

ZANZIBAR LEGAL SERVICES CENTRE



ZANZIBAR HUMAN RIGHTS SURVEY 2024

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Felista Mauya
Chief Executive Officer- ZLSC

ABOUT ZLSC

Legal Status: The Zanzibar Legal Services Centre (ZLSC) was established in 1992 as a non-governmental, voluntary, independent and non – profit making organization. During the 32 years of its existence, ZLSC has grown and become client centred organization serving the indigents and the public at large in Zanzibar.

Our Vision: The Centre envision ‘‘ Rights and Justice for all.’’

Our Mission Statement: The centre is a Non-partisan, Non-profit Organization dedicated to raising people’s awareness, promoting human rights and good governance.

Our Core Values: The centre embraces the following core values: Integrity, Professionalism, Transparency, Collaboration, Accountability and Innovation.

Target Group: The Centre targets and provides legal services to the poor, women, children, and persons with disabilities, marginalized and other disadvantaged groups within Pemba and Unguja islands in Zanzibar.

Core Objectives: The Centre provides legal aid through counselling and advice to its clients and those who cannot afford to hire lawyers to handle their legal matters. All services provided by the Centre are for free of charge.

Our Commitment: ZLSC is committed to make sure that the people in Zanzibar are educated on legal and human rights issues and can use the knowledge to demand for their rights and build a society that respect and practice rule of law, good governance and embrace human rights norms and principles.

Our Staff: Since last year, the Centre has hired three fulltime Advocates to attend clients who visit our offices both in Unguja and Pemba also provide legal representation in the courts of law based on ZLSC’s legal aid services criteria.

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LIST OF ABBREVIATION AND ACRONYMS

ACDEG	African Charter on Democratic Election and Governance
ACHPR	The African Charter on Human and People's Rights
AfCHPR	African Court on Human and Peoples' Rights
ASP	Afro-Shirazi Party
BRADEA	Basic Rights and Duties Enforcement Act
CAT	The Convention against Torture
CBO	Community Based Organization
CD	Compact Disc
CEDAW	The Convention on the Elimination of all Forms of Discrimination against Women
CHRAGG	Commission of Human Rights and Good Governance
CMIS	Compliance Mechanisms Information Symptom
CPA	Criminal Procedure Act
CSO	Civil Society Organization
CSW	Commission on the Status of Women
CV	Curriculum Vitae
DPOS	Disabled People Organization
DPP	Director of Public Prosecution
DVD	Digital Video Disc
EFA	Education for All
EMBs	Electoral Management Bodies
EPOCA	Electronic and Postal Communications Act
FBOs	Faith Based Organisations
FGD	Focus Group Discussion

GBV	Gender Based Violence
GDP	Gross Domestic Product
GNU	Government of National Unity
HDV	High Definition Video
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRC	Human Right Communities
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Right
ICG	International Court of Justice
ICT	Information Communication Technology
ID	Identification
IHL	International Humanitarian Law
IPV	Intimate Partner Violence
ITB	Internationale Tourism Board
KII	Key Informant Interview
LRCZ	Law Review Commission Zanzibar.
MCDGEC	Ministry of Community, Development, Gender, Elderly and Children
MCT	Media Council of Tanzania
MDA	Ministries, Departments and Agencies
MDG	Millennium Development Goal
MPs	Members of Parliament
NED	National Endowment for Democracy
NCDs	Non-Communicable Diseases
NCPD	National Council of Persons with Disabilities

NEC	National Electoral Commission
NGOs	Non – Governmental Organizations
OAU	Organization of Africa Unity
OCGS	Office of the Chief Government Statistician
PPP	Public Private Partnership
PSA	Participatory Survey Approach
PWAs	Persons with Albinism
PWDs	People with Disabilities
RGZ	Revolutionary Government of Zanzibar
RSWO	Regional Social Welfare Officer
SACCOS	Savings and Credit Cooperative Societies
SDG	Sustainable Development Goals
SDL	Skill Development Levy
SIGI	Social Instructions and Gender Index
SRH	Social Reproductive Health
SUZA	State University of Zanzibar
TAMWA	Tanzania Media Women’s Association
TCRA	Tanzania Communication Regulatory Authorities
TDHS	Tanzania Demographic and Health Survey and Malaria Indicators
TIN	Taxpayer Identification Number
TPF	Tanzania Police Force
TV	Television
TZS	Tanzania Shillings
UDHR	Universal Declaration of Human Rights
UN	United Nations
UN Women	United Nations Women

UNDRIP	United Nation Declaration on the Rights of Indigenous People
UNGA	United Nation General Assembly
UNICEF	United Nations Children’s Fund
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nation Society Council
UPRM	Universal Periodic Review Mechanism
URT	United Republic of Tanzania
US \$	United States Dollars
UWZ	Umoja wa Walemavu Zanzibar
VAC	Violence against Children
VAWP	Violence against Women in Politics
WHO	World Health Organization
ZAC	Zanzibar Aids Commission
ZACEDID	Zanzibar Centre for Disability and Inclusive Development
ZADEP	Zanzibar Development Plan
ZAECA	Zanzibar Anti-Corruption and Economic Crimes Authority
ZANAB	Zanzibar Association for the Blind
ZAPDD	Zanzibar Association for People with Development Disabilities
ZASCO	Zanzibar Seaweed Company
ZAWA	Zanzibar Water Authority
ZCF	Zanzibar Correctional Facilities
ZEMA	Zanzibar Environmental Management Authority
ZFDC	Zanzibar Ferry Development Company
ZIPA	Zanzibar Investment Promotion Authority
ZIPC	Zanzibar Investment Promotion Centre

ZLSC	Zanzibar Legal Services Centre
ZPC	Zanzibar Press Club
ZPRP	Zanzibar Poverty Reduction Programme
ZSGRP	Zanzibar Strategy for Growth and Reduction of Poverty III

INTRODUCTION

(a). Objectives of the Human Rights Survey

The main objective of the human rights Survey is to present the situation of human rights in Zanzibar for 2024 in relation to Zanzibar, regional and international human rights standards. The Survey has been prepared after conducted the human rights survey in all districts of Zanzibar and triangulated the findings with relevant authorities and stakeholders operating in Zanzibar through key informants interviews and validation meeting.

Specifically, the Survey highlights the state of human rights across all three generations namely: Civil and Political Rights; Social, Economic and Cultural Rights; and Collective Rights as well as rights of vulnerable groups. Further, the Survey shed light on efforts made by the Revolutionary Government of Zanzibar in trying to promote and protect human rights for the period of 2024 and compare with previous period where applicable in order to establish the trend. Also share recommendations for future improvement.

(b) Methodology

This Survey was preceded by conducting community perception survey in all 11 districts of Zanzibar: four (4) in Pemba and seven (7) in Unguja. ZLSC through local consultants used mixed methods in data collection and facilitation process including: undertaking a thorough review of secondary data, administering questionnaires, focus group discussion meetings and key informant interviews for capturing primary data and triangulation of data collected from other sources.

Further, the survey team applied Participatory Survey Approach (PSA) to facilitate client - centred survey process at all stages namely: Preparation, Development, Implementation and Data Cleaning & Analysis, Presentation of Results and validation. Both generic and experiential survey design and data collection tools were developed and used to complement the above approaches and came up with a concrete design document after conducting adequate consultation and validation process with ZLSC staff and Management team.

In terms of Sampling and Sample Size, ZLSC used both purposeful and random sampling techniques to assess the state of human rights in Zanzibar. Thus, a total of 300 respondents: Interviews (198 participants) were drawn from different sectors namely: Farmers (38%), Self Employed (31%), Civil Servants (17%), and other fields including students (10%) and Private sector (4%). Other participants were drawn from Local Authorities, MDAs, FBOs, CSOs and Universities who engages in Focus Group Discussion (72 participants) and Key Informants Interviews (30 participants) as shown in table 1 below.

Table 1: Distribution of the Respondents by Survey Method

Respondents	# Interviews	# FGD	# KII	TOTAL
Community Members - Including youth and women (16 per District M&F)	176	30		206
Regional Social Welfare Officers (RSWOs)			5	5
Sheha (1 per District)		11		11
Elderly (2 per District M&F)	11	11		22
PWDs (2 per District M&F)	11	11		22
NGOs (2 Unguja & 1 Pemba)			3	3
CBOs (1 per Region)		5		5
FBOs (2 Unguja & 2 Pemba)		4		4
Police Force (1 Unguja & 1 Pemba)			2	2
Judiciary (Unguja & Pemba)			2	2
Law Review Commission (Unguja)			1	1
CHRAGG (Unguja)			1	1
Regional Education Officers (1 per Region)			5	5
Media (2 Unguja & 2 Pemba)			4	4
ZEC			1	1

Private Sector (1Unguja & 1 Pemba)			2	2
Zanzibar Investment Centre (ZIC) – Unguja & Pemba			1	1
SUZA			1	1
Human Rights Experts in Zanzibar			2	2
Total	198	72	30	300

Source: *Human Rights Survey Design 2024*

Please note that, survey participants were selected from eleven (11) districts located in Unguja (7) and Pemba (4) for interviews. A survey questionnaire was developed and given to all respondents (18) per district to complete. The sample size was sufficient to permit reliable and statistical analysis (confidence interval of 95%). The assessment survey subscribed to gender parity. The questionnaire was complemented by convening 11 focus group discussion (FGD) – one per district with target participants ranging from 6 to 7 people per session. Further, conducted Key Informants Interviews (KIIs) with 30 experts/officials from Ministries, Departments and Agencies (MDAs) and other Institutions.

(c). Data Collection

The consultants relied much on survey interviews to collect primary data on how community members perceive the state of human rights in both Unguja and Pemba also conducted documentary survey to collect secondary data. Further, qualitative data was collected through KIIs and FGDs to complement quantitative data generated by completed questionnaires. These approaches allowed the consultants to triangulate information collected from multiple sources. Data collection was managed by the Lead Consultant under the guidance and supervision of ZLSC.

(d). Data Analysis

Data collected through a questionnaire was coded and entered into excel sheet for quantitative analysis. An option was given to ask research assistants to transfer completed questionnaires into google form for compilation. Prior to analysis, data cleaning was done in order to ensure

precise analytical results. A descriptive analytical framework was used to complement measures of dispersion and central tendency. As for the case of qualitative data, a content analysis was used to conduct the evaluations of the assessment outcomes.

(e). Quality Assurance

Administration of the questionnaires was done by the trained research assistants deployed in each district. Each questionnaire was coded and verified to check whether data quality issues were in order. All these information helped to ensure traceability of the questionnaire in case there was any problem or challenge experienced during data gathering which worth an intervention of the Consultant. Other details such as telephone number of the respondent were filled on top of the questionnaire as well. The Consultant crossed examine each questionnaire before accepted it. Once endorsed the consultants attested by signing through.

(f). Survey Structure

This Survey consist of six chapters namely: chapter One covers Contextual Overview of Zanzibar, Chapter Two covers Civil and Political Rights, Chapter three covers Social, Economic and Cultural Rights, Chapter Four covers Collective Rights, Chapter Five covers Rights of Vulnerable Groups and Chapter Six covers Human Rights Mechanisms. Specific human rights have been listed under each chapter as summarized below.

Chapter One contains Contextual Overview of Zanzibar: History of Zanzibar, Geography and Population, Economic Situation, Political and Governance Systems (The Executive, The Legislature and The Judiciary). Also Amendment of Electoral and Political Parties Laws, Key Issues and Concerns ahead of the 2025 Election, The Zanzibar Development Vision 2050 and Human Rights Dimensions (*Access to Inclusive Quality Education, Access to Quality Health-care, Fighting against HIV/AIDS and NCDs, Access to Clean and Safe Water, Protection of Vulnerable Groups, Fighting VAWC*) and Conclusion.

Chapter Two covers Civil and Political Rights: Overview, Right to Life, Extrajudicial Killings and Violence against Law Enforcement Officers, Witchcraft-related Killings & Violence against Persons with

Albinism (PWAs), Death Penalty Imposed in 2024, and Presidential Pardon for Death Row Inmates, Road Accidents and Killings of Women Motivated by Jealousy (Intimate Partner Femicides). Also covers Freedom of Expression, Laws Restricting Freedom of Expression and Civic Space, Access to the Internet Freedom, Performance in World Press Freedom Index, Ban and Suspension of Media Outlets, The New Online Content Regulations of 2020 (Overview of the Regulations, Key Concerns with the Online Content Regulations, Sweeping powers for TCRA, Obligation to moderate and filter content and Obligations of Application Services Licensees, Peaceful Assembly and Association online, Simulcasting, Arrests & Prosecution for Contravening Restrictive Freedom of Expression).

The chapter also covers: Freedoms of Assembly and Association by highlighting issues around Laws Restricting Freedoms of Assembly and Association, Freedom of Association of NGOs, Complaints of Arbitrary Restriction of Freedom of Assembly of Political Parties and Amendment of the Basic Rights and Duties Enforcement Act *vis a vis* Freedom of Association. Also covers Rights to Equality before the Law and Effective Remedy: Access to Justice, Criminal Justice; Key Issues and Concern, Criminal Justice Reforms Commission, Lengthy Detention of Remandees in Prisons and Constant Adjournment of Cases Jeopardizing, Right to be presented before the Court Promptly, Plea Bargaining and its Challenges. It also covers Right to Liberty and Personal Security. It also covers: Personal Security of People at Risk, Arbitrary Arrests and Detention, Right to bail: Present situation and right to bail (case study related to right to bail), Trumped-up charges and delays in conducting investigations and Human Trafficking. It further covers, Right to Take Part in Governance: Right to Vote and Stand for Election; and Freedom from Torture and Inhuman or Degrading Treatment and punishment, Reported Torture Incidents. As well as Impact of Blue Economy on Civil and Political Rights and Conclusion.

Chapter Three covers Economic, Social, and Cultural Rights: Overview, Right to Education: Education Sector Reforms, The Education Development Plan, Free Education in Zanzibar, Building New Classrooms, Renovation of School Infrastructures, Availability of Qualified Science Teachers, Teen/Early Pregnancies, Inclusive Education, School Based Gender Based Violence, School Based Mental

Health Services, Menstrual Hygiene and Education Scholarships. Also Right to Health, Right to Water: Access to clean and safe water; and Right to Work: New Employment Opportunities Advertised by Revolutionary Government of Zanzibar Other rights include: Right to Own Property: Right to Land, Equality in Land Ownership; and Right to Adequate Standard of Living; Cultural Rights and Conclusion.

Chapter Four covers Collective Rights: Right to Development: Social Development, Right to Enjoy and Benefit from Natural Resources; Right to Clean and Healthy Environment: Government Action; Impact of the Blue Economy on Collective Rights and Conclusion.

Chapter Five covers Rights of Vulnerable Groups: Women's Rights: Physical Violence against Women, Sexual Violence against Women and Girls, Economic Violence against Women, Cyber Violence, Sextortion a Major Concern at Higher Learning Institutions, Women's Participation in Political Leadership, Women's Safety and Security, and Women's Access to Justice. Further, it covers: Children's Rights: Violence against Children, Sexual Violence Perpetrated by Teachers, Humiliation Offenses Received at the Office of the Director of Prosecutions Zanzibar, Statistics of Humiliation opened in Zanzibar Humiliation Courts, students and Prisoners for Violent Offenses and Sexual Humiliation, and A Boost for Right to Education for Children with Disability. Also covers Violence and Discrimination against Persons with Disabilities (PWDs): Protection Mechanisms to PWDs. Rights of the Elderly: Challenges Faced by the Elderly Pensioners. Right to Privacy, Rights of Persons Living with HIV/AIDS, Impact of the Blue Economy on the Rights of Vulnerable Groups and Conclusion; and finally,

Chapter Six covers Human Rights Mechanisms: Overview, National Human Rights Mechanisms: Legal Frameworks, Tanzania Police Force, Zanzibar Correctional Facilities (ZCF), The Law Review Commission of Zanzibar, Office of Director of Public Prosecutions, Zanzibar Anti-corruption and Economic Crimes Authority (ZAECA), Commission for Human Rights and Good Governance (CHRAGG), Judiciary of Zanzibar and Challenges Facing National Human Rights Mechanisms. Also covers, Regional and International Human Rights Mechanisms: Overview, Key Issues, and Regional Legal Frameworks: Key Issues and Challenges; Key Recommendations: Non-state actors; The Organization of African Unity (OAU); African Court on Human

and Peoples' Rights (AfCHPR); The International Court of Justice, and Conclusion.

CHAPTER ONE

CONTEXTUAL OVERVIEW

1.0 History of Zanzibar

The first settlements of Zanzibar are believed to have been established by immigrants from numerous sections of the African Mainland.¹ At that time, there was contact between the people of Zanzibar and outsiders.

The word Zanzibar is believed to be derived from Arabic word ‘Zanzibar’ which means coast of the blacks. During the 16th Century, the Portuguese who were the first foreign visitors arriving from the South to Zanzibar were also the first European power to gain control of Zanzibar from 1503 to 1698.

The people of Zanzibar have also been socially influenced by the coming of Persians (Shirazi) who began landing in Zanzibar from about the 10th Century. It is common even nowadays to find a good number of Zanzibaris as “Shirazi” with the Persian origin².

Politically, the people of Zanzibar have a long political relationship with Arabs from Oman³. The Omani Arabs, who expelled the Portuguese from Muscat in 1650 and were the leading force against them in the entire region, gradually established at least nominal control over many settlements, including Zanzibar.

After a lengthy turmoil of dynastic wars and losses and gains on the African coast, the ruling sultan of Oman, Said bin Sultan, decided to relocate his capital from Muscat to Zanzibar⁴. Zanzibar became an increasingly important part of the Oman Empire due to its value as the main slave market of the East African coast.

¹ See Lofchie, Michael F., *Zanzibar: Background to Revolution*, (1965), Princeton: Princeton University Press, 1965.

² Ibid, p. 29.

³ See from the website, <https://brittlepaper.com/2018/08/bantus-swahili-or-how-to-steal-a-language-from-africa-kamau-muiga/926>. Assessed 27/08/2024.

⁴ See <https://www.britannica.com/place/Zanzibar-island-Tanzania>.

When the British came to rule in Zanzibar, the human rights agenda took another shape in the islands. The British rule remained the colonial power with its well-established political presence signified by the abrupt redistribution of the Sultan's inland territories.

The joint colonial leadership between British and Sultan took place for virtually 70 years from 1890. Their rule came to an end after the islands got their independence in 1963 which retained the Sultan as the Head of State.⁵ The Sultan was overthrown in January, 1964. Despite bringing into the end the Sultanate regime in Zanzibar, the social relationship between the people of Zanzibar and the Oman people continued to be significantly in existence.

The main cause behind this social link appears to be inter-marriage and, therefore, blood relationships between Zanzibaris of African origin and Zanzibari Arabs. Realization of human rights was a struggle for Zanzibaris during the British and Sultan rules, as was the case for their neighbours in Tanganyika.

Afro Shirazi Party's Abeid Amani Karume became the first President of Zanzibar following the 1964 revolution and in the same year led Zanzibar into the Union with Tanganyika to form the United Republic of Tanzania (URT).

The Independence Constitution of 1963, which was characterized by a monarchy leadership, included a bill of rights. However, following the 1964 revolution, the Independence Constitution was replaced by the Constitutional Decree passed by the Revolutionary Council.

Consequently, Zanzibar was ruled without Constitution from 1964 to 1979 when the Revolutionary Council passed the first democratic Constitution of 1979 under the administration of Aboud Jumbe Mwinyi, the then President of Zanzibar. The 1979 Constitution created a legislative body called the House of Representatives followed by the first national election after Revolutionary.⁶

⁵ Majamba, H.I., *Perspectives on the Kadhis' Courts in Zanzibar*, Zanzibar: Zanzibar Legal Services Centre, 2007, p. 2.

⁶ Adeniran, Tunde. "Four Years of Presidential Democracy in Nigeria." Volume 9 No. 3 *Africa Development / Afrique et Développement*, 1984, pp. 14–27. <http://www.jstor.org/stable/43663270>. Accessed 26/08/24.

In 1983 another constitutional debate started in Zanzibar, culminating into the constitutional reforms which saw Zanzibar adopt a new constitution in 1984, which is still in force to date⁷

This democratic Constitution made it mandatory for the House of Representatives to be directly elected from constituencies and included the provisions of the Bill of Rights into it.⁸

1.2 Geography and Population

1.2.1 Geography

Zanzibar lies off the eastern coast and situates at its narrowest point some 40 km away from the east of Mainland Tanzania, (West of Zanzibar) in the Indian Ocean. The northern tip of Unguja Island is located at 5.72 degrees south, 39.30 degrees east; with the southernmost point at 6.48 degrees south, 39.51 degrees east.⁹

The northern tip of Pemba¹⁰ Island is located at 4.87 degrees south, 39.68 degrees east, and the southernmost point located at 5.47 degrees east. To the east of both islands exist deep Indian oceans.¹¹ Zanzibar islands¹² cover a total area of around 2,654 square kilometres out of which Unguja Island occupies an area of 1,666 square kilometres and

⁷ See University of Minnesota Human Rights Library, Tanzania Human Rights Jurisprudence, Accessed 26/08/24. at <http://hrlibrary.umn.edu/research/TanzaniaB.html>.

⁸ The Constitution has undergone various amendments, including the 2002 amendments which saw the inclusion of provisions on separation of powers and the right of anyone to protect the constitution through court process.

⁹ See Zanzibar in Figures 2020, at <http://www.ocgs.go.tz/php/ReportOCGS/Zanzibar%20In%20Figures%202020.pdf>.

¹⁰ Pemba Island is 40 miles long and 14 miles wide with a surface area of 608 square miles. It is found 36 miles from the mainland and 29 miles north-east of Unguja island.

¹¹ See Zanzibar in Figures 2020, at <http://www.ocgs.go.tz/php/ReportOCGS/Zanzibar%20In%20Figures%202020.pdf>.

¹² Unguja is about 24 miles wide and 50 miles long and has a surface area of just under 1,000 square miles.

Pemba Island occupies the remaining 988 square kilometres of the total area.

Zanzibar¹³ is characterized by beautiful sandy beaches with fringing coral reefs, and the magic of the historic Stone Town - said to be the only functioning ancient town in East Africa.¹⁴ The Climate of Zanzibar is usually warm and humid (equatorial).

However, there are four common and long climate changes experienced in Zanzibar.¹⁵ These are *Masika* is the longer and heavy rains, and some time comes with consequences like floods, normally occurs between March and May;¹⁶ *Kipupwe* which is cold season usually comes on June and August; the hot season is known as *Kaskazi or Kiangazi* always comes between December and February and the fourth is *Vuli* where short rains are experienced, usually happens on October and November.

¹³ The country is also blessed with the brilliant white beaches round by the warm turquoise waters of the Indian Ocean, provide the perfect place to relax, soak up the sun and take a break from some busy sightseeing.

¹⁴ Lugoe, F.N., Land Disputes in Zanzibar for SMOLE, 2012, p. 13.

¹⁵ *Masika* is the longer and heavy rains, and some time comes with consequences, normally occurs between March and May; *Kipupwe* which is cold season usually comes on June and August; the hot season is known as *Kaskazi or Kiangazi* always comes between December and February and the fourth is *Vuli* where short rains are experienced, usually happens on October and November.

¹⁶ Nordic Development Fund (NDF), 2014, Coastal Profile for Zanzibar Region Volume III Investment Prioritization for Resilient Livelihoods and Ecosystems in Coastal Zones of Tanzania.



Map of Zanzibar Island.

1.2.2 Population

According to the population and housing census conducted in 2022, Zanzibar has a current population of 1,889,773, which is equal to 3.1% of the whole population of Tanzania¹⁷. 51.6% of the population is female and the remaining 48.4% is male¹⁸.

The majority of Zanzibaris are Muslim of Sunni Sect, however there are also Christians and Hindu followers. Zanzibaris are an eclectic

¹⁷ See Jamhuri ya Muungano wa Tanzania, *Sensa ya Watu na Makazi ya Mwaka 2022: Matokeo ya Mwanzo, Oktoba 2022*, At <https://www.nbs.go.tz/NBS/Takwimu/Census2022/Matokeomwanzooktoba2022.Pdf>.

¹⁸ See Jamhuri ya Muungano wa Tanzania, *Sensa ya Watu na Makazi ya Mwaka 2022: Matokeo ya Mwanzo, Oktoba 2022*, at <https://www.nbs.go.tz/nbs/takwimu/Census2022/matokeomwanzooktoba2022.pdf>.

mixture of ethnic backgrounds, indicative of the islands' colourful history.

Widespread intermarriages between Shirazis and Africans gave rise to a coastal community with distinctive features, using a highly Arabicized form of language, known as Kiswahili, which is the country's national language.

However, while the official languages are both Kiswahili and English, English generally is used as a medium of instruction in academic institutions. The language of the court and all official documents and public recordings is either Swahili or English.

1.3 Economic Situation

Zanzibar's economy is largely dependent on agriculture and tourism sectors. Cloves production is very important subsector to Zanzibar's economy, historically considered to be the economic backbone of Zanzibar's economy. Zanzibar has been enjoying a good economic growth rate, increasing from 5.8% in 2016 to 7.0% in 2019.¹⁹ During this period, the average economic growth rate was impressive, at 6.9%.

Impressive economic growth has also seen Zanzibar attain the lower-middle income status by 2020, which was the goal of the Zanzibar Development Vision 2020.²⁰ In 2024, the economy is projected to grow by 7.2% mainly attributable to tourism, construction, and manufacturing activities.

¹⁹ Serikali ya Mapinduzi Zanzibar, Wizara ya Maendeleo ya Jamii, Jinsia, Wazee na Watoto Hotuba ya Waziri wa Maendeleo ya Jamii, Jinsia, Wazee na Watoto Mh. Riziki Pembe Juma (Mbm) Kuhusu Makadirio ya Mapato Na Matumizi ya Mwaka wa Fedha 2023/2024. Mei, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1685027953.pdf>.

²⁰ The Revolutionary Government of Zanzibar, Zanzibar Development Vision 2050, at <http://planningznz.go.tz/doc/new/ZDV2050.pdf>.

1.3 Political and Governance Systems

Political and Governance systems connotes the right to take part in public affairs or the right to participate in the government.²¹ Includes the right for citizens to vote and be voted for public office and the right to participate in political life.²² Everyone, either directly or through a chosen representative, has a right and opportunity to take part in the public affairs of the state.²³

1.3.1 Political Background

Since the Revolution of 1964, Zanzibar has been led by eight Presidents, namely: H.E Abeid Amani Karume (1st President, 1964-1972); H.E Aboud Jumbe Mwinyi 2nd President, 1972-1984); H.E Ali Hassan Mwinyi (3rd President, 1984-1985); H.E Idrissa Abdul Wakil (4th President, 1985-1990); H.E Dr. Salmin Amour Juma (5th President, 1990-2000); H.E Amani Abeid Karume (6th President, 2000-2010); H.E Dr. Ali Mohammed Shein (7th President, 2010-2020); and the current President, H.E Dr. Hussein Ali Mwinyi (8th President, 2020 to date).

1.3.2 Governance System

The Zanzibar governing structure comprises of the Executive, the Legislature and the Judiciary, established by the Constitution of Zanzibar of 1984²⁴. In 2024, the main issue affecting enjoyment of the right to take part in governance was gaps in relevant laws and regulations. Gaps in Legal Frameworks on right to take part in governance still exist as further elaborated below.

²¹ Guaranteed under various regional and international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disability (CRPD).

²² Article 12 of the Constitution of Zanzibar, 1984 (Version of 2010).

²³ Article 25 (a) of the International Covenant on Civil and Political Rights, 1966; Article 21(1) of the Constitution of Tanzania.

²⁴ Bakary, Abubakar Khamis, "The 1984 Zanzibar Constitution," Volume 22 No. 1/2 *The African Review: A Journal of African Politics, Development and International Affairs* 1995, pp. 84–121 (<http://www.jstor.org/stable/45341626>).

(a). The Executive

The Executive arm of Zanzibar - Government of National Unity (GNU) is established under Chapter Four of the Constitution of Zanzibar of 1984²⁵. It is led by the President, who is the Head of the Country, Head of the Revolutionary Government of Zanzibar, and Chairperson of the Revolutionary Council. Other members of the Revolutionary Council are the First Vice President from the opposition in accordance with the GNU arrangement, the Second Vice President from the ruling party, Ministers, and the Attorney General. As of December 2020, Zanzibar had 17 members in the Revolutionary Council.



The State House: The Office of the President of Zanzibar.

(b). The Legislature

The legislative body in Zanzibar is the House of Representatives.²⁶ The House of Representatives is vested with legislative powers in relation to all non-union matters in Zanzibar. It is composed of the Speaker,

²⁵ Roop S, Tronvoll K, Minde, N., “The Politics of Continuity and Collusion in Zanzibar: Political Reconciliation and the Establishment of the Government of National Unity,” Volume 56 No. 2 *The Journal of Modern African Studies*. 2018, pp. 245-267.

²⁶ This is the law-making body in Zanzibar.

Deputy Speaker, elected representatives, representatives nominated by President, special seats representatives, and the Attorney General.

The majority of representatives are elected members from their constituencies. The House of Representatives also has a mandate to oversee and advise the Revolutionary Government of Zanzibar and all its institutions/agencies in discharging their respective duties or responsibilities.



The Zanzibar House of Representatives – Chukwani, Zanzibar

(c). The Judiciary

The Judiciary of Zanzibar is a constitutional organ, established under Chapter Six of the Constitution of Zanzibar of 1984. Zanzibar has its own judicial system consisting of (in descending order): the Court of Appeal of Tanzania; the High Court of Zanzibar; Regional and District Magistrate Courts; Primary Courts; Kadhi Appeal Courts; and Kadhi Courts. These courts have jurisdiction over cases arising in Zanzibar that involve non-union matters.²⁷

The High Court of Zanzibar is the highest court for matters originating from Kadhi Courts and the interpretation of the Constitution of Zanzibar. However, the appeal process for a case originating from a magistrate court is slightly different, as some of the cases may be appealed to the High Court of Zanzibar and then appealed again to the Court of Appeal of Tanzania. Therefore, not all cases in Zanzibar can be appealed to the Court of Appeal of Tanzania. Therefore, notwithstanding the fact that the Court of Appeal of Tanzania is a Union Matter and is listed in Schedule One to the Constitution of the United Republic of Tanzania, 1977, the Constitution of Zanzibar, 1984 ousts the powers of this court on issue indicated above. These are interpretation of the Constitution of Zanzibar, 1984; all matters relating to Chapter Three of the Constitution of Zanzibar, 1984 (Human Rights); all matters relating to the Kadhi's Courts.

²⁷ There are 22 Union Matters, originally there were only 11 Union Matters. The Court of Appeal is one of the Union Matters listed in the First Schedule of the Constitution of Tanzania 1977. Other union matters include foreign affairs, security, police, citizenship, immigration, foreign trade, higher education, aviation and statistics.



The High Court of Zanzibar – The Highest Court in Zanzibar.

1.3.3 Amendment of Electoral and Political Parties Laws

In November 2023, three bills were tabled in Union Parliament for first reading, namely: the Presidential, Parliamentary and Local Government Elections Bill; the Political Parties Affairs Laws (Amendment) Bill; and the National Electoral Commission (NEC) Bill.²⁸

Stakeholder analysis of the bills generally found the proposed amendments to the Political Parties Act²⁹ to be inadequate and do not change the Act in any major way.³⁰ The proposed amendments to the Political Parties Act³¹ have left out other key recommendations

²⁸ Reforms set to transform NEC operations,” *Daily News* Newspaper (online), 11th Nov 2023, at <https://dailynews.co.tz/reforms-set-to-transform-NEC-operations/>

²⁹ Act No. 5 of 1992.

³⁰ Maoni ya Wadau (LHRC, TLS, Twaweza, CSL, Jukata Na Jamii Forums) Kwenye Miswada ya Sheria za Uchaguzi Na Muswada wa Sheria ya Vyama vya Siasa, Januari 8 2024, Dodoma, Tanzania.

³¹ Act No. 5 of 1992.

proposed by the Report of the Presidential Task force on Multiparty Democracy³² and decisions by domestic and regional courts.

1.3.4 Key Issues and Concerns ahead of the 2025 Elections

In 2022, several key measures to improve multiparty democracy in Tanzania were proposed in the report on multiparty democracy in Tanzania by the presidential taskforce. These recommendations include:

- (a). In presidential election, candidate should get more than 50% of votes to win. It should be permitted to challenge NEC conduct and decisions in the Supreme Court, once such court has been established;
- (b). Selection Panel for NEC members should be established, which selects and forwards the names of qualified candidates for the positions of NEC members to the President for appointment;
- (c). Presidential election results should be challenged in Supreme Court, once such court has been established;
- (d). Political Parties Act, 1992³³ should be amended to compel political parties to adopt gender and inclusion policies, and representation of men and women in decision-making within political parties to be at least 40%;
- (e). It is suggested that Constitutions of political parties contain gender equality and Gender Based Violence (GBV) provisions. Moreover, each political party to establish a programme of empowerment of female members to contest in elections and promote gender-equality;
- (f). In addition to that, the office of the Registrar of Political Parties establishes a gender desk to address gender issues within political parties;
- (g). Special seats arrangement should continue, but there should be a 10-year term limit for special seats members of parliament (MPs) and councillors, so that other women can also get an opportunity to grow in politics and leadership; and

³² Led by Professor Rwekaza Mkandala.

³³ Acts No. 5 of 1992.

(h). It is suggested that each party to adopt a strategy of increasing the number of female candidates. Moreover, the amendment of electoral laws to ensure equal participation of Persons with Disabilities (PWDs) in politics and representation in decision making.

The survey team observed that most of these recommendations are yet to be implemented or partially implemented.

