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**United Republic of Tanzania**

Addendum

**Updated information from the United Republic of Tanzania\***

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## List of abbreviations

ACRWC	African Charter on the Rights and Welfare of the Child
CAB	Child Advisory Board
CBO	Community-based Organisation
CBR	Community Based Rehabilitation
CCM	<i>Chama cha Mapinduzi</i>
CHADEMA	<i>Chama cha Demokrasia na Maendeleo</i>
CHRAGG	Commission for Human Rights and Good Governance
CJF	Child Justice Forum
CMA	Commission for Mediation and Arbitration
COBET	Complementary Basic Education in Tanzania
CPU	Child Protection Unit
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
CUF	Civic United Front
DAC	Day of the African Child
DHU	Dispute Handling Unit
ELRA	Employment and Labour Relations Act
EPI	Expanded Programme on Immunization
FBO	Faith-based Organisation
FGM	Female genital mutilation
GDP	Gross Domestic Product
GNU	Government of National Unit
ICT	Information and communication technology
IECD	Integrated Early Childhood Development
ILO	International Labour Organisation
IMCI	Integrated Management of Child Illness
LGA	Local government authorities
LHRC	Legal and Human Rights Centre
LIA	Labour Institutions Act
MCDGC	Ministry of Community Development, Gender and Children
MDA's	Ministries, Departments and Agencies (Government entities)
MDGs	Millennium Development Goals
MHA	Ministry of Home Affairs
MKUKUTA	<i>Mkakati wa Kukuza Uchumi na Kuondoa Umasikini Tanzania</i>
MKUZA	<i>Mkakati wa Kukuza Uchumi Zanzibar</i>
MMAM	<i>Mpango wa Maendeleo ya Afya ya Msingi</i>
MOHSW	Ministry of Health and Social Welfare
MSWYWCD	Ministry of Social Welfare, Youth, Women and Children Development
MVC	Most vulnerable children
NBS	National Bureau of Standards

NGO	Non-Governmental Organisation
NOLA	National Organization for Legal Assistance
NSGRP	National Strategy for Growth and Reduction of Poverty
OPAC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
PADEP	Participatory Agricultural Development and Empowerment Project
PCE	Permanent Commission of Enquiry
PHCSDP	Primary Health Care Service Development Programme
PMCT	Prevention of Mother to Child Transmission Programme
PMO-RALG	Prime Minister's Office (Regional Administration and Local Government)
RCH	Nutrition Programme, Reproductive Child Health
RITA	Registration, Insolvency and Trusteeship Agency
SGBV	Sexual and gender-based violence
SMZ	<i>Serikali ya Mapinduzi Zanzibar</i>
TASAF	Tanzania Social Action Fund
TBC	Tanzania Broadcasting Corporation
TCRF	Tanzania Child Rights Forum
TDHS	Tanzania Demographic and Health Survey
TEHIP	Tanzania Essential Health Interventions Project
TLP	Tanzania Labour Party
U5NBRS	Under 5 National Birth Registration System
UDP	United Democratic Party
URT	United Republic of Tanzania
VAC	Violence Against Children
YCSPD	Young Child Survival Protection and Development
ZABEIP	Zanzibar Basic Education Improvement Programme
ZACA	Zanzibar Association for Children Advancement
ZAFELA	Zanzibar Female Lawyers Association
ZANECRI	Zanzibar Network for Children Rights
ZAPHA	Zanzibar Association of People with HIV/Aids

