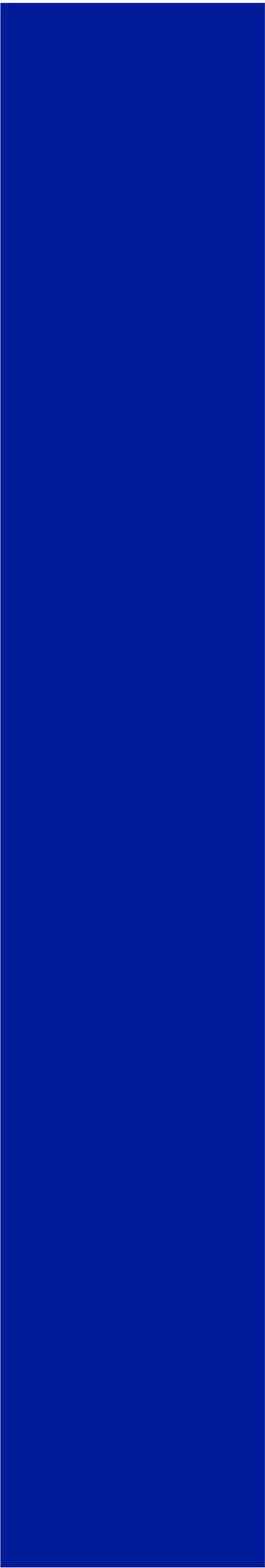


LEGISLATIVE ROADMAP

A Guide for Civil Society Organizations
in Tanzania



Part One:
Policy, Law and Governance



This first edition was developed
by
LEAT
for
Pact Tanzania

Pact Tanzania
P. O. Box 6348
Dar es Salaam
E-mail: pact@pacttz.org
www.pacttz.org
www.pactworld.org

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INTRODUCTION

The production of this Guide has been a participatory process with many representatives of the civil society in Tanzania. The involvement of civil society started from the seeking of inputs for the Guide to the finalization of the document.

This Guide has been produced by Lawyers' Environmental Action Team (LEAT) on behalf of Pact Tanzania. It explains what laws and public policies are, their sources and how they are made. It also provides information on how they relate to each other, how civil societies can use the information to influence change and the entry points for civil society in relation to the existing government structures.

While civil society is the primary target user of the Guide, it is expected that the Guide will be used by institutions that interact with laws and policies at various levels. It is made in a simple language with a lot of visual impact to make it comprehensible and user friendly.

This Guide represents the first part which is on Policy, Law and Governance. Part two addresses the role of Civil Society in the Law Making Process.

We encourage you to copy part or all of this guide, and to share it with others. This document is **NOT FOR SALE**.

1. LAW, PUBLIC POLICY AND PUBLIC PARTICIPATION

What is Law and Its Role in Society?

The term "Law" can be defined in many different ways. Law is commonly defined as a system of rules made by Parliament or other bodies with law making powers with the aim of promoting and maintaining peace, order and tranquility.

A law is supposed to be observed failure of which leads to punishment or sanctions. In contrast social norms are used to lead and regulate social conduct in certain communities. Breach of such norms do not necessarily attract punishment.



● IT IS A SOCIAL NORM TO GREET ELDERLY.



● IT IS A LEGAL REQUIREMENT TO REGISTER A CHILD FOR PRIMARY EDUCATION

There are two main branches of laws and these are: civil and criminal law.

Types of law

There are several types of laws depending on the basis of categorization. We have, for example, civil law as opposed to criminal law, public law as opposed to private law, international law as opposed to domestic law, etc. But the two main branches of law are civil and criminal law.

2. THE BASIS AND SOURCES OF LAW IN TANZANIA

Sources of Law and their importance

Sources of law are the areas where law originated. Basically, there are two main sources of law, written sources and precedent. A statute is a written law that is passed by Parliament or other law-making body. Precedent arises from cases decided by judges in courts of law. There are, however, other sources of law such as government directives, custom, convention, morals and religion.

The Constitution

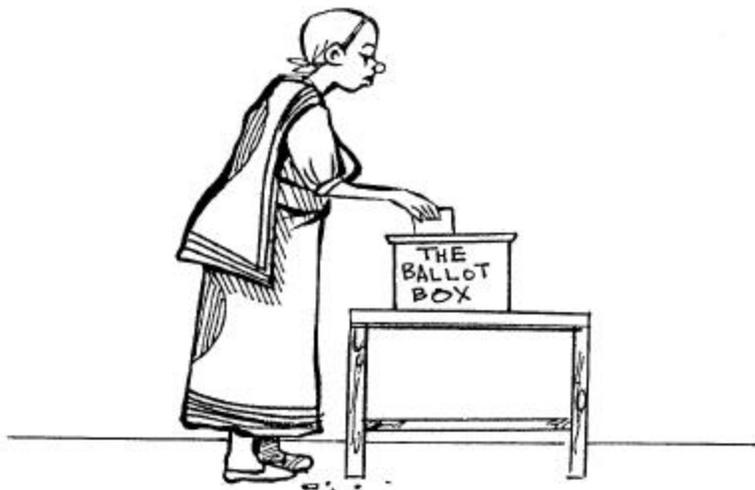
The Constitution is the supreme law of a country. It is the main source of law in which duties and rights of the people are defined. This means that all other laws draw their legitimacy from the Constitution. Any person who feels a certain law or person has violated the Constitution can go to court to seek redress. The Court of Appeal or the High Court will declare such law or action that is not in agreement with the Constitution as unacceptable. Therefore all laws must adhere to the Constitution.



The Constitution of the United Republic of Tanzania does provide opportunities for the citizens to participate or contribute on affairs that may affect their welfare and country. It stipulates that every citizen has a freedom of speech and the right to participate in public affairs. Therefore, through sensitization, advocacy, and lobbying the government, civil societies must ensure that the public is involved in the process and the Constitution is adhered to.

There are two main Sources of Law. These are: statutory Laws and Common Law.

