 of 2009 and the Occupational Health and Safety Act, No. 5 of 2003, respectively.

<sup>74</sup> See Article 143 (1). The CAG is also required to provide for environmental audit reports. (See: <https://www.nao.go.tz/reports/s/category/environmental-audit-reports>)



to audit the state of the environment, focusing specifically on plastic waste pollution. In India, for example, the CAG's report of 2024 noted that there was a *"poor segregation of recyclable waste resulted in disposal of plastic waste as rejects."*<sup>75</sup> In the 2024 report, the CAG in India specifically noted of the need to adopt and enforce EPR schemes in the management of plastic waste pollution.<sup>76</sup>

The CAG in Tanzania made an environmental audit in 2021. The main objective was to establish the extent to which the government had satisfactorily managed to control plastic waste pollution in major water bodies in the country.<sup>77</sup> The findings on the relationship between EPR and plastic waste management paints a dire picture. The report notes there have been well intended initiatives in the policy, legal and institutional framework put in place to address plastic pollution in water bodies. However, plastic pollution is still rampant mainly due to lack of coordination, enforcement, monitoring and evaluation among key institutions and ineffective use of the EPR strategy. Inherent in the coordination is overlapping mandates among agencies such as LGAs and NEMC. This has led to challenges in enforcing their legal mandates.<sup>78</sup> Lack of sufficient funds allocated to LGAs by the central government is also another constraint that leads to poor coordination and effective enforcement, the CAG noted.<sup>79</sup>

Some of the findings in the report, have a direct bearing on the EPR strategy in the context of plastic waste management and enforcement in the country. For example, the report notes that during the period under audit: *"...both NEMC and LGAs did not enforce extended producers' responsibility to manufacturers or producers in protecting plastic waste pollution."* According to the

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<sup>75</sup> See: <https://cag.gov.in/en/audit-report/details/119279>

<sup>76</sup> See: [https://www.drishtias.com/daily-updates/daily-news-analysis/concerns-raised-on-plastic-waste-pollution/print\\_manually](https://www.drishtias.com/daily-updates/daily-news-analysis/concerns-raised-on-plastic-waste-pollution/print_manually)

<sup>77</sup> United Republic of Tanzania, (2021). National Audit Office Performance Audit Report of the Control of Plastic Waste Pollution in Major Lakes and Ocean: A Report of the Controller and Auditor General of the United Republic of Tanzania, March 2021 (Available at: [https://www.nao.go.tz/uploads/Control\\_of\\_Plastic\\_Waste\\_Pollution\\_in\\_Major\\_Lakes\\_and\\_Ocean.pdf](https://www.nao.go.tz/uploads/Control_of_Plastic_Waste_Pollution_in_Major_Lakes_and_Ocean.pdf))

<sup>78</sup> United Republic of Tanzania, (2015). National Audit Office: A Performance Audit on the Enforcement of Environmental Control Systems in the Mining Sector in Tanzania: A Report of the Controller and Auditor General of the United Republic of Tanzania, March 2015, Vice President's Office – Division of Environment and National Environmental Management Council. pp. xii, xv, 58, 66 and 67. (Available at: <https://www.nao.go.tz/uploads/PA-Enforcement-of-Environmental-Control-Systems-in-Mining-Sector-in-Tanzania-2014-2015.pdf>)

<sup>79</sup> Kimario, P. (2014) *Challenges Faced by Local Government Authorities (LGAs) in Implementing Strategies to Enhance Revenues: Case of Dar es Salaam Municipal Councils*, MA Dissertation, Open University of Tanzania (Available at: <https://core.ac.uk/download/pdf/33424552.pdf>)

CAG, among the factors that contributed to lack of implementation of EPR in plastic waste management is: *“...non implementation of extended plastics producers’ responsibility, including inadequate coordination between NEMC and LGAs. There was no sharing of statistical data and environmental findings between them.”* In all fairness, in the absence of a specific policy and legislative framework, it would have been difficult for NEMC and LGAs to implement and enforce the EPR strategy in the context of plastic waste management. It is also clear from a reading of the report that it does not state which specific law or policy provides for application of such EPR scheme. In this regard, the apportioning of blame to these institutions by the CAG is rather unfair.