1.4 The Zanzibar Development Vision 2050 and Human Rights Dimensions

The new Zanzibar Development Vision 2050 (ZDV 50) puts human development at the forefront of national planning.³⁴ It is noted that, Zanzibar has successfully achieved lower-middle income status ahead of time alongside improvements in life expectancy, gross school enrolment and access to clean water among others. Zanzibar is now setting our sights on the attainment of upper-middle income status by 2050.³⁵

The ZDV 50 is a long-term national development plan formulated to guide Zanzibar's overall development agenda from the year 2020 to 2050. It serves as a successor plan to Vision 2020 and has the overall aspiration of lifting Zanzibar economically and socially to attain Upper-Middle Income Status by 2050 by prioritizing inclusive and pro-poor policies that target wide-reaching strategic considerations of the economic,³⁶ social, political and environmental dimensions.

The Vision is shaped by the following four pillars (1) economic transformation of Zanzibar's productive capabilities through economic modernization and diversification; (2) human capital and social services

³⁴ Ibid page 20.

³⁵ This will require improvements in economic growth to be accompanied by higher overall standard of living for all segments of Zanzibar's society across the economic, human capital, infrastructural and governance dimensions of human development.

³⁶ Zanzibar is well-positioned to generate considerable gains from international trade, finance and investment, tourism, technology and other emerging opportunities, given its strategic location. However, to optimally exploit this comparative advantage, it is imperative that Vision 2050 be implemented thoroughly by developing linkages across all sectors, with emphasis on economic diversification, human capital and infrastructural development and good governance.

that it is healthy³⁷, competitive, innovative and productive; (3) infrastructural linkages and provision of modern, high quality, accessible and reliable infrastructure within and across homes and settlements; and (4) governance and resilience.³⁸ Every priority area in turn consists of aspirations for the next 30 years and targeted performance indicators.

1.4.1 Human Rights Dimensions

(a). Access to Inclusive Quality Education: The education in Zanzibar has seen several key developments to complement the policy of free education introduced in 1964 following the Zanzibar Revolution. These include greater emphasis on teacher training, the mass construction of modern schools, improved student enrolment rates, particularly at primary level, and the establishment of new higher education institutions.³⁹

Pre-primary and primary education does not adequately promote the acquisition of basic knowledge of literacy and numeracy. At secondary level and beyond, there is no enough focus on higher-order skills, such as critical thinking, creativity and innovation, as well as labour market-oriented skills development in students' specializations. Vocational education is currently designed for school dropouts, limiting the scope and potential for developing a diversified workforce.⁴⁰

The vision 2050 in executing its goal on education some aspirations are made which include: inclusive access to quality education at all levels

³⁷ Revolutionary Government of Zanzibar Ministry of Health, Zanzibar, November 2018 “The Zanzibar Policy Guidelines for Occupational Health, Safety and Wellbeing of Workers in the Health System, [Zanzibar Policy Guide Occupational Health.Pdf](#)

³⁸ Each pillar is subdivided into different priority areas, reflecting the layers of Zanzibar’s economy and society.

³⁹ Nevertheless, there remains a challenge in curriculum design across all levels.

⁴⁰ Further, some schools struggle with the provision of hard infrastructure, including sufficient classrooms, and soft infrastructure, such as teaching and learning resources ranging from libraries to science labs and ICT equipment. There are also noticeable gaps in the quality and quantity of qualified teachers in science and mathematics.

⁴⁰ Equity in health service provision and preparedness for health security issues in crisis situations.

with a focus on raising transition rates from one level to another, under a diversified and sustainable financing scheme⁴¹, A highly competitive and motivated workforce of teachers with an established teacher competency framework to maintain the quality of education.

Curricula that reflect the needs of the time at all levels, with a clear focus on basic knowledge of literacy, numeracy, digital literacy, culture and citizenship at pre-primary and primary levels as well as building core skills and competencies in specific specializations at higher levels, which go in hand with building critical thinking and innovation, Industry-ready graduates equipped with professional skills acquired through internships, apprenticeships, entrepreneurship programmes, certification, vocational⁴² and on-the-job training in line with relevant employment opportunities.

Optimal pre-primary education that promotes parental participation and involvement in early childhood learning, an optimum school environment with adequate hard and soft infrastructure for learners at all levels, ensuring greater inclusiveness through targeted arrangements for children with special needs, including the disabled and those at risk of dropping out.

A streamlined education system that incorporates religious education, including madrasahs and a resilient education system prepared for crisis situations through the development of emergency contingency strategies to minimize disruptions to teaching and learning activities.

(b). Access to Quality Healthcare: Maintaining an equitable and sustainable universal healthcare⁴³ system accessible to all, provided by highly skilled healthcare professionals and supported by modern medical technologies and facilities. Since the 1964 Revolution, Zanzibar has benefited from significant improvements in the provision of free health services for all.

In recent years, the Revolutionary Government of Zanzibar has emphasized the development of the health sector by heavily investing

⁴¹ Vision 2050 aspirations in health care. Zanzibar Education Development Programme (ZEDP) 2008/09 – 2015/16 DRAFT 3 February 6, 2007.

⁴² Revolutionary Government of Zanzibar Ministry of Education and Vocational Training.

in upgrading healthcare infrastructure facilities from primary to tertiary levels, further providing specialized medical services and equipment as well as promoting medical and health research initiatives. This is reinforced by a promising increase in medical professionals as well as capacity building initiatives through the establishment of medical faculties at local institutions.⁴⁴

However, there is a need for further attention in up scaling the current achievements in order to maintain the health and well-being of the people. Health financing,⁴⁵ should remain sustainable in order to ensure high accessibility of health services.⁴⁶ While there is extensive coverage of health facilities, some facilities struggle to operate efficiently and effectively due to inadequate staff and equipment.

(c). *Fighting against HIV/AIDS and NCDs:* Though efforts to control HIV/AIDS,⁴⁷ malaria and gastro-intestinal diseases have been relatively successful, there is an increasing concern of emerging non-communicable diseases (NCDs) as well as perinatal, neonatal and infant mortality. Vision 2020 aspirations on health care include, highly reliable and accessible primary healthcare sector that incorporates strong health promotion and community health programmes targeting the prevention and management of non-communicable and communicable diseases, including HIV/AIDS.⁴⁸

Universal health coverage with emergency medical care and referral services across Zanzibar to improve access to healthcare in underrepresented area, modern healthcare delivery system supported through effective investment plans and related interventions with a focus on human capital development, research, health infrastructure, medical technology, digital health systems, quality control as well as specialized medical and health practitioners and services, effective pre-service training programmes to develop industry-ready healthcare

⁴⁴ Indeed, in line with the government's efforts, life expectancy has risen from 48 years in 2000 to 65 in 2012.

⁴⁵ Standing at 3.1% of GDP in 2019.

⁴⁶ Equity in health service provision and preparedness for health security issues in crisis situations.

⁴⁷ Human Rights Watch, "In the Shadow of Death: HIV/AIDS and Children's Rights in Kenya," June 2001 [*In the Shadow of Death*] at 7.

⁴⁸ *Ibid.*

providers receiving continuous professional development, with attractive compensation packages and motivation, Inclusive, high quality services for the elderly and people with disabilities as well as in reproductive, maternal, neonatal, child and adolescent health to reduce mortality and malnutrition as well as to manage population growth.⁴⁹

A multi-sectoral approach to healthcare at the forefront of social services by strengthening linkages to education through training; to water, sanitation and hygiene through disease prevention; and to tourism through medical tourism where appropriate. A resilient healthcare system with adequate contingency plans to maintain the high coverage of essential services in crisis situations; and Diversified and sustainable healthcare financing for quality service provision to all.

(d). Access to Clean and Safe Water: Towards greater accessibility, affordability and sustainability of water resources,⁵⁰ sanitation services and hygiene practices, ensuring all households and public institutions have access to safely managed water and sanitation.

Furthermore, measures have been undertaken to ensure sustainable rainwater and solid waste management. However, due to the pressure imposed by a growing population and energy-intensive economic activities, wash services face several operational challenges.

In the water sub-sector, the main challenges are related to the maintenance and operation of water supply as well as high operational costs, while in sanitation, waste is largely collected unsustainably.⁵¹

⁴⁹ World Population Day Circular – 11th July, 2023, *Unleashing the power of gender equality: Uplifting the Voices of Women and Girls to Unlock Our World's Infinite Possibilities*.

⁵⁰ Vision 2020 on water aspirations.

⁵¹ Sustainable access to safe and clean drinking water facilitated by an effective water resource management master plan and associated strategies, focusing on integrated water resources management to protect the water ecosystem, diversified potable water sources reinforced by the exploration of undersea freshwater, rainwater harvesting and reuse technologies as well as seawater desalination, optimal water supply management for agriculture, tourism, industry and other economic activities supported by continuous R&D on sustainable sources, Sustainable sanitation service provision through effective sanitation-focused interventions, including the enforcement of the 'polluter pays' principle and the construction of sewerage treatment systems for households and industry; and Strong institutional framework for the sustainable and responsible collection, processing and disposal

(e). Protection of Vulnerable Groups: Vision 2050 in promoting a happy and stable society bolstered by social wellbeing, peaceful coexistence and decent employment, focusing on protecting vulnerable groups.

Social protection concerns the opportunity for all Zanzibaris to live a decent, safe and secure life, with a particular focus on vulnerable groups, comprising the elderly, women, children and PWDs, to promote equity and inclusion.

The RGoZ has taken various steps to promote access to social protection opportunities for vulnerable people, including the provision of special residences and a pension scheme for elderly people; loans for female and youth entrepreneurs and life support for PWDs.

Another commendable action taken by the RGoZ with the support of development partners is the recognition of issues of violence against women and children through the formulation of the National Plan of Action to End Violence against Women and Children.⁵²

(f). Fighting VAWC - Plan of Action to End Violence against Women and Children⁵³. Notwithstanding the presence of this plan, women and children continued to be at risk of violence and abuse while child marriage remains a challenge in some areas. Meanwhile, despite progress in upholding disability rights, many PWDs continue to face difficulties in finding decent employment and education.

The evaluation of the Zanzibar Social Protection Policy suggests that social assistance has room for expansion. In particular, there is a need for a shock-responsive social protection scheme in crisis situations, which has been reinforced by the COVID-19 pandemic.⁵⁴

The Labour Commission is therefore tasked with upholding labour rights and participation by addressing the reduction of child labour and

of solid, liquid and hazardous waste that focuses on empowering local government authorities (LGAs) and other relevant institutions.

⁵² However, nearly 45% of Zanzibari women are employed in the informal economy and only 27.2% have right of land occupancy as of 2015, suggesting an inequitable share of economic growth.

⁵³ Vision 2050 on violence against women and children.

⁵⁴ Even with a strong safety net, individuals cannot prosper in society without decent and fulfilling employment.

youth unemployment, labour dispute settlements, employer registration and occupational health and safety.⁵⁵

The aspirations raised by Vision 2050 on Violence against women and children therefore includes equal and equitable society that protects and empowers women, children, PWDs and other people with vulnerable situations.

Extensive quality social services, including social security coverage and other safety nets for vulnerable and destitute Zanzibaris to ensure treatment, supporting fee-course shocks and livelihood risks.

Comprehensive, widely available system of social support services, including one-stop centres, for medical, legal, rehabilitative, psycho-social and other services for survivors of violence and victims of drug abuse, with adequate well-trained social welfare personnel to provide services, case management and follow up inclusive access to economic empowerment, business opportunities and wealth creation, including easy access for PWDs.⁵⁶

Inclusive, sustainable and decent employment, marked by the integration of social security as part of labour and focusing on occupational safety and health, workers' compensation, self-employment and an entrepreneurial culture.

Effective compliance to labour standards by enhancing labour relations, social dialogue and dispute resolution mechanisms to attain industrial harmony, Innovative, flexible and inclusive skills development programmes, covering work-based learning, lifelong learning and

⁵⁵ It is important that business principles uphold workers' rights in business operations, products and services as well as business relationships throughout the supply chain.

⁵⁵The Revolutionary Government of Zanzibar Strategy for Growth and Reduction of Poverty ZSGRP III (MKUZA III) 2016 - 2020 March 2017. See also Zanzibar Poverty Reduction Plan [ZPRP] (2002 - 2005), ZSGRP I (2007 - 2010) and ZSGRP II (2010 - 2016).

⁵⁶The Zanzibar Policy Guidelines for Occupational Health, November 2018, Safety and Wellbeing of Workers in the Health System Revolutionary Government of Zanzibar Ministry of Health, Zanzibar.

quality apprenticeships to create more decent employment, especially for the youth.⁵⁷

Enhanced prevention of and response to retrogressive practices, such as violence against women, children and PWDs as well as child and forced labour through the implementation of relevant national plans; and Suitable standards for the accreditation and monitoring of substance abuse treatment, supporting relevant research and technology to reduce the use of drugs and other substances.

1.5 Conclusion

Chapter one provides a snapshot of the study area and rich experience and prospects of Zanzibar for year 2024 and beyond. This chapter has briefly examined the history of Zanzibar, its geography and population as per 2022 population and housing census results and economic trend until last year and the projection for 2024.

Further, the chapter examined the political and governance system of Zanzibar by touching on political background and governance system through its three arms namely: The Executive, Legislature and Judiciary.

Also highlighted the amendment of electoral and political parties' laws with key recommendations proposed by the Presidential Task force on Multiparty Democracy as well as key issues and concerns ahead of 2025 general elections.

This chapter highlighted key human rights aspects depicted in the Zanzibar Development Vision 2050 and their implications in terms of delivery of: inclusive quality education, healthcare services, clean and safe water, and protection of vulnerable groups including persons with disabilities, women, elderly and children as well as fighting against HIV/AIDS and NCDs and VAWC at large.

CHAPTER TWO

CIVIL AND POLITICAL RIGHTS

2.0 Overview

Civil and political rights are rights that protect peoples' freedoms from infringement by governments, institutions, and private individuals. These rights involve citizens' participation in the establishment of a government and participation in political life. These rights are protected and guaranteed under international⁵⁸ and regional⁵⁹ human rights instruments, as well as the Constitution of Zanzibar.⁶⁰

Key issues affecting enjoyment of civil and political rights include: killings, press freedom violations, violence, barriers to access justice, and criminal justice challenges. In terms of public opinion, the survey team asked respondents to share their knowledge and experience related to civil and political rights by answering selected questions. Overall feedback from the Key Informants (KIIs), Focus Group Discussions (FDG), Zanzibar Legal Services Centre Survey (ZLSCs) reveals the following results and suggestions as narrated under each specific right.

⁵⁸ Key instruments include the Universal Declaration of Human Rights (UDHR) of 1948; the International Covenant on Civil and Political Rights (ICCPR) of 1966; UN Convention on the Rights of Persons with Disabilities (CRPD) of 2006; the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) of 1979; the UN Convention on the Rights of the Child of 1989; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) of 1984.

⁵⁹ Including the African Charter on Human and Peoples' Rights (ACHPR/Banjul Charter) of 1981; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (popularly known as the Maputo Protocol) of 2003; the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990; SADC Protocol on Gender and Development of 2008; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa of 2018.

⁶⁰ The Constitution contains a Bill of Rights, which guarantees fundamental human rights such as right to life, freedom of expression, freedom of assembly, right to liberty and personal security, and right to take part in governance.

2.1 Right to Life

Article 3 of the Universal Declaration of Human Rights, 1948 (UDHR) state that “*everyone has the right to life, liberty and security of person.*” Right to life is the most fundamental human right, upon which realization of other rights depends on. The right to life is protected under various international instruments such as Charter of the United Nations 1945, Universal Declaration on Human Rights (UDHR) 1948, Convention on the Prevention and Punishment of the Crime of Genocide (or Genocide Convention) 1948, International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) 1965, International Covenant on Civil and Political Rights (ICCPR) 1966,⁶¹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979. Additionally, the right to life is governed also under regional human rights instruments such as the European Convention on Human Rights, 1950;⁶² the American Convention, 1969; and the African Charter on Human and Peoples’ Rights, 1981. Further, the right to life is domestically constituted under national laws for example the Constitution of Zanzibar, 1984,⁶³ and Penal Act No. 6, 2018.

In 2024, key issues that were observed to affect right to life included mob violence-leading to some killings and road accidents. An average of 16 mob violence incidents are reported each year in Zanzibar. In 2024, road accidents were reported in Zanzibar though aggregate data could not be obtained on monthly basis.

The impact of road accidents, the majority of which are caused by negligence, can be felt at family, community, and national levels, including losing breadwinners and experts, and causing family breakdown, unemployment, and mental health problems.⁶⁴ Further,

⁶¹ PART III, Article 6 (1) of the International Covenant on Civil and Political Rights states; “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

⁶² Article 2 (1) of the European Convention stated “Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law”.

⁶³ under 13(1).

⁶⁴ Ibid.

surveyed respondents rated violation of Right to Life at 24 per cent of all human rights violations.

2.1.1 Extrajudicial Killings and Violence against Law Enforcement Officers

Law enforcement officers in Zanzibar are obligated by various international and regional human rights instruments to safeguard the lives of its citizens as well as foreigners and only use force proportionately and only when strictly necessary and to the extent required for the performance of their duty. When they do not observe this principle of proportionality and people die, they commit extrajudicial killings. Incidents of extrajudicial killings and violence against law enforcement officers are rare in Zanzibar and none of them was recorded this year.

2.1.2 Witchcraft-related Killings & Violence against Persons with Albinism (PWAs)

Unlike in Mainland Tanzania, witchcraft-motivated killings and violence against persons with albinism (PWAs) are not right to life concerns and issues in Zanzibar. Community members, including older persons, are rarely accused of witchcraft and even when this happens it does not usually escalate into violence. In 2024, no single incident of was recorded in Zanzibar.

2.1.3 Death Penalty Imposed in 2024

In many countries around the world, death penalty is seen as a violation of the right to life and deemed a cruel, degrading, and inhuman punishment under the Convention against Torture (CAT) of 1984. The death penalty has therefore been criticized by many human rights activists on the grounds that it is inhuman and against the right to life, and many countries (over 100) have moved to abolish it. However, in Zanzibar, death penalty continued to be one of the punishments in the penal laws. ZLSC could not obtain any official data on death penalty imposed in 2024.

2.1.4 Presidential Pardon for Death Row Inmates

The President of Zanzibar and Chairman of the Revolutionary Council, pardoned 25 inmates who were serving their terms in various reformatory centres in Unguja and Pemba in 2024⁶⁵. Dr Hussein Ali Mwinyi pardoned them in accordance with Section 59 of the 1984 Zanzibar Constitution, 1984 that empowers him to pardon prisoners sentenced to jail terms.⁶⁶ “It is the customary for the Honourable President of Zanzibar and the Chairperson of the Revolutionary Council to grant pardons to some inmates from reformatory facilities during Revolution celebrations,”⁶⁷

⁶⁵ Zena Ahmed Said Secretary to the Revolutionary Council and Chief Secretary said, statement that the pardon was based on the powers vested to the President under Section 29 of the constitution of Zanzibar 1984. See also *The Zanzibar Fighting Against Youth Challenges Organization (ZAFAYCO) Publisher, Writer, and Editors Publisher Legal and Human Rights Centre Justice Lugakingira House, Kijitonyama P. O. Box 75254, Dar es Salaam, Tanzania 2024.*

⁶⁶ The clemency was part of festivities to commemorate the 60th Revolution Anniversary. According to a statement released by the Chief Government Spokesperson of the government and the Director of Presidential Communication Mr Charles Hilary, 25 inmates were pardoned, out of them, 15 were from Unguja and the remaining from Pemba reformatory facilities.

⁶⁷ October 10 is the World Day against the Death Penalty. In this day the world comes together to call for the abolition of this barbaric and inhuman punishment. As a human rights organization in Tanzania and an active member of the World Coalition against Death Penalty; Legal and Human Rights Centre has been championing the protection of the right to life by campaigning for the abolition of the Death Penalty.

2.1.6 Road Accidents

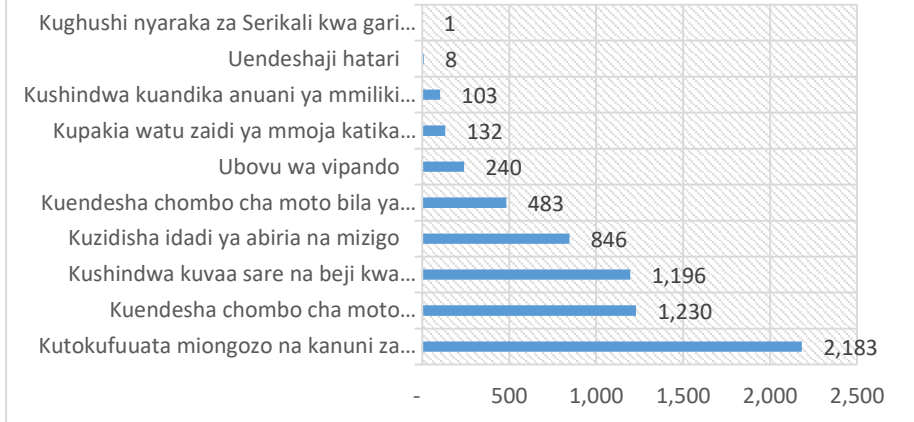


Total wreckage from a road accident in Zanzibar.

Road safety is an essential human right linked to the right to life. As a result of these accidents, citizens bear the burden after families lose their loved ones, including breadwinners and children. Such accidents are usually caused by reckless behaviour and negligence on the part of motor vehicle drivers, hence jeopardizing right to life. In August 2024, a total of 6,422 traffic offences were recorded in Zanzibar and recorded 16 accidents involving 32 victims – all men.

Major causes of such accidents were high speed and reckless driving. Kaskazini B district recorded 14 accidents and 1,178 offences (18.3%) being highest on the list and Micheweni recorded 50 offences (0.8%) at least.

Chart 1: Number and Type of Traffic Offences Recorded in Zanzibar, August 2024



The following offences were recorded as: a) Forgery of public documents, b) Dangerous driving, c) Failure to write the address of the owner, d) To carry passenger to unsecured place, e) Driving a defective motor vehicle, f) Failure to wear helmet, g) To carry luggage's greater than chassis capacity, h) Failure to wear a proper uniform, and i) Failure to comply with road regulations (Zanzibar Statistics Office 2024).

On the same note, the government has taken several measures to reduce road accidents including delivering road safety education to children.



Road safety education among children, especially primary school pupils, has been identified as crucial intervention in helping them to avoid and protect themselves from road accidents.

2.1.7 Killings of Women Motivated by Jealousy (Intimate Partner Femicides)

Tanzania has ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Maputo Protocol, which protect women from all forms of violence. There is no specific legislation on femicide or GBV in Zanzibar. Intimate partner violence (IPV) refers to killing of women by their intimate or former intimate partners, including former or current boyfriends and husbands. Intimate partner homicide (IPH) is an outcome of intimate partner violence (IPV), which is a form of violence perpetrated by one partner against another, usually in domestic settings. IPV can be physical, sexual, economic, or psychological/ emotional. Recent trends in Tanzania show an increase of incidents of killings of women, perpetrated by their spouses, mainly motivated by jealousy. In 2024, none of such incident was reported in Zanzibar.

2.2 Freedom of Expression

Freedom of Expression is defined as a right to communicate one's opinions and ideas to anyone who is willing or entitled to receive them. It includes any act of seeking, receiving, and imparting information or ideas regardless of the medium of the information used. This right is provided for and protected under various international and regional human rights instruments as well as Section 18 of the Constitution of Zanzibar, 1984.



A billboard announcing the World Press Freedom Day – which is celebrated on 3rd May every year.

UDHR declares the general principle on the right to freedom of information and expression to all individuals without any interference.⁶⁸ This includes the right to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 29 (2) and (3) contains the general limitations for all rights and freedoms contained in UDHR including the freedom of expression. Article 19 of ICCPR read as:

Everyone shall have the right to hold opinions without interference. It includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. The right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (order public), or of public health or morals.

⁶⁸ Article 19 of the Universal Declaration of Human Rights, 1948.

Article 10 of the European Convention for the Protection of Human Rights (1950), the principle of examine the freedom of expression. “Everyone has the right to freedom of expression”.

This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Article 9 of African Union, the right to freedom of expression is read as; “Every individual shall have the right to receive information as well as the right to disseminate opinion within the law.”.

In Zanzibar, there are freedom of expression laws including the Constitution of Zanzibar of 1984. The right to freedom of expression which also covers the right of free press is protected under Section 18 of the Zanzibar Constitution.⁶⁹ Additionally, the Zanzibar Constitution set out the general limitations to the rights, the Zanzibar Broadcasting Policy of 2008, and Zanzibar Information Policy of 2006.⁷⁰ Zanzibar Broadcasting Corporation Act No.4 of 2013⁷¹ examine the freedom of expression. The Cybercrimes Act of 2015 and Online Content Regulations of 2020, which contain provisions which arbitrarily restrict freedom of expression. This is because these provisions have failed to meet international human rights standards and permissible restrictions on freedom of expression. Various analyses of the Cybercrimes Act of 2015 and Online Content Regulations of 2020 by local and international

⁶⁹ Section 18(1) of the Zanzibar Constitution, 1984 which read as follows; “Without prejudice to the relevant laws of the land, every person has the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media regardless of national frontiers and also has the right of freedom from interference with his communications” more over Section 18 (2) examine that “Every citizen has the right to be informed at all times of various events in the country and in the world at large which are of importance to the lives and activities of the people and also of issues of importance to society.”

⁷⁰ The Zanzibar Information Policy of 2006 is crying for review, considering that it has been in place for 15 years. The best practice is that a policy is reviewed after three to five years. The minister responsible for information reported in 2020 that the policy was under review, but nothing has come out so far. The Media Council of Tanzania (MCT) reports suggest that the government is relaxed because of ineffective advocacy by media stakeholders.

⁷¹ Section 6 (a)-(i) of the Zanzibar Broadcasting Corporation Act No. 4 of 2013.

organizations have also shown that they contain provisions which are restrictive and fall short of international human rights standards.⁷²

Key freedom of expression issues and concerns are mainly restrictive laws and regulations and the Government promised to introduce the new media law to replace current legislations which are deemed outdated and restrictive. In 2023 key stakeholders continued to push for amendment of laws governing freedom of expression, including the media law and the penal law.⁷³ The Revolutionary Government of Zanzibar promised to introduce a new media law to replace the Registration of News Agents, Newspapers and Books Act of 1988 and the Zanzibar Broadcasting Commission Act of 1997, which stakeholders have deemed outdated and restrictive.

Last year, media stakeholders in Zanzibar identified the Zanzibar Penal Code No. 6 of 2018 as one of the laws that restrict press freedom and needed amendment.⁷⁴ They specifically mentioned Section 44(1) of the penal law, which criminalizes uttering, writing, and publishing of ‘seditious’ content, without defining ‘sedition.’⁷⁵ Zanzibar Youth Forum recommended amendment of the law to define ‘sedition’ to remove the vagueness of the crime, which is susceptible to wide interpretation and misuse.⁷⁶ In May 2023, stakeholders from across Tanzania gathering in Zanzibar to commemorate the World Press Freedom Day 2023 adopted 30 resolutions to improve media landscape in Tanzania, including the Union Government and the Revolutionary Government of Zanzibar to fast-track the process of amending media laws.⁷⁷

In 2024, ZLSC conducted community survey to tap their perception on the freedom of expression. Results suggested that 72% of surveyed respondents felt to be enjoying their freedom of expression and

⁷² Human Right Survey 2020.

⁷³ This was During the commemoration of the World Press Freedom Day 2023 in Unguja.

⁷⁴ Human Right Survey 2023.

⁷⁵ “Wadau Habari Walia na Sheria Kandamizi,” *Nipashe Newspaper*, 6th April, 2023.

⁷⁶ *Ibid.*

⁷⁷ “Wadau Waja na Maazimio 30 Uhuru wa Vyombo vya Habari” *Nipashe Newspaper*, 4th May, 2023.

assembly while 25% said they were not enjoying such right and 4% were not sure.

2.2.1 Laws Restricting Freedom of Expression and Civic Space

Last year, the government incorporated advice and suggestions made by key stakeholders to amend the existing media laws. The laws expected to be replaced by the new media law are the Registration of News Agents, Newspapers and Books Act, 1988⁷⁸ and the Zanzibar Broadcasting Commission Act,⁷⁹ which stakeholders have deemed outdated and restrictive. One of the key concerns under the former is empowering the minister responsible for information to suspend or prohibit newspaper publication in the “public interest” or the “interest of peace and order,” while in the latter is allowing government leaders to interfere with the day-to-day operations of media houses.⁸⁰

Violations of press freedom also continued to jeopardize enjoyment of the right to information for Zanzibaris. Amendment of the freedom of expression laws cannot therefore come soon enough as they also affect access to information, which is a key component of freedom of expression. To improve access to information, the Revolutionary Government of Zanzibar continued to implement various programmes, geared towards informing citizens about implementation of its various activities. These programmes include ‘*Unatekelezaje*’ and ‘*Sema na Rais Mwinyi*’.

⁷⁸ Newspapers and Books Act of 1988.

⁷⁹ Zanzibar Broadcasting Commission Act of 1997.

⁸⁰ See United Nations Office of the High Commissioner for Human Rights, Artistic freedom: Special Rapporteur in the field of cultural rights, at <https://www.ohchr.org/en/special-procedures/sr-cultural-rights/artistic-freedom>.
97. See Council of Europe, Manifesto on the Freedom of Expression of Arts and Culture in the Digital Era, at <https://www.coe.int/en/web/culture-and-heritage/manifesto-on-the-freedom-of-expression-of-arts-and-culture-in-the-digital-era>.

2.2.2 Access to the Internet Freedom

The rapid development of technology has changed the way people get information and, unless they adapt to the changes, traditional media outlets are sure to lose ground to online media, which is internet-based communication. The content shared on online media are news, interviews, stories, music video, testimonial, advertisements, marketing, social networking and even religious sermons.⁸¹

Many people in Zanzibar spend hours on social media platforms, like Facebook, Twitter, Instagram and YouTube,⁸² suggesting that digital media are becoming more popular than traditional media. As a survival instinct, mainstream newspapers and electronic media have created online links to retain their audiences. The Zanzibar Broadcasting Corporation has YouTube account and Zanzibar Newspaper Corporation has Facebook account.⁸³

According to the Zanzibar Broadcasting Commission, there are 28 online TVs operating in Zanzibar, including those of parastatal organizations and the Information Services department.⁸⁴ This shows that digital media is increasingly playing a big role in information sharing in Zanzibar.⁸⁵ However increasing role in information sharing raised concern over the growing menace of fake news in social media.⁸⁶

⁸¹ Yogesh K. Dwivedi *et al*., setting the future of digital and social media marketing research: Perspectives and research propositions *International Journal of Information Management* journal homepage: www.elsevier.com/locate/ijinfomgt.

⁸² Marwan Walid, “Traditional Media versus Social Media: challenges and opportunities,” December 2022 *Technium Romanian Journal of Applied Sciences and Technology* 4(10):145-160(10):145-160.

⁸³ See Budget Speech Minister of Information, 2021/2022.

⁸⁴ Zanzibar Broadcasting Commission, 2021.

⁸⁵ Salim, a part-time sub-editor of government weekly English newspaper, *Zanzibar Mail*, who was awarded by President Hussein Mwinyi for his contribution to the development of journalism, said only a few Zanzibari journalists can contribute well written and publishable articles to English newspapers. Salim, who retired many years back as sports editor with the Tanzania Standard Newspapers, advised media schools train new journalists on writing good English articles.

⁸⁶ The Chairman of Zanzibar Press Club, Abdallah Abdulrahman Mfaume warned against circulation of false information. “People have been posting and forwarding (raw) information through social media most of (it is) fake news, which is contrary to the law,” said Mfaume.

The advancement of technology has brought forth online platforms, which reach a large audience globally. The digital platforms registered in Zanzibar are off to a good start and making a wakeup call to the traditional media.⁸⁷ Digital media have the advantage of speed and global impact.

2.2.3 Performance in World Press Freedom Index

Zanzibar, as an integral part of Tanzania is subject to the Universal Declaration of Human Rights of 1948 (UDHR) and International Covenant on Civil and Political Rights, 1966 (ICCPR).⁸⁸ Efforts to promote the right to information started in 1946, when the United Nations (UN) passed Resolution 217A putting special emphasis on the same as a fundamental human right.

The African Charter on Human and People's Rights (ACHPR)⁸⁹ is another instrument which placed weight on freedom of expression and opinion. The document states that every individual shall have the right to receive information and the right to express and disseminate his opinions within the law. However, many countries appear to have put a limit to the African Charter and as a result the enjoyment of the freedom of expression is not complete. For example, Section 18 (1) of the Constitution of Zanzibar, 1984, guarantees freedom of expression but subject to the laws of the land, while Section 24 (1) states clearly that the human rights and freedoms can be restricted by the law enacted by the House of Representatives.

This is not only to say that the Zanzibar Constitution limits enjoyment of right to free expression but that it also negates the spirit of universality of human rights, not to mention the Treaty of East African

⁸⁷ Yogesh K. Dwivedi et al; Setting the future of digital and social media marketing research: Perspectives and research propositions *International Journal of Information Management journal* homepage: www.elsevier.com/locate/ijinfomgt accessed 16/08/2024.

⁸⁸ Articles 19 of these two documents ensure freedom of opinion and expression regardless of frontiers.

⁸⁸ African Charter on Human and People's Rights (ACHPR) of 1981

⁸⁹ Whose Article 6 (d) provides for recognition, promotion and protection of human rights.

Community (EAC)⁹⁰ This means the EAC regards the right to information as a fundamental right. There are two principal legislations governing operation of the media sector in Zanzibar: The Registration of News Agents, Newspapers and Books Act, 1988 and the Zanzibar Broadcasting Commission Act, 1997.

Under the newspapers law, the office of Registrar licenses all print media. The law empowers the minister responsible for Information to suspend or prohibit publication of a newspaper in the public interest or the interest of peace and order.⁹¹ However, the law does not define what constitutes public interest. The minister may order the suspension of or prohibit a publication for matters which do not concern the public and still purport to do that under the auspice of public interest. Currently, there is only one private newspaper in Zanzibar, and it is an e-paper, Fumba Times, the rest are *Zanzibar Leo Jumapili*, *Zaspoti*, *Zanzibar Mail* and *Zanzibar Leo Wanawake*, being governmental owned newspapers. The law empowers the President of Zanzibar to prohibit importation of any publication deemed against public interest and incriminates importers or those found with such prohibited publication⁹².