Every citizen must adhere to the constitution



● AN IMPORTANT RIGHT SET BY THE CONSTITUTION

Laws that are made by Parliament are known as Principal Legislation

(a) Statutes

Statutes are also important sources of law. They are commonly referred to as Legislation. There are different levels of legislation. On one level, there is principal legislation and at another level there is subsidiary legislation.

(b) Principal Legislation

In Tanzania, laws are made by Parliament, and these are known as principal legislation. An example of a principal legislation is the Villages Land Act of 1999. Parliament also makes laws that permit another body or person to make law.

(c) Subsidiary or Delegated Legislation

A person, body or other authority acting on powers of a principal legislation made by Parliament enacts subsidiary or delegated legislation. The authorities can be District Councils or a minister.



An example of a subsidiary legislation is a by-law made by a District Council

Precedent

Precedent can be defined as the decision of a superior court such as the High Court or Court of Appeal, which is binding on lower courts when deciding cases of the same nature. In the process of deciding cases, judges of these courts interpret law and expand it. The lower courts must follow the decisions of the Court of Appeal and the High Court. The High Court and Court of Appeal can, therefore, be said to “make law” for the lower courts because their decisions become a source of law for the lower courts. The High Court must also follow decisions of the Court of Appeal.

The Common Law

The common law is also one of the major sources of law in Tanzania. We can define the common law as the “traditional law” of England, which was developed through decisions of the courts in England. The common law is not made by Parliament, but contains a set of principles developed through the decisions of the courts in England. These principles were used in making decisions on cases and later became law. The common law is similar to the “customary law” of Tanzania in the sense that its origins are the norms and principles of the English people.

The principles of common law were introduced into the Tanzanian legal system after being used in India during the British colonial administration when colonial courts in the then Tanganyika applied them. Examples are the Indian Penal Code, the Indian Law of Evidence, the Indian Civil Procedure Code and the Indian Law of Contract, etc. Many of these laws, which were written during the colonial period, embody common law principles and constituted part of our laws. They are still in use to date. Another example is the Societies Ordinance, which provides for procedures of registering NGOs.

At independence, the laws were changed but courts continued to apply common law principles. Some of the laws have been amended from time to time in order to reflect the real needs of the people. In the case of a gap in our law the courts apply common law principles. Cases decided by courts during the colonial period are still applied by our courts today.

Common law was developed through court decisions and is not made by Parliament

Public International Law

International law is a body of rules that bind nation-states as members of the international community. Every member state, which has ratified such rules, is bound by them. The main sources of international law are customary international law, treaties and decisions of international tribunals and writings of famous authors in international law. The primary subjects of international law are states, not individual citizens.

International law governs the relationship between states. It creates rights and duties for states towards its citizens and it can also create rights for individuals. International law also sets norms and standards that need to be respected by the people. International law has now developed to the extent that it can be clustered into international human rights and international humanitarian law; international environmental law; law of the sea, etc.

International law is not automatically applicable in Tanzania. It needs to be ratified by Parliament and be incorporated in domestic law. However, some principles of international laws are applicable in our country irrespective of their incorporation in national law. An example of these are international human rights standards which become effective soon after being declared by the relevant United Nations organ.

International Law governs the relationship between states.

Customary Laws

Customary law may be defined as traditional norms or customs having common usage, recognized and accepted as such by any local community and given force of law by the state.



Government has outlawed some customary laws that discriminate against members of society.

Customary laws also have to be in accordance with the Constitution. Tanzania codified the customary laws of the patrilineal tribes in 1963. As for the matrilineal tribes whose customary norms are not yet codified, they have to be proved as facts in courts of law when there is dispute requiring the application of such norms to resolve.



3. PUBLIC POLICY

What is Public Policy?

A public policy is a statement of the Government guiding principles and goals in addressing a public issue. The policy provides for a means for citizens to hold their government to account for its actions concerning issues of public interest. A public policy is not a law and cannot be enforced in a court of law.



For a public policy to be enforceable, there must be a corresponding law to give it effect. Policies can, however, exist on their own and vice versa. Examples of public policies are such as the National NGO Policy, the National Environment Policy and sectoral policies, such as the Beekeeping Policy, Mining Policy, etc.

Types of Policies

There are two main types of policies:

- (i) Policies made by the government
- (ii) Policies made by social institutions, like political parties or organizations.

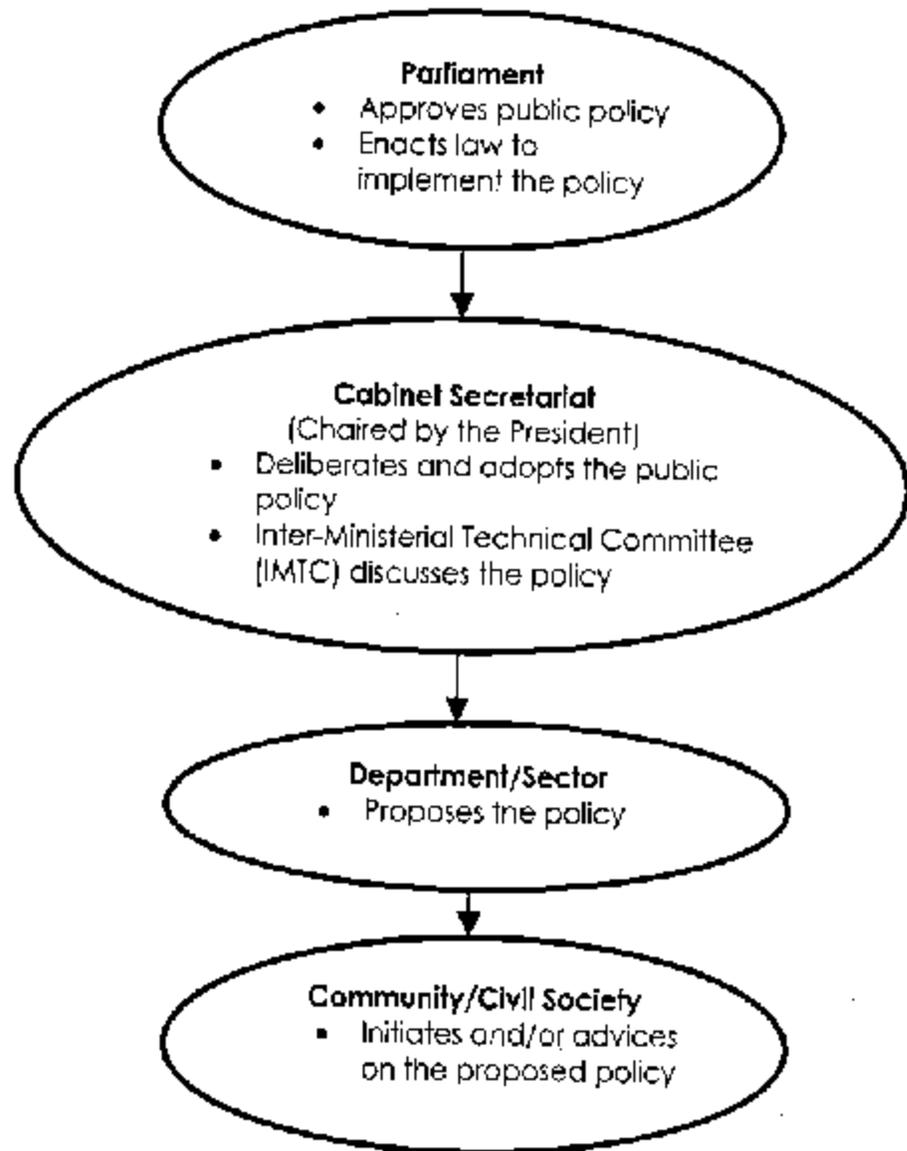
The Government makes public policy.