Our defense of NEMC and LGAs, is also supported by the recommendations provided by the CAG report to control plastic waste pollution directed at different government enforcement agencies. With regard to the VPO, the report recommends for the development of an *“economic incentive for those who are involved in the plastic recycling business.”* For NEMC and LGAs, the report calls for the need to *“strengthen and implement the coordination mechanisms between LGAs and NEMC that will facilitate proper enforcement to manufactures/producers to exercise their responsibilities for collecting plastics waste products in the environment.”*

## CONCLUSIONS

This study re-echoes the need to take action to address the relentless increase of plastic waste pollution in the world in general and in Tanzania, in particular due to the cumulative and wide-ranging threats to the continued existence of humanity, the animal kingdom and supporting ecosystems. It has been illustrated that the promulgation of policies and enactment of legislation to enforce EPR schemes in an effort to address the escalating plastic waste pollution has gradually become popular in many jurisdictions. It has been noted that EPR schemes have been successful in some jurisdictions and have faced challenges in others. In the EAC region, these schemes are still at the teething stages as states are advocating for harmonization of legislation to combat plastic waste pollution.<sup>80</sup>

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<sup>80</sup> Report: East Africa Workshop on Single Use Plastics (SUPs): Capacity Building for Environmental Authorities and Legislators in East Africa on Issues of Plastics, *op. cit.*

Countries in the EAC region that have implemented the EPR in plastic waste management legislative frameworks have achieved some levels of success in managing plastic waste pollution. The emergence of litigation focusing on regulation, management and enforcement of plastic waste legislation also suggests the development of awareness on the part of stakeholders.

The review of the EPR related policy and legal framework for plastic waste management in Tanzania reveals that the EPR strategy is reflected very remotely, mainly through advocating for the use of economic instruments. The framework environmental law (EMA), which lays the foundation for the promulgation of regulations does not categorically reflect the EPR strategy. Regulations made under EMA have nevertheless made some attempt to reflect the strategy, also by encouraging the use of economic instruments. Similarly, there is no provision making reference to EPR in the Solid Waste Management Regulations of 2009 made under EMA. It has been observed that the EPR strategy for solid waste management in the country was recommended by experts to be applied at a pilot level initially in 2013 and again at the national level in 2016.<sup>81</sup> Despite the lack of EMA and the 2009 Solid Waste Management Regulations being silent on EPR, the Regulations governing e-waste, are an exception. These provide a very direct reference to EPR and in this regard, these Regulations are commendable.

Like the challenge posed by e-waste, challenges posed in the process of controlling and managing plastic waste is another critical area that requires urgent promulgation of Regulations to introduce the EPR strategy. Indeed, the government is in the process of revising the Solid Waste Management Regulations of 2009 to take on board recent developments. Also, some manufactures of plastic products have shown a keen interest in adopting the EPR strategy. It is expected that the EPR strategy in general will be introduced in the amended Regulations. It is expected further that the amendment would pave the way for the enactment of specific and more detailed Regulations for incorporating the EPR strategy more holistically in the management of plastic waste pollution.

The government is in the process of reviewing EMA, ostensibly to take on board recent developments in the environmental conservation field. This exercise provides an opportunity for

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<sup>81</sup> MetaSus *et al* Report (2016) Expert Mission on Integrated Solid Waste Management (ISWM) to Dar es Salaam: Available at: <https://www.rvo.nl/sites/default/files/2016/11/Tanzania%20Report%20Expert%20Mission%20Solid%20Waste%202016.pdf>

incorporating the EPR scheme in the country's framework environmental law. This will in turn provide a more solid foundation for more specific subject EPR Regulations that are contemplated. However, it has been pointed out that the recognition of the right to life by EMA and by extension Regulations made under it and the High Court do not guarantee this right. It has also been noted that the Constitution of the United Republic of Tanzania, 1997 does not expressly provide for the right to a clean and decent environment.

Stakeholders' views indicate an apparent lack of coordination and conflicts in discharging various mandates among some government organs. There was emphasis on the critical importance of coordination among government agencies in matters related to overseeing compliance and enforcement of the EPR strategy. Without a robust enforcement mechanism, the EPR scheme will be on shaky ground and unlikely to succeed.

It was observed that experiences from other jurisdictions are critical in putting in place a vibrant EPR system in Tanzania. The need to harmonize legislation across the East African Community (EAC), similar to the approach taken by the European Union (EU) countries was noted to ensure consistency and effectiveness of EPR regimes within the region.