On the other hand, the Zanzibar Broadcasting Commission Act, 1997⁹³ mandates the Commission to license, regulate and supervise activities of broadcasters. Like the Registration of Newspapers Act,⁹⁴ this law is a barrier to freedom of expression because it empowers the commission to interrupt broadcasting activities. The import of this Act is that broadcasters cannot operate freely. The law further provides that the commission will set conditions for the operation of licensees, including geographical limitation.

⁹⁰ Sections 30-31

⁹² Media stakeholders have criticized the Registration of Newspapers law for non-conformity to the spirit of good governance. Responding to calls for its review during the commemoration of World Press Freedom Day in 2021, the government said a bill to rewrite the law was on the drawing board. However, the feeling among industry stakeholders is that the process is taking too long while the current legislation continues to deter would be investors in the print media

⁹³ Zanzibar Broadcasting Commission Act, 1997

⁹⁴ Registration of Newspapers Act, 1977

This condition subject's freedom of expression to geographical frontiers, contrary to Article 19 of the Universal Declaration of Human Rights of 1948, which provides for the right to impart information and ideas through media regardless of boundaries. The Broadcasting Commission has powers to suspend or revoke broadcasting license, yet it is a government organ, which is not independent. Under international standards, the broadcasting sector should be regulated by an autonomous body.⁹⁵

It is also advised that the minister of Information should have no role in supervision of the broadcasting sector. It is recommended, therefore, that Zanzibar needs an entirely new media law that guarantees freedom of expression without undue restrictions. Freedom of expression in Zanzibar is also affected by other laws, which do not deal directly with media industry, like the House of Representatives (Immunities, Powers and Privileges) Act, that prohibits reporting any proceedings of the House or any Committee held in camera. The new Zanzibar Elections Act, 2018 prohibits dissemination of election results by any person or institution before the official announcement by the Electoral Commission. It was alarming that, this is suppression of freedom of expression.

Other harmful laws to the media include the Penal Act,⁹⁶ and the Censorship and Cinematographic Exhibition Act,⁹⁷ which censors films, video cassettes (CD, DVD, HDV), and business banners, special advertisements and magazines before they go public.⁹⁸ The regulations of Broadcasting Licensing 2020 provide for the licensing of broadcasting network facilities and services. The regulations allow appeal against a decision of the commission to the minister, who is given 30 days in which to decide the appeal. Stakeholders argued that the minister should decide within two weeks, saying one month was too long to wait for it.

In 2021, Zanzibar passed the Mufti Act, establishing the office of the Grand Mufti of Zanzibar with supervisory powers over the Islamic

⁹⁵ Human Right Report Survey.

⁹⁶ Penal Act No. 6. of 2018.

⁹⁷ Censorship and Cinematographic Exhibition Act No. 1 of 2009.

⁹⁸ During the review period, the minister responsible for Information issued the regulations of Broadcasting Licensing 2020.

affairs in the Isles. The Mufti is also empowered to control and approve the importation, distribution, translation and use of Islamic books and works of Islamic art, which respondents said violates the right to convey and receive any kind of information without regard to frontiers.

The Zanzibar Information Policy of 2006 calls for review, considering that it has been in place for 15 years. The best practice is that a policy is reviewed after three to five years. The minister responsible for information reported that the policy was under review, but nothing has come out so far. The Media Council of Tanzania (MCT) reports suggest that the government is relaxed because of ineffective advocacy by media stakeholders.⁹⁹

Therefore, it is important for non-state actors to continue raising their voices to press the government to fulfil its promise to update the information policy. While it is true that some Non-Governmental Organizations have been agitating for repeal of unfriendly media laws through public awareness seminars and workshops, the civil actors should mount joint efforts to compel the government to make the change. It is encouraging that the chorus for action against the bad laws caught the attention of the Zanzibar President.¹⁰⁰

The Zanzibar media legal framework and policy have been in place for a long time and should be reviewed to address new challenges and conform to current national and international dynamics. Media institutions and journalists interviewed raised concern over the excesses in the existing laws, which undermined the constitutional right to freedom of expression. While there are promises for reform, the process is moving at a snail's pace.¹⁰¹

⁹⁹ The MCT Zanzibar staff, Ms. Shifaa Said Hassan, explained that their priority was a new media law, after which they would turn attention to the media policy.

¹⁰⁰ Dr. Hussein Ali Mwinyi during the World Press Freedom Day 2021 commemoration, prompting a promise to push the process for new legislation. According to the Director of Information Services, Hassan Khatib, the new law would be cited as the Media Services Act, borrowing the name of the much-maligned legislation applicable to Tanzania Mainland, which the government of President Samia Suluhu Hassan has promised to rewrite. The director claimed that the Zanzibar law would be “a good one” aimed at promoting freedom of speech and protect journalists from unnecessary restrictions and harassment.

¹⁰¹ Human Right survey report 2023.

2.2.4 Ban and Suspension of Media Outlets

Media stakeholders in Zanzibar have continued to discuss the need to reform laws and policies that can ensure the freedom and safety of journalists (MCT, May 2024). Although no single incident was recorded this year, in the past a ban was imposed on a media outlets in form of: suspension, harassment, intimidation, and detention of journalists. The general trend suggests that the ban and suspension of media is declining in Zanzibar.

The state of media freedom in Zanzibar as of 2024 revealed that, Zanzibar: The Media Council of Tanzania (MCT) has called on the Revolutionary Government of Zanzibar to ensure that on-going discussions aimed at revising media policies and laws result in definitive and beneficial changes for all stakeholders¹⁰². The discussion goes on to challenges faced by journalists, including threats and various obstacles, and called on the government and other stakeholders to take measures to strengthen press freedom and protect journalists' rights. The celebration aimed to raise awareness about journalists' rights and the importance of press freedom in fostering a transparent and accountable society¹⁰³ Zanzibar Press Club (ZPC) Chairman, Abdallah Mfaume, highlighted the need for laws and policies that ensure the freedom and safety of journalists, noting that the national theme focuses on environmental issues.¹⁰⁴ The MCT Vice President Yusuph Hamisi Yusuph, criticized the lack of skilled journalists in Tanzania, pointing

¹⁰² The Executive Secretary of MCT, Ernest Sungura, delivered a speech during the celebration of World Press Freedom Day in Zanzibar. In his speech, he highlighted the importance of press freedom in promoting democracy and transparency. Sungura emphasized that the media has a crucial role in ensuring that the public receives accurate and timely information.

¹⁰³ Sungura, emphasized this point today, 23rd May, 2024, during Press Freedom Day celebrations held at the Zanzibar Social Security Fund (ZSSF) hall in Zanzibar City. "We urge the government to finalize changes to Zanzibar's media policies and laws. These discussions should lead to the adoption of effective policies and laws. We want to see action because actions speak louder than words," said Sungura. The event's theme is "Freedom of the Press and Media Policy and Law Reforms in Zanzibar."

¹⁰⁴ "The national theme focuses on the environment, but we need laws and policies that guarantee our freedom and safety so we can perform our duties professionally," said Mfaume.

out that many editors are unable to write a proper stories, starting with an introduction.¹⁰⁵

2.2.5 The New Online Content Regulations of 2020

In March 2018, the Electronic and Postal Communications (Online Content) Regulations¹⁰⁶ was signed into law,¹⁰⁷ introducing new legal requirements for bloggers, internet users and online media that mostly threaten freedom of expression.¹⁰⁸ The regulations were signed into law despite objections and criticism from various stakeholders, including the media community and civil society¹⁰⁹.

The Regulations were faulted for not meeting international human rights standards, threatening media freedom, freedom of opinion and right to information.¹¹⁰ Among the external stakeholders who expressed concern over the 2018 Online Content Regulations was the African Commission on Human and Peoples' Rights;¹¹¹

To ensure that regulations do not undermine their commitment to ensure freedom of expression and access to information on the Internet and social media platforms.¹¹²

¹⁰⁵ <https://mct.or.tz/wpfdznz24en/>

¹⁰⁶ Electronic and Postal Communications (Online Content) Regulations 2017.

¹⁰⁷ The Electronic and Postal Communications (Online Content) Regulations, 2018, Government Notice No. 133, 16/03/2018, https://www.tcra.go.tz/images/documents/regulations/supp_gn_no_133_16_03_2018_epoca_online_content_regulations_2018.pdf, accessed 12th January, 2019.

¹⁰⁸ See LHRC & ZLSC (2019), *Tanzania Human Rights Report 2018*, at www.humanrights.or.tz.

¹⁰⁹ Ibid

¹¹⁰ Ibid.

¹¹¹ which is based in Banjul Gambia, urging Tanzania.

¹¹² See African Commission on Human and Peoples' Rights, Press Release on the growing trend of stringent regulation of the internet in East African States, 12 July 2018 at <http://www.achpr.org/press/2018/07/d409/>, accessed 19th December, 2018.

In July 2020, these Regulations were repealed and replaced by the Electronic and Postal Communications (Online Content) Regulations 2020.

(a). Overview of the Regulations

The Electronic and Postal Communications (Online Content) Regulations, 2020 are divided into four (4) parts. Part I covers the preliminary provisions; Part II is on license requirement; Part III provides for obligations of online content service Provider; And Part IV Provides for General Provisions, Including Prohibited Content, Powers of Tanzania Communications Regulatory Authority (TCRA), and penalties. Table 2 below highlights the contents of the Regulations.

Table 2: The Electronic and Postal Communications (Online Content) Regulations, 2020

Part & Name	Regulation
Part I: Preliminary Provisions	1. Citation 2. Application 3. Interpretation.
Part II: License Requirement	4. License. 5. Categories of license. 6. Application of license. 7. Issuance of license. 8. Suspension and revocation.
Part III: Obligations of Online Content Service Provider	9. General obligations. 10. Content service provider with district or Regional license. 11. Rights and obligations of application service Licensee. 12. Online news and current affairs licensee. 13. Internet café.
Part IV: General Provisions	14. Online content user. 15. Online content host. 16. Prohibited content. 17. Disclosure of information. 18. Children protection. 19. Powers of Authority. 20. Complaint handling.

	21. Penalties. 22. Revocation of GN. No. 133 of 2018
Schedules	First Schedule (Application for License to Provide Online Content Services). Second Schedule (Online Content Services Fees). Third Schedule (Prohibited Content).

Source: TAMWA 2024

(b). Key Concerns with the Online Content Regulations

The Online Content Regulations of 2020 contain some positive aspects, such as protection of internet and social media users from online criminal activity, fighting hate speech, promoting user responsibility and accountability and protection of children against indecent online content. On the other hand, the regulations contain provisions which hinder full realization of fundamental human rights, including freedom of expression, and contravene international human rights standards. These provisions are more restrictive than those in the repealed Online Content Regulations 2018.

Vague and ambiguous definitions and prohibitions Like the previous Regulations, the new Online Content Regulations contain words or phrases that are ambiguous and subject to misinterpretation or abuse, with potential to arbitrarily restrict freedom of expression and internet rights and freedoms:¹¹³

Everyone has the right to hold opinions without interference. Everyone has the right to freedom of expression on the Internet; this right includes the freedom to seek, receive and impart information and ideas, regardless of frontiers. The right to freedom of expression on the Internet should not be subject to any restrictions, except those which are provided by law,

¹¹³ For instance, words/ phrases such as “hate speech”, “use of disparaging or abusive words,” “cultural sensitivities”, content that causes annoyance”, “bad language”, “hate propaganda”, and “content likely to mislead or deceive the public”, are not clearly defined and/or highly subjective, leaving loopholes for arbitrary restrictions on freedom of expression.

for a legitimate purpose and necessary and proportionate in a democratic society, as consistent with international human rights standards..¹¹⁴

(c). Sweeping Powers for TCRA

As was the case in the Online Content Regulations, 2018, the regulator, TCRA, is granted sweeping powers in the New Online Content Regulations, 2020. These powers are articulated under Regulations 7, 8, and 19, including power to refuse issuing license, order removal of prohibited content, and suspend or revoke license. Consequently, internet rights and freedoms are jeopardized, given the sweeping censorship powers granted to the regulator. Ideally and in line with principles of natural justice, powers to remove content should be granted to a court of law which is vested with powers of interpreting the law. Indeed, the African Declaration on Internet Rights and Freedoms has clearly stipulated that:

The State should not use or force intermediaries to undertake censorship on its behalf and intermediaries should not be required to prevent, hide or block content or disclose information about Internet users, or to remove access to user-generated content, including those that infringe copyright laws, unless they are required to do so by an order of a court.¹¹⁵



¹¹⁴ Principle 3 of the African Declaration on Internet Rights and Freedoms.

¹¹⁵ See the African Declaration on Internet Rights and Freedoms <https://africaninternetrights.org/>.

(d). Obligation to Moderate and Filter Content

The regulations put an unfair burden on content providers to moderate and filter content, which serves to restrict flow of information and may lead to removal of legitimate content. They are also required to have in place mechanisms to identify source of content, which amounts to infringement of right to privacy and prevent people to share information anonymously (e.g. whistle-blowers).¹¹⁶ This is particularly more problematic for a content provider receiving a large amount of content, forcing them to either hire more people to review content received or reduce the amount of content that gets published. This obligation leaves loopholes for violations of rights to privacy and freedom of expression. It also contravenes standards on freedom of expression and internet rights and freedoms, including the Joint Declaration on Freedom of Expression and the Internet, and the African Declaration on Internet Rights and Freedoms. The latter provides;

Filtering, blocking, removal and other technical or legal limits on access to content constitute serious restrictions on freedom of expression and can only be justified if they strictly comply with international human rights standards relating to limitations and due process requirements.¹¹⁷

Furthermore, the State should not use or force intermediaries to undertake censorship on its behalf and intermediaries should not be required to prevent, hide or block content or disclose information about Internet users, or to remove access to user-generated content, including those that infringe copyright laws, unless they are required to do so by an order of a court.

Registration, license and fee requirements the regulations provide for mandatory registration and licensing, including registration of bloggers which is not in line with international standards on freedom of

¹¹⁶ Filtering content including reviewing every comment before they are published - may take a lot of man-hours and in some cases require technical expertise, which a content provider might not possess.

¹¹⁷ Article 19. It further provides that “No one should be held liable for content on the Internet for which they are not the author.

expression.¹¹⁸ A person can only provide online content services upon obtaining a license from TCRA,¹¹⁹ failure of which may result to a fine of not less than five million shillings or to imprisonment of twelve months or both.¹²⁰ Licenses are categorized into: license for provision of predominant news and current affairs; license for provision of predominant entertainment content; license for provision of predominant education and religious content; and simulcasting license issued to mainstream broadcasting license with national coverage rights.¹²¹

The regulations also require payment of application fees, initial license fees, annual fees, and renewal fees. These are provided for under the Second Schedule of the Regulations, whereby for news and current affairs license, one is required to pay TZS 100,000 as application fee, and TZS 1,000,000 for each of the remaining items. For entertainment license, the application fee is also TZS 100,000, while the initial license fee, annual license fee, and renewal fee are TZS 500,000 each. For education or religious content, the applicable fees are the same as those for the entertainment license.

There are also fees for simulcasting television license and simulcasting radio license, whereby for the former the application fee is TZS 50,000, and the other three fees are TZS 200,000 each.¹²² These fees are exorbitant for most Tanzanians and deprive potential or new bloggers from exercising their freedom of expression on the internet, apart from limiting flow of ideas and information.

This requirement also contravenes the Declaration of Principles on Freedom of Expression in Africa of 2002, which provides for authorities to take positive measures to promote diversity, including through availability and promotion of a range of information and ideas to the public¹²³. It also affects access to the Internet, which is also

¹¹⁸ Mandatory registration of blogs does not meet the restrictions tests of freedom of expression.

¹¹⁹ Regulation 4(1) of the Online Content Regulations, 2020.

¹²⁰ *Ibid*, Regulation 4(2).

¹²¹ 8 *Ibid*, Regulation 5.

¹²² The same fees are applicable to the latter. The duration of license is three years.

¹²³ African Commission on Human and Peoples' Rights, ACHPR /Res.62(XXXII)02: Resolution on the Adoption of the Declaration of Principles on Freedom of

necessary to promote respect for other rights, such as the rights to education, health care and work, the right to assembly and association, and the right to free elections.¹²⁴

In July 2018, the African Commission on Human and Peoples' Rights, which is based in Banjul-Gambia, issued a press release on the growing trend of stringent regulation of the internet in East African States.¹²⁵ Other measures which limit access to the Internet, such as imposing registration or other requirements on service providers, are not legitimate unless they conform to the test for restrictions on freedom of expression under international law.

Referring to licensing requirements for bloggers, the Commission stated that the regulations:

...may negatively impact the ability of users to gain affordable access to the Internet, which goes against States' commitment to protect the right of every individual to receive information, as well as the right to express and disseminate one's opinion within the law which is provided under Article 9 of the African Charter on Human and Peoples' Rights.¹²⁶

The Commission urged Tanzania to ensure that regulations do not undermine their commitment to ensure freedom of expression and access to information on the Internet and social media platforms¹²⁷

Severe and uniform punishment for failure to comply with regulations is another key concern with the 2020 Regulations,¹²⁸ is the fact that all offences under them carry a uniform punishment, as stipulated under Regulation 21. The punishment is a fine of not less than TZS 5 million or imprisonment of not less than 1 year, or both. Uniformity of punishment, regardless of whether an offence is major or minor, raises

Expression in Africa (2002), 23rd October, 2002, available at: <https://www.refworld.org/docid/51949e234.html> [accessed 27th January, 2019].

¹²⁴ See the Joint Declaration on Freedom of Expression and The Internet.

¹²⁵ For Tanzania, the Commission was particularly concerned with the adoption the Electronic and Postal Communications (Online Content) Regulations 2018.

¹²⁶ *ibid*

¹²⁷ *ibid*

¹²⁸ like it was the case with the 2018 Regulations.

a human rights concern in that punishment may not be proportionate to offence. The punishment seems to be severe and will mainly serve to instil fear in receiving and imparting information, thus further stifling freedom of expression on the internet.

A person who contravenes the provisions of these Regulations commits an offence and shall, upon conviction, where no specific punishment has been provided, be liable to a fine of not less than five million shillings or to imprisonment for a term of not less than twelve months or both.¹²⁹

Internet café owners to install cameras and record activities of internet users like it was the case in the 2018 Regulations. Under the Online Content Regulations of 2020, owners of internet cafes have an obligation to install surveillance cameras to record and archive activities of internet users. The recordings must be kept for at least 12 months. Apart from violating right to privacy, this requirement is very costly for internet café users, which may in turn affect citizens' access to internet and information as the service providers may be forced to charge higher prices. Under the Joint Declaration on Freedom of Expression and the Internet,¹³⁰ States are obligated to promote universal access to internet, which is deemed essential in promotion of respect for other rights, including rights to education, work, assembly and association.¹³¹ Consequently, this requirement is not in line with international standards on freedom of expression and contravenes the Joint Declaration on Freedom of Expression and the Internet, ACHPR, UDHR, and ICCPR:

¹²⁹ the Electronic and Postal Communications (Online Content) Regulations 2018, 21(1).

¹³⁰ See the Joint Declaration on Freedom of Expression and the Internet (signed by The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information) at <https://www.osce.org/fom/78309?download=true>, accessed 29th December 2018 95 Ibid, General Principle 6(a).

¹³¹ Wadau Wang'aka waandishi MCL Kushambuliwa" *Mwananchi Newspaper*, 24th July, 2023.

A person operating an internet café shall adhere to the following obligations- (d) install surveillance camera to record and archive activities inside the café; and (e) keep a proper service user register and ensure every person using internet service is registered upon showing a recognized identity card. (2) The images recorded by surveillance camera and the register of users recorded pursuant to sub regulation (1) shall be kept for a period of twelve months.¹³²

(e). Obligations of Application Services Licensees

The Regulations impose several obligations on application services licensees, including ordering a subscriber to remove prohibited content within two hours of receiving a notification from the regulator or a person affected. If the subscriber fails to remove the content in the specified period, then the license is required to terminate subscriber's access account. These obligations contravene freedom of expression and principles of natural justice. This procedure does not allow the subscriber the right to be heard (defend his content) and the regulator is playing the role of the court of determining legality of the content published.¹³³ Additionally, two hours, ten hours less than the amount of time stipulate in the 2018 Regulations, is not sufficient time for subscriber and content provider to take action or comply.¹³⁴

Obligations of online content hosts like application services licensees, online content hosts are required under the regulations to remove hosted content upon notification by the regulator or a person affected by content. This obligation does not meet international standards on freedom of expression and contravenes principles of natural justice such as right to be heard and defend oneself. The regulator or affected person should not play the role of determining the legality of a content, as it is

¹³² 2018 Regulations 13(1).

¹³³ Moreover, the procedure does not provide avenues for appeal or judicial review.

¹³⁴ 11(3) Where a licensee is ordered by the Authority or notified by a person affected by the content or existence of prohibited content, the licensee shall, within two hours, notify its subscribers to remove the prohibited content. (4) The licensee shall suspend or terminate a subscriber's access account where the subscriber fails to remove prohibited content within two hours.

the court of law which is best placed to do that. This provision will only encourage powerful individuals to order removal of content they deem prohibited, especially since the prohibitions carry ambiguous and vague terms.

An online content host shall adopt a code of conduct for hosting contents and ensure that prohibited contents are removed upon notification by the Authority or affected party.¹³⁵

Criminalization of defamation The Online Content Regulations of 2020 prohibit content that defames other persons and includes defamation in the definition of “hate speech.”¹³⁶ They also provide that a person who contravenes the provisions of the Regulations is liable to a fine of not less than five million shillings or to imprisonment of not less than twelve months, or both,¹³⁷ essentially criminalizing defamation. Criminal penalties, especially imprisonment, are disproportionate punishments for defamation and unnecessary in a democratic society, as civil¹³⁸ defamation is sufficient to protect reputations.¹³⁹ It has a chilling effect on freedom of expression and invites increased self-censorship.¹⁴⁰

¹³⁵ 2018 Regulations 15.

¹³⁶ Third Schedule of the Online Content Regulations, Regulation 3. See Council of Europe, Manifesto on the Freedom of Expression of Arts and Culture in the Digital Era, at <https://www.coe.int/en/web/culture-and-heritage/manifesto-on-the-freedom-of-expression-of-arts-and-culture-in-the-digital-era>.

¹³⁷ Third Schedule of the Online Content Regulations, 2020, Regulation 21(1). See Report of the Special Rapporteur in the Field of Cultural Rights, Farida Shaheed: the right to freedom of artistic expression and creativity, A/HRC/23/34, Geneva: UN, 14th March, 2013, at <https://digitallibrary.un.org/record/755488?ln=en&v=pdf>.

¹³⁸ Third Schedule of the Online Content Regulations, 2020.

¹³⁹ Human Rights Watch, Turning Critics into Criminals: The Human Rights Consequences of Criminal Defamation Law in Indonesia, 3rd May, 2020 at <https://www.hrw.org/report/2010/05/03/turning-criticscriminals/human-rights-consequences-criminal-defamation-law>, accessed 30th October, 2020.

¹⁴⁰ See Article 19, Violations of the right to freedom of artistic expression: Statistics, at https://www.article19.org/data/files/pdfs/other/Artist_infographic_for_web.pdf it states that; 1. States should ensure that their laws relating to defamation conform to the following standards: no one shall be found liable for true statements, opinions or statements regarding

According to the UN Special Rapporteur on the right to freedom of opinion and expression,¹⁴¹ the subjective character of many defamation laws, their overly broad scope and their application within criminal law have turned them into a powerful mechanisms to stifle investigative journalism and silence criticism”.¹⁴² Criminal defamation is therefore not a justifiable restriction on freedom of expression (does not meet the three-part test), and thus all criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws.¹⁴³

(f). Prohibition of Anonymity¹⁴⁴

This is contrary to international standards, including the Declaration of Principles on Freedom of Expression in Africa¹⁴⁵ which encourage anonymity to enable people to freely express their opinions and undermines protection of whistle-blowers. It also contravenes the right to privacy, which is protected under the UDHR, ICCPR, Banjul Charter and other human rights instruments. The African Declaration on Internet Rights and Freedoms stipulates that:

public figures which it was reasonable to make in the circumstances; public figures shall be required to tolerate a greater degree of criticism; and sanctions shall never be so severe as to inhibit the right to freedom of expression, including by others.

¹⁴¹ Declaration of Principles of Freedom of Expression in Africa (2002).

¹⁴² UN Commission on Human Rights, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, A/HRC/7/14, 28th February, 2008, para. 41. Joint Declaration of by the UN Special Rapporteur on freedom of opinion and expression, the OSCE Representative on freedom of the media, and the OAS Special Rapporteur on freedom of expression, “International Mechanisms for Promoting Freedom of Expression,” December 10, 2002, http://www.osce.org/documents/rfm/2002/12/190_en.pdf.

¹⁴³ Joint Declaration of by the UN Special Rapporteur on freedom of opinion and expression, the OSCE Representative on freedom of the media, and the OAS Special Rapporteur on freedom of expression, “International Mechanisms for Promoting Freedom of Expression,” 10th December, 2002, http://www.osce.org/documents/rfm/2002/12/190_en.pdf.

¹⁴⁴ Regulation 9 (e) requires a licensee to ensure that they have in place mechanisms to identify source of content.

¹⁴⁵ Declaration of Principles on Freedom of Expression in Africa (2002),

Everyone has the right to privacy online including the right to control how their personal data is collected, used, disclosed, retained and disposed of. Everyone has the right to communicate anonymously on the Internet, and to use appropriate technology to ensure, secure, private and anonymous communication.¹⁴⁶

It also stipulates that the right to privacy on the Internet should not be subject to any restrictions, except those which are provided by law, for a legitimate purpose and necessary and proportionate in a democratic society, consistent with international human rights standards (the ‘three-part’ test).

(g). Peaceful Assembly and Association Online

According to the African Declaration on Internet Rights and Freedoms, everyone has the right to peaceful assembly and association online, including through social networks and platforms.¹⁴⁷ Restriction on this right must conform to the three-part test of legality, necessity and proportionality, consistent with international human rights standards. The Regulations prohibit “content that is involved in planning, organizing, promoting or calling for demonstrations, marches or the like which may lead to public disorder.”¹⁴⁸ This provision is overly broad and essentially arbitrarily restricts freedom of peaceful assembly and association online.

(h). Simulcasting

The Online Content Regulations of 2020 contain a provision on “simulcasting,” defined as broadcasting content of mainstream media on an online platform.¹⁴⁹ Regulation 10 prohibits any mainstream content service provider with district or regional license from simulcasting content using online platforms. This provision does not

¹⁴⁶ Principle 8 of the African Declaration on Internet Rights and Freedoms.

¹⁴⁷ *ibid*

¹⁴⁸ Third Schedule of the Online Content Regulations, 2020.

¹⁴⁹ Regulation 3.

meet the three-part test for restriction of freedom of expression as it is unnecessary in a democratic society.¹⁵⁰

It is observed that to borrow the words of the African Commission on Human and Peoples' Rights in the Declaration of Principles on Freedom of Expression in Africa (2002), freedom of expression is of fundamental importance as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms. It is therefore imperative that laws and regulations that govern freedom of expression in Tanzania adhere to the Constitution of the United Republic of Tanzania of 1977 and conform to international standards on freedom of expression.

Based on current evidence, the Online Content Regulations of 2020 do not conform to international human rights standards and add to the list of restrictive laws and regulations. Moreover, the Government to oversee amendment of the Online Content Regulations of 2020 to bring them in line with the Constitution of the United Republic of Tanzania of 1977 and international human rights standards.¹⁵¹ Content Regulations, 2020 on prohibited content. Regulation 16 (1) prohibits any person from publishing any prohibited content set out in the schedule. Regulation 3 defines hate speech to include defamation, a loophole that could be used by powerful individuals and officials to act with impunity. Prohibiting 'use of disparaging words and publishing content that is satirical or fictional in nature without being labelled as such serves to further restrict peoples' freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of their choice¹⁵²

The Electronic and Postal Communications Act (EPOCA),¹⁵³ allows the portfolio minister to make and issue Regulations to govern online content, among others. In a bid to ensure proper regulation and

¹⁵⁰ It thus contravenes Article 18 of the Constitution of Tanzania, 1977 and regional and international human.

¹⁵¹ Most of these words/phrases are contained in Regulation 3 and the Third Schedule of the Online.

¹⁵² Article 19 of UDHR and Article 19(2) of ICCPR.

¹⁵³ No. 3 of 2010.

monitoring of online content services in Tanzania, the Minister for Works, Transport and Communications has revoked the Electronic and Postal Communications (Online Content).¹⁵⁴ The new Regulations came into force on 17 July 2020. To an extent, the 2020 Regulations retain the provisions of the revoked Regulations. Like the predecessor Regulations, the 2020 Regulations apply to all contents broadcasted to the public through internet websites, application software, forums, blogs, weblogs, micro blogs, public account, and instant messaging tools like WhatsApp, online live streaming, aggregators, and other related platforms like YouTube.¹⁵⁵

The 2020 Regulations introduce new categories for Online Content Licenses such as Online Content License for News Content, Educational Content, Religious Content, and Entertainment Content. This entails that Applicants for online content services licenses will now have to specify a category of license one applies for depending on the orientation of the content to be offered. Unlike the 2018 Regulations, the 2020 Regulations incorporate a list of requirements (e.g. CV, TIN, National ID, and editorial policy), which an applicant for Online Content Services License will have to furnish in support of his license application and it is to be seen how strongly these will be scrutinized. The license so issued shall be valid for 3 years and may be renewed upon expiration.

Lastly, the 2020 Regulations incorporates a third schedule on ‘prohibited content’. The schedule was not part of the revoked Regulations, but rather prohibited contents were provided for under Regulation 12 of the revoked Regulations.¹⁵⁶

¹⁵⁴ Regulations, GN. No. 133 published on 16th March, 2018 and replaced them with Electronic and Postal Communications (Online Content) Regulations 2020.

¹⁵⁵ They also retain obligations of online content service providers and related users and penalty for non-compliance, i.e. a fine of not less than TZS 5M or imprisonment for a term of twelve months or to both.

¹⁵⁶ Prohibited contents under the Third Schedule are more elaborate than under the 2018 Regulations.

(i). Arrests & Prosecution for Contravening Restrictive Freedom of Expression

Existence of restrictive laws and regulations has negatively impacted civic space in Tanzania. For journalists, these laws have created fear and increased self-censorship, owing to the vague provisions, which are open to misinterpretation and abuse, and severe penalties. Arrests and prosecutions for violating these laws and regulations have created an atmosphere of fear in realization of the right to freedom of expression.

In 2024 ZLSC the case was reported of *Abasi Juma Mkulima v. DPP*¹⁵⁷ the applicant herein ABA has preferred this Application under Section 3 (1) (a) of the High Court Act No. 2 of 1985 of the Laws of Zanzibar, reading together with Section 151 (1) of the Criminal Procedure Act No. 7 of 2018, seeking for bail pending trial of his criminal case No. 7 of 2024. The chamber application is supported by the sworn affidavit of the applicant himself dated at Zanzibar on 16th May, 2024. In brief, the applicant is charged with the offence of unlawfully possession of drugs contrary to Section 21 (1) (d) of the Act No. 8 of 2021. Upon arraignment, the applicant entered not guilty plea to the charge and was sent to custody due to the fact that, the applicant is charged under non bailable offence in accordance with the provision of Section 37(1)(d) of the Act No. 8 of 2021 which reads as follows:

32 (J) A police officer in charge of a police station or an authorized officer or a court before which a suspect or an accused person is brought or appears, shall not admit the suspect or accused person to bail if:

In his submission in support of this application Pm Guido adopted the Chamber Summons and Affidavit as part of his submission and went on to acknowledge the undisputed fact that, the applicant is charged with non bailable offence, hence he moved this court under Section 3 (1) (a) of the High Court Act No. 2 of 1985 to ask the court to determine this application for bail and to exercise its inherent powers to grant the applicant bail pending the hearing of his criminal case. His reasons for this application were that, the applicant as shown in para 8 of his

¹⁵⁷ In the High Court of Zanzibar Held at Tunguu Miscellaneous Criminal Application No. 13 of 2024 (Arising From The Regional Criminal Case No. 7 of 2024 of The High Court).

affidavit is sick and his health condition is not well as supported by the annexures in this application.

Mr. Gido further submitted that, bail is a Constitutional right under Sections 14 (2) (b) and 16 (1) of the Constitution of Zanzibar, 1984. He further submitted that, the applicant is yet to be convicted so he is presumed innocent and ought to be granted bail. Mr Gido went on to state that, Section 151 of the Criminal Procedure Act No. 7 of 2018 contravene with Constitution hence he prayed for the Constitution to prevail and the applicant be granted bail.

To support his submission, Mr Gido cited the case of *Rev. Christopher Mtikila v. AG*.¹⁵⁸ In addition Mr Gido submitted that, the applicant has no previous criminal records and is a bread winner to his family and has sureties who can meet any bail conditions. In the end of his submission, he prayed for this application to be allowed and applicant to be granted bail pending hearing of his criminal case.

In his reply Mr. Shamsi for the respondent opposed this application and went on to adopt his Counter Affidavit as part of his submission. Mr. Shamsi started by submitting that, the applicant is charged with non bailable offence under Section 151 {1} of Criminal Procedure Act No. 7 of 2018 and Section 37 (1) (d) of the Act No. 8 of 2018 both Acts restrict bail to the Applicant. The only option for bail available to the applicant is under Section 152 of the CPA and in current situation 6 months had not lapsed since the applicant was charged. The case was dismissed.

¹⁵⁸ [1995] TLR 35.

2.3 Freedoms of Assembly and Association



Public demonstration as part of exercise of freedom of assembly and association.