Public policy can be either in the form of a document or Government action.

Who Formulates Public Policy?

After deciding on the best way of addressing an identified problem either by Civil Society Organizations or any stakeholder in society, the responsible Government sector initiates the public policy formulation process. Civil Society Organizations or any other organizations or individuals have a right to advise the Government after identifying a particular problem in society. The policy formulation process begins at the grassroots and it will end when the policy document reaches Parliament for discussion and approval.

Public Policy Making Process and Organs



The President

The President has powers to assent to public policy. The President normally consults with advisors from the department concerned. Furthermore, the President can be lobbied and influenced by civil society to make certain public policy for the welfare of the public.

The Cabinet

The Cabinet secretariat is made up of all ministers under the chairmanship of the President. It is the main body that advises the President on all matters of the Government, including public policy. The Minister responsible for a particular sector policy normally puts the proposed policy before a Cabinet meeting for discussion. After discussion by the Cabinet, the proposed policy is taken to the Inter-ministerial Technical Committee (IMTC), which brings together all Permanent Secretaries - the heads of operations in Ministries.

The Ruling Party

Normally the Government of the day implements the policy of the ruling party. Because of that the ruling party plays a big role in influencing public policy. In fact, most Government policies, which are public policies, are made out of the policies of the ruling party.

The Public and Civil Society Organizations (CSOs) should lobby for the inclusion of their interest in public policies. This can be done during party meetings, seminars and rallies.

The President can also be lobbied and influenced by civil society to make public policy.



It is Parliament's role to approve public policies.

The Parliament

The role of Parliament is to approve public policies. Civil society organisations can use advocacy skills to lobby Members of Parliament to influence a Bill or a public policy.



The Judiciary

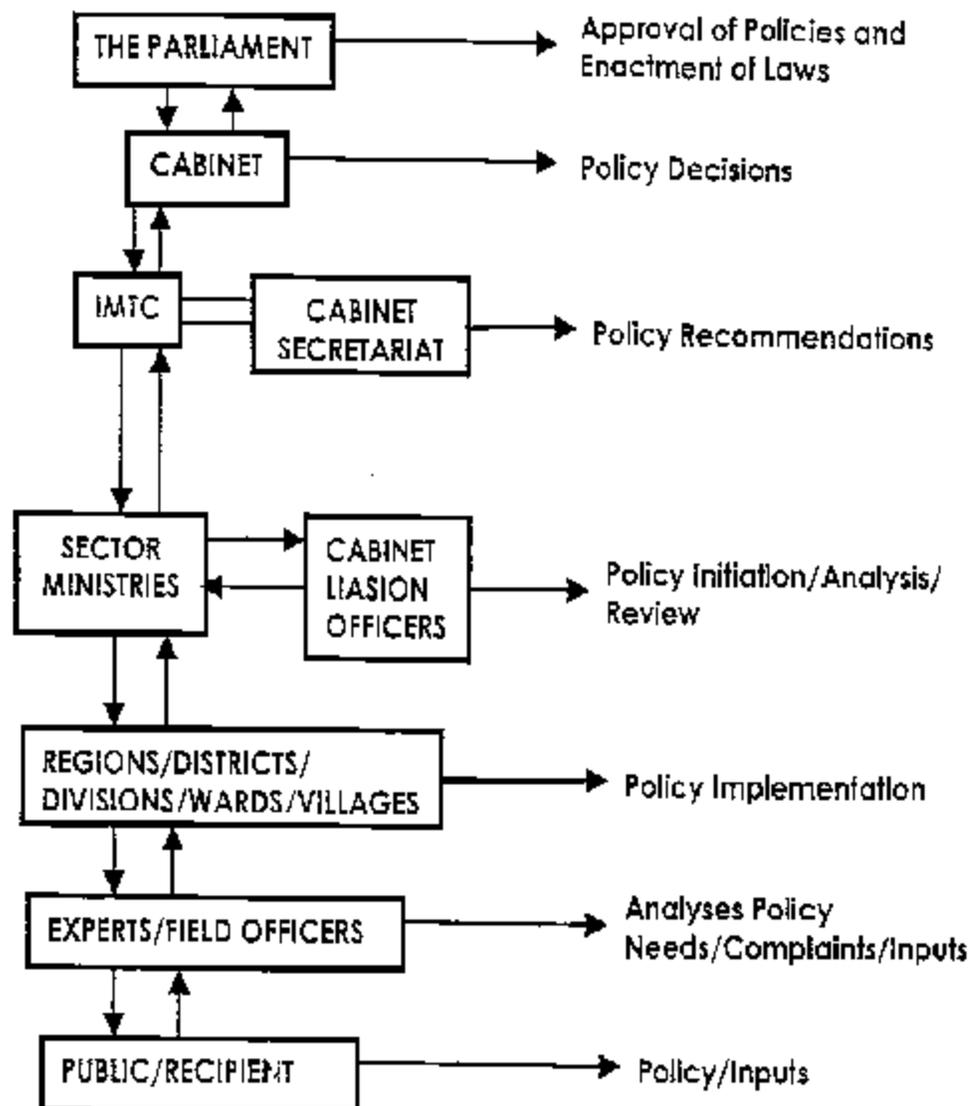
The Judiciary influences public policy in the following three main ways:

- By interpreting the Constitution;
- By interpreting the law that is aimed at implementing public policy; and
- By deciding disputes relating to the implementation of public policies.

Steps of formulating a policy

- (a) The Government drafts a White Paper elaborating the national public policy which is made available to the public for comments;
- (b) The White Paper is then submitted to Cabinet for approval and then published;
- (c) The White Paper is taken to Parliament for debate;
- (d) Once Parliament has approved the policy, the Government takes the necessary steps to implement it, including the drafting of laws and creation of relevant institutions for its management and administration.

Policy Formulation and Implementation Chart



Civil Society Participation in Formulation of Public Policy

Civil society can participate in the policy making process by:

- (a) Initiating review of the existing public policy;
- (b) Promoting formulation of new policy;
- (c) Conducting research which will inform decision-makers by supplying them with the requisite data required in taking strategic policy decisions;
- (d) Providing technical assistance in the drafting of policies;
- (e) Lobbying decision-makers to influence the formulation of crucial policies as well as securing their adoption;
- (f) Assisting in the implementation of public policies;
- (g) Creating awareness among the public on various public policies so as to garner their support and influence positive change of behavioural patterns; and
- (h) Networking with like-minded people to provide back-up for policies.

Strategic Entry Points for Civil Societies in the Policy Formulation Process

Civil Society Organizations can influence public policy making process. The entry point to achieve this could be through the following stages:

- (a) Identify problems of concern;
- (b) Study by the sector minister on the identified problems or concerns;
- (c) Discussion of the proposed draft policy by the stakeholders including Civil Society Organizations;
- (d) Submission of views on the proposed draft policy to the relevant ministry for final drafting, taking into consideration the concerns of the community and Civil Society Organizations;
- (e) When the proposed policy is approved the Government, in collaboration with Civil Society Organizations, takes the necessary steps to implement it, including publication, distribution, dissemination and drafting laws when appropriate and creating the relevant institutions for its management and administration;

- (f) To call for meetings that will discuss policies before such policies are adopted so as to give the stake holders the chance to air their views;
- (g) The Government to prepare a main bill that indicates the country's national policies. Civil Society Organizations can participate in translating and disseminating the documents to the general populace, so as to obtain the latter's opinions.



Policy Implementation

After the Cabinet has approved the policy document, it is released for public consumption. The Ministry responsible for the policy then commences a process of preparing the policy implementation strategies and tools, including the drafting of the relevant laws and the creation of relevant institutions.

4. GOVERNANCE: LEGAL AND INSTITUTIONAL STRUCTURES

The Constitution is enacted by a special Parliament called the "Constituent Assembly" on behalf of all citizens.

The Basis of the Constitution

The Constitution provides for the framework and the principle functions of the branches of the state. It also declares the principles governing the operation of those branches. In Tanzania, there are two Constitutions. These are the Constitution of the United Republic of Tanzania of 1977 and the Constitution of Zanzibar of 1984.

Whenever citizens feel that the Constitution or some of its parts are no longer appropriate, they have the right to change it by initiating the process of review. This has to be done in accordance with the procedure provided for in the Constitution.



The Constitution of the United Republic of Tanzania gives an opportunity for the citizenry to participate in important matters of their country.

The Constitution of the United Republic of Tanzania provides for public participation by all citizens in the affairs of their country. It provides that all people have the freedom of speech, freedom of association and freedom of participation in public activities. Therefore, through mobilization, advocacy and lobbying, civil society must ensure that the people take part in ensuring that the Constitution is safeguarded. This can be done through mobilization, awareness creation and public sensitization on government action or decisions and explains how the latter may impact public welfare.

The Three Main Branches of Government

The Government is made up of three branches. These are the Executive, the Legislature and the Judiciary.

The Executive

The term “executive” relates to execution or carrying into effect certain responsibilities, often managerial or administrative. The Executive branch of the Government is an elected body that exercises powers and performs public duties according to the Constitution. There are two levels of the government; Central Government and Local Government

The Executive for the United Republic of Tanzania

The President of the United Republic of Tanzania (URT) heads the Executive for the United Republic. The URT President is elected by the people of Mainland Tanzania and Tanzania Zanzibar, in accordance with the Constitution of the United Republic of Tanzania of 1977 as amended and the electoral laws enacted by the Parliament of the United Republic of Tanzania.

The Executive for Zanzibar

The Executive for Zanzibar is the Revolutionary Government of Zanzibar . The Head of the RGZ is the President of Zanzibar who is also the Chairman of the Zanzibar Revolutionary Council .

Among others, the Zanzibar Revolutionary Council is made up of the Chief Minister and all Ministers of the RGZ. The Zanzibar Revolutionary Council is the main advisor of the Head of the Revolutionary Government of Zanzibar with respect to all matters concerning the functions of Head of the Revolutionary Government. The Zanzibar Revolutionary Council also supervises the affairs of the Executive of Zanzibar.

According to the Zanzibar Constitution of 1984 and the Zanzibar Election laws, the citizens of Zanzibar do elect their President and other leaders. The Zanzibar Government has mandate on all non-union matters in Zanzibar. The Chief Minister is the Head of Government in the House of Representative.