The study has pointed out that in the course of conducting its statutory duty, the CAG produced a report in 2021 with findings on *inter alia*, the state of affairs on plastic waste pollution in the country. This report notes that the government agencies charged with implementing laws have failed to effectively apply EPR in reducing plastic waste pollution. The report makes specific recommendations directing relevant government agencies to apply EPR in addressing plastic waste pollution in the country. However, it falls short of pinpointing the exact legal framework that the agencies should use in implementing these directives. Thus, the anticipated amendment of the Solid Waste Management Regulations of 2009 to incorporate the EPR strategy across the entire waste management value chain is timely. The amendment will undoubtedly provide guidance to the agencies in implementing the directives of the CAG on management of plastic waste pollution.

## RECOMMENDATIONS

Various approaches for implementing EPR for developing countries have been advanced by credible international organisations, for example, the World-Wide Fund for Nature (WWF International).<sup>82</sup> The WWF has, among other things, emphasized the need for governments to take the lead by putting in place an all-encompassing EPR policy and legal framework involving key stakeholders, including the informal sector. The approaches and models for implementing the EPR strategy would certainly vary in different jurisdictions as they have to reflect the diverse economic, social, political and cultural traits.

The study has noted the importance of developing a comprehensive EPR legal framework model that takes into account experiences from other jurisdictions but specifically tailored for the social, economic and cultural realities of Tanzania. Successful EPR models are found in jurisdictions with legal frameworks that clearly outline responsibilities of producers, PROs, collection targets and recycling obligations.

It has also been pointed out that the legal reform process should adopt a moderated fee system that incentivizes producers to design products with higher recyclability and use recycled content in their packaging. Further such framework should be tailored to encourage collaboration among producers to establish efficient collection and recycling systems for post-consumer plastic waste.

It is also critical that the EPR law should make provision for putting in place and implementing strong systems to guarantee compliance, enforcement, monitoring and reporting mechanisms to ensure producers are fulfilling their EPR obligations.

The ongoing discussion on constitutional reform process in the country should also consider incorporating provision for the right to a clean, healthy and decent environment in the fundamental law. Indeed, the proposed Constitution of the United Republic of Tanzania, 2014 has reflected this in Article 48.<sup>83</sup> This is a progressive development since having a clear and very specific

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<sup>82</sup> WWF (2020): How to Implement Extended Producer Responsibility: A Brief for Governments and Businesses International in its publication, (Available at: [https://wwfint.awsassets.panda.org/downloads/how\\_to\\_implement\\_epr\\_\\_\\_briefing\\_for\\_government\\_and\\_business.pdf](https://wwfint.awsassets.panda.org/downloads/how_to_implement_epr___briefing_for_government_and_business.pdf))

<sup>83</sup> See Rasimu ya Katiba Inayopendekezwa. (2014). Available at: [https://constitutionnet.org/sites/default/files/rasimu\\_ya\\_katiba\\_inayopendekezwa\\_na\\_bunge\\_maalum\\_1.pdf](https://constitutionnet.org/sites/default/files/rasimu_ya_katiba_inayopendekezwa_na_bunge_maalum_1.pdf)). For

provision in the Constitution would ensure a more solid foundation for the implementation of environmental rights.<sup>84</sup> This would also apply to the EPR strategy in Tanzania in general and in controlling plastic waste pollution, in particular, by government and other stakeholders.

As noted above, the NEP 2021 does not have a direct provision for the EPR strategy. In this regard, it is also crucial that the framework national environmental policy be revised to specifically incorporate the strategy. In fact, such a revision would set a better foundation and supplement the process of amending the EMA, the framework environmental law upon which the Regulations are based. This is because, it is policies that set the foundation for enacting sound laws. Legislative enactments are supposed to implement policy directives. Further, the Regulations incorporating the EPR strategy made under the current state of EMA stand on a rather shaky foundation in the absence of EMA specifically and unequivocally recognizing the ERP strategy. Nevertheless, the initiative of incorporating a specific provision for EPR in the management of solid waste in the ongoing process of amending the Solid Waste Management Regulations of 2009 is commendable, albeit admittedly, rather late.