States are obligated to respect and refrain from interfering with freedom of assembly under international human rights law, including the International Covenant on Civil and Political Rights (ICCPR) and African Charter on Human and Peoples' Rights (ACHPR)¹⁵⁹. In 1984, the Government incorporated the Bill Rights, including freedom of assembly, into the Constitution of Zanzibar of 1984.

Freedom of Association ensures one the right to form and participate in association, either formally or informally.

It covers any form of organized groups and professional organizations like political parties, trade unions, public associations and non-governmental organizations. It involves an ability to seek and receive resources for organization for peaceful promotion and respect of human rights.¹⁶⁰

¹⁵⁹ Article 20(1) of UDHR; Article 22 of ICCPR; and Article 11 of ACHPR.

¹⁶⁰ Human Rights House Foundation: Freedom of Association at <https://humanrightshouse.org/we-standfor/freedom-of-association/> (accessed on 24th February 2019).

This right is guaranteed under the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples Rights (ACHPR), and the African Charter on Democracy, Elections and Governance, among other human rights instruments.¹⁶¹

In Africa, States have an obligation to enact a national legislation on freedom of association that facilitates and encourages establishment of associations and promotes their abilities to pursue their objectives. Members have a choice of joining and leaving associations.¹⁶²

The only restrictions on freedoms of assembly and association allowed are those prescribed by law and necessary in a democratic society in the interests of national security or public safety, public order, protection of public health or morals or protection of the rights and freedoms of others, according to ICCPR¹⁶³. Restrictions must be necessary to achieve the desired purpose and must be proportionate to the need on which the limitation is based.

Together with freedom of expression, freedoms of assembly and association are key for realization of the right to participate in governance (participation rights) in 2020, the major issues affecting freedoms of assembly and association included implementation of laws restricting such freedoms and amendment of the Basic Rights and Duties Enforcement Act (BRADEA).

2.3.1 Introduction

Everyone has the rights to freedom of peaceful assembly and association, which are essential components of democracy. The right of peaceful assembly includes the right to hold meetings, strikes, rallies, events or protests, both offline and online.

The right to freedom of association involves the right of individuals to interact and organize among themselves to collectively express,

¹⁶¹ Article 22(1) of ICCPR; Article 10(1) of ACHPR; Articles 12(3), 27(2); and 28 of the African Charter on Democracy, Elections and Governance, 2007.

¹⁶² 110 ACHPR: Guidelines on Freedom of Association and Assembly in Africa at http://www.achpr.org/files/instruments/freedom-association-assembly/guidelines_on_freedom_of_association_and_assembly_in_Africa.

¹⁶³ Article 19.

promote, pursue and defend common interests. This includes the right to form trade unions.

Freedom of peaceful assembly and of association serve as a vehicle for the exercise of many other rights guaranteed under international law, including the rights to freedom of expression and to take part in the conduct of public affairs. The right to freedom of peaceful assembly and association is protected by article 20 of the Universal Declaration of Human Rights.

2.3.2 Laws Restricting Freedoms of Assembly and Association

Freedom of assembly includes freedom to hold public rallies and peacefully demonstrate. Freedom of Association ensures one the right to form and participate in association, either formally or informally. It covers any form of organized groups and professional organizations like political parties, trade unions, public associations, and nongovernmental organizations. Both rights are protected under various international and regional human rights instruments as well as the Constitution of Zanzibar of 1984.

The main concern regarding freedoms of assembly and association in Zanzibar was restrictive electoral and political parties' legislations. In early 2023, the Government of the United Republic of Tanzania lifted a ban on conducting political rallies outside one's constituency, imposed in 2016.

This was a huge boost for freedoms of assembly and association in Zanzibar and a welcome development. However, stakeholders continued to lament existence of restrictive provisions within the Political Parties Act, which was amended in 2019, not conforming to in taskforce on multiparty democracy, released in October 2022, showed the need to amend the Political Parties Act, as well as review and amendment of the Police Force and Auxiliary Services Act (Cap 322).

A survey conducted by ZLSC in 2024, revealed that 71% of the respondents expressed to enjoy the freedom of association and assembly while 25% said were not enjoying this right and 4% were not sure.

2.3.3 Freedom of Association of NGOs

The Revolution government of Zanzibar has successfully connected 269 cooperatives (Unguja 252 and Pemba 17) to financial institutions which are CRDB 165, PBZ 60, Azania 29 and Equity 15 and enabled them to open their accounts in those banks. The goal is to facilitate access to loans as well as to have the security of saving members' money.

2.3.4 Complaints of Arbitrary Restriction of Freedom of Assembly of Political Parties

In recent years, amendment of key laws and regulations governing freedoms of assembly and association, including the Political Parties Act (amended in 2019), the NGOs Act of 2002 (amended in 2019), and the Basic Rights and Duties Enforcement Act (BRADEA), amended in 2020, has caused arbitrary restrictions on these fundamental rights.

ZLSC and other stakeholders including TAMWA continue to advocate for amendment of these laws, as they contain provisions which do not conform to international standards on freedoms of assembly and association, particularly the tests of necessity, legality, and proportionality.¹⁶⁴ For instance, by preventing NGOs from filing cases on behalf of citizens because of not being personally affected, BRADEA interferes with freedom of association of NGOs.

By doing this, the law has gravely limited the ability of public-spirited civil society organizations and individuals to defend the rights of vulnerable individuals, groups, and communities by curtailing public interest litigation, which forms part of freedom of association.¹⁶⁵ The

¹⁶⁴ Under the International Covenant on Civil and Political Rights (ICCPR) of 1966 and other key human rights standards such as the African Charter on Human and Peoples' Rights of 1981 and the Guidelines on Freedom of Association and Assembly in Africa, published by African Commission on Human and Peoples' Rights on 10th November, 2017.

¹⁶⁵ See Mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Reference: OL TZA 2/2020, 24th June, 2020 at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25391>, accessed 30th October, 2020.

2022 High Court Judgement in the case of *Onesmo Olungurumwa v. Attorney General*¹⁶⁶ on BRADEA in 2021.

2.3.5 Amendment of the Basic Rights and Duties Enforcement Act vis-a-vis Freedom of Association

Amendment of the Basic Rights and Duties Enforcement Act (BRADEA) in 2020 raised eyebrows in Tanzania and beyond, given its ramifications for human rights protection, including its curtailment of freedom of association. In June 2020, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association expressed concern over the amendments, noting that he feared the amendments gravely limit the ability of civil society and individuals to defend the rights of vulnerable individuals, groups, and communities and are in violation of Article 22 of ICCPR (freedom of association). He noted that public interest litigation forms part of freedom of association,¹⁶⁷ especially for CSOs working to protect or defend human rights and playing an important role in the society by making the voice of the voiceless heard.¹⁶⁸

¹⁶⁶ High Court of Tanzania at Dar es Salaam (Misc. Civil Cause 9 of 2021) [2022] TZHC 17011 (15 February 2022), at <https://tanzlii.org/akn/tz/judgment/tzhc/2022/17011/eng@2022-02-15>. Mr. Onesmo Olungurumwa, a human rights defender and the National Coordinator of the Tanzania Human Rights Defenders Coalition (THRDC), filed a petition before the High Court of Tanzania challenging the constitutionality of Sections 4(2), 4(3), 4(4), and 4(5) of the Basic Rights and Duties Enforcement Act. He argued that the provisions were unconstitutional for contravening Articles 13(2) & (4), 13(6) (a), 26 (1) & (2), and 30(3) of the Constitution of the United Republic of Tanzania, 1977.111 However, the High Court concurred with the Respondent in finding that the provisions do not violate the stipulated Articles of the Constitution.

¹⁶⁷ Hotuba ya Waziri wa Katiba na Sheria Mheshimiwa Dkt. Damas Daniel Ndumbaro (Mb), Akiwasilisha Bungeni Mpango na Makadirio ya Mapato na Matumizi ya Wizara kwa Mwaka wa Fedha 2023/2024, at [https://www.parliament.go.tz/uploads/budgetspeeches/1682416605-Hotuba%20ya%20mheshimiwa.%20dkt.%20damas%20Daniel%20Ndumbaro%20\(Mb.\),%20waziri%20wa%20katiba%20na%20sheria,%20akiwasilisha%20bungeni%20mpango%20na%20makadirio%20ya%20baje.Pdf](https://www.parliament.go.tz/uploads/budgetspeeches/1682416605-Hotuba%20ya%20mheshimiwa.%20dkt.%20damas%20Daniel%20Ndumbaro%20(Mb.),%20waziri%20wa%20katiba%20na%20sheria,%20akiwasilisha%20bungeni%20mpango%20na%20makadirio%20ya%20baje.Pdf).

¹⁶⁸ Hotuba ya Waziri wa Katiba na Sheria Mheshimiwa Dkt. Damas Daniel Ndumbaro (MB), akiwasilisha ungeni mpango na makadirio ya mapato na matumizi ya wizara kwa mwaka wa fedha 2023/2024 (ibid.)

He also rightly noted that the amendments contradict the national jurisprudence on public interest litigation, making reference to Articles 13(6), 26(2), and 30(3), as well as the 1994 High Court decision in the case of *Rev. Christopher Mtikila v. Attorney General*.¹⁶⁹

Apart from requiring organizations and individuals to demonstrate how they have personally been affected by a matter in order to file a public interest petition at the High Court, the amendments have been criticized for the manner in which they were made, characterized by minimum consultation of CSOs and other stakeholders.¹⁷⁰ As has been the case with other recent amendments of laws governing participation rights, stakeholders were not adequately consulted in the process of amendments of BRADEA. Only two days were allocated for stakeholder consultation, which is not sufficient time to meaningfully engage policy makers.

The Guidelines on Freedom of Association and Assembly in Africa stipulate that civil society allow citizens to pursue common purposes, participate in the political, social and cultural life of their societies, and be involved in all matters pertaining to public policy and public affairs.¹⁷¹ They also provide that drafting and amendment of national legislation on freedom of association should be on the basis of broad and inclusive processes including dialogue and meaningful consultation with civil society. Inadequate stakeholder consultation therefore contravenes the principle of meaningful consultation of civil society enunciated in the Guidelines on Freedom of Association and Assembly in Africa.¹⁷²

¹⁶⁹ See Mandate of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, reference: OL TZA 2/2020, 24th June, 2024 at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25391>, accessed 30th October, 2024.

¹⁷⁰ *Ibid.*

¹⁷¹ See Mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Reference: OL TZA 2/2020, 24 June 2020 at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25391>, accessed 30th October, 2024.

¹⁷² LHRC's View: Adequate stakeholder consultation is very important and in line with Tanzania's regional and international human rights commitments. It enables varying perspectives and smoother implementation of laws and regulations, while ensuring they conform to international human right standards. LHRC's Call: The

2.4 Rights to Equality Before the Law and Effective Remedy

Right to equality before the law requires all persons to be treated equally before the law, without discrimination, regardless of wealth, social status, or political power. All laws should be applied equally to everyone. Equality before the law includes access to justice, presumption of innocence, right to legal representation, right to fair trial, and right to effective remedy. Right to effective remedy includes bringing perpetrators to justice and providing reparation to victims. It is closely associated to the right to fair trial.

The Revolutionary Government of Zanzibar and the Judiciary of Zanzibar continued taking various measures to improve access to justice in Unguja and Pemba. However, various key challenges persisted. Community stakeholders identified several barriers to access to justice, key among them being corruption, followed by lengthy court proceedings, costs of legal representation, and low awareness about laws. Corruption was also mentioned as the biggest challenge in criminal justice, followed by delays in investigation, lengthy pre-trial detention, and delays in disposal of cases.

Zanzibar has its legal framework and a constitution which governs non-union matters.¹⁷³ Zanzibar also has its own Legislature mandated to legislate on all non-union matters. Zanzibar has an independent Judiciary consisting of the High Court of Zanzibar and subordinate courts but shares the Court of Appeal with the Mainland. Zanzibar has its Law Review Commission, whose responsibility, among others, is to review laws.

2.4.1 Introduction

The Constitution of Zanzibar of 1984 recognizes the right to equality before the law.¹⁷⁴ The right to effective remedy is provided for where

Government to ensure adequate stakeholder consultation and refrain from making or amending laws and regulations that affect human rights through an expedited procedure under the certificate of urgency, so that there is meaningful consultation.

¹⁷³ 25 Article 12 clauses (4) and (5) of the Constitution provides that all persons are equal before the law and no person shall be discriminated based on gender

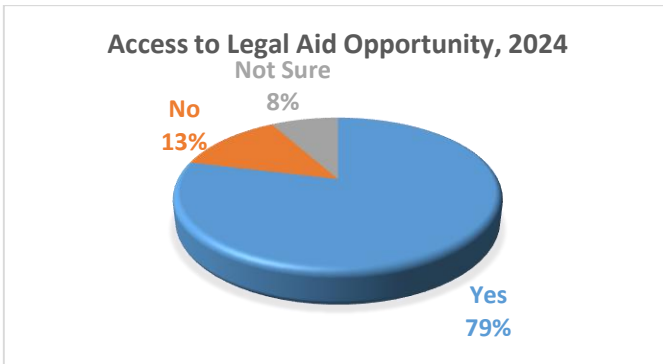
¹⁷⁴ Section 12 of the Constitution of Zanzibar, 1984.

other rights of an individual have been violated.¹⁷⁵ Rights derived from these two rights include: access to justice, right to legal representation, right to presumption of innocence and right to fair trial.¹⁷⁶

In 2024, key issues affecting the rights to equality before the law and effective remedy in Zanzibar included various barriers on access to justice and criminal justice challenges. The Revolutionary Government of Zanzibar and the Judiciary of Zanzibar continued taking various measures to improve access to justice in Unguja and Pemba. However, various key challenges persisted.

Community stakeholders identified several barriers to access justice, key among them being corruption, lengthy court proceedings, costs of legal representation, and low awareness about laws. Corruption was also mentioned as the biggest challenge in criminal justice, followed by delays in investigation, lengthy pre-trial detention, and delays in disposal of cases.

2.4.2 Access to Justice



The Revolutionary Government of Zanzibar and the Judiciary of Zanzibar continued taking various measures to improve access to justice. These included using ICT to enhance administration of justice, including through digital justice systems such as i. (E-Wakili) and Zan ii; use of Swahili Language in case hearings; construction and

¹⁷⁵ Article 2(3) (a) of ICCPR.

¹⁷⁶ See Article 14(3) (b) of the Constitution of Tanzania 1977; Article 7(1)(c) of ACHPR; and Article 14(3)(d) of ICCPR.

renovation of court buildings; provision of legal aid; and increased disposal of cases.¹⁷⁷

There was also reported increase of use¹⁷⁸ of electronic systems such as the Case Management System and the Islamic Inheritance Management System.¹⁷⁹ Regarding provision of legal aid, in May 2023, the Minister of the President’s Office, Constitution, Legal Affairs, Public Services and Good Governance, Hon. Haroun Ali Suleiman, revealed that Zanzibar had launched and started conducting the *Mama Samia Legal Aid Campaign* in Unguja and Pemba.¹⁸⁰ In May, it was also reported that the Ministry of Constitutional and Legal Affairs and the Judiciary of Zanzibar were in the final stages of developing *e-Mahakama*.¹⁸¹ It was also reported that the Judiciary of Zanzibar had commenced construction of seven court buildings. All these efforts have been carried out to facilitate enhancement of access to justice in Zanzibar.

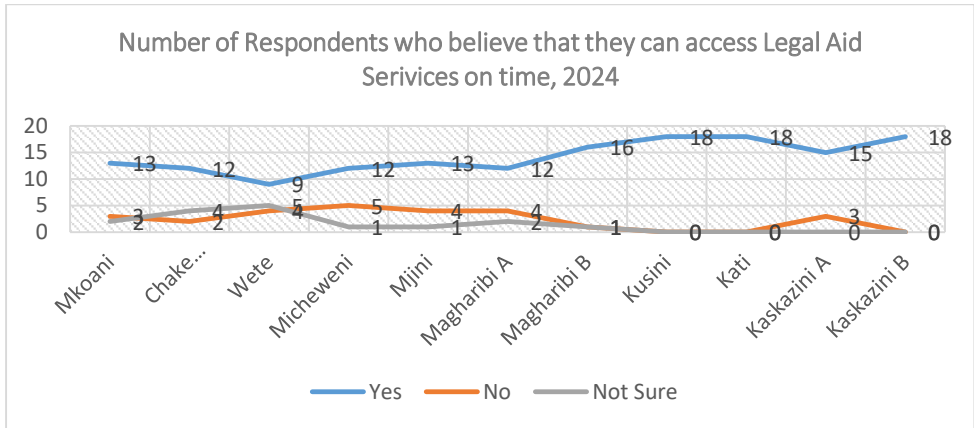
¹⁷⁷ See Hotuba ya Jaji Mkuu wa Zanzibar Mhe. Khamis Ramadhan Abdalla Katika Ufunguzi wa Mkutano Mkuu wa wa Mwaka 2023, At <https://Judiciaryzanzibar.Go.Tz/Web/Posts/8>; Serikali ya Mapinduzi ya Zanzibar Afisi ya Rais - Katiba, Sheria, Utumishi na Utawala Bora Hotuba ya Waziri wa Nchi - Afisi ya Rais - Katiba, Sheria, Utumishi na Utawala Bora Mwl. Haroun Ali Suleiman (Mbm) Katika Baraza la Wawakilishi Kuhusu Makadirio ya Mapato na Matumizi Kwa Mwaka wa Fedha 2023/2024 Mei, 2023, At <https://www.zanzibarassembly.go.tz/storage/documents/budgets/all/1684481350.pdf>.

¹⁷⁸ See Hotuba ya Jaji Mkuu wa Zanzibar Mhe. Khamis Ramadhan Abdalla Katika Ufunguzi wa Mkutano Mkuu wa Zajoa wa Mwaka 2023, At <https://Judiciaryzanzibar.Go.Tz/Web/Posts/8>; Serikali ya Mapinduzi ya Zanzibar Afisi ya Rais - Katiba, Sheria, Utumishi na Utawala Bora Hotuba ya Waziri wa Nchi - Afisi Ya Rais - Katiba, Sheria, Utumishi na Utawala Bora Mwl. Haroun Ali Suleiman (Mbm) Katika Baraza la Wawakilishi Kuhusu Makadirio ya Mapato na Matumizi kwa Mwaka wa Fedha 2023/2024 Mei, 2023, At <https://www.zanzibarassembly.go.tz/storage/documents/budgets/all/1684481350.pdf>.

¹⁷⁹ *ibid*

¹⁸⁰ *ibid*

¹⁸¹ “E-Mahakama yanukia Zanzibar,” *Mwananchi Newspaper*, 20th May, 2023.



A survey conducted by ZLSC in 2024 found that, at least 79% of respondents said that they have information of existence of legal aid opportunities, while 13% said no and 8% were not sure.

However, Community members reached by ZLSC’s survey mentioned corruption as the biggest barrier to access justice, making 8% of all reported incidents, followed by Lack of Liberty 7 %, Delayed Justice (4%) Low awareness about laws among community members and high costs of legal representation have largely limited their capacity to access justice.

Low awareness about rights was also mentioned as a challenge in accessing and obtaining justice in all surveyed districts. Lack of adequate funding is indeed a big challenge for sustainability of paralegal and legal aid services while ZLSC also observed that the Legal Aid Act No. 13 of 2018 is also presenting challenges in recruitment and training of new paralegals in terms of high costs of doing so.

Criminal justice institutions with arresting powers were said to usually use excessive force when arresting suspects, causing them pain and suffering. Surveyed community members reported cases of Torture at 6% Corruption was identified as the most serious problem in criminal justice by the majority of community members, nearly 8%, delays in disposal of case 4% and lengthy.

Zanzibar Anti-Corruption and Economic Crimes Authority (ZAECA) is the Institution of Revolutionary Government of Zanzibar established

under the Zanzibar Anti-corruption and Economic Crimes Act No. 5 of 2023. It has been designed to carry out investigations on corruption and economic crimes, to educate the public about corruption and economic crimes and their effects for the purpose of involving public to prevent corruption and economic crimes and changing of people's attitude towards corruption, to conduct researches and advise public and private institutions on how to curb corruption and economic crimes.¹⁸²

Additionally, the President of Zanzibar, H.E Dr. Hussein Ali Mwinyi, continued engaging with citizens of Zanzibar through a programme and system called *Sema na Rais Mwinyi (SNR)*.¹⁸³ Through this system, Zanzibaris can file their complaints and explain various challenges they face by calling, sending short texts, or sending messages through the website. There is a team of people who analyze the complaints and refer them to relevant institutions for action, including resolution, where there is a dispute. A total of 10,434 complaints have been received since the system was established, of which 79.6% were resolved. For the financial year 2022/2023, a total of 2,128 complaints were received, of which 66% were resolved.

Despite increased efforts to enhance access to justice in Zanzibar, citizens especially the indigents have continued to experience several barriers such as: corruption, lengthy court proceedings, low awareness about laws and legal procedures, and high costs of legal representation.

2.4.3 Criminal Justice; Key Issues and Concern

Calls for criminal justice reforms in 2023, stakeholders continued to demand criminal justice reforms to safeguard the right to equality before the law and the right to liberty and personal security, which are fundamental human rights guaranteed under various international and regional human rights instruments as well as the Constitution of Zanzibar of 1984.

One of the platforms they used in this regarding in 2023 were meetings organized and conducted by the 12-member team formed by H.E.

¹⁸² <https://zaeca.go.tz/>

¹⁸³ Serikali ya Mapinduzi ya Zanzibar, Hotuba ya Waziri wa Nchi Afisi ya Rais - Ikulu Mheshimiwa Jamal Kassim Ali Kuhusu Makadirio ya Matumizi ya Fedha Kwa Mwaka wa Fedha 2023/2024, Mei 2023, At <https://www.zanzibarassembly.go.tz/storage/documents/budgets/all/1684225211.pdf>.

Samia Suluhu Hassan, President of the United Republic of Tanzania, in July 2024 to investigate the performance of criminal justice institutions in the country and advise on the best way to improve the performance of Zanzibar criminal system.

Most of the grievances regarding the criminal justice system that were aired by stakeholders in 2023 were directed to the Police Force and the Judiciary, calling for restructuring and reforms.¹⁸⁴ Key concerns included arbitrary arrests and detentions, lengthy pre-trial detention, and corruption. Others also lamented delays in investigations, calling for a time limit to be set for completion of investigations.

2.4.4 Criminal Justice Reforms Commission

Specific concerns for Zanzibar regarding the criminal justice system were; the issue of presidential pardon granted by the President of the United Republic of Tanzania not covering prisoners in Zanzibar; sessions of the Court of Appeal of Tanzania; combating corruption and drug abuse; collaboration between the Police Force, the Zanzibar Navy, and the *Kikosi Maalum cha Kuzuia Magendo (KMKM)* Special Unit; and the Zanzibar Correctional Facilities.

The prisoners in Zanzibar need to be qualified for presidential pardon issued each year by the President of the United Republic of Tanzania. The complained about lack of Court of Appeal sessions in Pemba, noting that they are only conducted in Unguja. They recognized the magnitude of the problems of corruption and drug abuse in Zanzibar, hence recommended merging the relevant institutions from both parts of the union to better address the problems.¹⁸⁵

The commission recommended not making any changes regarding the issues of presidential pardon and having separate institutions in Mainland and Zanzibar dealing with corruption and drug abuse because

¹⁸⁴ Kero polisi, mahakama zatawala” *Mwananchi Newspaper*, 13 Apr 2023; “Walalamikia Utendaji Polisi, Wakosa Imani” *Nipashe Newspaper*, 13th April, 2023.

¹⁸⁵ There is a need to strengthening collaboration between the Police Force and the KMKM Special Unit to better combat criminal activities in the Indian Ocean and restructuring of the Zanzibar Correctional Facilities in line with recommendations provided in the commission’s report.

they are non-union matters. It also did the same for the issue of Court of Appeal sessions perceptions on criminal justice challenges.

In recent years, government and non-government stakeholders have made repeated calls for criminal justice reforms in order to address various challenges in administration of criminal justice. Community stakeholders pointed out several challenges in the criminal justice system.¹⁸⁶

2.4.5 Lengthy Detention of Remandees in Prisons and Constant Adjournment of Cases Jeopardizing

The reforms have been made to Tanzania’s criminal justice system, observing that a significant number of the violations of people’s basic rights are the direct result of unfair and unjust laws governing the justice system in the country.¹⁸⁷ As far as Tanzania’s criminal justice system is concerned, the Survey names lengthy pre-trial detention as “the biggest challenge facing remandees.” Respondents, including community members, lawyers, and NGO officials, pointed out that lengthy pre-trial detention of remandees is “a serious challenge in Tanzania,” contributing to prison overcrowding and violation of the fundamental rights of accused persons.

Delays in investigations in Zanzibar and disposal of cases was cited as a serious problem by nearly two-thirds of the community stakeholders (64.6% for delays in investigation, 63.1% for delays in disposal of cases). Also, the Ministry of Constitutional and Legal Affairs and the Judiciary should take measures to address this problem, including having net controls against abuse of investigation processes. This, the Survey says, includes requiring completion of investigation before a case is brought to court and demanding an increased pace of

¹⁸⁶ These challenges include corruption, which was mentioned as the biggest challenge (82.7%); delays in investigation (64.6%), lengthy pre-trial detention (63.6%), and delays in disposal of cases (63.1%).

¹⁸⁷ The call is part of the recommendations contained in the 2021 Human Rights Report by the Dar es Salaam-based advocacy group launched on Monday at the Serena Hotel in Tanzania’s commercial capital of Dar es Salaam and attracted participants from a wide range of human rights stakeholders in Tanzania.

investigation by setting a minimum time within which a case has to be heard from the date when it was filed.¹⁸⁸

2.4.6 Right to be Presented Promptly before the Court

International Convention on Political and Civil Rights is a multilateral treaty adopted by the United Nation General Assembly on 16th December, 1966 and came into force ten years later on 23 March 1976. Article 10 of the International Covenant on Political and Civil Rights, ICPCR 1966 examine the same.¹⁸⁹

Article 14(3) read together with Article 10 above vividly provide for the need of legal assistance for any accused person. It states in paragraph (d) that the accused to be tried in his/her presence or through his legal assistance of his own choosing or if he cannot afford any, he/she should be provided with such assistance without charges. This provision not only guarantees legal assistance to the accused but also give the assurance of the legal aid to the accused persons. The United Republic of Tanzania being a party to the treaty has the obligation to ensure that the spirit and the provisions of the Convention are abided by in good faith under the doctrine *pacta sunt servanda*.

The Assembly of Heads of State and Government of the Organization of African Unity in 1981 meeting in Nairobi, Kenya, adopted the African Charter on Human and Peoples' Rights.¹⁹⁰ The African Commission is composed of 11 members elected by the Assembly, to promote and protect the rights set forth in the Charter. The provisions of the charter are similar to those of the Universal Declaration of Human Rights but with special reference to African traditions of rights and freedoms, including the right of people to self-determination and the right to dispose of their natural resources.¹⁹¹

¹⁸⁸The Chapter which came into force five years later after its adoption do provide for African Commission on Human and Peoples' Rights. The Chapter which came into force five years later after its adoption do provide for African Commission on Human and Peoples' Rights.

¹⁹¹ Jesse, J., *Basic Principles of Human Rights and Selected Cases*, (Vol. 1.) ,Dar es Salaam: Theophilus Enterprises, p. 47.

This regional instrument has been very loud on the protection of human rights. One of its vital provisions on the right for fair hearing is Article 7 which states that every individual shall have the right to have his cause heard, i.e., the right to defense including the right to be defended by counsel of his choice.¹⁹² It is quite obvious from the provision that the issue is not only about right for legal counsel but the right of the parties to choose who to represent them in their cases. This would promote freedom of choice by the accused persons however the provision seems to be limited to criminal cases only.

In the case of *National Bank of Commerce v. Vitalis Ayembe*,¹⁹³ stated that a person holding valid power of attorney can appear in court on behalf of the party to the suit. Rule 1 of Order 3 states that any appearance by a party to the suit may be made or done by a party in person or by his recognized agent or advocate, duly appointed to work on behalf of such party.¹⁹⁴

The doctrine of rule of law demands that all actions of the state affecting the rights and life of individual in the civil society should conform strictly to procedures and limitation prescribed by law. This doctrine was formulated by a French jurist known as A.V. Dicey¹⁹⁵ who provided fundamentally two meanings to the rule of law. Firstly, he strongly advocated for absolute supremacy or predominance of regular law as opposed to the influence of arbitrary powers and legislation. This principle implies that those who exercise the powers of the State should not rule by personal whims but by the law. Sources of authority or powers should be the law. This principle also incorporates the rule that nobody should undergo punishment except by breach of law which is known. *Thus, the state should not enact laws with retrospective effect.*

Secondly, Dicey stated that there must be equality before the law. This means that all classes of people without regard to their colour, status, religious or political inclinations should be treated equally before courts of law. It is now widely accepted that the Rule of law is the cornerstone of the modern democratic states. It therefore means that the

¹⁹² Article 7 (1) (c) of the African Charter on Human and Peoples' Rights, 1981.

¹⁹³ *National Bank of Commercial v. Vitalis Ayembe*, High Court of Tanzania at Mwanza Civil Case No. 37 of 1988 (Unreported).

¹⁹⁴ Order III, Rule 2 (a) of CPC, Cap 33 [R.E. 2002].

¹⁹⁵ Referred to by Jesse, J.M., *Lecture Series on Public Law, Faculty of Law, Dar es Salaam: School of Law, University of Dar es Salaam*, p. 12.

right to legal representation should be available to everyone irrespective of his or her economic status in the society and if someone is unable to afford the cost for legal representation then there should be a mechanism geared towards facilitating the availability of such services even to the poor so as to enable them have equal treatment before the law.¹⁹⁶

The father of the nation, Mwalimu.K. Nyerere once said that the rule of law is the basis of which the freedom and equality of citizens in Tanzania and it must remain the foundation of the State.¹⁹⁷ Equally Justice Samatta, J.K. while dismissing the maxim '*the King can do no wrong.*'

2.4.7 Plea Bargaining and its Challenges

Plea bargaining has existed in the Zanzibar Criminal Procedure since 2004. Enshrined under Section 254 of the Criminal Procedure Act, 2004¹⁹⁸ which has now been repealed. However, its existence had not been put into use. Section 244-246 of the Criminal Procedure Act No. 7 of 2018 incorporated the Plea-bargaining agreement giving the right of initiation to accused persons and their advocates while tying the hands of the Director of Public Prosecutions who is on behalf of the state. In Zanzibar, the greatest drawback among others in the administration of criminal justice system is the delay of cases disposal. The presence of this concept in the Laws of Zanzibar has not reached its core aim as to why use plea bargaining because the society and the stake holders have less knowledge on the significance of incorporating the agreements in the administration of criminal justice.

The delay in application of this principle has not only increased the number of cases but the burden of backlog cases as well. Challenges of putting this principle into use are not only faced by the victims who

¹⁹⁶ Thus, the rule is a composite concept which guarantees that the powers of the public authority are implemented within certain defined legal limits which must be consistent with certain principles, such as observation of human rights and the basic human rights in Tanzania has obtained constitutional baptismal via fifth amendment to the 1977 Constitution

¹⁹⁷ Nyerere, Julius K., *Freedom and Unity, A Selection from Writings and Speeches 1952-1965*, Dar es Salaam, Oxford University Press, 1966, p. 298-299.

¹⁹⁸ Act No. 7 of 2004.

have not been considered during enactment of the law but the accused persons as well who opt to plea on offences just to get out of custody and be free. Putting the right forum of application will motivate stake holders to put it in application for the better administration of criminal justice. The findings show that plea bargaining concept in Zanzibar needs to be reassessed by the Law-making organ and stakeholders because there are a lot of merits involved in its use as compared to the challenges involved. Important not only to the society, the prosecutors and victims of crimes but also to establish a better system in administration of criminal justice.¹⁹⁹

2.5 Right to Liberty and Personal Security

Key issues affecting the right to liberty and personal security in Zanzibar include: safety and security concerns, bail, delays in investigations, and trumped-up charges. In September 2023, the Police Force in Zanzibar stated that there had been an increase of criminal activities in Zanzibar, and that this was partly contributed by citizens not showing up in court to provide testimony.

2.5.1 Introduction

Section 14 of the Constitution of Zanzibar, 1984 guarantees the right of every person to be free and to live like a free person. It is also an essential human right, guaranteed under regional and international human rights instruments, including UDHR and ICCPR.²⁰⁰ The overall purpose of this Section in Zanzibar Constitution is to ensure that no one should be dispossessed of his liberty in an ‘arbitrary fashion’. Key issues affecting the right to liberty and personal security in Zanzibar include: safety and security concerns, bail, delays in investigations, and trumped-up charges.

¹⁹⁹ *International Journal of Law* www.lawjournals.org ISSN: 2455-2194 Received: 14-11-2023, Accepted: 30-11-2023, Published: 16-12-2023 Volume 9, Issue 6, 2023, Page No. 214-218 Assessment of plea-bargaining agreements in the administration of criminal justice in Zanzibar Saada Ali Mohamed1 , Sikujua Omar Hamdan 2 1 Faculty of Law, Zanzibar University, Zanzibar 2 Lecturer of Law, Faculty of Law, Zanzibar University, Zanzibar

²⁰⁰ 977 Article 3 of UDHR; Article 9(1) of ICCPR.

2.5.2 Personal Security of People at Risk

In 2023 the Police Force in Zanzibar stated that there had been an increase of criminal activities in Zanzibar, and that this was partly contributed by citizens not showing up in court to provide testimony.²⁰¹ It also pointed out that some people decided against filing a case in court or have it dismissed for fear of retaliation by the perpetrators of crime. ZLSC has also observed that some people, especially youth, are driven to crime due to economic hardships, peer pressure, and drug abuse.

2.5.3 Arbitrary Arrests and Detention

International human rights law prohibits arbitrary arrests and detention. According to the ICCPR. “Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”²⁰² Accused person must also not be discriminated against, must be allowed to communicate with family, and presumed innocent until proven guilty in court.²⁰³

2.6 Right to Bail

Right to bail is guaranteed under the constitution of Zanzibar of 1984 and the criminal procedure Act. CAP 20. Bail can be granted by police following an arrest and/or by a court of law. However, denial of bail is still a concern for citizens and human rights stakeholders.