## I. General information about the reporting State party

### A. History, geographical location and climate

1. The State Party is located in Eastern Africa between Longitude 29° and 41° East, Latitude 1° and 12° South. As a semi-autonomous country within the State Party, Zanzibar is located in the Indian Ocean; approximately 30km off the east coast of Africa, between Latitude 5 and 7 degrees south off the equator. Zanzibar consists of two Islands, Unguja and Pemba, and several other smaller islands some of which are uninhabited. Tanzania is the largest country in East Africa, covering 946,166 Sq.km, within which Zanzibar covers an area of 2,654sqkm, Unguja, which is the larger island of Zanzibar, has an area of 1,666 square kilometres while Pemba has an area of 988 square kilometres.<sup>1</sup> The State Party borders countries of Burundi, Democratic Republic of Congo, Kenya, Malawi, Mozambique, Rwanda, Uganda and Zambia. It is also bordered by three great Lakes-Lake Victoria, the source of the Nile River, in the north, Lake Tanganyika to the west and Lake Nyasa to the south west. The land boundaries of the State Party with its neighbours cover about 3,402km, including the border with Burundi (415km), with Kenya (769km), with Malawi (475km), with Mozambique (756), with Rwanda (217km), with Uganda (396km), and with Zambia (338km).<sup>2</sup>

2. The State Party was formed on 26<sup>th</sup> April, 1964 out of the union of two hitherto countries namely Tanganyika and Zanzibar, which consists of two large Islands, Unguja and Pemba and few sparsely populated islands such as Tumbatu and Uzi in Unguja, Kojani, Fundo, Shamiani and Makoongwe in Pemba. Whereas Tanganyika became a sovereign state on 9<sup>th</sup> December, 1961 and became a republic in the following year; Zanzibar became independent after the revolution on 12th January 1964. The State Party is a unitary republic consisting of the Union Government and the Zanzibar Revolutionary Government.

3. Tanzania Mainland has four distinct climatic zones: the humid coastal zone, the central plateau zone, the lake zone with high rainfall and the southern highlands zone which is the most fertile and density populated. Tanzania has Mount Kilimanjaro, Africa's highest mountain. Volcanic in origin, it created the Great Rift Valley which forms a trench up to 2000 metres deep from the Jordan Dead Sea to Mozambique.

4. The climate of Zanzibar is equatorial and humid. The maximum temperatures revolve around 30oC during the hot season lasting from December to March and minimum temperatures are approximately 20oC during the cool season lasting from June to November. Zanzibar has two main rain seasons: the long rainy period (*Masika*) during March to June and short rainy period (*Vuli*) that starts in October and ends in December. The humidity is high ranging from 900-1000 mm during heavy rain season and 400-500 mm during short rainy period. The humidity is slightly higher in Pemba in comparison to Unguja. Because of the two rainfall peaks, Zanzibar is usually green all the year.<sup>3</sup>

<sup>1</sup> Revolutionary Government of Zanzibar, Comprehensive Multi-year Plan – Zanzibar, 2010-2014. EPI/MoHSW Zanzibar, July 2009. Available on [http://www.who.int/immunization\\_financing/countries/cmyp/Zanzibar\\_cMYP\\_2010-2014.pdf](http://www.who.int/immunization_financing/countries/cmyp/Zanzibar_cMYP_2010-2014.pdf) (accessed 23 November 2011).

<sup>2</sup> Legal and Human Rights Centre and Zanzibar Legal Services Centre, Tanzania Human Rights Report 2010. Dar es Salaam, Legal and Human Rights Centre, 2011. P. 27.

<sup>3</sup> Revolutionary Government of Zanzibar, Comprehensive Multi-year Plan – Zanzibar, 2010-2014. Op. cit.

5. Surrounded by three largest lakes in Africa – Victoria, Tanganyika and Nyasa, the State Party is endowed with abundant wildlife consisting of 15 national parks<sup>4</sup> and 17 game reserves.<sup>5</sup> Forming one of Africa’s most dense forests, the State Party also boasts of a number of minerals, including Phosphates, Tin, iron core, Diamond, Coal, Uranium, Gold, Natural Gas and Tanzanite, which is only available in Tanzania.

## **B. Population**

6. The State Party has a projected population of 43 million people in 2011<sup>6</sup> compared to 34.4 million people in 2002 when the last national census was conducted, more than half of whom are children – under the age of 18 years.<sup>7</sup> The Mainland population is predominantly rural whereby 75% of the populace live in rural areas and depends on the underdeveloped smallholder primary agriculture production.