There are two levels of Government: the Central Government and the Local Government.

The Zanzibar Government has mandate on all non-union matters in Zanzibar. The Zanzibar Constitution establishes the Revolutionary Council of Zanzibar.

The Central Government

The Central Government functions through regions and districts. Tanzania is divided into regions, which are further subdivided into districts. In total there are twenty-six (26) regions for the whole country, twenty-one in Mainland Tanzania and five in Zanzibar.

Central Government operates through organized functions, which are carried out by Ministries and Departments. The Central Government makes decisions on development objectives and creates its internal administrative policies. Central Government includes both Union and Zanzibar governments.

The main actors in the central government are the following:

The President

The President of the United Republic is the Head of State, Head of Government and the Commander-in-Chief of the Armed Forces.

The President has a number of mandates under the Constitution and being head of the Government of the United Republic he has authority over all Union Matters in the United Republic and over all matters concerning Mainland Tanzania.

The Office of the President, Vice President and that of the Prime Minister may also have State Ministers.

The Cabinet

The Cabinet is the main body that advises the President on all matters relating to the exercise of presidential powers in accordance with the Constitution. Any advice that is given by the Cabinet to the President cannot be examined by any court of law. However, the President has the freedom to follow such advice although he is not obliged to. The Cabinet also has the power to present a statement to the Chief justice for official recognition where the President fails to carry out his official duties due to illness of the body or the mind, or just failing to carry out his duties. The Cabinet must discuss all matters relating to government ministries, agencies and departments before being presented to the President for approval.

Ministers and deputy ministers are appointed by the President from among Members of Parliament to carry out

The Cabinet is the main advisory body to the President

Government business. The President does this in consultation with the Prime Minister. Deputy ministers are not Members of Cabinet. The President attends and chairs all Cabinet meetings. The Chief Secretary is the Secretary to the Cabinet. The Attorney General also attends Cabinet meetings but has no voting rights. The President, in consultation with the Prime Minister, appoints the Attorney General, who is the Government's chief legal advisor.

The Vice President

The Vice President of the United Republic of Tanzania is the President's main assistant in all matters in the United Republic and may be assigned other duties by the President. The Vice President also performs the functions of the President when the President is out of office or out of the country. The Vice President is elected together with the President.

The Prime Minister

The President nominates the Prime Minister. The Prime Minister is appointed from a political party with majority members in the National Assembly. The Prime Minister can also be appointed from the party that appears to have the support of the Members of Parliament. The majority of the Members of Parliament confirms the Prime Minister. The Prime Minister is the leader of Government business in Parliament

The Ministers, under the leadership of the Prime Minister, are collectively responsible in the National Assembly in carrying out the affairs of the Government of the United Republic.

Regional and District Administration

In both Tanzania Mainland and Tanzania Zanzibar there is a system of Local Government Authorities, which operates at the urban and district levels. The law gives powers to the Authorities to make by-laws. It also provides for the procedure for the conduct of their business and roles. Local government authorities may run their own tribunals and even maintain an Auxiliary Police for enforcing local government by laws.

The President of the United Republic, in consultation with the President of Zanzibar, creates Tanzania Zanzibar regions. A Regional Commissioner (R.C) is appointed by the President in consultation with the Prime Minister to head a region. The President of Zanzibar appoints Regional Commissioners for Zanzibar after consultation with the President of the United Republic.

The Prime Minister has to be confirmed by majority of Members of Parliament.

Governance at the Grassroots Level

The Ward Development Committee

At the local level there are a number of districts. Each district is divided into divisions and each division consists of wards. Wards are made up of villages and villages are divided into Vitongoji. Vitongoji consist of households. In the area of every district council there is established a Ward Development Committee. The law requires a Ward Development Committee to choose any person including persons from non-governmental organisations and other civic groups involved in the promotion of development in the ward to become its member.

Members of the Committee

The Ward Development Committee is composed as follows:

- Ward councillor;
- Village chairperson;
- A woman member from a political party represented in the district council;
- One invited person from non-governmental organizations or other civic groups involved in the promotion of development in the ward. The NGO representative in the Ward Development Committee does not have voting rights.

The composition of the Ward Development Committee strengthens the Village Government as the most basic unit of the system of Local Government Authorities and guarantees participation of all the people. The Ward Development Committee is responsible for the implementation of the decisions and policies of the District Council, and of development schemes at the level of the ward.

The Legislature

The Legislature, also referred to as Parliament, means a body of persons having authority to make laws. The authority has been vested in the Parliament of the United Republic of Tanzania or the National Assembly - (Bunge) and the House of Representatives - (Baraza la Wawakilishi). It is the principal organ of the United Republic, which has authority, on behalf of the people, to oversee and advise the Government of the United Republic and all its organs in the discharge of their respective responsibilities.

Any Tanzanian citizen who is a member of any political party and has attained the age of 21 years can contest to become a Member of Parliament.

The Tanzania Mainland Legislature

The Parliament of the United Republic consists of two parts, the President and the National Assembly. We have already seen the role of the President in Parliament. This section explains the structure of the second part of Parliament, that is the National Assembly.

The National Assembly consists of elected and appointed Members of Parliament (MPs). It is the principal organ of the United Republic, which has authority, on behalf of the people, to oversee and advise the Government of the United Republic and all its organs in the discharge of their respective responsibilities.

Special seats make up 20 percent of all elected Members of Parliament. Ten Members are appointed by the President. Five Members are from the House of Representatives in Zanzibar. The Members of Parliament elect the Speaker and Deputy Speaker from amongst themselves. However, those in government positions i.e. Ministers or Deputy Ministers cannot be elected to these posts.

Every Member of Parliament must take an oath of office and must declare that he/she will protect and/or defend the constitution. He will declare all his/her property and that of his/her spouse. The aim of this provision is to ensure non corrupt acts.

The term of office for every Member of Parliament is five years. After every five years the National Assembly is dissolved and fresh elections are held.