2.6.1 Present Situation and Right to Bail

The delays in investigations and disposal of cases is a concern for community stakeholders.²⁰⁴ Delays in investigations and disposal of cases was cited as a serious problem though data for 2024 was not available by the time this survey was conducted by ZLSC so that we

²⁰¹ “Polisi Yataja Chanzo cha Kushamiri kwa Matukio ya Uhalifu” *Nipashe Newspaper*, 26th September, 2023.

²⁰² See Article 9(2) of ICCPR of 1966.

²⁰³ See ICCPR and Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted by the UN General Assembly in resolution 43/173 on 9th December, 1988 at New York.

²⁰⁴ Human Right Report 2022.

could collect actual data to measure the magnitude of the problem and trend in Zanzibar. Data available, estimated that, 64.6 per cent of surveyed community stakeholders reported delays in investigation and 63.1 per cent reported delays in disposal of cases. Further, denial of bail was a concern for community stakeholders whereby, 40 per cent of stakeholders said denial of bail was a serious problem in the community, while 24.5 per cent said it was a problem, and 35.5 per cent of respondents it was moderate²⁰⁵

2.6.2 Trumped-up Charges and Delays in Conducting Investigations

In 2023, the report of the Presidential Commission on Criminal Justice Reforms revealed that there had been several complaints against the Police Force made by citizens, most of them lamenting the habit of some police officers slapping them with trumped-up charges and demanding bribe. One of the citizens, resident of Kikaangoni Ward, said her son had been imprisoned based on a trumped-up charge of rape.²⁰⁶

2.6.3 Human Trafficking

According to the United Nations (UN), human trafficking is generally understood and refers to the process through which individuals are placed or maintained in an exploitative situation for economic gain.²⁰⁷ Trafficking can occur within a country or may involve movement across borders. Women, men, and children are trafficked for a range of purposes, including forced and exploitative labour in factories, farms and private households, sexual exploitation, and forced marriage.

According to the United Nations Office on Drugs and Crime (UNODC), there are three key elements of human trafficking, namely an act, means used to commit an act, and purpose (reason for the act). In 2024, human

²⁰⁵ Human Right Report 2023

²⁰⁶ “Tume Hakijina Yaibua Malalamiko Zanzibar” *Habari Leo Newspaper*, 10th August, 2023.

²⁰⁷ See The Office of the United Nations High Commissioner for Human Rights, Human Rights and Human Trafficking, Fact Sheet No. 36 at https://www.ohchr.org/Documents/Publications/FS36_en.pdf, accessed 15th October, 2020.

trafficking continued to be a concern in Zanzibar, despite the incidents of human trafficking not usually being reported. ZLSC has observed that non-reporting of such incidents is largely contributed by lack of awareness about human trafficking among citizens. Women and children are more vulnerable to human trafficking. In 2023, there were at least 8 reported incidents of human trafficking, all reported in Unguja.²⁰⁸ It was also reported that 117 victims of child trafficking (115 girls, 2 boys) had been rescued and placed at safe houses.²⁰⁹

2.7 Right to Take Part in Governance

”Article 21(1): Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.” This right is embedded in the Constitution of Zanzibar of 1984, and the government is committed to promote and protect rights of her citizens so that they can fully enjoy it without and form of discrimination.

The main issue affecting enjoyment of the right to take part in governance was gaps in relevant laws and regulations, including gender gaps. Most of these barriers exist in electoral laws, including the Political Parties Act and Elections Act (CAP 343 R.E 2015). However, in November 2023, three bills were tabled in Union Parliament for first reading, namely the Presidential, Parliamentary and Local Government Elections Bill; the Political Parties Affairs Laws (Amendment) Bill; and the National Electoral Commission (NEC) Bill.

Despite of the above, women participation in democratic processes continued to be hindered by various socio-economic and legal hurdles, including gender gaps in electoral and political parties’ laws. Violence Against Women in Politics (VAWP), inadequate support from political

²⁰⁸ Serikali ya Mapinduzi Zanzibar Wizara ya Maendeleo ya Jamii, Jinsia, Wazee na Watoto Hotuba ya Waziri wa Maendeleo ya Jamii, Jinsia, Wazee na Watoto Mh. Riziki Pembe Juma (MBM) Kuhusu Makadirio ya Mapato Na Matumizi ya Mwaka wa Fedha 2023/2024. MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1685027953.pdf>.

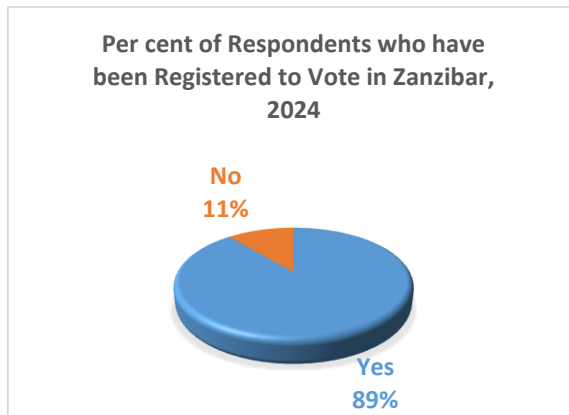
²⁰⁹ Serikali ya Mapinduzi Zanzibar Wizara ya Maendeleo ya Jamii, Jinsia, Wazee na Watoto Hotuba ya Waziri wa Maendeleo ya Jamii, Jinsia, Wazee na Watoto Mh. Riziki Pembe Juma (MBM) Kuhusu Makadirio ya Mapato na Matumizi ya Mwaka wa Fedha 2023/2024. Mei, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1685027953.pdf>

parties, and inadequate representation in party decision making structures. Key concerns for women as we head towards the 2025 general election.

Women also face various barriers to access justice, including not knowing where to file a complaint, poverty and costs of legal representation, patriarchy, low legal awareness, corruption, discriminatory customs and traditions.

Women are encouraged to step forward and participate in political processes and elections, especially in seeking various leadership positions. Women are unfairly represented in political and democratic leadership in Zanzibar, representing only 38 per cent of the House of Representatives.²¹⁰

2.7.1 Right to Vote and Stand for Election

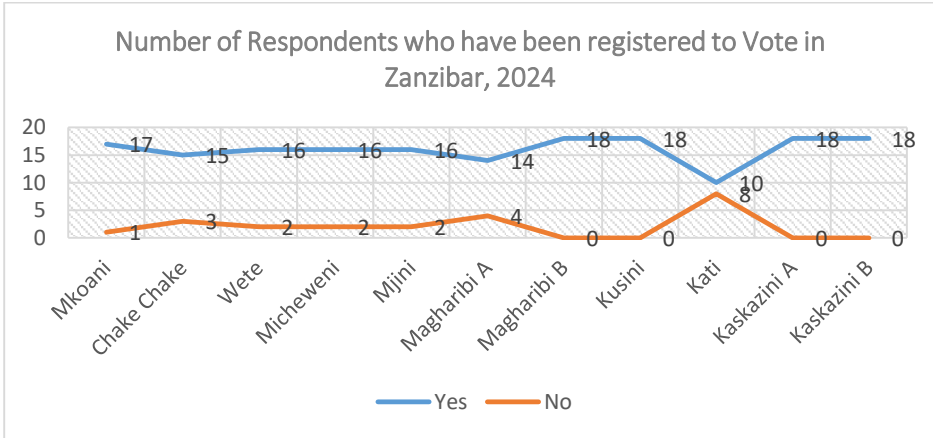


Section 6 of the Zanzibar Electoral Commission Act, No. 1 of 2017, empowers the Zanzibar Election Commission to demand any information relating to national security from any person or institution the Election Commission reasonably believes has that information.

Failure to provide the Election Commission with the requested information without a reasonable excuse, or provide false information is an offence. The penalty, on conviction, is a fine, imprisonment or

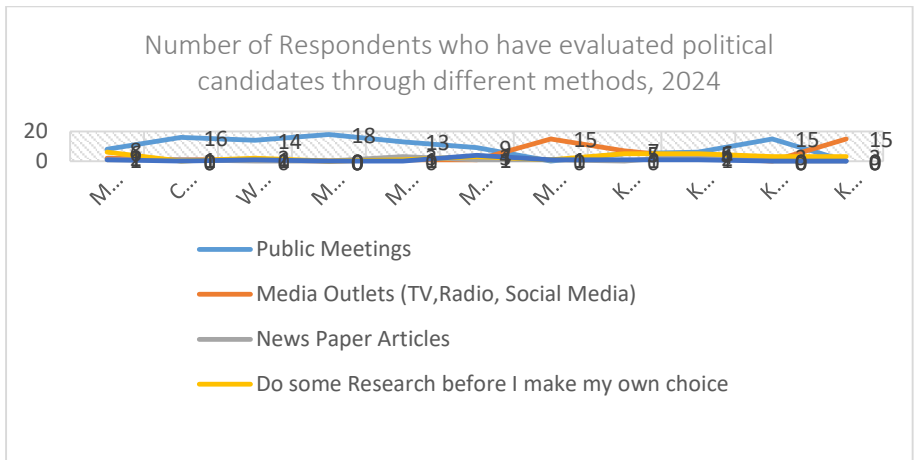
²¹⁰ The organisations – Tanzania Media Women’s Association in Zanzibar (TAMWA – Z), Zanzibar Female Lawyers Association (ZAFELA) and Pemba Environmental and Gender Protection Community (PEGAO) – issued the circular on 5th October, 2023.

both. In 2024, ZLSC conducted community survey both in Unguja and Pemba. Results suggest that, at least 89 per cent of respondents were registered to vote for general election while 11 per cent were not registered until August 2024.



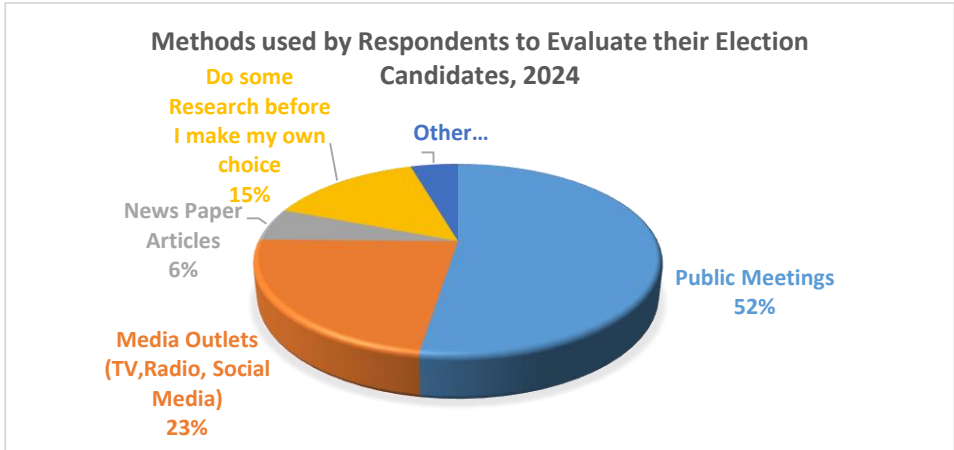
Those who said were not registered, some were below 18 years of age by the time of registration, some had relocated from the original stations and some had no Zanzibari’s Identity Card (Zan Id).

The survey also asked citizens which methods or means do they use to evaluate political candidates before election.

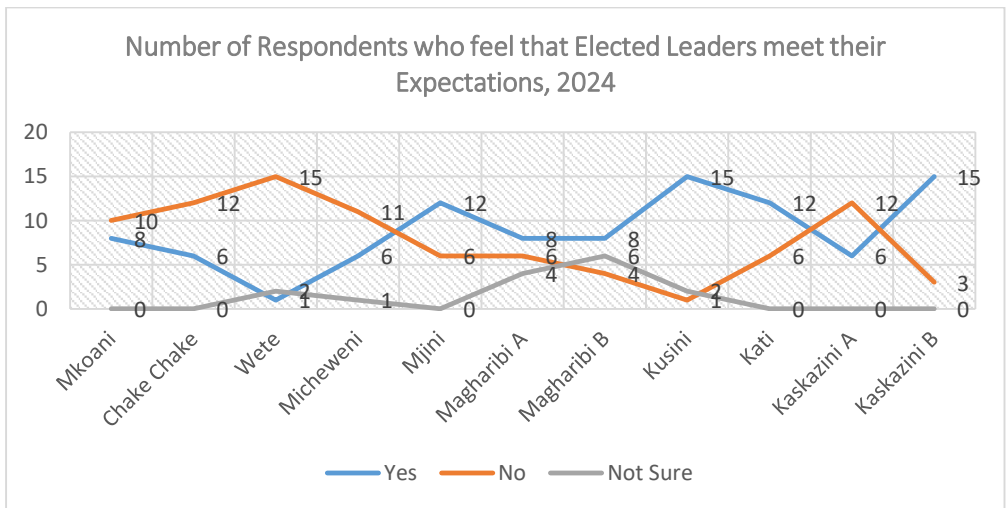


Survey results suggested that, respondents rated the following methods through which they evaluate election candidates as: Public Meetings

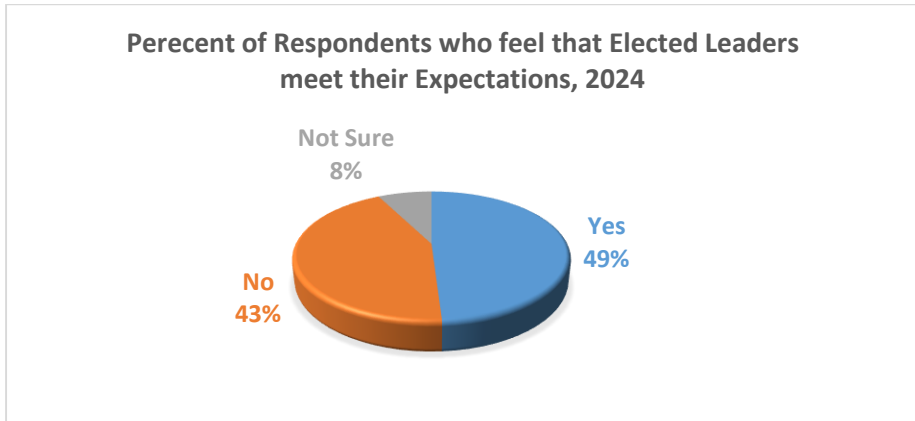
(52%); Media Outlets (23%); Personal Research (15%); Newspaper Articles (6%); and Other Methods (4%) as shown in the chart below.



The survey went further to establish the feeling of citizens about their elected leaders whether they meet their expectations or they don't.



Survey results suggested that, at least 89% of surveyed respondents have registered to vote for general election while 11% said they were not registered until August 2024.



Those who said no claimed that majority of elected leaders have never visited constituencies since elected and convened meetings with local citizens. Some do not listen to their problems and they have often failed to bring about development and/or solve their problems.

On the positive note, citizens appreciated some leaders for meeting their promises such as road constructions, digging water wells and electrical installation into schools among other deliverables.

2.8 Freedom from Torture and Inhuman or Degrading Treatment

This is a basic human right protected under the regional and international human rights treaties.²¹¹ Prohibited under the Constitution of Zanzibar.²¹² The main concern regarding the enjoyment of the right to freedom from torture was non-ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) by Tanzania. Although there are no official records of torture, ZLSC survey 2024, suggested six (6) per cent of respondents perceived violation of the freedom from torture and inhuman or degrading treatment in their districts.

The main concern regarding the enjoyment of the right to freedom from torture was non-ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

²¹¹ Article 5 of ACHPR and Article 7 of ICCPR.

²¹² Ibid,

by Tanzania. Legal Protection against Torture Protection against torture in Zanzibar is inadequate due to two key challenges. The first and main challenge is the fact that Tanzania is yet to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Another challenge is non-reporting or underreporting of torture incidents, especially those perpetrated by state agents or close family members/relatives.

2.8.1 Reported Torture Incidents

The Union Government and the Revolutionary Government of Zanzibar to take immediate measures to ratify the UN Convention against Torture (CAT) to safeguard the right to freedom from torture. CSOs to collaborate with government stakeholders to raise community awareness on torture and its impacts. Community members to expose acts of torture perpetrated by fellow community members.

2.9 Impact of Blue Economy on Civil and Political Rights

Zanzibar greatly depends on the sea, coast and marine resources the carrier of blue activities for socio-economic development. About 98% of Zanzibar's international trade by volume is seaborne. These blue activities contribute to about 29% of the Zanzibar Gross Domestic Product (GDP) and employ about one-third of the population.

Acknowledging the importance of BE, the Revolutionary Government of Zanzibar has formally incorporated the concept as part of its national development priorities. That ambition has been fully reflected in the Zanzibar Development Vision 2050 (Vision 2050), the country's long term development plan from 2020 to 2050.

Vision 2050 recognizes BE as a distinct priority area to diversify Zanzibar's economy, catalysing its transformation from subsistence-based agriculture and tourism-led services to higher value-added services and industrialization. The initiative further strengthens the country's commitment to implement the United Nations Sustainable Development Goals (SDGs), especially SDG goal number 14, which emphasizes the conservation and sustainable use of the oceans, seas and marine resources for sustainable development.

The RGoZ believes that if Zanzibar can adequately implement BE, it will enhance economic growth, increase incomes and help protect the

environment. However, realizing the full potential of BE calls for the inclusion and participation of all related social groups and sectors through appropriate legal and institutional frameworks.

2.10 Conclusion

Chapter two explained the state of civil and political rights in Zanzibar for year 2024. Civil and political rights are rights that protect peoples' freedoms from infringement by governments, institutions, and private individuals. These rights involve citizens' participation in the establishment of a government and participation in political life. These rights are protected and guaranteed under international²¹³ and regional²¹⁴ human rights instruments, as well as the Constitution of Zanzibar.²¹⁵

Among civil and political rights discussed in this Survey were Right to life, freedom of expression right to vote, freedom from torture and freedom of association. The discussion mainly portrays that the right to life (24%) is suffered due to mob violence-leading to killings and road accidents. Additionally, Freedom of Expression, freedom of association are protected however the laws and regulations need to be amended and introduce the new media law to replace current legislations which are deemed out dated. Generally, the right to equality before the law identified several barriers to access justice, such as corruption (8%),

²¹³ Key instruments include the Universal Declaration of Human Rights (UDHR) of 1948; the International Covenant on Civil and Political Rights (ICCPR) of 1966; UN Convention on the Rights of Persons with Disabilities (CRPD) of 2006; the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) of 1979; the UN Convention on the Rights of the Child of 1989; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) of 1984.

²¹⁴ Including the African Charter on Human and Peoples' Rights (ACHPR/Banjul Charter) of 1981; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (popularly known as the Maputo Protocol) of 2003; the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990; SADC Protocol on Gender and Development of 2008; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa of 2018.

²¹⁵ The Constitution contains the Bill of Rights, which guarantees fundamental human rights such as right to life, freedom of expression, freedom of assembly, right to liberty and personal security, and right to take part in governance.

justice delays (4%), costs of legal representation, and low awareness about laws.

Right to Life include: Extrajudicial Killings and Violence against Law Enforcement Officers, Witchcraft-related Killings & Violence against Persons with Albinism (PWAs), Death Penalty Imposed in 2024, Presidential Pardon for Death Row Inmates, Road Accidents and Killings of Women Motivated by Jealousy (Intimate Partner Femicides).

Also covered Freedom of Expression, Laws Restricting Freedom of Expression and Civic Space, Access to the Internet Freedom, Performance in World Press Freedom Index, Ban and Suspension of Media Outlets, The New Online Content Regulations of 2020 (Overview of the Regulations, Key Concerns with the Online Content Regulations, Sweeping powers for TCRA , Obligation to moderate and filter content and Obligations of Application Services Licensees, Peaceful Assembly and Association online, Simulcasting, Arrests & Prosecution for Contravening Restrictive Freedom of Expression).

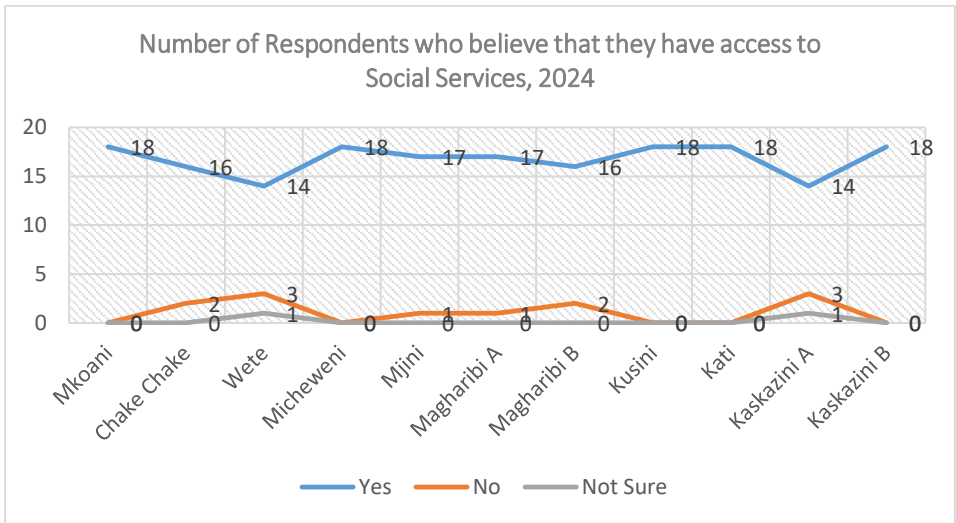
Despite of good efforts made by Revolutionary Government of Zanzibar and other stakeholders in promoting and protection of civil and political rights, a deliberate decision should be done by the government to amend laws that impair progressive realization of civil and political rights in totality.

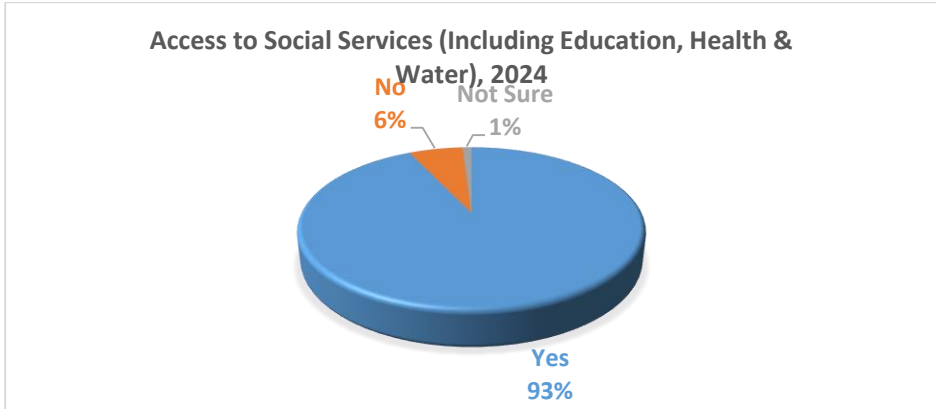
CHAPTER THREE

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

3.0 Overview

Social, Economic and Cultural rights enable us to access social services and economic opportunities, as well as enjoying cultural activities. They include the right to education, the right to health, the right to clean and safe water, the right to own property, and the right to work. This chapter discusses key issues affecting these rights as observed during year 2024. Key issues that continued to affect realization of social, economic and cultural rights in 2024 include: budgetary constraints and shortages of resources including manpower. However, response from community survey suggests that 93 per cent of respondents were accessing social services, 6 per cent claimed not to enjoy and 1 per cent were not sure as shown in the charts below.





3.1 Right to Education

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.” (Article 26, 1); Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.

It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace (Article 26, 2); and Parents have a prior right to choose the kind of education that shall be given to their children. (Article 26, 3).



Picture 1: *H.E Dr. Hussein Ali Mwinyi – President Of Zanzibar Seated In A Classroom With Student At Hassan Khamis Hafidh Secondary School In Munduli Magharibi A, Unguja.*

Education is a fundamental human right protected under international and regional human rights instruments and essential for effective realization of all other human rights. It enables all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and groups.²¹⁶ Right to education is mentioned under Section 10(f) of the Zanzibar Constitution as a political objective of the Revolutionary Government of Zanzibar.

3.1.1 Education Sector Reforms

The Ministry of Education and Vocational Training in Zanzibar continues to strengthen the leadership and management of education at all levels of education, including schools, districts and regions; and at the Ministry. Reforms focus on evaluation of the system, examine students' progress, improve their performance and strengthen the

²¹⁶ 1001 “Zanzibar yajipanga kufanya mabadiliko sekta ya Elimu” Zanzi News Online, at <http://www.zanzinews.com/2024/07/zanzibar-yajipanga-kufanya-mabadiliko.html>.

infrastructure of Education.²¹⁷ Also raise the level of education and remove two streams in the morning and evening, the Ministry of Education planned to build 1,500 classrooms in the financial year 2024/2025.²¹⁸ The budget for the education sector has increased from TZS 309,815,073,480/- in 2023/2024 to TZS 457,299,603,000 in 2024/2025;²¹⁹

Strengthen the use of technology in teaching and learning by connecting it with the national plan of communication of Education institutions including 217 Secondary schools, 12 teacher centres and 22 Scientific Innovation Centres (Hubs) as well as providing them with IT equipment; To implement the new curriculum by providing teachers with training and materials for learning and teaching, including for children with special needs; Strengthening Technical and Practical Training for five Practical Training colleges, expansion of Karume College (KIST) and construction of a seafaring college and providing them with equipment; and To strengthen library services by building a new modern library as well as an online library (e-library); and Other priorities of the Ministry of Education are to build 20 teachers' houses, 300 toilets, and eight (8) dormitories and renovate 1000 primary and secondary schools.²²⁰

3.1.2 The Education Development Plan

The Education Development Plan for the year 2023/2024 focused on six programmes implemented in Zanzibar as outlined below: (i.) Preparatory and Basic Education; (ii.) Secondary Education; (iii.)

²¹⁷ <https://www.michuzi.co.tz/2023/11/haya-hapa-matokeo-ya-mtihani-wa-darasa.html>.

²¹⁸ Serikali ya Mapinduzi ya Zanzibar Hotuba ya Waziri wa Elimu na Mafunzo Ya Amali Mhe. Lela Muhamed Mussa (MBM) Kuhusu Makadirio ya Mapato na Matumizi ya Fedha kwa Mwaka wa Fedha 2024/2025 retrieved at Wednesday 9th October, 2024 at the website <https://www.mwananchi.co.tz/mw/habari/kitaifa/ujenzi-wa-madarasa-mtalaa-wa-umahiri-vipaumbele-wizara-ya-elimu-z-bar-4634512>.

²¹⁹ Ibid.

²²⁰ <https://www.mwananchi.co.tz/mw/habari/kitaifa/ujenzi-wa-madarasa-mtalaa-wa-umahiri-vipaumbele-wizara-ya-elimu-z-bar-4634512>.

Higher Education; (iv.) Alternative Education and Practical Training; (v.) Quality of Education; and (vi.) Leadership and Administration.

The implementation aligned with Zanzibar Vision 2050, Sustainable Development Goals (SDGs), and Sector priorities commitment of H.E Dr. Hussein Ali Mwinyi - the President of the Revolutionary Government of Zanzibar and the Chairman of the Revolutionary Council. The government aimed at promoting the enrolment of students in all five regions of Unguja and Pemba. A total of 108,242 preparatory students, including 18,748 students of TuTu Centres, and 380,641 primary students were enrolled in schools for the year 2023 in Unguja and Pemba. Additionally, a total of 53,333 new students were enrolled to start the first grade for the year 2023 in Government and Private schools. Among them 27,063 are men and 26,270 are women.

Among the students enrolled in the first grade, 45,818 students equal to 85.9 per cent have gone through preparatory education. Moreover, a total of 6,512 students are enrolled in the Higher Secondary education level (form 5-6) including 3,239 males and 3,273 females. Among them, 3,831 students are from the fifth form, including 1,898 men and 1,933 women, and 2,681 students from the sixth form, including 1,341 men and 1,340 women.

A total of 31,639 students (16,310 males and 15,329 females) aged between 7 and 14 years old who were out of school were returned to school to continue their studies in Unguja and Pemba in the period of three years which equals 88.5 per cent of the target of returning 35,732 children.

3.1.3 Free Education in Zanzibar

In 2024, Zanzibar marked 60th anniversary of free education. The education sector has gained a great momentum under the current regime of H.E Dr. Hussein Ali Mwinyi – the president of Zanzibar. First, he has strengthened the construction of modern schools and teachers apartments; second, hired new teachers in trying to meet teacher students ratio and improve teaching and learning environment by supplying essential education materials and supplies especially for fourth and seventh grade students; and third hired teachers who were in charge of the Let's Play Madrasa - Let's Learn programme. A total of 788 teachers have been allocated to distant schools in order to reduce

shortage of teachers especially in remote areas. More teachers are expected to be employed each year until all schools get adequate and quality teachers for all subjects. KIIs.²²¹

3.1.4 Building New Classrooms

In 2024, the government planned to build 22 class rooms (two per district) and preparatory schools in all 11 districts: 4 in Pemba and 7 in Unguja. Also consider building new schools based on identified needs. This will ensure that all children enter schools at the same period and guarantee their right to education. The challenge remains in trying to fulfil the teacher students ratio of 1:40 as oppose to the current ratio of 1:45 and/or 1:60 in some schools (KII).

Despite of the above efforts, truancy has remained a big challenge. Some of the students leave home as if they are going to school but they end up hiding in streets and miss classes. This challenge has been discussed in the school committees involving parents for shared understanding and finding out collective solution (KII). ZLSC calls for joint efforts to address truancy in schools.

Further, the government will increase number of toilets in schools to align with the number of students and teachers. Schools like Kinuni and Kijitoupele are overclouded by students, thus efforts will be made to construct more classrooms or think of building additional school and add more teachers to meet the ratio. The district representative also challenged the teacher to apply for a teaching position in the district. Table 3 and 4 below show a number of students and number of toilets proportionally required for both boys and girls at primary and secondary schools as:

Table 3: Number of Toilets in Primary Schools

<i>Students' Gender</i>	Number of Students	Number of Toilets
<i>Male</i>	165,592	1,374
<i>Female</i>	161,908	1,436
<i>Total</i>	327,500	2,810

²²¹ Discussion with key informant KIIs from the High Court, 27th October, 2024 when answering the interview questions led by Co – consultant.

Source: Government Service Commission 2024

Table 4: Number of Toilets in Secondary Schools

Students' Gender	Number of Students	Number of Toilets
Male	51,573	754
Female	61,284	907
Total	112,857	1,661

Source: Government Service Commission 2024

3.1.5 Renovation of School Infrastructure

The government has heavily invested in education sector in trying to improve the teaching and learning environment in Zanzibar. Despite of such efforts still there some schools whose infrastructures need to be renovated and improved further. Among those is Faraja School which is now undergoing renovation after shifted their student to the Ali Moh'd Shein School. Further, some schools face inadequate equipment and lack of conducive learning environment which is manifested in terms of shortage of desks compelling student to sit on the floor and inadequate number of toilets to match with student population and their needs.



Jangombe Secondary School, Unguja, Zanzibar.

Further, the government renovated nine nine (9) primary schools in Unguja and Pemba including: Jang'ombe, Mkwajuni, Chaani, Kwamtipura, Uzini, Chambani, Piki, Ukutini and Sizini schools. In addition, major renovation of 13 classrooms, Examination Hall, Computer Room and Principal's Office is ongoing in Kizimkazi Primary School in Kunguni.

Finally, the construction of 38 new classrooms in Unguja and Pemba has been completed. Among the schools that benefited are Kilimahewa, Kijini, Pwani Mchangani, Ngagu, Wambaa, and Kipange schools. A total of 37,062 students at the primary education level have been given desks in Unguja and Pemba. Additionally, a total of 86 participants including district officers, head teachers of the central district and primary and secondary teachers have been given Information Technolog (IT) training with the aim of improving their work performance and being able to use IT equipment in teaching and learning



Hassan Khamis Hafidh Secondary School in Munduli Magharibi A Unguja

3.1.6 Availability of Qualified Science Teachers

The government has continued to address shortage of teachers for science subjects across all its primary schools. Records show that there is a total of 7,868 science teachers teaching at primary schools both in Unguja and Pemba. However, in some schools there are art teachers

who have been assigned to teach science subject due to shortage of qualified teachers.

Records indicate that, there is a total of 1,258 qualified teachers (16%) who teach science subject at primary schools and 1,511 (27%) who teach science subjects at secondary schools. Such acute shortage has a direct bearing effect on the overall performance of students who pursue science subjects and advancing science and technology in Zanzibar. The government is aware of this challenge and is committed to improve and promote science through on-going reforms in the education sector (KII).

Table 5: below show the number of teachers who teach science subjects in primary schools by gender.

Table 5: Number of Science Teachers in Primary Schools

Teachers	Total
Male	1,552
Female	6,316
Total	7,868

Source: Government Service Commission 2024

Table 6: Number of Science Teachers in Secondary Schools

Teachers	Total
Male	2,376
Female	3,161
Total	5,537

Source: Government Service Commission 2024

Table 7: Number of Qualified Science Teachers by Type of School

Type of School	Male	Female	Total	Per cent
Primary	331	927	1,258	16%
Secondary	772	739	1,511	27%
Total	1,103	1,666	2,769	21%

Source: Government Service Commission 2024.

3.1.7 Teen/Early Pregnancies

In 2024, a total of 64 cases of teen pregnancies (Pemba 48 and Unguja 16) were reported and granted an opportunity to resume their studies after delivery so that their right to education can be protected.

Moreover, it was indicated that the UNICEF helped these children get child support services after delivery to include: soap, porridge, milk and other services. Unfortunately majority of them have recorded poor academic performance after returned to school. Three out of sixteen students in Unguja could not return back to school due lack of basic necessities and family support to take care of their babies while at school (KII).