7. The population of Zanzibar increased from 640,685 in 1988 (1988 census) to 981,754 in 2002 (2002 census). The population was estimated to be 1,193,383 in 2008, projected from 2002 National Population census. Of this population 47,205 are under one year old and the under 217,168 are under the age of 5.<sup>8</sup>

8. Overall, the 2002 population census reports that children constitutes about 51% of the entire Tanzanian population and about 10 per cent of children under the age of 18 have lost their mother, or their father, or both.<sup>9</sup>

## **C. Political governance and administration**

9. The State Party, which is divided into 30 regions, 25 in Tanzania Mainland and 5 in Zanzibar Islands, is a democratic state that conducts periodic elections every five years. The Mainland is divided into 135 Districts which are subdivided into divisions, wards and villages. The lowest government administrative structure in Tanzania Mainland is the Village in rural areas and the *Mtaa* (hamlet) in urban areas. At the highest level of public governance is the Executive manned by the President of the United Republic of Tanzania functioning through the Cabinet. The President is the chairperson of the Cabinet. There is also the legislature, the Parliament of the United Republic of Tanzania (popularly, known as *Bunge*) and the Judiciary (Court of Appeal of Tanzania down through the High Court of Tanzania to the Primary Court).

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<sup>4</sup> The largest national parks are the Serengeti located in Northwest of the country (14,750sq.km); Ruaha National Park (13,000sq.km); Ngorongoro National Park (8,320sq.km); and Mikumi National Park (3,230sq.km). Other national parks are: Tarangire, Katavi, Saadani, Udzungwa, Kilimanjaro, Kitulo, Mahale Mountains, Manyara, Arusha and Gombe.

<sup>5</sup> These game reserves are Selous located in Lindi Region (50,000sq.km); Ruangwa in Ruangwa District (9,000sq.km); Kigosi in Shinyanga District (8,000sq.km); and Myowosi in Kibondo District (6,000sq.km). Others include Burigi in Biharamulo and Karagwe Districts; Uwanda in Sumbawanga District; .Maswa in Mawswa District; Kizigo in Manyoni District; Uмба in Lushoto District; Mkomazi in Lushoto and Same Districts; Ibanda in Karagwe; Saa Nane in Mwanza District and Mount Meru in Arumeru District.

<sup>6</sup> This projection is based on the 2002 Census.

<sup>7</sup> See the 2002 Tanzanian census that was conducted in August 2002 by the National Bureau of Statistics (NBS) of the Government of Tanzania.

<sup>8</sup> Revolutionary Government of Zanzibar, Comprehensive Multi-year Plan – Zanzibar, 2010-2014. Op. cit.

<sup>9</sup> United Republic of Tanzania, Tanzania Poverty and Human Development Report 2005. Dar es Salaam, Research and Analysis Working Group/Mkuki na Nyota Publishers, 2005.

10. Zanzibar is divided into five administrative regions, three in Unguja and two in Pemba. Each region is subdivided into two districts, which make a total of ten districts for the islands. The lowest government administrative structure at the community level is the *Shehia*. At the apex level, there is the Zanzibar Revolutionary Council (Cabinet, which is popularly, known as *Baraza la Mapinduzi Zanzibar*), which constitutes the Executive (that is, the Zanzibar Revolutionary Government; or as is popularly known: *Serikali ya Mapinduzi Zanzibar*). The head of the Government is the President of Zanzibar, who is also the chairman of the Revolutionary Council. Zanzibar has its own Legislature, the Zanzibar House of Representative (popularly, known as *Baraza la Wawakilishi Zanzibar*) and its Judiciary up until the High Court of Zanzibar. It shares the Court of Appeal with Tanzania Mainland.