The Zanzibar House of Representatives

The House of Representatives comprises of two parts: one part consists of Members of the House elected or appointed in accordance with the provisions of the Constitution of Zanzibar of 1984. They are called Representatives. The other part of the House of Representatives is the Head of the Revolutionary Government of Zanzibar.

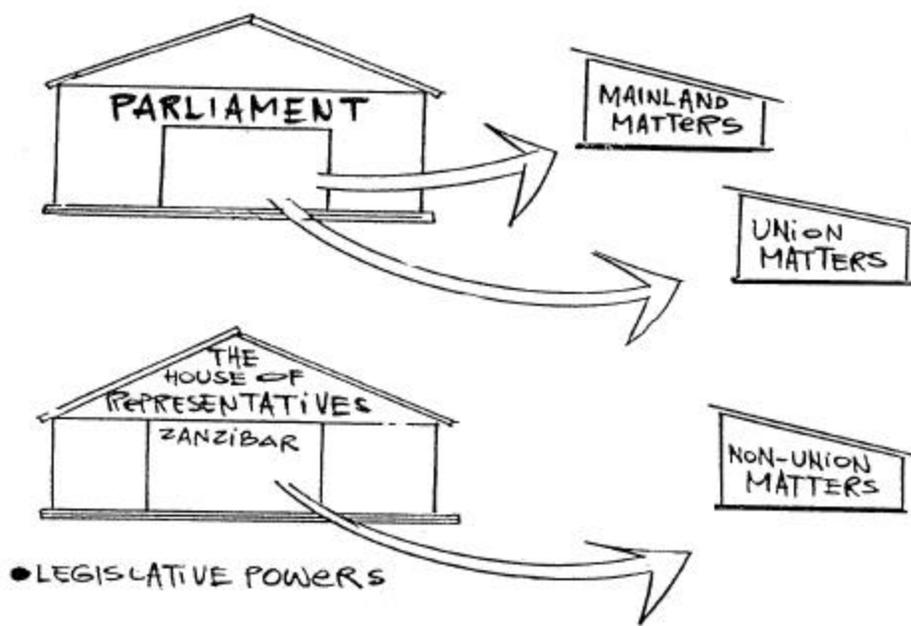
The House of Representatives has two main functions. First, it has legislative authority in Zanzibar over all non-union matters. Secondly, it is also the principal organ for Tanzania Zanzibar with the authority, on behalf of the people in

The Constitution states that at least 20% of the National Assembly is made up of women

A member of Parliament must give a special declaration of his/her property.

The National Assembly has a term of 5 years.

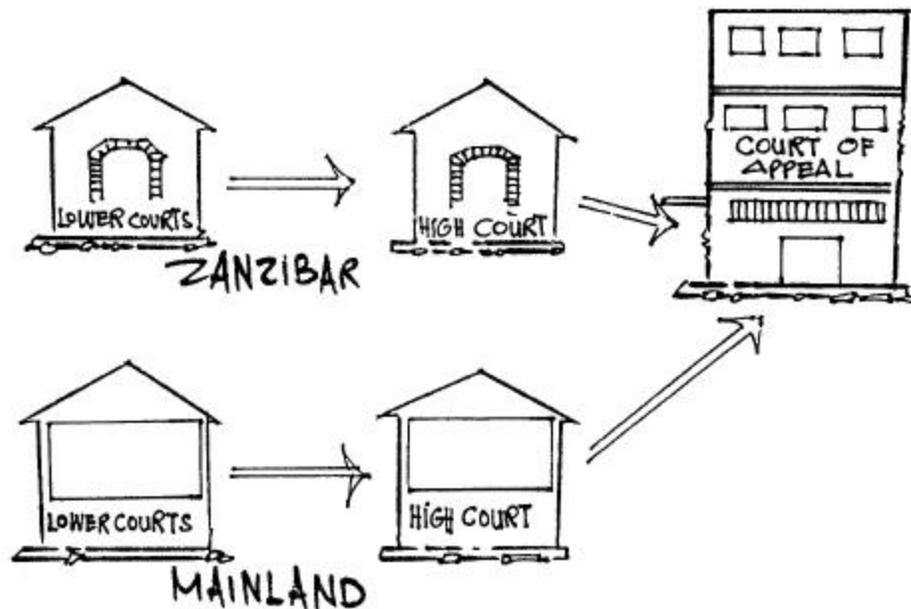
Tanzania Zanzibar, to oversee and advise the Revolutionary Government of Zanzibar and all its organs in the discharge of their responsibilities in accordance with the Constitution of the United Republic of 1977 and the Constitution of Zanzibar of 1984.



The Judiciary

The judiciary is the branch of the government that determines disputes between citizens, among themselves and citizens against the state. It consists of the Court of Appeal, the High Court and the lower courts. There are two systems of the judiciary in the United Republic of Tanzania. One is on the Mainland Tanzania and the other in Tanzania Zanzibar. Both have their own courts. However the Court of Appeal covers both the Mainland and Zanzibar.

The Court System in Tanzania Mainland



The Court of Appeal of Tanzania does not hear appeals on Islamic cases from Zanzibar Courts.

The Court of Appeal of Tanzania is at the top of the judiciary in the United Republic of Tanzania. It hears appeals both from Tanzania Mainland and Tanzania Zanzibar except appeals in Islamic cases coming from Zanzibar. The President appoints the Chief Justice and, in consultation with the Chief Justice, appoints other judges.

The Chief Justice is the head of the Court of Appeal and of the Judiciary of the United Republic of Tanzania. The Chief Justice of the Court of Appeal may consult with the Chief Justice of Zanzibar on matters of the administration of the business of the Court of Appeal and the appointment of Justices of Appeal.

The High Court consists of the Principal Judge (*Jaji Kiongozi*) and not less than fifteen Judges who are appointed by the President on the advice of the Judicial Service Commission. The High Court hears appeals from lower courts and cases filed in that court. Cases are presided by one judge except where the cases are with regard to basic rights under the constitution of which are presided over by three judges. The Chief Justice can also direct that a certain case be presided over by more than one judge.