A total of 44 cases of pregnant students (21 in Unguja and 23 in Pemba) were reported to the Registrar's office and to the regional police commander. Among those cases, 14 cases have been discussed in the Unguja Magistrate's Office and 22 cases have been discussed in the Pemba Magistrate's Office. Further a total of 31 cases of student rape and prostitution (6 in Unguja and 25 in Pemba) were reported to the education registrar's office and processed. In addition, a total of 7 cases of student marriages (3 Unguja and 4 Pemba) were reported too (KII).

In terms of challenges, it was observed that affected children lack close attention and care from their parents or guardians. Majority of them live with their mothers or stepfathers and the parents often fail to conduct adequate monitoring of their children and provide adequate guidance while at home. Also majority face life hardship including lack of money to support their babies after delivery forcing them drop their studies (KII).

3.1.8 Inclusive Education

In 2024, the government continued to implement the UN Convention on the rights of persons with disabilities (CRPD) by promoting and supporting inclusive education strategy in Zanzibar. So far there are inclusive primary schools providing education to students with disabilities. These are: Dhahalia which accommodates students with special needs/multi-disabilities. Other schools are Jendele located in Unguja and Pujini located in Pemba. Both schools provide inclusive education to students who are and visual impairment.

However, key informants admitted the fact that, there is a challenge to come up with real time data for now due to lack of smooth coordination between key players including disabled peoples' organization (DPOs).

Majority of existing teachers are not sign language experts and training institutions have not designed such course to respond to the needs.

Also, special education teachers are overwhelmed as they are given other subjects to teach instead of dealing with students with disabilities who need special care and attention. Further added that, the government has made deliberate decision to employ all teachers who are studying special education and assign them to schools that provide inductive education both in Unguja and Pemba. This will resolve shortage of special education teachers and reduce workload to general teachers who have been assigned before to teach students with special needs despite of lack of professional skills of handling them.

3.1.9 School Based Gender Based Violence

The government is committed to improve the learning environment to be safer and free for both teachers and students by providing different school guidelines including gender and safeguarding policies. However, the key informants reported on the presence of cases related to gender based violence in some schools such as sexual harassment and bullying. There was no evidence to establish the size of the problem, however school management need to educate staff, teachers and students so that they can understand the guidelines and protect each other. Same awareness need to be done during community meetings so that they can be involved in protection of students in their communities.

3.1.10 School Based Mental Health Services

It was reported that majority of students lack mental health education due to the fact that such education is rarely provided in schools or even at homes so that students can transform and manage stress positively. The key informant added that there are cases of students who committed suicide due to failure to meet their academic expectations and handle reaction from their families and peers.

3.1.11 Menstrual Hygiene

Female students continued to experience truancy and being uncomfortable during menstrual period. Lack of menstrual hygiene support affect girls' right to education, contributed by lack of sanitary pads, limited access to clean and safe water, dirty toilets, and lack of

changing rooms for girls. Girls in rural areas are disproportionately affected. Most girls, especially in rural areas, also cannot afford sanitary pads, hence settling for makeshift ones.

3.1.12 Education Scholarships

In 2024, Zanzibar accessed scholarships from 14 countries including: Algeria, the Commonwealth of Nations, Hungary, China, Morocco, Mauritius, Egypt, Saudi Arabia, Serbia, Romania, Oman, Chevening, United Kingdom, Netherland, and Pan African. The study areas include: Medicine, Economics, Contracting, Teaching, Nursing, Environmental Sciences, Agriculture, Business Management and Administration.

3.2. Right to Health



Modern Equipment at Abdallah Mzee Hospital, Mkoani, South Pemba made available by the Revolutionary Government of Zanzibar.

In 2024 the government is committed to strengthen the health infrastructure at all levels of health service delivery, including the maintenance of buildings and means of transport, to strengthen the systems of access to medicines, medical equipment and reagents.

Strengthening digital health information system strengthening the quality of health care delivery by hiring qualified professionals and sending doctors to study.

Also strengthen sustainable systems to cover health services including the health fund in Zanzibar. Strengthening primary health services through health workers at the community level. Reducing maternal

deaths from 145 per 100,000 live births in 2023/2024 to 123 deaths per 100,000 live births. Likewise, reducing infant mortality from 28 deaths per 1000 live births to 26 deaths per 1000 live births. Strengthening the capacity and readiness to deal with explosion disasters and other natural disasters. Continue the fight against infectious and non-infectious diseases.



Rehabilitation of Abdallah Mzee Hospital in South Pemba – modern equipment.



Rehabilitation of various areas of Abdallah Mzee Hospital in Mkoani South Pemba

3.3 Right to Water

Everyone has a right to sufficient, safe, acceptable, and physically accessible and affordable water for personal and domestic uses.²²² Also known as right to water and sanitation and is essential and indispensable in ensuring life with dignity.²²³ Not specifically provided for in the Constitution of Zanzibar but implied in both the Constitution and other water-related laws and regulations.

²²² See UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant), 20th January, 2003, E/C.12/2002/11, available at: <http://www.refworld.org/docid/4538838d11.html> [accessed 17th December, 2017].

²²³ Article 1.1 of the General Comment No. 15. The right to water, UN Committee on Economic, Social and Cultural Rights, November 2002



Access to clean water for all in Zanzibar.

Despite the government efforts, right to clean and safe water continued to be affected and hindered by several key issues and challenges, including budgetary constraints; water leakages and loss; lack of or limited access to clean water in some areas; and climate change impacts.

While trends show the budget for the water sector has slightly increased from TZS 110,660,749,000 in 2023/2024 to TZS 164, 486,943,000 in 2024/2025

During validation meeting, it was pointed out that, water sector experience several challenges including: destruction of water pipelines during road construction, delayed compensation to people who are affected by water resources projects, depilated water infrastructures leading to water leakage, environmental degradation and low awareness among community members on sustainable water resources management practices.

The Zanzibar Water Authority (ZAWA) was established by the Water Act No. 4 of 2006 with the responsibility of managing the production and distribution of clean and safe water for the people of Zanzibar. It also has the power of controlling, managing and protecting all water sources and will have the ability to take legal action against a person who will go against the use or destroy or invade the water source areas.

ZAWA is using the 2004 Water Policy which seems to lack some strategies that will lead the Water Authority to provide better services. In addition, the Ministry of Water, Energy and Minerals is revising the new Water Policy and it is expected to be implemented during the 2024/2025 fiscal year. The government is committed to extend water services across all districts by implementing several projects and construct overhead water tanks to reach many people within a radius of 400 meters (KII).



Modern water tank in Pemba.

A total of 130,106 people in Unguja and Pemba have access to water service within a radius of 400 meters. Of whom 126,806 people (97%) in both Unguja and Pemba are connected to water systems in their homes.

Water treatment is done by ZAWA in order to make sure that citizens get clean and safe water wherever they are. ZAWA follows the procedure to treat water in wells and tanks located in different areas to ensure cleanliness and safety for both human consumption and production activities. ZLSC calls for ZAWA to collaborate with other stakeholders in conservation of water sources and protection of water infrastructures so that they can expand their reach and benefit more people and make them enjoy their right to water.

3.4 Right to Work

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; Everyone, without any discrimination, has the right to equal pay for equal work; and Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests. (Article 23).

Right to work is defined in several international instruments, including: the International Covenant on Economic, Social and Cultural Rights (ICESCR) and The African Charter on Human and Peoples' Rights (ACHPR).²²⁴ It includes right to gain a living by work and right to just and favourable working conditions. Right to work is also guaranteed under Section 21 (3) and (4) of the Constitution of Zanzibar (1984).

In 2024, the government continued to provide and protect the right to work for both civil servants and private sector employees. In terms of budget, the government has increased the budget for labour sector from TZS 80,584,431,552 in 2023/2024 to TZS 322,791,520 in 2024/2025.

Ethical issues have been dealt with accordingly such that eight (8) complaints of violations of the Leaders' Ethics Law have been received and acted upon. Of which six (6) complaints are still being investigated and two (2) complaints have been resolved. Public servants have been reminded to adhere to ethical standards as defined by law while serving the public.

Key issues affecting the right to work include: shortage of employment opportunities, unfair termination especially in the private sector, poor working environment and low awareness about labour rights and law. The government has remained to be the main employer for professional and semi-professional cadre as compared to the private sector. The government should promote investments in order to reduce

²²⁴ Article 15 of African Charter on Human and Peoples' Rights, 1981.

unemployment gap and make every eligible citizen contribute to the economic growth and development.

3.4.1 New Employment Opportunities Advertised by RGZ

In 2024, the government through the Civil Service Commission announced several employment opportunities for both teachers and other professionals to apply for teaching positions in trying to bridge the gap facing many schools in Zanzibar. Priority positions were for science subjects and mathematics. The government opened door to non-teaching professionals from computer engineering, information technology, finance, accountancy etc. a total of 449 posts were advertised out of which 297 applicants (66%) submitted their application and interviewed for the job as summarized in table 8 below.

Table 8: Number of Teaching Vacancies Advertised by the Government, 2024

Position	Location	# Vacancy	# Applied	Per cent
Diploma in Physics	Unguja	90	35	39
Diploma in Physics	Pemba	40	9	23
Education Degree	Unguja	17	30	176
Education Degree	Pemba	16	9	56
Business Degree	Unguja	141	117	83
Business Degree	Pemba	85	65	76
Medical Doctor	Unguja & Pemba	17	19	112
Biostatistics	Unguja & Pemba	2	0	0
Forensic Science	Unguja & Pemba	2	0	0
Dentists	Unguja & Pemba	9	4	44
Ophthalmologists	Unguja & Pemba	7	1	14
Senographer	Unguja & Pemba	8	4	50
Sports Teachers	Unguja	7	0	0

Sports Teachers	Pemba	4	0	0
Teachers and Interpreters	Unguja & Pemba	4	4	100
Total		449	297	66

Source: Civil Service Commission 2024.

In addition to the above, the government employed a total of 844 people from different cadre comprised of 483 female (57%) and 361 (43%) male to fill the vacant position in MDAs as shown in table 9 below.

Table 9: Number of New Employees by MDA, 2024

Ministry, Department, Agency (MDA)	Female	Male	Total
Institute of documents and records Zanzibar	4	5	9
Tourism Commission	3	5	8
Zanzibar Building Agency	3	4	7
Ministry of Agriculture, Irrigation, Natural Resources and Livestock	17	17	34
Drug Commission (Employed under Section 57 3 a)	5	15	20
Internet Government Authority	2	10	12
Office of the President Finance and Planning (Treasury Registrar)	2	1	3
Ministry of Land and Housing Development	1	2	3
Ministry of Blue Economy and Fisheries	5	11	16
Office of the Chief Accountant	48	22	70
Office of the Grand Mufti of Zanzibar	3	6	9
Ministry of Information, Tourism, Culture and Sports	2	3	5
Office of the First President	3	11	14
Ministry of Water, Energy and Minerals	4	4	8
Land Commission Office	3	4	7
The Office of the President Works on Economy and Investment	7	9	16
Ministry of Health	361	228	589

The Office of the Internal Auditor General	6	4	10
The PO Constitution, Legal Affairs, Public Service and Good Governance	4	0	4
Total	483	361	844

Source: Civil Service Commission 2024

In 2024, ZLSC conducted community survey to examine access to employment opportunities. Results suggest that 66 per cent of respondents had access to employment and/or investment opportunities, while 29 per cent claimed to have no opportunity and 5 per cent were undecided.

3.5 Right to Own Property

“Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property” (Article 17). Issues affecting the right to own property in Zanzibar include: right to work and land.

3.5.1 Right to Land

Issues affecting right to land include land conflicts/disputes and property grabbing from women and elderly people. ZLSC survey revealed that Land disputes and conflicts were reported across Zanzibar involving different land users.

The Government, through the Ministry of Land, has put special strategies and laws on the private sector and all citizens who want to own land. The system of owning the right to use land is based on the Land Tenure Act No. 12 of 1992 which states that all land is public property even though it is still used for government or private use.

Other laws are: Land Tribunal Act No. 7 of 1994, amended in 2008 to be the Land Tribunal Act No. 1, 2008, the Commission of Land Act No.6 of 2015, the Land Adjudication Act No. 8 of 1990, the Commission for Land and Environment 1989, Land Survey Act No. 9 1990, the Registered Land Act No 10, 1990, the Land Transfer Act No. 8, 1994. According to the research conducted during the preparation of the Policy in 2018. In Zanzibar land is divided in terms of: Public Land;

Land given to Government Institutions; Three Acres of Land (Land allocated for Agriculture); Land of the Foundation; and Community Land.

Based on diverse land ownership systems mentioned above, the Ministry has set a strategy through its Laws that institutions and citizens should follow the legal procedure to own the land that they use in their areas, for example having a land use right document (ordinary, acres or leases) as well as continuing to mobilize about going to the land commission and obtaining land use rights to avoid land conflicts in the community. Between January and June 2024, the Ministry has successfully issued a total of 847 Land Use Right documents for Unguja and 313 documents for Pemba. This guarantee the right to own land to both institutions and citizens.

Further, in 2024 the Land Tribunal received a total of 77 new land disputes adding to 216 old cases, making a total of 293 cases between January and June 2024. Out of which 76 cases were decided until June 2024 and remained with 217 on-going cases as shown in table 10 below.

Table 10: Land Cases, 2024

Region	New Cases (2024)	Old Cases	Total Cases (Cumulative)	Decided Cases (2024)	Ongoing Cases (Cumulative)
Urban West	28	86	114	20	94
North Unguja	11	31	42	12	30
South Unguja	17	41	58	13	45
North Pemba	3	18	21	9	12
South Pemba	18	40	58	22	36
Total	77	216	293	76	217

Source: Land Commission, 2024

The validation meeting identified key land issues caused by the Land registration authorities - so far they seem to bring inconveniences to the society due to prolonged bureaucratic procedure to be followed before an applicant can register land. Also lack of effective coordination and laws implementation was mentioned. For example there are twelve (12) principle statutes (law) concerning land under different commissions causing confusion. Additionally, they recommended that there must be harmonization of the land laws and simplify the land ownership procedures.

Causes to Land Conflicts/Disputes in Zanzibar include: a) double land allocation/ownership; b) inadequate process of land conflict resolution, and c) urbanization pressure (excessive urban migration and development projects,

3.5.2 Equality in Land Ownership

Both men and women have equal right to own land as per international and Zanzibar legal framework. The Ministry of Land through the Land Commission has not set land ownership limits between men and women. They need follow the legal procedure for ownership of land before land right is granted to the owner. Table 11 below shows a summary of land owners who were granted lands in 2023/2024 by gender.

Table 11: Land Ownership by Gender, 2024

Purpose of Land Use	Unguja		Pemba		Total
	Male	Female	Male	Female	
Accommodation	270	143	12	7	432
Agriculture	45	14	5	6	70
Business	10	1	1	0	12
Other	0	0	0	0	0
Total	325	158	18	13	514

Source: Land Commission, 2024

So far the land claims handling system has been very effective in Zanzibar as Land Courts have been resolving them across regions through judicial and the arbitral (non-judicial) system. An example of a table showing the effectiveness of litigation claims resolved for the

period of the financial year 2023/24 (July, 2023 to June, 2024) through the Arbitral and judicial system.

3.6 Right to Adequate Standard of Living

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control; and Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection. (Article 25).

The Ministry of Community Development, Gender, Elderly and Children, like any other institutions of the Revolutionary Government of Zanzibar, use a program-based budget system (Program Based Budget - PBB) in the implementation of its work plan. The Ministry has implemented its activities through three main programs which are:

Social Security Program (PH0401), Coordination and Operations Program (PH0402) which has the following sub-programs: - Administration and Operations (SH040201); - Policy Coordination, Planning and Research (SH040202); - Administration and Operations of the Head Office Pemba (SH040203);

The following achievements resulting in the implementation of the Ministry's action plan and budget include:-

- (i). Increased cooperation between community members and various local institutions, including development and social welfare stakeholders, including those who oppose acts of violence and sexual harassment;
- (ii). Continued to coordinate the Social Pension programme whereby in 2023 there were 28,942 elderly people, currently they have reached 30,127 elderly people recording an increase of 1,185 until June 2024;

- iii. Conducted a review of Institutional Structures to enable the programme meet the needs of target service seekers;
- iv. Completing the monitoring of the Implementation of Service Structures in Public Institutions; and
- v. Supervised the preparation and implementation of Systems for Measuring the Performance of Employees and Institutions.

Key issues affecting the right to adequate standard of living in Zanzibar include: food insecurity; limited access to nutritious food; food affordability; and inadequate housing²²⁵. Other issues include: rapid unplanned urbanization development, poor infrastructures like drainage system, poor construction standards resulting in the use of low quality materials –leading to poor housing and environmental degradation.

Further, FGD participants added that, agricultural activities face challenges like lack of use of modern technologies: equipment, farm inputs; and access to internal and external markets, and lack of food processing industries. In terms of food availability, they claimed that there are still a lot of economic constraints (majority of people cannot afford the quality food, while fluctuation of costs of food creates life difficulties.

The survey was interested to know to what extent the community benefit does from social services such as children's education and better water and health services. FGD participants claimed that, majority of community members are enjoying social services provided by the government through different programmes like TASAF. Also there are Community Based Organizations (CBOs) and Savings and Credit Cooperative Societies (SACCOS) providing agricultural and microfinance services respectively.

²²⁵ The estimated budget is 9,887,311,000.00 and 841,471,120.

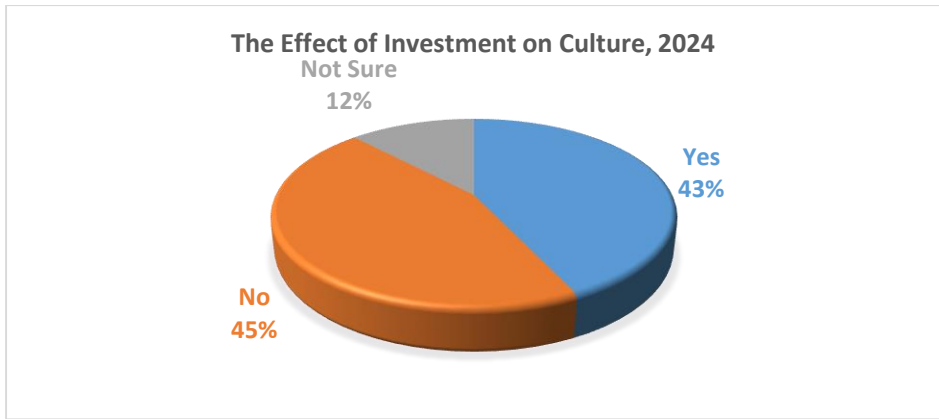
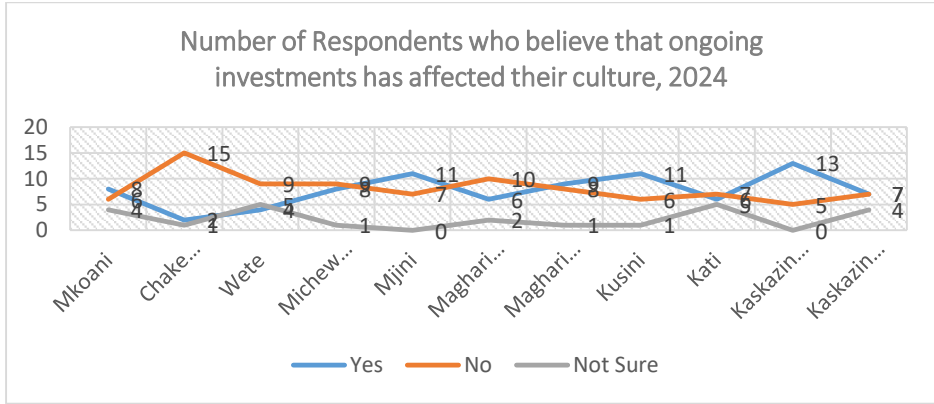
3.7 Cultural Rights



Sauti ya Busara Music Festival at Ngome Kongwe in Stone Town, Zanzibar.

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (Article 27). In 2024, people in Zanzibar continued to participate in cultural life. No records of interference of this right that was collected by ZLSC.

However, community survey conducted by ZLSC wanted to know if on-going investments have any effect on local culture. Results suggested that 43 per cent of respondents believe that on-going investments have affected their culture while 45 per cent said their culture has not been affected and 12 per cent were undecided as shown in the chart below.



Those who believed that on-going investments have affected their culture had a reason to support their response. Key ones include: lack of protection of cultural norms, imitation of foreign culture such as dressing code which is contrary to our traditional way of dressing, deterioration of local norms and ethics among others. Those who said no, believed that benefits coming from investments outweigh the effects on culture, thus people especially young generation need to be educated on their social norms and traditions so that they can sustain their culture which is unique and pride of Zanzibar.

3.8 Conclusion

Chapter three assessed the situation of collective rights in Zanzibar for year 2024. Social, Economic, Social and Cultural rights enables people to access social services and economic opportunities, as well as enjoying cultural activities. They include the right to education, the

right to health, the right to clean and safe water, the right to own property, and the right to work. This chapter discussed key issues affecting these rights as observed during year 2024.

Key issues that continued to affect realization of social, economic and cultural rights in 2024 include: budgetary constraints and shortages of resources including manpower. This chapter highlighted the following: Right to Education: Education Sector Reforms, The Education Development Plan, Free Education in Zanzibar, Building New Classrooms, Renovation of School Infrastructures, Availability of Qualified Science Teachers, Teen/Early Pregnancies, Inclusive Education, School Based Gender Based Violence, School Based Mental Health Services, Menstrual Hygiene and Education Scholarships. Also Right to Health, Right to Water: Access to clean and safe water; and Right to Work: New Employment Opportunities Advertised by Revolutionary Government of Zanzibar. Other rights include: Right to Own Property: Right to Land, Equality in Land Ownership; and Right to Adequate Standard of Living; Cultural Rights and Conclusion.

Despite of commendable progress made by the government in terms of expanding and delivery of social services and promotion of cultural activities, a lot more need to be done in order to ensure inclusive and sustainable service delivery. Further, private sector should be encouraged to participate in social service delivery in order to compete and provide convenient services to citizens also create job opportunities for young people and diverse value chains for economic growth and development.

CHAPTER FOUR

COLLECTIVE RIGHTS

4.0 Introduction

Collective rights belong to the group of people as opposed to individual rights. An individual enjoys collective rights as part of a group,²²⁶ which is why they are also called solidarity rights. These rights form the third generation of human rights and are provided for under several international and regional human rights instruments, including the: the International Covenant on Economic, Social and Cultural Rights (ICESCR)²²⁷; the African Charter on Human and People's Rights (ACHPR)²²⁸ and the United Nations Charter²²⁹. This chapter looks at the right to development, the right to enjoy and benefit from natural resources, and the right to clean and healthy environment in Zanzibar for the period of 2024. In 2024, key issues affecting the right to development include: poverty, budgetary constraints, corruption, and impact of climate change. In 2024, key issues affecting rights of special groups include: violence and discrimination.

²²⁶ Andrea, N. (2018) Collective Rights: In the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, Fian International available at https://www.fian.org/fileadmin/media/publications_2018/Reports_and_guidelines/droits_collectifs_UK_web.pdf, accessed on 18th March 2019.

²²⁷ Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966.

²²⁸ the African Charter on Human and People's Rights (ACHPR) of 1981.

²²⁹ the United Nations Charter of 1945.

4.1 Right to Development



Development is defined as “...an inalienable human right by virtue of which every human person and all people are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”²³⁰

Governments are obligated to formulate appropriate national development policies that seek to improve the well-being of the entire population as well as of individuals to ensure meaningful participation in development and fair distribution of benefits resulting from such development.²³¹

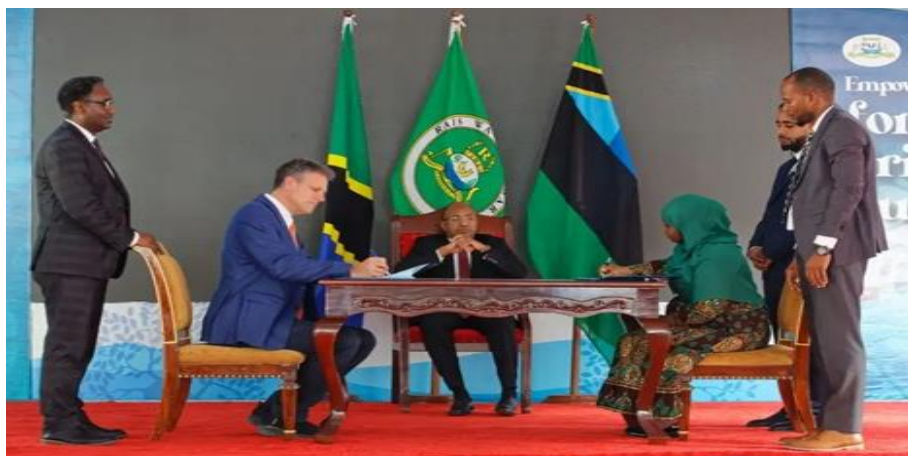
Key issues affecting the right to development in the year 2024, include: poverty, budgetary constraints, corruption, and impact of climate change. The Revolutionary Government of Zanzibar continued to take various measures to ensure enjoyment and realization of the right to development, governed by the Zanzibar Development Vision 2050, and pushing for social, economic, and infrastructural development.

²³⁰ Article 1 of the UN Declaration on the Right to Development, A/RES/41/12, 4 December 1986, available at <http://www.un.org/documents/ga/res/41/a41r128.htm>, accessed 27th December 2021.

²³¹ Ibid

In 2024, the government of Zanzibar committed to protect and deliver the right to development through various interventions such as: school constructions including a new three story building at Mkokotoni in Unguja North and road construction in both Unguja and Pemba.

Further, the challenge of passenger congestion at the Malindi port in Zanzibar is expected to be resolved after the Revolutionary Government of Zanzibar sign up a contract for the construction of the Mpigaduri port with the Zanzibar Ferry Development (ZF DEVCO) Company. The agreement was signed on 9th January, 2024 at the Zanzibar State House, witnessed by H.E Dr. Hussein Ali Mwinyi – the President of Zanzibar as shown in picture below.



H.E Dr. Hussen Ali Mwinyi – The President of Zanzibar (Centre) Witnesses the Signing of the Construction Contract of the Mpigaduri Passenger Port Between the Founder of the Zf Devco, Matthew Vander Birgh (Left) and the Permanent Secretary of the Ministry of Construction, Communication and Transport (Right). Please Note that, the Construction of the Port is Set to Take A Period of 36 Months.²³²

4.2 Social Development

The Revolutionary Government of Zanzibar is committed to ensure no one is left behind as Zanzibar advances to the next level of

²³² The port will be built into two phases, will cost \$250 million, equivalent to 627 billion, for the first phase. And will have the capacity to serve 8,000 passengers per day and three million passengers per year. The second phase of the project will cost \$150 million, equivalent to Tsh 377.2 billion.

development. ZSGRP III builds on lessons learned from the implementation of its predecessor strategy. ZSGRP II was revised thoroughly to provide an evidence-based overview of areas that need continued attention and areas of investment that need to become more effective and sustainable.

In 2024, key issues affecting enjoyment of social development are: inequalities and enormous negative implications for the enjoyment of human rights, especially social rights such as the right to health, the right to food, the right to housing, education, housing, the right to education, social protection and labour, right to water and sanitation.

4.3 Right to Enjoy and Benefit from Natural Resources



Ngeze Forest in North Pemba.

The right to natural resources is recognized under various international and regional human rights instruments, as well as under the municipal laws in Zanzibar. This right is covered under the United Nations General Assembly Resolution of 1962 called “*Permanent Sovereignty over Natural Resources*”, which provides four guiding principles for the exploitation of natural resources, which are: individual and state

sovereignty over natural resources; exploitation of natural resources for the benefit of the people; necessity to reach consensual agreements to exploit natural resources; and utilization of natural resources for the purposes of human development.

This right is connected to the right to development and right to self-determination; and is also recognized and protected under Article 21 of the African Charter on Human and Peoples’ Rights (Banjul Charter) of 1981. According to the Banjul Charter, “All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a person be deprived of it.”

The Revolutionary Government of Zanzibar has adopted the Zanzibar Blue Economy Policy of 2020 and included blue economy as a priority area in the Zanzibar Development Vision 2025, considering “Zanzibar relies heavily on the sea for both social and economic activities.”²³³ The Revolutionary Government of Zanzibar continued implementing Zanzibar Blue Economy Policy of 2020 in line with the Zanzibar Development Vision 2025 to facilitate enjoyment of the right to enjoy and benefit from natural resources.

The Revolutionary Government of Zanzibar continued implementing Zanzibar Blue Economy Policy of 2020 in line with the Zanzibar Development Vision 2025 to facilitate enjoyment of the right to enjoy and benefit from natural resources. However, various challenges persisted, including overexploitation of resources and environmental degradation, largely contributed by the growing population; and climate change.

²³³ See the Zanzibar Blue Economy Policy, October 2020, at <http://planningznz.go.tz/doc/new/BE%20Policy-2020.pdf>.

4.4 Right to Clean and Healthy Environment



The Impact of Rising Sea Level In Zanzibar.

The United Nations (UN) considers climate change to be one of the biggest global threats to humanity.²³⁴ According to the World Health Organization (WHO), between 2030 and 2050, climate change is expected to cause approximately 250,000 additional deaths per year, from under nutrition, malaria, diarrhoea, and heat stress alone.²³⁵

According to World Health Organization (WHO), 24% of all global deaths, roughly 13.7 million deaths a year, are linked to the environment, due to risks such as air pollution and chemical exposure.²³⁶

This means that almost 1 in 4 of total global deaths are linked to environment conditions. It also estimates the direct damage costs to health (excluding costs in health-determining sectors such as

²³⁴ See UN, Causes and Effects of Climate Change, at <https://www.un.org/en/climatechange/science/causes-effectsclimate-change>.

²³⁵ See WHO, Climate change: Key Facts, 12 Oct 2023, at <https://www.who.int/news-room/fact-sheets/detail/climatechange-and-health>.

²³⁶ See World Health Organization, Environmental health, at https://www.who.int/health-topics/environmentalhealth#tab=tab_2.

agriculture and water and sanitation) to be between US\$ 2–4 billion per year by 2030.²³⁷

The climate of Zanzibar is changing and recent decades have seen rising temperatures, increased rainfall variability, higher wind speeds and high-tide levels, and an increase in extreme events (climate variability). The latter have led to droughts and floods which have had major economic costs in terms of GDP.

In 2024, key issues affecting the right to clean and healthy environment include: environmental pollution; environmental degradation; and climate change impact on the environment. The spill over effect of climate change impact may include violations of: right to life, right to health, right to adequate standard of living, right to clean and safe water, right to work, right to own property, and right to development.

4.4.1 Government Action



Waste Disposal Site in Unguja.

²³⁷ Ibid.

In 2024, the Revolutionary government of Zanzibar continued to take various measures to ensure enjoyment of the right to clean and healthy environment. The Government addressed such issues through the Zanzibar Environmental Management Authority (ZEMA) in order ensure enjoyment of the right to clean and healthy environment. The main function of ZEMA is enforcement, compliance, review, and monitoring of all environmental activities in Zanzibar.²³⁸ Despite the various efforts by the Revolutionary Government of Zanzibar to manage and protect the environment, various challenges persist, including environmental pollution and climate change.

The Government has managed to reduce marine pollution by establishing three waste disposal sites, located in Kibele, Kizimbani (Unguja), and Bandata (Chake Chake – Pemba).²³⁹ Air pollution is also said to be not a big challenge in Zanzibar, as very little greenhouse gases are said to be produced. Noise problem was also said not to be as a big problem²⁴⁰

However, the remaining challenges need to be addressed in order to ensure sustainable environmental management and protection of other rights as discussed above. Such challenges include: conflicting environmental management laws; inadequate capacity of institutions tasked with management of environment and natural resources; Conflicting duties of institutions tasked with environmental management; Lack of effective land use plans, contributing to environmental pollution and degradation. Other challenges are: Environmental pollution caused by human activities and businesses; Presence of timber, pebbles, welding, and grain milling industries in residential areas, causing noise and air pollution; and Lack of soundproof construction at bars, wedding halls (some of which are out in the open), and other hangouts, causing noise pollution used to be the existing barriers in 2024.

²³⁸ See Office of the First Vice President, Zanzibar Environment Management Authority, <https://www.zema.go.tz/#:~:text=Zanzibar%20Environmental%20Management%20Authority%20by,supervising%20the%20environmental%20management%20concerns..> at

²³⁹ Ripoti ya Hali ya Mazingira Zanzibar (Ibid).

²⁴⁰ Ibid.

4.5 Impact of the Blue Economy on Collective Rights

Zanzibar remains strongly committed to the pursuit of sustainable economic and social development through economic transformation as envisioned in the Zanzibar Development Vision (ZDV) 2050. At first the vision will be realized through implementation of the Zanzibar Development Plan (ZADEP) 2021 – 2026 with a theme of “Blue Economy for Inclusive Growth and Sustainable Development”.

In 2024, the blue activities contributed over 20% of Zanzibar’s GDP and employ about over a third of Zanzibar’s labour force on estimate. Trade activities include: coastal and marine tourism, fishing and maritime trade, but recently aquaculture, dominated by seaweed farming, has enjoyed significant growth. In addition, the tourism sub-sector accounted for over 30% of Zanzibar’s GDP while fishing accounted for another 4.8%. The latter also employed directly around 64,000 fishers and a further 15,000 workers in related activities.

Further, seaweed accounted over 21% of Zanzibar’s exports (and 34% of total crop exports), and directly employed more than 114,000 farmers, 85% being women. Further, 98% of the volume of foreign trade in Zanzibar was maritime-based. The importance of ocean resources to the livelihoods of the people of Zanzibar raises two fundamental questions. First, given the significance of this resource, as to sufficient contribution to the growth and development of the population. Second, sustainability of the current operations of the blue sector to comply with 2030 UN Sustainable Development.



Sea Weed Production in Zanzibar

4.6 Conclusion

Social, economic and cultural rights are well recognized and protected in various ways in Zanzibar. The community is enjoying the educational right on various level such as primary and secondary schools also higher learning. The right to health is highly accommodated, the hospitals are built and help in reducing the health care burden. In Zanzibar the right to work is addressed through various sectors of the government.