11. Tanzania has 357 Members of Parliament (MPs) in the Parliament of the United Republic of Tanzania which holds its parliamentary sessions in Dodoma the capital city of the country. The Parliament of the URT is composed of Constituency Members; Women Special Seats' Members, Presidential Nominees, Representatives from the Zanzibar House of Representatives and the Attorney General of the United Republic of Tanzania as an Ex Official Member. Currently, the Ruling Party, *Chama cha Mapinduzi* (CCM) has the majority of MP's with a total of 259 seats is the *Bunge*. Opposition parties include *Chama cha Demokrasia na Maendeleo* (CHADEMA) with 48 parliamentary seats followed by Civic United Front ( CUF ) with 36 seats, NCCR-Mageuzi 4 seats, Tanzania Labour Party (TLP) and United Democratic Party (UDP) one seat each.

12. The *Baraza la Wawakilishi Zanzibar* currently has 79 members, including the Second Vice-President, who is the head of Government business in the House.<sup>10</sup>

13. Zanzibar underwent significant political reforms in 2010 through the 10<sup>th</sup> amendment to the Zanzibar Constitution, whereby, *inter alia*, the Government of National Unity (GNU) was established after a decade-long of political turbulence. This situation was a result of a referendum establishing a national unity Government after the Tanzanian October 2010 elections, which was held in Zanzibar on 31 July 2010, whereby 66.4% of the voters voted for the GNU. The referendum approved, *inter alia*, that the losing party in the elections would now be allowed to nominate the first vice-president, whereas the winning party would produce the President and Second Vice-President. Under this new political arrangement, the Second Vice-President is the head of Government business, replacing the Chief Minister (i.e. *Waziri Kiongozi*).

Table 1  
**Zanzibar Referendum Results (2010)**

<i>Option</i>	<i>Number of votes</i>	<i>Percentage</i>
Yes	188,705	66.37%
No	95,613	33.63%
<b>Total</b>	<b>284,318</b>	<b>100.00%</b>

*Source:* Zanzibar Electoral Commission (2010).

14. This referendum was conducted in a bid to end the decade-long tug of war between the ruling party, CCM and the main opposition in Zanzibar, CUF. It thus brought to an end such rivalry and allowed a government of national unity, whereby the ruling party, CCM, won the 2010 General Elections and now have provided the Zanzibar President and the

<sup>10</sup> Available at [http://www.zanzibarassembly.go.tz/modules/news/fileupload/store/2011-6-20-2-26-39\\_02032011.pdf](http://www.zanzibarassembly.go.tz/modules/news/fileupload/store/2011-6-20-2-26-39_02032011.pdf). (accessed 26 November 2011).

Second Vice-President, while CUF has produced the First Vice-President. The GNU arrangement has reduced the political tensions that had engulfed the Isles since the first multi-party elections in 1995, giving a peaceful room for people's participation in socio-economic and political undertakings.

#### **D. Religion**

15. The State Party has no official religion but allows its citizens to believe in the religion of their choice. The two major religious groups in the State Party are Christian and Muslim. Islam is a religion professed by about one-third of the Mainland population, whereby about one-third of the Mainland people are Christians. There are also Hindu, Sikh and Baha'i communities and followers of traditionalist beliefs.

16. More than 98% of the population in Zanzibar are Muslims, a fact which reveals that Islam is the dominant religion of Zanzibar although there are also followers of Christianity and Hinduism. In this regard, the Zanzibaris are proud of their religious beliefs so much so that women cover their heads and men usually appear in Islamic attires.

#### **E. Language**

17. The official language in the State Party is Kiswahili, which is widely spoken throughout the country. However, local vernaculars or ethnic languages are spoken by different tribes, which number more than 120. Kiswahili is used as a medium of instruction in primary schools; while English is used as a medium of instruction in secondary education and higher learning institutions. English and Kiswahili are both accepted as the languages of communication in the workplace.