The judiciary and the Tanganyika Law Society (TLS) should work in liaison with local and international NGOs, civil society organisations and development partners to organise training sessions to sensitize their members on the link between EPR strategies and solid waste management. The training should also address the tripartite link between good governance, sustainable development and environmental rights in general and litigation relating to plastic waste pollution in particular. This will most likely lead to development of precedents that will link plastic waste management and the EPR strategy in future litigation in this area as is the case in other parts of the world.

The policy and legislative reform process should also target all critical stakeholders in the EPR value chain. Some of the companies producing plastic from the private sector in Tanzania have already formed collection and recycling systems and are encouraging the establishment of the EPR

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an unofficial English Translation see: International Institute for Development and Electoral Assistance, (International IDEA) 2014: The Proposed Draft Constitution of Tanzania, available at:

[https://constitutionnet.org/sites/default/files/the\\_proposed\\_constitution\\_of\\_tanzania\\_sept\\_2014.pdf](https://constitutionnet.org/sites/default/files/the_proposed_constitution_of_tanzania_sept_2014.pdf)

<sup>84</sup> Daly, E (2012) *Constitutional Protection for Environmental Rights: The Benefits of Environmental Process*, *International Journal of Peace Studies*, Volume 17, Number 2, Winter 2012. (Available at [https://www3.gmu.edu/programmes/icar/ijps/Vol17\\_2/DalyConstitutionalProtection.pdf](https://www3.gmu.edu/programmes/icar/ijps/Vol17_2/DalyConstitutionalProtection.pdf))

strategy.<sup>85</sup> The informal sector which includes waste pickers should not be overlooked in the entire process.<sup>86</sup> Waste pickers in different parts of the country should be sensitized on how they could be involved in the EPR strategy and later be encouraged to register a national umbrella organisation formally with the relevant authorities. This would provide them with better opportunities for effective engagement in the EPR strategy and related legal processes that are fair and inclusive.<sup>87</sup>

LGAs and the NEMC are other important stakeholders in the EPR value chain. The capacity of personnel in the LGAs tasked with enforcement and compliance of solid waste management laws should be enhanced. Provision of additional funding for LGAs and reform of law to enable the NEMC perform its enforcement and compliance mandates should be key priorities of the central government.

Since environment by nature is cross cutting, it is inevitable that mandates of key institutions and agencies charged with implementing and enforcing environmental laws would overlap. Such overlaps could be advantageous or cause challenges. Where the overlaps are complimentary or compatible, synergies would enhance conservation. Where there are conflicting or complicated overlaps, challenges are bound to occur.<sup>88</sup> Thus, government agencies and institutions charged with implementing EMA are required to ensure they coordinate on regular basis to ensure they benefit from the useful overlaps and overcome those that result in challenges. At the forefront of this should be LGAs and NEMC.

Finally, the directives of the office of the CAG in its 2021 report, that relate to implementing EPR in the management of plastic waste pollution, form a vital part of an important audit query from an organ established by the Constitution to provide oversight on the conduct of environmental governance in the country. Thus, every effort must be made to ensure that these are implemented.

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<sup>85</sup> The Citizen Reporter, (2024) "Environmental stakeholders commit to combat plastic bottle," Citizen Newspaper, Thursday, February 15, 2024 (See: <https://www.thecitizen.co.tz/tanzania/news/national/environmental-stakeholders-commit-to-combat-plastic-bottles-4527774>)

<sup>86</sup> See UNEP: <https://www.unep.org/reducing-plastic-pollution-through-extended-producer-responsibility>

<sup>87</sup> IKHAPP, 2024. Policy Brief: Fair and inclusive EPR in the Global South, (Available at: [https://gridarendal-website-live.s3.amazonaws.com/production/documents/s\\_document/1096/original/IKHAPP-2024-Fair-and-inclusive-EPR-in-the-global-south.pdf?1713865241](https://gridarendal-website-live.s3.amazonaws.com/production/documents/s_document/1096/original/IKHAPP-2024-Fair-and-inclusive-EPR-in-the-global-south.pdf?1713865241))

<sup>88</sup> Rosendal, G.K. (2001). Impacts of Overlapping International Regimes: The Case of Biodiversity, *Global Governance*, Jan.–Mar. 2001, Vol. 7, No. 1 (Jan.–Mar. 2001), pp. 95–117, Brill. (Available at: <https://www.jstor.org/stable/27800288>)

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## ABOUT HUDEFO

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