The private sector is also hiring citizens through contractual jobs. However, the government still remain a major employer. People owned property and enjoy the right to property. Nowadays for example many land disputes have been resolved to reduce the social economic burden. Regarding cultural right, some of community members have started imitating the foreign culture which might ruin Zanzibar heritage.

In order to progressively realize collective rights, the Revolutionary Government of Zanzibar should give priority in terms of planning and budget for environmental sensitive and high impact projects and service delivery. This will ensure people enjoy collective rights but also reap the benefits brought by such investment for sustainable development.

The best way to do that is to review exiting legal framework and formulate strategies that will attract private sector to join hands with the

government under public private partnership (PPP) arrangement for rapid response and growth.

Also CSOs can be encouraged to engage and educate citizens on the best way to participate in the protection of the environment and reap from the natural resources in the manner that does not degrade the environment for long term utilization and realization of other rights.

CHAPTER FIVE

RIGHTS OF VULNERABLE GROUPS

5.0 Introduction

Vulnerable groups refer to those groups which are more likely to suffer violations of human rights. For purposes of this Survey, these groups are: women; children; persons with disabilities; the elderly; youth; and persons living with HIV/AIDS. These groups require special protection to safeguard their human rights. This is why there are several regional and international human rights conventions that specifically provide for their rights, ²⁴¹except for the elderly. This chapter provides an assessment of the situation of rights of special groups for the year 2024, while making comparisons with previous years or showing trends.

The main focus is on the right to freedom from violence and the right to non-discrimination. Other fundamental rights which are discussed in relation to those groups include the right to education, the right to own property, the right to equality before the law (especially access to justice), the right to take part in governance (right to political participation), and the right to liberty and personal security.

In 2024, issues affecting rights of special groups include: violence and discrimination. It is protected under various international and regional human rights instruments.²⁴² It is also protected under the Constitution of Zanzibar²⁴³ and other key legislations, such as the children²⁴⁴ law and

²⁴¹ These include: the UN Convention on the Rights of the Child (CRC) of 1989; Convention on the Elimination of all Form of Discrimination Against Women (CEDAW) of 1979; Convention on the Rights of Persons with Disabilities (CRPD) of 2006; African Charter on the Rights and Welfare of the Child (ACRWC) of 1990; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003.

²⁴² 95 Including the Universal Declaration of Human Rights (UDHR) of 1948, International Covenant on Civil and Political Rights (ICCPR) of 1966, the African Charter on Human and Peoples' Rights of 1981, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003.

²⁴³ The Zanzibar Constitution of 1984.

²⁴⁴ The Children Act No. 6 of 2011.

labour laws.²⁴⁵ ‘Protects everyone from all forms of violence, whether physical, sexual, economic, or psychological/emotional. Is also implied in and closely linked to right to life, freedom from torture and degrading treatment, freedom from discrimination and the right to safety and security. In 2024, different forms of violence were perpetrated against women, children, men, persons with disabilities (PWDs), and older persons in Unguja and Pemba as narrated below.

5.1 Women’s Rights

Protected under several international and regional human rights instruments, most notably the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) of 1979; Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) of 2003; and SADC Protocol on Gender and Development of 2008. Also protected under the Constitution of Zanzibar, which prohibits discrimination of any form and provides for equal enjoyment of rights for all regardless their nationality, tribe, gender, place of origin, political opinion, color, religion or station in life.²⁴⁶

Some of the key laws that have been reviewed and amended to ensure equal rights and protection of women are (1) The Zanzibar Legal Aid Act 13 2018, which stipulates preferential support to indigent people who cannot afford to pay legal services and advocate fees – the majority of whom are poor rural women, widows, and people with a disability; (2) The Zanzibar Public Sector Service Regulation of 2014 which prohibits all forms of gender based violence in the workplace for employees and employers; (3) The Penal Act 6/2018 – which increased punishment for “moral related offences” (e.g. rape and sodomy) from 7 years to 14 years of a jail term; (4) The Criminal Procedure Act 7/2018 with Sections on VAW/GBV related offences and stiff punishment on VAW/GBV crimes; and (5) The Zanzibar Spinsters and Single Parent Children Protection Act (2005) which stipulates for the right to go back to school for pregnant girls, within two years after delivery.

²⁴⁵ The Employment Act No. 5 of 2005.

²⁴⁶ Section 12(5) of the Zanzibar Constitution 1984.

The Kadhi Court Act No. 9 of 2017 was amended and introduced a “reconciliation unit” staffed by competent eminent people from the community to assist in resolving marital disputes before they proceed to court. The main objective of having these units is to reduce the number of divorces and to ensure that women and children get their basic rights. Although Tanzania, which Zanzibar is part of the United Republic of Tanzania and thus it has strictly adhered to the dictates of the global and regional frameworks which Tanzania has ratified and which can potentially transform the lives of women and girls, lacks of or incomplete implementation is still a challenge.

The CEDAW Committee of Experts recommended that Zanzibar incorporate the provisions of the Convention into the national legal system so that they can be directly applicable in the courts. The Committee also recommended harmonizing customary and religious law with statutory law to ensure alignment with the provisions of the Convention. The recommendations have not been implemented fully due to legal pluralism whereby Islamic law (governed by the Holy Quran) and statutory laws operate in the same jurisdiction, and Islamic law takes precedence over other laws.

Government action to facilitate progressive realizations of the right to health in 2024 included allocation and disbursement of funds for the health sector and construction and renovation of health facilities. The Government, through the Ministry of Health, also took measures to improve maternal health; increased availability of medicines and medical supplies; employed 710 new healthcare workers during the financial year 2023/2024, including 122 doctors and 264 nurses; provided health education to 149,996 community members; and completed construction of 10 district hospitals and one regional hospital.

The Government also continued to provide health-related services to victims of gender-based violence (GBV) and violence against children (VAC) at one stop centres and implementing the Zanzibar Digital Health Strategy 2020/2025. The Revolutionary Government of Zanzibar also continued to ensure access to health insurance. The budgetary Allocation and Disbursement for the financial year 2023/24, the budget for the Ministry is TZS 189.3 billion, increasing by 23%. The previous budget for the Mnazi Mmoja Hospital was previously recorded on the following trend TZS 20.3 billion in 2021/2022, TZS

34.1 billion in 2022/2023, and TZS 49.7 billion in 2023/24 connoting government's commitment to promote right to health to all citizen.

5.1.1 Physical Violence against Women

In 2024, women accounted for 14 per cent of all women in Zanzibar who experienced physical violence and almost one in ten women experience sexual violence²⁴⁷. One in ten males and one in twenty females reported experiencing sexual violence in childhood. Two out of three children experience physical violence before the age of eighteen years.²⁴⁸ Violence is rooted in a number of social, economic and cultural factors that impact community, families, relationships and the manner in which women and children experience their daily lives in Zanzibar. In particular gender inequities and a social tolerance of violence make women and children specifically vulnerable to sexual, physical and emotional violence²⁴⁹.

The Tanzania Demographic and Health Survey and Malaria Indicator (TDHS-MIS) 2022 also shows that 15% of women aged 15 to 49 in Zanzibar who have ever had a husband or intimate partner have experienced at least three forms of controlling behaviours by their husband or partner. These behaviours include being jealous or angry if she talks to other men, wrongly accusing her of being unfaithful, not permitting her to meet her female friends, trying to limit her contact with her family, and insisting on knowing where she is at all times.

Intimate Partner Violence (IPV) is said to be partly driven by social acceptance of physical violence against women. For instance, 28% of women and 13% of men in Zanzibar believe that wife beating is justified in at least one of the five specified circumstances, namely: if

²⁴⁷ Violence is rooted in a number of social, economic and cultural factors that impact community, families, relationships and the manner in which women and children experience their daily lives in Zanzibar. In particular gender inequities and a social tolerance of violence make women and children specifically vulnerable to sexual, physical and emotional violence.

²⁴⁸ Ministry of Health (MoH) [Tanzania Mainland], Ministry of Health (MoH) [Zanzibar], National Bureau of Statistics (NBS), Office of the Chief Government Statistician (OCGS), and ICF.2022. Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Final Report. Dodoma, Tanzania, and Rockville, Maryland, USA: MoH, NBS, OCGS, and ICF.

²⁴⁹ *ibid*

she burns the food, she argues with him, she goes out without telling him, she neglects the children, and she refuses to have sex with him.²⁵⁰ In terms of help-seeking, the TDHS-MIS 2022 revealed that women in Zanzibar (45%) are more likely to seek help to stop the violence than women in Mainland Tanzania (38%). A baseline report on the impact evaluation of the Productive Social Safety Net in Tanzania Phase II, released in June 2023, shows that approximately 29% of women in Zanzibar experienced IPV in the past 12 months.²⁵¹ Violence is rooted in a number of social, economic and cultural factors that impact community, families, relationships and the manner in which women and children experience their daily lives in Zanzibar. In particular gender inequities and a social tolerance of violence make women and children specifically vulnerable to sexual, physical and emotional violence.²⁵²

The National Plan of Action outlines the social and ecological framework in which violence occurs in Zanzibar and adopts a theory of change approach in identifying the causes of violence and the multiple evidence-based interventions needed to effectively address violence against women and children. Critically, the vision for ending violence against women and children in Zanzibar seeks to break the cycle of violence by preventing violence before it occurs. The Zanzibar National Plan of Action places a specific focus on violence prevention and seeks to address root causes in stopping violence. The National Plan of Action recognises that families and communities are often the first and most effective structures in preventing and responding to violence and outlines steps for increased engagement with community and traditional structures in empowering and protecting women and children. The National Plan of Action also specifically targets men and boys as key

²⁵⁰ Ibid]

²⁵¹ Government of the United Republic of Tanzania & World Bank Group *et al*, The Impact Evaluation of Productive Social Safety Net in Tanzania Phase II: Baseline Report, June 2023. Serikali ya Mapinduzi Zanzibar, Wizara ya Maendeleo ya Jamii, Jinsia, Wazee na Watoto Hotuba ya Waziri wa Maendeleo ya Jamii, Jinsia, Wazee na Watoto Mh. Riziki Pembe Juma (MBM) Kuhusu Makadirio ya Mapato na Matumizi ya Mwaka wa Fedha 2023/2024. Mei, 2023, At <https://www.zanzibarassembly.go.tz/storage/documents/budgets/all/1685027953.pdf>.

²⁵² <https://www.unicef.org/tanzania/press-releases/zanzibar-seeks-create-social-movement-end-violence-against-women-and-children> 28/8/24

actors in addressing the gender norms and practices that often underpin violence against women and children.

5.1.2 Sexual Violence against Women and Girls

Most of the victims of sexual violence against children (VAC), especially rape and sodomy, fell in the age category of 15 to 17 years, while for sodomy specifically, it was the age category of 6 to 10 years. Sodomy was once again found to be the most common form of sexual abuse against boys in Zanzibar.

The number of incidents admitted to prisons for July - September, 2024 were 32 remands and 123 Prisoners. Urban District received more prisoners compared to other districts (11 students and 41 prisoners).

In 2024, incidents of sexual violence against women has been increasing. Speaking at the launch event, the then Minister for Labour, Empowerment, Elderly, Youth, Women and Children, Hon. Dr. Maudline Cyrus Castico announced that the New National Plan of Action represents a clear commitment by the Government of Zanzibar to eliminate violence against women and children and outlines the evidence based and costed interventions planned to be implemented over the next five years to address violence against women and children.

Until March, 2024 a total of 125 survivors of violence and sexual abuse were reported. Most of them were children equal to 81.6 per cent, women 13.6 per cent and men 4.8%. Among the child survivors 84 were girls (82.4%) and 18 boys (17.6%).

A total of 67 rape survivors were, of whom 60 survivors were girls and seven (7) women. There were eight (8) sexual assault incidents where all the survivors were boys. There are six (6) incidents of unnatural intervention where two (2) survivors were women and four (4) were girls. There were four (4) escape incidents where three (3) victims were girls and one (1) was a woman. There were 11 incidents of shame/defamation attacks, nine (9) victims were girls and two (2) were women. There were 29 incidents of assault where eight (8) victims were girls, 10 were boys, five (5) were women and six (6) were men.

West District "A" has been reported to have more incidents compared to other districts (38 incidents) equal to 30.4 per cent, followed by West

District "B" where 34 incidents (27.2 per cent) have been reported. The South District has been reported to have a small number of incidents, one (1) incident equal to 0.8 per cent compared to other districts where no incident was reported in the Micheweni district for the month of March 2024.

The number of incidents per month has decreased by 28.6 per cent to reach 125 events in March, 2024 from 175 events in February, 2024. In addition, all events have been reported to decrease in the month of March 2024. Western District "A" has been reported to have many events compared to other districts (38 events) for the month of March, 2024, where the Western district "B" was reported to lead the most for the month of February, 2024 (43 events).

The number of incidents per year has decreased by 19.4 per cent and reached 125 events in March 2024 from 155 events reported in March 2023. Where all events reported in March 2024 have decreased. The West District "A" has led with a large number of events for March, 2024 (38 events) while the Urban district led for the month of March 2023 (43 events).

The number of child survivors of incidents of violence and sexual abuse for the month of March, 2024 has decreased by 30.1% to reach 102 incidents for the month of March 2024 from 146 for the month of February 2024. Comparison of the number of child victims for the age of all groups has decreased for the month of March, 2024.

5.1.3 Economic Violence against Women

Economic violence refers to any act or behaviour which causes economic harm to an individual. Economic violence can take the form of, for example, property damage, restricting access to financial resources, education, or the labour market, or not complying with economic responsibilities, such as alimony²⁵³. However, ZLSC has observed that married women in Zanzibar (76%) are more likely to make decisions themselves on how their earnings can be spent²⁵⁴.

²⁵³ See European Institute for Gender Equality "economic violence" at <https://eige.europa.eu/thesaurus/terms/1096#:~:text=Any%20act%20or%20behaviour%20which,economic%20responsibilities%2C%20such%20as%20alimony>

²⁵⁴ TDHS-MIS 2022 (supra)

Moreover various economic empowerment programmes of women, youth, and persons with disabilities (PWDs) have also helped to reduce economic violence against women in Zanzibar.

In 2024, ZLSC did not document any reported incident of economic violence, though many of them occur but usually go unreported. This may be explained by low community awareness about economic violence.

5.1.4 Cyber Violence

Cyber violence can simply be defined as violence perpetrated on and through online platforms. UN Women defines it as ‘when a person (or group of persons) uses an online-connected device to cause someone to suffer in terms of: sexual, psychological, economic or any other form of harm, often by exploiting their target’s circumstances, characteristics, or vulnerabilities.’²⁵⁵ This is still a relatively new phenomenon or concept that has been driven by technological advancements, rapid spread of mobile information, and widespread use of social media.²⁵⁶ It is a growing global problem with potentially significant consequences and women and girls are most at risk of being victims even in 2024.

According to UN Women, the most common types of cyber violence include: cyber-harassment; cyber bullying; revenge porn; cyber stalking; online child sexual exploitation, sexual abuse and child pornography; and sextortion.²⁵⁷

In 2024, the Revolutionary Government of Zanzibar, through the Ministry of Community Development, Gender, Elderly, and Children, and other ministries, government institutions, CSOs and the Police Force, continued to take various measures to prevent and combat

²⁵⁵ See Amira Diallo, *A Guide for Women and Girls to Prevent and Respond to Cyberviolence*, UN WOMEN, 2021, at <https://eca.unwomen.org/sites/default/files/2022-02/ONLINE%20cyberV%20women%20ENG.pdf>

²⁵⁶ See EIGE, *Cyber violence against women*, at https://eige.europa.eu/gender-based-violence/cyber-violence-againstwomen?language_content_entity=en. It is important to note that Tanzania adopted a Cyber Crimes Act in 2015 and parts of it applies to Zanzibar as well.

²⁵⁷ *A Guide for Women and Girls to Prevent and Respond to Cyber violence*.

violence against women and children, including public awareness-raising, campaigns, arrest and prosecution of perpetrators, and trainings for various key stakeholders.

However, in 2024 various challenges continued to affect these measures, including budgetary constraints, shortage of personnel, moral decay,²⁵⁸ the culture of silence and not cooperating with law enforcement bodies, inadequate monitoring, and coordination challenges. Social tolerance of violence against women and children is also a contributing factor.

5.1.5 Sextortion a Major Concern at Higher Learning Institutions

Zanzibar has stepped up campaign against sextortion in institutions of higher learning by launching a free helpline (116) and desk at the State University of Zanzibar (SUZA).²⁵⁹ The launch of the helpline and the desk will encourage people particularly students to report cases of sextortion without fear

On 3rd November, 2021, it was highlighted that the health sector is rife with sexual harassment, impacting school and college girls and women seeking confidential abortion services when finances are insufficient.²⁶⁰

This reveals that women, particularly college students and those in field practice, frequently face demands for sexual favours from unethical lecturers, trainers and others in various fields, including newsrooms when seeking internships or information.

The issue extends to those seeking abortions due to sexual coercion. On 31st August, 2024, it was emphasized that sextortion is indiscriminate, affecting everyone from individuals seeking services to politicians and students in educational institutions.²⁶¹

5.1.6 Women’s Participation in Political Leadership

²⁵⁸ “Kuiga tamaduni kwatajwa kuchangia udhalilishaji” *Mwananchi Newspaper*, 21st December, 2023.

²⁵⁹ The Government University situated at South District Unguja.

²⁶⁰ <https://www.jamiiforums.com/>

²⁶¹ Stakeholders argue that sexual corruption, unlike consensual sex work where terms are mutually agreed upon, operates without boundaries and discrimination.

The right of Zanzibaris women to participate in political life is protected and guaranteed internationally, regionally, and domestically. Internationally, Tanzania, Zanzibar inclusive, is a party to various international²⁶² and regional²⁶³ human rights instruments that guarantee women's political participation. These instruments require women to be afforded equal opportunities to political participation.

The Constitution of Zanzibar, 1984 also guarantees the right of all citizens, including women, to participate in politics and hold leadership positions.²⁶⁴ The Revolutionary Government of Zanzibar has taken various measures over the years to enhance women's political participation, which have seen more women into leadership and decision making positions.

However, various challenges continue to hinder women's effective political participation, including gender and other gaps in laws governing political participation, inadequate support from political parties, inadequate representation in party decision-making structures, and violence against women in politics (VAWP), cultural beliefs, and gender gaps in political party instruments. Addressing these challenges is critical ahead of elections of 2025 in Zanzibar.

5.1.7 Women's Safety and Security

Women are guaranteed the right to liberty and personal security, under the Constitution of Zanzibar. However, women's safety and security are compromised by several factors. Key among them being different forms of violence perpetrated against them in different settings. Inadequate

²⁶² Including the Universal Declaration of Human Rights (UDHR) of 1948, the Convention on the Political Rights of Women (CPRW, 1952), and the International Covenant on Civil and Political Rights (ICCPR) of 1966. Tanzania has also ratified the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) of 1979, which is a specific convention for women's rights.

²⁶³ Such as African Charter on Human and Peoples' Rights (Banjul Charter) of 1981, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003, and SADC Protocol on Gender and Development of 2008.

²⁶⁴ Section 21 of the Constitution of Zanzibar, 1984.

housing also disproportionately affects women and compromises their safety and security.

5.1.8 Women’s Access to Justice

According to the 2022 Social Institutions and Gender Index (SIGI) report, Tanzania scored 31 on the “Access to justice” indicator. In 2024 the score was 35 and the highest level of discrimination was observed in North Unguja, with the score of 39, followed by Kusini Unguja, Kaskazini Pemba, and Kusini Pemba, all with the score of 36. The lowest level of discrimination was in Mjini Magharibi, which scored 33 points.²⁶⁵ The SIGI report also indicates that women’s ability and willingness to resort to the courts and the police is limited. In situations of conflict, only 18% of women said they seek access to the lowest court and just over a third (36%) seek help from the police. Family and friends (92%) are the most preferred option for the majority of women when seeking justice or settling a dispute.

The SIGI report further shows that a large majority of the population believes that both men and women should have equal opportunity to file a complaint at a police station. However, more than three quarters hold the opinion that a woman needs her husband’s or partner’s permission if she wants to contact the police (77%) or a court (83%) and the percentages are particularly high in Zanzibar (court 98%, police 99%). Norms opposing women’s representation in the system as judges are also high in Zanzibar. For instance, in Zanzibar, over a half of the population (59%) agree (24%) and strongly agree (35%) that men make better judges than women, indicating the presence of strong belief that only men can effectively administer justice.

According to UN Women, investing in women’s economic empowerment sets a direct path towards gender equality, poverty eradication, and inclusive economic growth. Globally, lack of economic or financial security is a key concern for most women, especially in rural areas, and is one of the major reasons they decide to stay in abusive relationships.

²⁶⁵ OECD (2022), SIGI Country Report for Tanzania, Social Institutions and Gender Index, OECD Publishing, Paris, [https:// doi.org/10.1787/06621e57-en](https://doi.org/10.1787/06621e57-en).

In 2024, the Revolutionary Government of Zanzibar and other stakeholders, including CSOs, continued taking various measures to empower women economically so that they can escape poverty, including through provision of loans to groups and individuals. A key challenge is the availability of limited funds, while the demand is high. Another challenge in the provision of loans is the slow pace of loan repayment, especially due to community perception that the funds belong to the Government, hence beneficiaries should not be compelled to pay back.

The Revolutionary Government of Zanzibar, through the Ministry of Constitution and Legal Affairs, to facilitate enactment of a specific and comprehensive law on gender based violence. The RGZ, through the Ministry of Community Development, Gender, Elderly, and Children, to intensify efforts to prevent and combat violence against women. The RGZ, through the Ministry of Community Development, Gender, Elderly, and Children, to spearhead legal and policy reforms to address cyber violence, which mostly affects women and girls. It also review the children Act No. 6 of 2024. CSOs Revolutionary Government of Zanzibar to intensify efforts to prevent and combat violence against women, including through public awareness-raising programmes.

5.2 Children’s Rights

Children’s rights are protected at international, regional, and domestic levels. Domestically children are protected under the Constitution of Zanzibar (1984) and Children’s Act No. 6 of 2011. Children constitute 48% of the population of Zanzibar. The Office of the Chief Government Statistician works with UNICEF to ensure that information on children and child poverty is used for evidence-based policy and decision-making.

In 2024, violence against children continued to be the biggest threat to children’s rights in Zanzibar. Common acts of violence against children (VAC) include rape, attempted rape, sodomy, and defilement. A total of 148 incidents of violence and sexual harassment were reported in the month of September, 2024. Most of the survivors were children (Age 0-17 years) equal to 87.9 per cent, women (18 years or older) 7.4 per cent and men (18 years or older) 4.7 per cent. Among the children (130 survivors), girls were 107 (82.3 per cent) and boys were 23 boys equal to (17.7 per cent).

5.2.1 Violence Against Children

In 2024, community stakeholders engaged by ZLSC were asked about the extent to which violence against children (VAC) is a problem in their community and indicate common acts of VAC. Regarding the first question, just over a half of them (54.2%), said it is a serious problem, followed by nearly a quarter (23%), who said it is a problem. Only 5.1% of them said it is only a minor problem or not at all a problem. Regarding common acts of VAC, rape, attempted rape, and defilement were mentioned as the most common (54%), followed by beating, slapping, or kicking (42%), and sodomy (36%). Other acts, such as severe corporal punishment,

Additionally, the community stakeholders were asked how much they trust key institutions in resolution of disputes of violence against women and children (VAWC). These institutions are court of law, social welfare office, police gender desk, religious leaders, paralegals, family, shehia/community police, and NGOs.

Religious leaders were said to be trusted or trusted a lot (70.9%), followed by family (66.7%), social welfare office (62.7%), police gender desk (57.6%), NGOs (56.3%), paralegals (54.1%), court of law (53.5%), and shehia or community police (46.3%). Statistics released by the Office of the Chief Government Statistician (OCGS) in Zanzibar show that, incidents of violence against children (VAC) constituted 83.7% of all reported incidents of violence (VAC, VAW, & VAM) in 2023. Overall, a total of 1,639 VAC incidents were reported in 2023 while 1,288 incidents were reported until September 2024,

In 2024, girls continued to constitute overwhelming majority of VAC victims, accounting for over two thirds of the victims. This was largely driven by rape incidents, which accounted for a half of all reported VAC incidents.

Moreover, the police cases reported in 2024 the VAC is increasing in Zanzibar, it was reported that among 244 children were violated of whom 16 were violated at the age of 6 to 10; 27 were violated at the age of 11 to 14; and 91 were violated at the age of 15 to 17. Table 12 below shows the number of VAC cases reported in Zanzibar to the police stations for 2024.

Table 12: Number of VAC Cases Reported to the Police in March & July 2024

# Children	Total	Percentage
Girls	199	82.0
Boys	45	18.0
Total	244	100.0

Source: The Office of the CGS, 2024

Note that, based on table 12 above, 82 per cent of VAC survivors were girls and 18 per cent boys. These experienced different types of VAC as summarized in table 13 below.

Table 13: Type of VAC Cases Reported in March & July 2024

Type of VAC	Total	Percentage
Rape (<i>Kubaka</i>)	123	50.0
Defilement (<i>Kulawiti</i>)	26	11.0
Unnatural Offence (<i>Kuingiliwa kinyume na maumbile</i>)	12	5.0
Abduction (<i>Kutorosha</i>)	21	9.0
Indecent Assault (<i>Shambulio la aibu / Kukashifu</i>)	29	12.0
Assault (<i>Shambulio</i>)	33	14.0
Total	244	100.0

Source: The OSCG, 2024

Of all VAC cases, rape was 50 per cent, followed by Assault 14 per cent, Indecent Assault 12 per cent, Defilement, 11 per cent, Abduction 9 per cent and Unnatural Offence 5 per cent as shown above. Assuming all other factors remain constant, an estimate of 1,464 VAC cases are expected to be reported for the period of twelve months in year 2024. This is a fraction of the entire situation that occur at households' level and in the communities and never reported to any authorities as revealed by Focus Group Discussion (FGD) and Key Informants Interviews (KIIs).

5.2.2 Sexual Violence Perpetrated by Teachers

Article 19 of Convention on the Rights of the Child, 1989 provides for protection of a child in all forms of sexual abuse such as raping and defilement. Zanzibar penal code of 1986 Article 13 explains that raping, sexual abuse, or a sexual affair with a child is a criminal offence. According to Section 145 B (1) of Zanzibar Penal Code sexual abuse is a criminal offence. Section 125 explains that to have sexual intercourse with a girl or a boy is a criminal offence, and the offender is sentenced to serve 30 years in jail. The findings from adults said that girls are protected so that they may not be "spoiled".

If this habit is maintained, then Zanzibar will be a good example in protecting girl child against sexual abuse. Sexual abuse for boys has been mentioned in the questionnaires, which seems that they exist. Early strategies are needed especially in taking legal measures against the offenders in order to prohibit and criminalize such abuses. Also it is recommended that law enforcement organs such as Police and Courts should be careful when dealing with cases concerning rape, defiling and sodomy children so that the public can have confidence on them and the Government in general.

Sexual abuse according to the findings of this research and the public enquiry, the issue of sexual abuse was not discussed openly; however, there were discussions on raping cases. Female children said that they are aware of the raping and insisted that they hate it. Sexual abuses such as raping and defiling are becoming common and increasing in the community. Though there are laws which prohibit these abuses, the acts seem to increase. In this regard there is a need to find alternative means to prevent these abuses starting at family level; also Government and religious leaders are in good position to criticize these sexual abuses which are becoming chronic in the community.

The number of incidents per year has decreased by 23.9% to reach 102 incidents in the month of March 2024 from 134 incidents in the month of March 2023. A comparison of the number of child victims on the age of all groups has been reported to decrease in the month of March, 2024.

Most of the incidents (42 incidents) have occurred in other parts (Bush rooms and elsewhere) equal to 33.6% followed by incidents that occurred at the suspect's home (38 incidents) equal to 30.4 per cent compared to the other areas mentioned. 93 incidents out of 125 reported incidents are under the investigation of the Police Force equal to 74.4%

and 32 incidents are under the Office of the Director of Public Prosecutions equal to 25.6 per cent.

The perpetrators of incidents of violence and sexual harassment reported for the month of March 2024 were 125, of whom 102 were passers-by equal to 81.6%, 20 were neighbours equal to 16.0 per cent, two (2) were lovers equal to 1.6% and one (1) was uncle equal to 0.8 per cent.

5.2.3 Complaints of Humiliation Offenses Received

In March 2024, a total of 70 files were received by the Office of the Director of Prosecutions (DPP), which involved 73 offences. Most crimes were related to rape (39 crimes) equal to 53.4 per cent of all crimes received.

5.2.4 Statistics of Humiliation Cases filed in Zanzibar Courts

In March 2024 a total of 25 cases were opened in the Courts of violation as follows: West Urban Region opened 12 out of 25 cases, equal to 48.0 per cent compared to other regions. The total number of proceedings opened in Zanzibar's violation courts was 25, of which three (3) proceedings have been decided and 22 proceedings are on-going.

A total of 25 defendants were accused of degrading acts, where all 25 defendants were men. Most defendants were 14-17 years old (8 defendants) equal to 32.0 per cent. The total number of victims of acts of humiliation were 25 of which three (3) victims were men and 22 victims were women. Most victims aged 15-19 (13 victims) equal to 26.3 per cent.

5.2.5 Prisoners for Violent Offenses and Sexual Humiliation

The total number of students for crimes of humiliation received at the College of Training for January - March, 2024 were 35 and Prisoners were 143. The Urban District has been reported to have received many students (12 students). Compared to other districts, as well, more prisoners were received from the Urban District (46 prisoners). The 18-29 age group has been reported to have more students and inmates compared to other age groups. Whereby students were 23 and prisoners were 49. Most offenders have been sentenced to serve a prison term of

11 years or more (18 students) equal to 51.4 per cent compared to other prison terms.

Penal Act 6/2018 increased penalties for crimes related to morals such as rape, prostitution, sexual assault and indecent assault; this law was enacted in 2018, which has come to repeal a similar law of 2004. This law was enacted, among other things, to make certain acts into criminal offenses and to impose penalties if anyone commits such acts and the court finds him guilty.

In Section thirteen of the penal law includes many offenses which are offenses against acts of cruelty and humiliation of women and children. The Criminal Procedure Act 7/2018 Section 151 (1) contains provisions that do not allow the granting of bail to anyone accused of cases related to violence and sexual harassment, as well as increasing the sentences that the Courts may pass. For example, in the Regional Court cases of violence and sexual abuse.

5.2.6 A Boost for Right to Education for Children with Disability

This program aims to provide education for all including children with special needs, provide life skills education including counselling, sex, sustainable discipline, drugs and issues related to reproductive health.

Short-term results Improved learning and teaching environment for students with special needs Indicators of results, Number of students with special needs in schools, Number of schools with an environment that considers the needs of students with special needs. Number of teachers trained in inclusive education and life skills. The Revolutionary Government of Zanzibar target: To increase the number of students with special needs in government and private schools from 10,299 in 2023/24 to 10,449 in 2024/25 at the preparatory, primary and secondary education levels.

Increasing the number of teachers trained in inclusive education and life skills from 1,034 (772 women and 262 men) in 2023/24 to 1,500 in 2024/25. The Need for a New Education Policy Recently, a number of review studies have been undertaken. Prominent among them are: the Education for All (EFA) Assessment 2000, the ZEMAP Mid-term Review (2002) and the Zanzibar Education Sector Review (2003). These various review reports have revealed many laudable and impressive achievements in education.

At the same time the studies have drawn attention to weaknesses and to a number of unmet and new challenges which the education system faces especially in the wake of the on-going liberalization, globalization and privatization process and the macro-economic policies being pursued by the Government. Some of these challenges include the attainment and sustainability of the EFA goals articulated in the Dakar Framework of Action, the Millennium Development Goals (MDGs), the targets set by the poverty reduction programme (ZPRP), the goals spelt out in the vision 2020 as well as other commitments articulated in other international and regional declarations.

5.3 Violence and Discrimination against Persons with Disabilities (PWDs)

In 2023 the community stakeholders who were engaged identified several acts of violence as key challenges for persons with disabilities (PWDs). These include abuse or mistreatment (37%) and neglect or social exclusion (28%). Stigma and discrimination (55%), which were also said to be key challenges, increase the risk of violence against PWDs.²⁶⁶ Including the Universal Declaration of Human Rights (UDHR) of 1948, International Covenant on Civil and Political Rights (ICCPR) of 1966, the African Charter on Human and Peoples' Rights of 1981, the UN Convention on the Rights of Persons with Disabilities (UN CRPD) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2000. In 2024, ZLSC conducted community survey to understand their perception on the state of Violence against Persons with Disabilities (PWDs). Results suggest that discrimination against PWDs was 5% of all human rights violations observed from January to July 2024.

5.3.1 Protection Mechanisms to PWDs

There are several organizations of people with disabilities (OPDs) established for the purpose of promoting and protecting the interests

²⁶⁶ Including the Universal Declaration of Human Rights (UDHR) of 1948, International Covenant on Civil and Political Rights (ICCPR) of 1966, the African Charter on Human and Peoples' Rights of 1981, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003.

and welfare of PWDs. These include the Zanzibar Association of the Blind (ZANAB), Zanzibar Association for People with Developmental Disabilities (ZAPDD), the Association of People with Disabilities in Zanzibar (UWZ), and the Zanzibar Centre for Disability and Inclusive Development (ZACEDID).

In 2024, the Revolutionary Government of Zanzibar, through the First Vice President's Office and the National Council of Persons with Disabilities (NCPD), continued to collaborate with OPDs and other stakeholders to advance PWDs' rights. Government action to promote and protect rights of PWDs in Zanzibar in 2024 include: setting aside 10% of revenue collected by LGAs for youth (4%), women (4%) and PWDs (2%).²⁶⁷ ZLSC identified key challenges facing PWDs as: Stigma was mentioned as the biggest challenge, followed by poverty and unreliable source of income, limited access to quality education, and unfriendly infrastructure.