#### **F. The socioeconomic situation**

18. The State Party's socio-economic development is premised around two different long-term development goals: the Tanzania Development Vision (popularly, known as Vision 2025) for Tanzania Mainland, which strives to eradicate poverty by 2025; and the Zanzibar Development Strategy (Vision 2020), which aspires to eradicate poverty in Zanzibar by 2020. The State Party's economy is also framed in support of the implementation of the Millennium Development Goals (MDGs), which aim, *inter alia*, at enabling developing countries to work in partnership towards the eradication of poverty throughout the world.<sup>11</sup> Both Tanzania Mainland and Zanzibar implements Vision 2025 and Vision 2020 respectively, together with the MDGs through a number of strategies, including the second National Strategy for Growth and Reduction of Poverty (NSGRP II or MKUKUTA<sup>12</sup> II) for Tanzania Mainland and *Mkakati wa Kukuza Uchumi Zanzibar* (MKUZA).

##### **1. Mkukuta**

19. The second National Strategy for Growth and Reduction of Poverty (NSGRP II or MKUKUTA II) is a continuation of the Government and national commitments to

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<sup>11</sup> Legal and Human Rights Centre and Zanzibar Legal Services Centre, Tanzania Human Rights Report 2010. Op. cit. P. 29.

<sup>12</sup> MKUKUTA is an abbreviation of Swahili words: Mkakati wa Kukuza Uchumi na Kuunguza Umaskini Tanzania.



accelerate economic growth and fight poverty. This is a results and MDG-based strategy adopted to sustain and scale up achievements as well as addressing the challenges to the growth and poverty reduction agenda. It is, thus, an organizing framework to rally national efforts for the next 5 years (2010/11-2014/15) to accelerate poverty-reducing growth by pursuing pro-poor intervention and addressing implementation bottlenecks. The strategy emphasizes the following key outcomes:

- (i) Focused and sharper prioritization of interventions – projects and programmes – in key priority growth and poverty reduction sectors;
- (ii) Strengthening evidence-based planning and resource allocation in the same priority interventions;
- (iii) Aligning strategic plans of MDAs and LGAs to this strategy;
- (iv) Strengthening the Government's and the national implementation capacity;
- (v) Scaling up the role and participation of the private sector in priority areas of growth and poverty reduction;
- (vi) Improving human resources capacity, in terms of skills, knowledge, and efficient deployment;
- (vii) Fostering changes in mind-set toward hard work, patriotism, and self-reliance;
- (viii) Mainstreaming cross cutting issues in MDAs and LGAs processes;
- (ix) Strengthening the monitoring and reporting systems; and
- (x) Better implementation of core reforms, including paying strong attention to further improvement of public financial management systems.

20. The economy in Tanzania Mainland depends heavily on agriculture, which accounts for more than 50% of the GDP. It also contributes to 80% of exports and employs about 80% of the workforce.<sup>13</sup> In 2009 the State Party introduced the agricultural improvement/revolutionary programme, popularly known in its Kiswahili version as *Kilimo Kwanza*. This programme strives to transform agriculture into modern one. Through the *Kilimo Kwanza* Programme, the State Party aims at achieving maximum productivity in agriculture through the following pillars:

- (i) Political will to support and put on the political agenda the agricultural transformation;
- (ii) Enhanced financing for agriculture;
- (iii) Institutional reorganization and management of agriculture;
- (iv) Paradigm shift to strategic agricultural production;
- (v) Availability of land for agriculture;
- (vi) Incentives to stimulate investments in agriculture;
- (vii) Industrialization for agricultural transformation;
- (viii) Science, technology and human resources to support agricultural transformation;

<sup>13</sup> United Republic of Tanzania, Participatory Agricultural Development and Empowerment Project (PADEP): Resettlement Policy Framework. Dar es Salaam, Ministry of Agriculture and Food Security, 2003. P. 1.

- (ix) Infrastructure development to support agricultural transformation; and
- (x) Mobilization of Tanzanians to support and participate in the implementation of the *Kilimo Kwanza* Programme.