The Chief Justice designates a magistrates court by notice in the Gazette.

District Magistrates' Courts are established in at least every District and at least one Resident Magistrates' Court in every region. They decide cases only within the Region or District where they have been established and given jurisdiction. The Chief Justice designates a magistrates' court by notice in the Government Gazette.

At least one primary court is found in every division or district.

These decide cases within the District where they have been established. One Magistrate, who must sit with two assessors, runs a Primary Court. Advocates are not permitted to represent their clients in primary courts. Resident magistrates' courts and District courts may entertain appeals from primary courts.

The Judiciary in Zanzibar

The Judiciary of Tanzania Zanzibar is made up of the High Court, Regional Courts, District Courts, Primary Courts, Kadhi's Courts and Juvenile Courts. The High Court of Zanzibar makes final decision in such cases.

According to the Constitution of Zanzibar of 1984, the Head of the Judiciary in Zanzibar is the Chief Justice of Zanzibar. The Chief of Justice of the Court of Appeal has no say in the day to day running of the Judiciary in Zanzibar. The High Court of Zanzibar consists of not less than two judges. The President of Zanzibar appoints them after consultation with the Judicial Service Commission of Zanzibar.

District, Regional and Primary Courts in Zanzibar have the same authority as those on the Mainland. However, Kadhis' Courts in Zanzibar decide on Islamic Law cases. In Tanzania Mainland, any court can decide on such cases. When dealing with appeals from Kadhi's Courts, a High Court Judge would have to sit with one sheikh who understands Islamic Law.

The relationship between three branches of government

Although all the three tiers of government work independently, each arm functions in a way that is inter-dependent on the other. The following are examples:

The Executive and Parliament

The Parliament of the United Republic of Tanzania is divided into two main parts. The first part is the President who is the head of the Executive. The Second consists of Members of Parliament. Among the Members of Parliament there are Ministers who sit in the Cabinet to develop Public Policies. Later these Ministers participate in the Parliament to pass the bills into law. The President has to assent to (or sign) the bills passed by the Parliament before those bills operate as laws.

Advocates are not permitted to represent their clients in primary courts.



The Parliament and Judiciary

The Judiciary implements and interprets the intention of the Parliament as embedded in the laws. Its independence however can not be interfered with by the Parliament

The only way a decision of the court can be reversed is through an appeal against a decision of a lower Court or by way of revision by a higher court or by review of the decision by the same court. The Parliament can also enact a law pursuant to a certain court decision.

The Executive and Judiciary

Wherever a decision by a Court of Law is made against the Executive, the Executive must abide to it. Failure to obey it means dishonour to the court, a mistake that could lead into imprisonment of the officer concerned. Also, the Executive is the one to execute the decision or orders of the Judiciary through its departments e.g. Treasury, Ministry of Justice and Constitution Affairs, Police and Prisons.

Role of Civil Society in Governance

The Executive is the one supposed to ensure execution of court decisions.

Civil society can suggest changes on laws and policies and can work together with Government institutions in strengthening relations and trust between public officials and citizens. Civil society can be involved in the governance process by undertaking the following:

- Mobilizing citizens to participate more fully in public affairs;
- Enhancing transparency. This can be done through improving transparency and increasing the availability of information about the making and implementation of public policy;
- Making and promoting action plans to fight corruption. This can be achieved by holding seminars, conferences and workshops in order to inform citizens on patterns and dangers of corruption and sensitise them to build groups to form anti-corruption strategies;
- Providing ways to enable citizens to get access to justice by undertaking public interest litigation, providing legal aid, training paralegal personnel and raising awareness of citizens on laws and how they affect their day to day lives; and
- Research, advocacy and training.



Civil Society Participation in Governance Process at Central and Local Levels

Participation at the Central Level

At the central level, civil society plays an important role in the development process and can have influence over policy making and implementation. This can be done by: pointing out problems/concerns of grassroots communities; undertaking a study of the sector to identify the problems, priorities, available resources etc; discussing important documents with stakeholders to improving content.

The objective of establishing local governments is to widen people's participation in governance.

Participation at Local Levels

The law encourages the participation of civil society at the local level. Section 20 of the Local Government Laws(amendments) Act 1999 recognize the need for Local Government to promote and ensure democratic participation in, and control of, decision-making by the people concerned. In performing their functions, local government authorities must therefore provide their services in a well-organized and profitable manner and promote cooperation with the participation of civil society organizations.

GLOSSARY OF TERMS

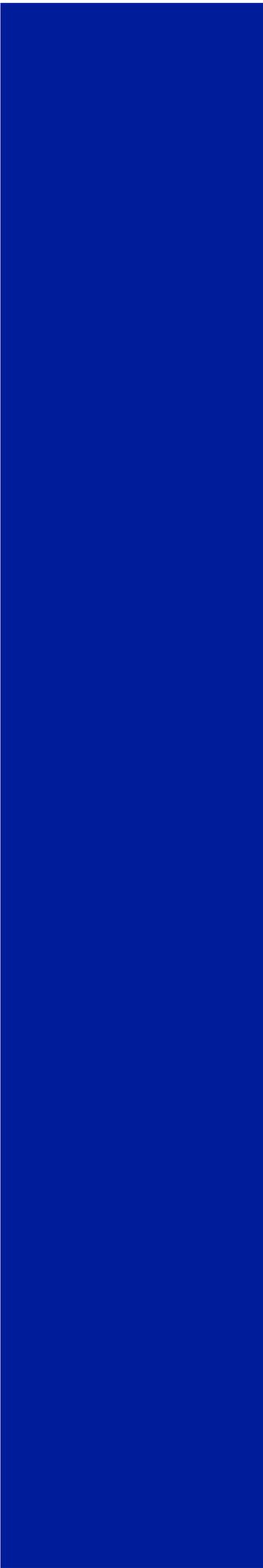
1. **Accountable-** to be answerable to the public on matters that one is assigned to do.
2. **Action plan-** a plan that shows what is to be done within a given time and ways of doing it.
3. **Anti-corruption strategies-** actions/decisions that will be applied by individuals/institutions in order to reduce corruption.
4. **Appeal case-** a case, which has been brought before a higher court for a decision on a matter from a lower court.
5. **Behavioral pattern-** the way in which human behavior develops and changes. The pattern may be determined by social, economic, environmental and political factors.
6. **Bilateral treaties-** treaties that are entered into between two countries.
7. **Cabinet-** A collection of government Ministers, the Prime Minister and the President.
8. **Case law-** a decision of the High Court or Court of Appeal.
9. **Civil service-** all government departments other than the armed forces and the private sector.
10. **Civil service commission-** the government organ that is responsible for hiring civil servants to work for the civil service.
11. **Civil Society-** An institution that is not linked to the executive branch of the Government. It consists of the private sector, religious institutions, NGOs, CBOs, political parties, and any other institution that is not a Government department/ministry.
12. **Circular-** a notice or advertisement sent to large number of people, usually announcing an important government development, including a new law.
13. **Citizens-** people who have full rights as members of a country either by birth or by being granted such rights by immigration office.