5.4 Rights of the Elderly

Unlike other vulnerable groups such as women, children, and PWDs, there is no international or regional convention that is specific on the rights of the elderly. Nevertheless, their rights, like those of other groups, are guaranteed under various international and regional conventions, as well as domestically under the Constitution of Zanzibar of 1984.

In 2024, key issues and challenges which affected enjoyment of the rights of the elderly include: exclusion and marginalization; inadequate monthly pensions, considering the current high costs of living; limited access to quality health services; poverty; and food insecurity.

²⁶⁷ Serikali ya Mapinduzi ya Zanzibar, Hotuba ya Waziri wa Nchi, Afisi ya Rais Tawala za Mikoa, Serikali za Mitaa Na Idara Maalum za SMZ Mheshimiwa Masoud Ali Mohammed (Mbm) Kuhusu Makadirio ya Mapato na Matumizi Kwa Mwaka wa Fedha 2023/2024 Imewasilishwa Katika Baraza la Wawakilishi Zanzibar Mei, 2023, <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/All/1684332929.Pdf>; Serikali ya Mapinduzi ya Zanzibar Hotuba ya Waziri wa Nchi, Ofisi ya Makamu wa Kwanza wa Rais Mheshimiwa Harusi Said Suleiman (MBM) Katika Baraza la Wawakilishi Kuhusu Makadirio ya Mapato na Matumizi Kwa Mwaka wa Fedha 2023/2024 MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1683820223.pdf>



Members of staff of Zanzibar Legal Services Centre sharing lunch with the elderly at Sebuleni old peoples' home in Unguja as one of the Centre's social and community responsibility. This was on 30th November, 2024.

The Ministry of Community Development, Gender, Elderly and Children, like other institutions of the Revolutionary Government of Zanzibar, uses a program-based budget system (Programme Based Budget - PBB) in the implementation of its work plan. The Ministry has implemented its activities through three main programs which are:

These are the Social Security Program (PH0401), Coordination and Operations Programme (PH0402) which has the following sub-programmes: - Administration and Operations (SH040201); - Policy Coordination, Planning and Research (SH040202); - Administration and Operations of the Head Office Pemba (SH040203). So far the Revolutionary Government of Zanzibar has continued to coordinate the Social Pension programme where in 2023 there were 28,942 elderly people, and in 2024 they have reached 30,127 elderly people. About 93 per cent of surveyed respondents including elders feel comfortable with availability of social services such as water in Zanzibar.

5.4.1 Violence against the Elderly

The Revolutionary Government of Zanzibar, through the Ministry of Community Development, Gender, Elderly, and Children, made efforts to prevent and combat all forms of violence against women, men, children, PWDs, and the elderly privacy such as abuse or mistreatment and neglect/social exclusion.

In 2024, ZLSC engaged with various stakeholders and asked them about key issues and challenges faced by older people. They mentioned:

Poverty and unreliable source of income utmost, followed by limited access to quality health services, food insecurity, and abuse or mistreatment. ‘The Government should increase budgetary allocation for the health sector to facilitate better access to health services by the elderly.

5.4.2 Challenges Faced by the Elderly Pensioners

ZLSC identifies key challenges facing elderly people in Zanzibar as follows: Difficulties in vetting the beneficiaries by going house to house. Lack of reliable means of transport; Shortage of staff; many older persons lack IDs especially those who live in rural areas; Misuse of Power of Attorney to collect pension on behalf of older persons; some older people not meeting the age qualification; Provision of monthly pension through banks which is a challenge for older people.

5.5 Right to Privacy

The right to privacy is guaranteed under various international and regional human rights instruments.²⁶⁸ Also protected under the Constitution of Zanzibar of 1984. The right to privacy is protected under Section 15 of the Constitution of Zanzibar. According to this Section, ‘every person is entitled to respect and protection of his person, the privacy of his own person, his family and of his matrimonial life, and respect and protection of his residence and private communication.’ Despite this constitutional guarantee, protection of this fundamental right is not complete without a specific legislation on personal data protection, ensuring that data collected by different people and institutions for different purposes are not misused.

In July 2023, stakeholders in Zanzibar expressed concerns over lack of personal data protection legislation.²⁶⁹ This was revealed by a study by the Law Review Commission of Zanzibar (LRCZ), conducted in collaboration with the Centre for Youth Dialogue.²⁷⁰ LRCZ

²⁶⁸ Including the Universal Declaration of Human Rights, 1948; the International Covenant on Civil and Political Rights, 1966; and the African Charter on Human and Peoples’ Rights, 1981.

²⁶⁹ Wataja athari Zanzibar kukosa sheria ya faragha” *Mwananchi Newspaper*, 15th July, 2023.

²⁷⁰ *ibid*

recommended the Government to enact the Personal Data Protection Act to safeguard protection of personal data collected by institutions and assure investors and citizens that such data shall not be misused.²⁷¹

ZLSC 2024 has observed that right to privacy is among the less known human rights in Zanzibar, and this means violations may well have occurred, but people are not aware they are actually violations. The Revolutionary Government of Zanzibar to enact the Personal Data Protection Act to address key concerns raised by stakeholders and spearhead amendment of the law. CSOs to collaborate with other stakeholders to raise public awareness on privacy. In 2024, the main key issue of concern regarding the right to privacy is lack of personal data protection law in Zanzibar.

5.6 Rights of Persons Living with HIV/AIDS

The Revolutionary Government of Zanzibar continued to take various measures to promote and protect rights of PLHIVs, in collaboration with the Zanzibar AIDS Commission (ZAC). The measures include: provision of HIV-related health services, including counselling and provision of antiretroviral (ARVs). Various challenges in the health sector, discussed above, also affect provision of quality services to PLHIVs.

In 2024 the PLHIVs concerns in Zanzibar, raised to be access to medical services, stigma, and discrimination. Stigma and discrimination limit women and girls' to access care and treatment services as well as sexual reproductive health (SRH) and other user-friendly services.

²⁷¹ “Tume Yataka Sheria Kulinda Taarifa Binafsi za Wananchi,” *Habari Leo Newspaper*, 15th July, 2023.

5.7 Impact of the Blue Economy on the Rights of Vulnerable Groups



Malindi Port – the Gateway to Blue Economy in Zanzibar.

and a supply of food The Blue Economy provides humanity with a critical source of protein via small-scale fishing, including some of the poorest shoreline and local communities, providing half the world's harvested seafood.

Challenges in implementing the blue economy policy include illegal fishing, pollution, habitat destruction, and climate change. Additionally, issues related to governance, international cooperation, and the equitable distribution of benefits need to be addressed.

5.8 Conclusion

Chapter five discussed several rights and the way they are being affected in Zanzibar. Rights of Vulnerable Groups include: Women's Rights: Physical Violence against Women, Sexual Violence against Women and Girls, Economic Violence against Women, Cyber

Violence, Sextortion a Major Concern at Higher Learning Institutions, Women's Participation in Political Leadership, Women's Safety and Security, and Women's Access to Justice.

Under Children's Rights the report discussed issues of: Violence against Children, Sexual Violence Perpetrated by Teachers, Humiliation Offenses Received at the Office of the Director of Prosecutions Zanzibar, Statistics of Humiliation opened in Zanzibar Humiliation Courts, students and Prisoners for Violent Offenses and Sexual Humiliation, and A Boost for Right to Education for Children with Disability. Also covers Violence and Discrimination against Persons with Disabilities (PWDs): Protection Mechanisms to PWDs. Rights of the Elderly: Challenges Faced by the Elderly Pensioners. Right to Privacy, Rights of Persons Living with HIV/AIDS, Impact of the Blue Economy on the Rights of Vulnerable Groups and Conclusion.

In summary, a total of 148 incidents of violence and sexual harassment were reported in the month of September, 2024. West District "A" reported more incidents compared to other districts which recorded 41 incidents equal to 27.7 per cent. The number of incidents per month decreased by 5.7% from 157 incidents recorded in August 2024 to 148 incidents equal to 5.7%. a total of 112 out of 148 reported incidents (75.7%) are being investigated by the Police Force, 31 (20.9%) incidents are in the Office of the Director of Prosecutions, 2 incidents (1.4%) were closed by the police and 3 incidents (2%) are in court.



The Chief Executive Officer – CEO of the Centre Ms. Felista Mauya and two Board Members of the Centre – Dr. Yahya Khamis Hamad and Prof. Chris Maina Peter following up the field research for the Human Rights Survey, 2024 in Chake Chake, Pemba to check quality assurance of the work.

CHAPTER SIX

HUMAN RIGHTS MECHANISMS

6.0 Introduction

Human rights mechanisms comprise laws and institutions that promote and protect human rights. These mechanisms exist at national, regional, and international level. National level mechanisms that are discussed under this chapter are the Judiciary; the Commission for Human Rights and Good Governance (CHRAGG); Law Review Commission of Zanzibar (LRCZ); Office of the Director of Public Prosecutions (DPP); and the Police Force. Regional and international human rights mechanisms accessible by Zanzibar include: Universal Periodic Review Mechanism (UPR); Human Rights Committee (HRC), the UN Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights; the Committee on the Elimination of Discrimination Against Women; the Committee on the Elimination of Racial Discrimination; the Committee on the Rights of Persons with Disabilities; the African Court on Human and Peoples' Rights; the African Commission on Human and Peoples' Rights; African Committee of Experts on the Rights and Welfare of the Child; and the East African Court of Justice

The UN human rights system is a collection of mechanisms that work together to: Hold States accountable for their human rights obligations. Discuss and take action on human rights concerns around the world. Set standards for the promotion, protection, and fulfilment of human rights.

6.1 National Human Rights Mechanisms

In 2023, national human rights mechanisms, including the Police Force and the Judiciary of Zanzibar, continued to take various measures to protect and promote human rights. However, they are faced with various challenges, including shortage of staff, delays in investigations and dispensation of justice, corruption, and budgetary constraints.

6.1.1 Legal Frameworks

The Judiciary of Zanzibar is comprised of the High Court of Zanzibar, Kadhis Court, and other courts established and provided for under Chapter Six of the Constitution of Zanzibar (1984) and the Magistrates Court Act, 1985.

6.1.2 Tanzania Police Force

Tanzania Police Force the Tanzania Police Force (TPF) is established under the Police Force and Auxiliary Services Act.11 of 1983. Its main function is to protect citizens and their properties, ensuring there is peace in the community. Mandate and Positive Action Mandate Police mandate includes investigation of human rights violations, for instance arresting and taking to court perpetrators of violence against women and children or violators of right to life. Preventing crime includes raising awareness on crimes and criminal laws as well as road safety. Positive Action the Police Force continued to take action to protect citizens and their property, including arresting and taking to court perpetrators of human rights violations such as people accused of committing acts of physical and sexual violence.

6.1.3 Zanzibar Correctional Facilities (ZCF)

Zanzibar Correctional Facilities also known as *Vyuo vya Mafunzo Zanzibar*, were established under the Offenders Education Act, No. 1 of 1980, which was amended in 2007 through the Offenders Education (Amendment) Act No. 3 of 2007. Its main objective is to correct criminal behaviour so that offenders become law-abiding citizens upon release from the institute.

The institute mandate and positive action to mandate and hold offenders convicted by courts of law in Zanzibar for the purpose of correcting their criminal behaviour. The correctional programmes are implemented in four key areas, namely: education, agriculture, livestock keeping, and industry.²⁷² Offenders are supposed to be trained and equipped to become better citizens or reformed. Positive Action.

²⁷² See Chuo Cha Mafunzo Zanzibar At https://Www.Chuochamafunzohq.Go.Tz/Historia_Ya_Mafunzo#

The Institute of Education for Offenders (as prisons are referred to in Zanzibar) continued to provide correctional services to various offenders in Zanzibar correctional facilities. By doing this it also continued to protect other citizens from the criminal behaviour of the offenders. Shortage of working tools and equipment contributed by lengthy pre-trial detention. For instance, during the financial year 2022/2023, more detainees (1,825) were received in the correctional facilities in Zanzibar than convicted offenders (504).²⁷³

Shortage of institute workers contribute to failure to correct criminal behavior of some offenders. The fundamental role of the DPP office is the administration of criminal cases by charging and prosecuting persons accused of crime.

6.1.4 The Office of the Director of Public Prosecutions

The DPP has constitutional powers to institute, prosecute, discontinue, and take over any criminal case in all courts in Zanzibar other than martial courts. The DPP office administers criminal cases by prosecuting all criminal cases in all courts of Zanzibar from District Courts, Regional Magistrates courts, High Court and the Court of Appeal of Tanzania cases that are filed in Zanzibar.

It also coordinates all prosecution services in primary courts. The office is also responsible for educating members of society on matters relating to criminal justice. As far as human rights and good governance are concerned, the DPP office performs its responsibilities under two main slogans.

First investigation should precede prosecution and the second is that no conviction without evidence. From these two slogans, the DPP office always requires police to admit suspects to bail until such time where an investigation of a given case is completed and where prosecution can then be formally initiated. Positive Action, the DPP Office continued to

²⁷³ See Serikali ya Mapinduzi ya Zanzibar Hotuba ya Waziri wa Nchi, Afisi ya Rais Tawala za Mikoa, Serikali za Mitaa na Idara Maalum za Smz Mheshimiwa Masoud Ali Mohammed (MBM) Kuhusu Makadirio ya Mapato na Matumizi Kwa Mwaka wa Fedha 2023/2024 Imewasilishwa Katika Baraza la Wawakilishi Zanzibar Mei, 2023, At <https://Www.Zanzibarassembly.Go.Tz/Storage/Documents/Budgets/All/1684332929.Pdf>.

perform its various roles in administration of criminal justice in Zanzibar, including charging criminal suspects in courts of law and conducting investigations to assist in prosecution of cases.

The Office of the Director of Public Prosecution as the National Human Rights Mechanisms in Zanzibar was established in 2002, following the 8th amendment of the Constitution of Zanzibar 1984.²⁷⁴ This office performs its functions in accordance with the Constitution of Zanzibar of 1984, the office of Director of Public Prosecutions Act (No. 2) 2010, the Prosecution Manual of 2005 as revised in 2015.

The four constitutionally founded core values of the DPP Office are independence, impartiality, integrity, and truthfulness. The DPP Office continued to perform its various roles in administration of criminal justice in Zanzibar, including charging criminal suspects in courts of law and conducting investigations to assist in prosecution of cases.

The DPP Office continued to perform its various roles in administration of criminal justice in Zanzibar, including charging criminal suspects in courts of law and conducting investigations to assist in prosecution of cases.

6.1.5 The Law Review Commission of Zanzibar

Mandate and Positive Action Mandate the main function of the Commission is to review the laws of Zanzibar and to propose necessary amendments to make sure that they respond timely to changes taking place in Zanzibar. The Commission continued to carry out its mandate of reviewing various laws that are operational in Zanzibar. The commission has also been working with various CSOs, including ZLSC, to address legal challenges and gaps in various laws.

The Commission has not been very active in reviewing laws that have been identified by various stakeholders, both within and outside Zanzibar and Tanzania, as containing provisions which infringe on human rights. It has also not been vocal in this regard. The Revolutionary Government of Zanzibar to take measures to strengthen the national human rights mechanisms, taking into consideration the

²⁷⁴ 1984 Section 56A.

recommendations provided by the Presidential Commission on Criminal Justice Reforms

6.1.6 Zanzibar Anti-corruption and Economic Crimes Authority

In 2011, the Revolutionary Government of Zanzibar developed and adopted a good governance policy and shortly thereafter an Anti-Corruption and Economic Crimes Act was passed by the Zanzibar House of Representatives.²⁷⁵ The Act establishes the Zanzibar Anti-Corruption and Economic Crimes Authority (ZAECA) operationalized in 2012 with a three-pronged mandate of Prevention, Education, and Investigations for both public and private sector.

Fighting corruption is essential for safeguarding human rights, especially economic and social rights such as education, health, and water. Corruption has also proven to be an enemy of the administration of justice in Zanzibar. Therefore, the role of the national anti-corruption body, such as ZAECA, in promoting and protecting human rights cannot be underestimated. ZAECA continued to take various measures to prevent and address corruption, including awareness-raising and arrest and prosecution of perpetrators of corruption.



Despite the efforts made to combat corruption, still there is low awareness among citizens and duty bearers to end corruption. In 2024, ZLSC conducted human rights perception survey. Respondents rated

²⁷⁵ See the Zanzibar Anti-Corruption and Economic Crimes Authority (ZAECA) website at <https://zaeca.go.tz/background.html>.

action rated to corruption at eight (8) per cent of all incidents of human rights violations.

6.1.7 Commission for Human Rights and Good Governance

The Commission for Human Rights and Good Governance (CHRAGG) is an independent government institution, established as a national focal point institution for the promotion and protection of human rights and duties as well as good governance in Tanzania. CHRAGG is established under Article 129(1) of the Constitution of the United Republic of Tanzania of 1977 as amended by Act No. 3 of 2000.

The Commission became operational on the 1st of July 2001 after the coming into force of the Commission for Human Rights and Good Governance CAP 391. The Commission was officially inaugurated in March 2002 following the appointment of Commissioners by the President of United Republic of Tanzania.

The Commission is mandated to promote, protect, and preserve human rights and deal with mal administration i.e. abuse of public authority in the context of administrative justice as per Article 130(1) of the Constitution of the United Republic of Tanzania and Sections 6 and 15 of the CHRAGG Act. According to Section 6 (1) (a) of the Act CAP 391, the Commission has protective, promotive, advisory, and mediatory/conciliatory functions.

On the positive note, CHRAGG continued carrying out its key functions, including sensitizing about protection and preservation of human rights and the duties; and receiving allegations and complaints in the violation of human rights and contravention of principles of good governance. CHRAGG also continued to closely work with some CSOs in Zanzibar, including ZLSC, to promote and protect human rights and principles of good governance in Tanzania.

CHRAGG continued to use a newly developed system known as Complaints Management Information System (CMIS) which is used and accessible in all CHRAGG offices that enabling citizens submit and track their complaints. Budgetary constraint remains one of the challenges facing CHRAGG in terms of providing and expanding its services. Increasing demand and expectations of stakeholders and citizen on human rights and good governance vis-à-vis CHRAGG's

capacity and country's coverage: CHRAGG operates through its Unguja office in Zanzibar and branch office located in Pemba.

6.1.8 Judiciary of Zanzibar

The Judiciary of Zanzibar has the final decision in dispensation of justice in Zanzibar. It administers justice through interpretation and application of laws, rules, and regulations as well as international human rights standards. In this regard, it plays a very important role in safeguarding human rights through administration of justice, preventing human rights violations, and ensuring effective remedy is provided where such violations occur.

The Court of Appeal of the United Republic of Tanzania has the mandate to determine appeal cases from the High Court of Zanzibar, except where the subject matter is interpretation of the Zanzibar Constitution, Islamic case originating from Kadhis Court, and other matters reserved in the Constitution of Zanzibar and other laws enacted by the House of Representatives.²⁷⁶

The Judiciary of Zanzibar continued carrying out its mandate of dispensation of justice in Zanzibar. It facilitated arraignment, prosecution, and sentencing of suspected offenders, ensuring the victims of crimes enjoy their rights to access to justice and access to remedy, which are fundamental human rights. It has also constructed a new court building in Tunguu area to ensure better provision of court services and the use of modern technology to enhance access to justice.

6.1.9 Challenges Facing National Human Rights Mechanisms

Despite the various government efforts to combat it, corruption is still a big problem, including in provision of social services. However, in 2023, Tanzania, including Zanzibar, jumped two places in the Corruption Perceptions Index to be ranked 87, from 94th.²⁷⁷

²⁷⁶ See Section 99 of the Constitution of Zanzibar (1984).

²⁷⁷ Transparency International's Corruption Perceptions Index 2023.

6.2 Regional and International Human Rights Mechanisms

Tanzania, Zanzibar inclusive, is part of various regional and international human rights mechanisms. These include the Universal Periodic Review Mechanism (UPRM) - whereby it submits its reports on promotion and protection of human rights; and bodies established under various human rights treaties. Treaty bodies are established by the human rights treaties that have been ratified, with the aim of monitoring the implementation of such treaties by States parties. The provisions of the treaties require States parties to submit to the treaty bodies periodic reports on their efforts to implement the treaties.

The major international and regional treaty bodies are the Human Rights Committee (HRC), the UN Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of Persons with Disabilities, the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights, African Committee of Experts on the Rights and Welfare of the Child and the East African Court of Justice.

Key issues regarding regional and international human rights mechanisms in Tanzania include withdrawal of Tanzania of access of individuals and NGOs to the African Court on Human and Peoples' Rights and non-implementation of recommendations made by the mechanisms, and non-enforcement of judgements delivered by the judicial mechanisms. Non-ratification of some key international and regional human rights instruments, including the UN Convention against Torture (CAT) and the African Charter on Democracy Elections and Governance (ACDEG) of 2007, is also a challenge.

6.3 Key Issues

The Union Government and the to re-issue the African Court Declaration under Article 34(6) of the Court's Protocol to allow NGOs and individuals to access the African Court on Human and Peoples' Rights to enhance access to justice for Tanzanians.

The Revolutionary Government of Zanzibar, through the Ministry of Constitution and Legal Affairs, to implement the recommendations

accepted by Tanzania following the Universal Periodic Review (UPRC) process of 2021.

There is a need for the government to strengthen national human rights mechanisms to ensure better protection of human rights. ZAECA to intensify efforts to address corruption within the national human rights mechanisms and ensure individuals are held accountable. The Government to strengthen national human rights mechanisms to ensure better protection of human rights. ZAECA to intensify efforts to address corruption within the national human rights mechanisms and ensure individuals are held accountable.

Non-state actors and CSOs to collaborate with CHRAGG to build capacity for national human rights mechanisms officials to apply a rights-based approach in their work. CSOs to engage human rights mechanisms at national, regional, regional, and international levels as a way of promoting and protecting human rights. CSOs to sensitize the public about different national, regional, and international human rights mechanisms accessible to Zanzibaris and their role in promoting and protecting human rights. Community members. Members of the public to engage different levels of human rights mechanisms, either individually, or with assistance of CSOs when their human rights are violated, as a way of seeking remedy.

6.4 Regional Legal Frameworks

Legal Framework of Tanzania, Zanzibar inclusive, is part of various regional and international human rights mechanisms. These include the Universal Periodic Review Mechanism (UPRM) - whereby it submits its reports on promotion and protection of human rights; and bodies established under various human rights treaties. Treaty bodies are established by the human rights treaties that have been ratified, with the aim of monitoring the implementation of such treaties by States parties.

The provisions of the treaties require States parties to submit to.... The major international and regional treaty bodies are the Human Rights Committee (HRC), the UN Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of Persons with Disabilities, the African Court on Human and Peoples'

Rights, the African Commission on Human and Peoples' Rights, African Committee of Experts on the Rights and Welfare of the Child and the East African Court of Justice.

6.4.1 Key Issues and Challenges

Key issues regarding regional and international human rights mechanisms in Tanzania include withdrawal of Tanzania of access of individuals and NGOs to the African Court on Human and Peoples' Rights and non-implementation of recommendations made by the mechanisms, and non-enforcement of judgements delivered by the judicial mechanisms. Non-ratification of some key international and regional human rights instruments, including the UN Convention against Torture (CAT) and the African Charter on Democracy Elections and Governance (ACDEG) of 2007, is also a challenge.

6.5 Key Recommendations

The Union Government and the Revolutionary Government of Zanzibar to re-sign the African Court Declaration to allow NGOs and Individuals to access the African Court on Human and Peoples' Rights to enhance access to justice for Tanzanians. The RGZ, through the Ministry of Constitution and Legal Affairs, to implement the recommendations accepted by Tanzania following the Universal Periodic Review (UPRC) process of 2021.

State actors; The Government to strengthen national human rights mechanisms to ensure better protection of human rights. ZAECA to intensify efforts to address corruption within the national human rights mechanisms and ensure individuals are held accountable

6.5.1 Non-state Actors

CSOs to collaborate with CHRAGG to build capacity for national human rights mechanisms officials to apply a rights-based approach in their work. CSOs to engage human rights mechanisms at national, regional, regional, and international levels as a way of promoting and protecting human rights. CSOs to sensitize the public about different national, regional, and international human rights mechanisms accessible to Zanzibaris and their role in promoting and members of the public to engage different levels of human rights mechanisms, either

individually, or with assistance of CSOs when their human rights are violated, as a way of seeking remedy

6.5.2 From the Organization of African Unity (OAU) to African Union (AU)

The African Union (AU) was officially launched in July 2002 in Durban, South Africa, following a decision in September 1999 by its predecessor, the OAU to create a new continental organization to build on its work. The decision to re-launch Africa's pan-African organization was the outcome of a consensus by African leaders that in order to realize Africa's potential, there was a need to refocus attention from the fight for decolonization and ridding the continent of apartheid, which had been the focus of the OAU, towards increased cooperation and integration of African states to drive Africa's growth and economic development.

Organs that handle judicial and legal matters as well as human rights issues include:- African Commission on Human and Peoples' Rights (ACHPR), African Court on Human and Peoples' Rights (AfCHPR), AU Commission on International Law (AUCIL), AU Advisory Board on Corruption (AUABC) and the African Committee of Experts on the Rights and Welfare of the Child. The AU is also working towards the establishment of continental financial institutions (The African Central Bank, The African Investment Bank and the African Monetary Fund)

The Regional Economic Communities (RECs) and the African Peer Review Mechanism are also key bodies that constitute the structure of the African Union. To ensure the realisation of its objectives and the attainment of the Pan African Vision of an integrated, prosperous and peaceful Africa, Agenda 2063 was developed as a strategic framework for Africa's long term socio-economic and integrative transformation. Agenda 2063 calls for greater collaboration and support for African led initiatives to ensure the achievement of the aspirations of African people.

6.5.3 African Court on Human and Peoples' Rights (AfCHPR)

The African Court on Human and Peoples' Rights (the Court) is a continental court established by African states to ensure the protection of human and peoples' rights in Africa. It complements the functions of

the African Commission on Human and Peoples' Rights. The Court was established pursuant to Article 1 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, (the Protocol) which was adopted by Member States of the then Organization of African Unity (OAU) in Ouagadougou, Burkina Faso, in June 1998. The Protocol entered into force on 25 January 2004. To date, 34 Member States have ratified the Protocol establishing the Court. Out of these, currently, only 8 States have filed a Declaration under Article 34 (6) of the Protocol by which they accept the competence of the Court to consider applications filed by individuals and NGOs.

6.5.4 The International Court of Justice

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established in June 1945 by the Charter of the United Nations and began work in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York (United States of America). The Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies.

The Court is composed of 15 judges, who are elected for terms of office of nine years by the United Nations General Assembly and the Security Council. It is assisted by a Registry, its administrative organ. Its official languages are English and French. The International Court of Justice (ICJ) is the judicial organ established by the Charter of the United Nations (UN) in 1945 for the settlement of disputes between States. Its Statute is an integral part of the UN Charter (annexed to it) and the creation and establishment of the ICJ is mentioned in the 14th chapter of the UN Charter.

The ICJ has jurisdiction only over States and not individuals. The ICJ should not be confused with the International Criminal Court (ICC), which tries individuals on the basis of their individual criminal responsibility for crimes under international law. In contrast, the ICJ focuses on the international obligations and responsibilities of States. Although the ICJ is an organ provided for in the UN Charter, submission to its jurisdiction is not compulsory for UN Member States,

which remain free to accept its jurisdiction on either a permanent or an *ad hoc* basis.

The jurisdiction of the ICJ applies to all disputes between States involving a legal element such as the interpretation of a treaty, any question of international law, the existence of a fact which, if established, would constitute a violation by a State of its international obligations, and the nature or extent of the reparation to be made for the violation of such an obligation (Article 36 of the Statute of the ICJ).

Only States may refer certain specific matters to the ICJ for a ruling, and matters may only be referred against other States that have also accepted the ICJ's jurisdiction. However, a number of international treaties contain explicit provisions referring disputes concerning their interpretation to the ICJ. This serves as a basis for the automatic jurisdiction of the ICJ over States Parties to these international conventions.

Over the years, numerous situations of armed conflict have been referred to the ICJ by States Parties on the basis of the ICJ's automatic jurisdiction over international conventions, in particular those relating to genocide, racial discrimination or terrorism. The ICJ's advisory opinion has also been requested by the UN General assembly (UNGA), per Article 96(1) of the UN Charter, in other situations of armed conflict where the work of the UN Security council (UNSC) was constrained by veto (as for example with the legality of the use by a State of nuclear weapons in an armed conflict, for the legal consequences of the construction of a wall in the occupied Palestinian territory and for the admission of a State to the United Nations). This has enabled the ICJ to rule on several interesting situations concerning the application and interpretation of international humanitarian law (IHL).

In various judgments and advisory opinions, the ICJ has clarified State responsibility for violations of international law, including IHL and human rights. It has ruled on issues such as: humanitarian action and interference in State's internal affairs, the legitimate use of armed forces, self-defence, genocide and aggression, and the use of nuclear weapon, State responsibility due to the activities of its own agent and bodies but also due to its control over activities of non-State armed groups and in situations of occupation.

As well, the ICJ gave advisory opinions on topics such as the right to self-determination applicable to the process of decolonization and the administration of former territory and on the privileges and immunities of UN Special Rapporteur on human rights. The ICJ reaffirmed the concurrent and extraterritorial application of human rights and IHL and the obligation to compensate for damage caused by State wrongful acts (see *infra* , Section III.2).

In its judgments, the ICJ applies the existing rules of international law such as international conventions, customary law, previous jurisprudence, general principles of law, and international doctrine. The ICJ may also, if the parties concerned agree, base its judgment on broader notions of “fairness” (Article 38(2) of the Statute of the ICJ), in which case its ruling will be more akin to an arbitral judgment than to a typical litigation judgment.

The decisions of the ICJ are binding and final on the States Parties to the case and are not subject to appeal (Article 94(1) of the UN Charter, Article 60 of the Statute of the ICJ). The UNSC has the power, at the request of the injured State, to take special measures to enforce a judgment rendered by the ICJ (Article 94(2) of the UN Charter). The decisions of the ICJ are binding only on the States Parties to the dispute.

The judgments and decisions of the ICJ can establish the facts and the applicable law in a given situation and determine whether a State is responsible for acts in violation of its international obligations. An act is considered internationally wrongful if it can be attributed to the conduct of the State, of its agents, or persons acting on its behalf or under its control. Such an act entails the international responsibility of the State and gives rise to a right to reparation. In such a case, the State in question is obliged to make full reparation for the damage caused by its internationally wrongful conduct, in accordance with the general principles of international public law relating to the responsibility of States. The ICJ itself does not usually determine the amount of the reparations in its judgments.

The question of reparations is referred back to direct negotiations between States. If States disagree on the amount of reparations, they may decide to submit this specific dispute to the ICJ. A State Party to a dispute submitted to the ICJ may ask the Court to order immediate provisional measures without waiting for its final decision on the merits

of the case, which may take years. Decisions on interim measures are binding on States and are intended to prevent further deterioration of the situation. Provisional measures are particularly relevant in situations of armed conflict and alleged mass crimes against the population.

In addition to ruling on disputes submitted by States, Article 65 of the Statute of the ICJ provides that the Court may give advisory opinions at the request of any organ, or international (intergovernmental) organisation authorised by the UN Charter. Article 96 of the UN Charter confers this power on the UNGA and the UNSC, as well as to any UN organ or specialised agency specifically authorised by a decision of the UNGA to request advisory opinions. Although non-binding, advisory opinions of the ICJ contribute to the clarification and development of international law. They also have a legal and moral authority that can play a role in preventive diplomacy. Indeed, the UN Charter promotes recourse to the ICJ among the non-military means available to the UNSC for the peaceful settlement of disputes and threats to international peace and security (arts. 36-41 of the UN Charter).

6.6 Conclusion

Chapter six covers Human Rights Mechanisms: this chapter reported highlighted several human rights mechanisms both in Zanzibar and at regional and international level as outlined below. Overview, National Human Rights Mechanisms: Legal Frameworks, Tanzania Police Force, Zanzibar Correctional Facilities (ZCF), The Law Review Commission of Zanzibar, Office of Director of Public Prosecutions, Zanzibar Anti-corruption and Economic Crimes Authority (ZAECA), Commission for Human Rights and Good Governance (CHRAGG), Judiciary of Zanzibar and Challenges Facing National Human Rights Mechanisms. Also covers, Regional and International Human Rights Mechanisms: Overview, Key Issues, and Regional Legal Frameworks: Key Issues and Challenges; Key Recommendations: Non-state actors; The Organization of African Unity (OAU); African Court on Human and Peoples' Rights (AfCHPR); The International Court of Justice, and Conclusion.

In essence, most human rights treaties and covenants protect individual rights, and only a few protect collective rights. Among the latter are the

UN instruments that protect languages and cultures, ensure the right to association and religion, and UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Collective rights are rights held by a community, a people or a group rather than single individuals. They should not be confused with the rights held by the members of a certain category of individuals and not by the rest of humankind (such as woman rights, which are held by women severally, not women as a group). Collective rights are both overlapping and interdependent with the individual rights of the single members of a group, such as an indigenous people, not as an alternative to them.

Some confusion may arise over which groups are or should be entitled to be holders of collective rights. Not all *groups* of people (e.g., those attending a concert or those with green eyes) may be considered to have a value worth of legal protection through the instrument of rights. Collective rights are, in fact, justified on the protection of the group *per se* because it is perceived to have intrinsic value. Indigenous peoples and ethnic minorities are the groups most commonly argued to be holders of collective rights. On the one hand, their collective rights stem from their capacity to hold, maintain and let flourish cultural diversity in society. On the other, they often find themselves in particularly vulnerable positions. The “effective realization of equality requires in many instances differential treatment of ethnic groups in ways not necessary for, or even relevant to, other types of group.



Paralegals from Unguja and Pemba who assisted the consultants in the process of preparing this Human Rights Survey -2024 after a two day training at Zanzibar Legal Services Centre at Kijangwani, Unguja before their deployment to various parts of the isles. This was in the course of 2024.

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