21. Tanzania Mainland also depends to a lower extent on the industrial sector, which accounts for 10% of the national GDP. This is due to a number of challenges facing this sector, including inadequate electricity supply in the State Party. According to a speech made in Parliament by the Minister for Finance and Economic Planning in June 2010, rural electrification in Tanzania Mainland is only 20% and in urban areas it is only 14%.<sup>14</sup> This situation is compounded by the fact that the State Party's electricity generation depends on hydropower, which has been severely impacted by low levels of rainfall in the country.

22. The State Party, on the part of Mainland, recorded an increase in the real GDP growth rate to 6.5% in 2010 from 6.0% in 2009. This was the case even though the State Party was recovering its economy from the global economic meltdown that has adversely affected the world economic order. An overall real GDP growth rate in the period under report has averaged 7% per year on strong gold production and tourism.<sup>15</sup>

## 2. Mkuza

23. The Zanzibar Vision 2020 aims at, *inter alia*, eradicating absolute poverty and building a robust and internationally competitive economy for sustainable development of Zanzibaris. The main strategy that translates the Zanzibar Vision 2020 is the Mkuza, which was rolled out in 2007.<sup>16</sup> In between the period under report, the GDP has averaged between 5.4% and 6%; whereby the total National Income of Zanzibar has increased to TZS 878,403 million from 748,057 million in 2008 with the Zanzibari per capita income being pegged at TZS 728,361.<sup>17</sup>

24. All in all, the State Party's commitment to accelerate economic growth and fighting poverty has been consistently implemented through a series of strategies and plans ranging from sector-specific strategies to multi-sectoral strategies, all of which geared towards economic growth and improved livelihood of the State Party's citizens.

## 3. External Economic Context

25. Recent developments in the global economic conditions, such as the increase in oil and food prices, and global financial and economic crisis, will continue to have ramifications on the State Party's economy. Such shocks impact Tanzania's economy through several channels, with trade (especially exports) and financial flows (especially foreign direct investment) being the main transmission channels. Slowdown of growth, reduction in financial and capital flows, were the results of the first round effects of the crisis. The second round effects take place with a lag, especially in the real sector. Effects of increase in food and oil prices are reflected in surge for large scale land acquisitions for bio-fuel and food production. Much as such shocks threaten Tanzania's economy, they also

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<sup>14</sup> See Speech of Parliament by the Minister for Finance and Economic Planning, Hon. Mustafa Haidi Mkulo (MP), presenting before Parliament "The State of National Economy Report for 2009 and Plans for 2010/2011-2012/2013" in Dodoma, June 2010. P. 6.

<sup>15</sup> Available at [http://www.theodora.com/wfbcurrent/tanzania/tanzania\\_economy.html](http://www.theodora.com/wfbcurrent/tanzania/tanzania_economy.html) (accessed 27 November 2011).

<sup>16</sup> See the Harmonisation of MKUZA and Sectoral Level Indicators, prepared by the Ministry of Finance and Economic Affairs (Zanzibar), February 2009.

<sup>17</sup> Serikali ya Mapinduzi Zanzibar, Mapitio ya Hali Ya Uchumi ya Utekelezaji wa Mpango wa Maendeleo Zanzibar 2009/2010. Zanzibar, 2010. P. 9.

open several opportunities, e.g. in terms of increased demand for bio-fuel and food production.

26. Besides the shocks, policy developments at the global and regional levels have continued to shape the way Tanzania interacts with other economies. There are opportunities, and sometimes, constraints associated with WTO, EPA, policies relates to global climate change, etc. Development in regionalism, e.g. the East African Common Market, SADC, Indian Ocean Ream (IOM), Kagera Basin Organization, etc., are also among the forces that will continue to have significant impact Tanzania's economy. Opportunities associated with these developments include expanded trade, joint infrastructure development, and also non-economic benefits such as regional peace initiatives. Among the challenges relates to multi-belonging, which sometimes results in weak focus and conflicting objectives. In general, however, effects of these developments on trade, movement of labor and capital will be an important factor in the national development in the medium term to long term. These developments have provided lessons that informed the strategic positioning of MKUKUTA II.