14. **Coalition plan-** a plan made under unity of individuals or groups.
15. **Common law-** the traditional rules of England law that were developed by courts of England a long time ago and later became part of the law of England.
16. **Constituent Assembly-** meeting of citizens of an area that is considered as an electoral district/zone.
17. **Court of Appeal-** the highest court of law in Tanzania.
18. **Covenant-** an agreement made by two or more people usually in writing.
19. **Criminal law-** the branch of law that provides for rules, procedures and punishment for crimes.
20. **Decentralize-** to give powers to lower structures in the Government. It is a process where the Local Government is made more powerful because the decision-making role of the central state is decentralized to the local levels.
21. **Decree-** an order of the court that states the rights of all the people in dispute in a case.
22. **Democratic participation-** A process where decisions regarding the development of a country are made by the public through representations.
23. **District-** geographical area of a region that is treated as an administrative unit of the Government.
24. **District Court-** a court in a certain district with powers to decided cases within its own district.
25. **Electoral commission-** a commission dealing in the election matters.
26. **Executive branch** – One of the three branches of Government, the others being Judiciary and Legislature. This is the branch that deals with all matters affecting the central government and local government. This branch manages and makes plans and policies for the public.
27. **Government Gazette-** document containing official communication of government.

28. **Guiding principle**- the leading/controlling principle in a matter that guides the conduct of an institution/people/individuals.
29. **High Court**- the court that is above primary, district and resident magistrates' courts and has power to decide all cases. All other courts have limited powers, but the High Court has powers to hear and determine any case.
30. **Interpreting law**- explaining by giving definitions of the law.
31. **Implementation**- to put into effect a certain plan/strategy.
32. **Judicial Service commission**- the body that deals with matters of the judiciary, including the hiring/promotion of judges and magistrates.
33. **Judiciary**- a branch of Government that decides disputes between citizens among themselves or citizens and Government or other institutions.
34. **Jurisdiction**- a term used to refer to the legally allowable powers of the courts in hearing a certain matter.
35. **Juvenile Court**- a court that has the power to try young people (usually below the age of 18) who are suspected to have committed crimes.
36. **Kadhi's Court**- a court in Zanzibar vested with jurisdiction to entertain cases relating to Islamic law.
37. **Legal aid**- Advice on issues of law including representation in court given free to members of the public who can not afford to pay court and lawyers' fees.
38. **Legislature**- the branch of Government with powers to make and change laws.
39. **Legitimacy**- this is a situation where the action that an official makes has the support of the law and that of members of the public.
40. **Mobilize** - through campaigns, it is a process where institutions/individuals influence others to follow their stance.
41. **Multilateral treaty** - a treaty signed by more than two countries.

42. **National Assembly**- a part of Parliament consisting of different constituent members.
43. **National forum** - a place where important public issues can be discussed.
44. **Networking** - a process where CBOs and NGOs as well as any other institution collaborate with another institution with similar interests in order to achieve set goals.
45. **Order of Court** - This is an order that is given by a court directing one of the parties to undertake a certain action.
46. **Paralegal** - a person with basic legal skills but who has not been professionally trained to be a lawyer. A paralegal usually has to work under the supervision of a lawyer in performing various tasks relating to the practice of law.
47. **Policy** - this is a document that outlines the government's development plans and strategies. The policy forms the basis of most laws and is usually used by the government as a guiding document.
48. **Precedent** - an earlier decision/case of the High Court or Court of Appeal that is regarded as an example or rule for guiding the court when it faced with a similar case.
49. **Principal legislation** - A law that is passed by Parliament and written in the law books.
50. **Public interest litigation** - Proceedings in a court of law involving the public or affected community members usually in large numbers, who have a stake in the case.
51. **Reform** - this is a process involving a change in the way things are being done or decisions being made.
52. **Regions** - Areas of a country that are divided on the basis of geographic location in order to provide administrative facilities to the people of the area.
53. **Resident Magistrate Court** - a court with power to decide cases within a given area as determined by the Chief Justice.
54. **Rights** - a claim by one person against another person/institution/government on the basis of a law.

55. **Social norm** - A practice or rule of community members that is known and generally accepted among the members.
56. **Statute** - a law that is written.
57. **Subsidiary legislation** - the law that is made by organs other than Parliament. For example, a by law or order of a minister.
58. **Sub-vote** - a budget line allotted by the Treasury for a particular Government Department.
59. **Technical assistance** - help that is given by an expert for the development of some project or plan.
60. **Transparency** - state of being clear and doing things in the open with honesty.
61. **Unconstitutional law** - a law is against what is provided for in the Constitution. For example, a law that discriminates against women in society is unconstitutional because the Constitution provides that no one shall be discriminated on the basis of one's sex.
62. **Validity** - state of being acceptable under the law or in accordance with established rules.
63. **Ward development committee** - a body that deals with the development at the level of the Ward.
64. **White paper** - report published by Government after taking views of citizens and before making a final decision on a matter.



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