#### 4. Poverty Profile

##### (a) Income Poverty and Challenges of Income Distribution

27. During the last ten years, Tanzania's GDP growth rate has been impressive. However, between 2000/01 and 2007 the incidence of income poverty did not change significantly. The incidence of income poverty shows, out of every 100 Tanzanians, 36 were poor in 2000/01 compared to 34 in 2007. Income poverty (basic needs and food poverty) was also variable across geographical areas, with the rural areas containing 83.4% of the poor in 2007 compared to 87% in 2000/01. Households engaged in farming, livestock keeping, fishing, and forestry, were the poorest. Rural growth per annum in the period, as proxy by growth of the agricultural sector was about 4.5%. When this growth is contrasted with the national population growth rate of 2.9% the change in rural per capita income becomes small, thus perpetuating poverty situation in rural areas.

Table 2

##### **Incidence of Poverty in Tanzania (poverty headcount index)**

	<i>Year</i>	<i>Dar es Salaam</i>	<i>Other Urban Areas</i>	<i>Rural Areas</i>	<i>Mainland Tanzania</i>
Food	2000/01	7.5	13.2	20.4	18.7
	2007	7.4	12.9	18.4	16.6
Basic Needs	2000/01	17.6	25.8	38.7	35.7
	2007	16.4	24.1	37.6	33.6

*Source:* National Bureau of Statistics, *Household Budget Survey 2000/01* and 2007.

28. Employment is the main link between growth and reduction of income poverty. According to PHDR (2009), 630,000 new jobs were created annually between 2001 and 2006, mainly in the informal sector, which matches with labour force growth. However, the quality of jobs created is important in explaining the stagnation in poverty levels. The unemployment rate of person aged 15 and above declines slowly – from 12.9% 2006 (ILFS) to 11.7% in 2007 (HHBS). Unemployment among youth (age 18-34) stood at 13.4% in 2006 (ILFS 2006). It is highest among female youth – about 15.4% compared 14.3% for male youth (ILFS 2006). Moreover, women constituted 24.7% of paid employees, 42.3% of unpaid helpers, and 53.9% of agricultural labour force and only 20% of self-employed; moreover, the unemployment rate was higher for females than for males, except in the rural

areas. In Dar es Salaam, the unemployment rate for females was 40.3% in 2006, as contrasted to 19.2% for males.

29. The majority of those in poverty lack social protection, including the unemployed given the absence of unemployment or other benefits for those who lose their jobs. Affordable measures to address the lack of protection among the unemployed, the self-employed and the vast majority of workers who are involved in informal sector activities remains one of the challenges in ensuring social security. The challenge is linked to the fact that 94% of the Tanzanian labour force works in the informal sector. This has implications for both the size of the revenue base and the type of policy interventions geared to extending social protection in Tanzania.

30. In terms of sources of livelihood, the share of household farm income declined from 51.4% in 2000/01 to 39.7% in 2007. Correspondingly, the share of non-farm incomes increased although not to the extent of leveraging people out of poverty. Poverty incidence among government or parastatal employees is around 10%, and it is 20% among other paid employees. A higher percentage in the latter indicates inadequate decent jobs in terms of adequate pay in those sectors, particularly in the private sector.

**(b) Overall GDP Growth and the GDP Structure**

31. The GDP growth trend since the 1990s has been rising, except for such shocks coming from food crisis, power crisis and lately, the global economic and financial crisis. Since 2005, Tanzania's GDP annual growth rate averaged 7%, which is in line with MKUKUTA target of 6-8% per annum. In 2009 however, GDP growth was 6.0%, the decline being partly due to the global financial crisis. As a result of the crisis, volume and prices of exports went down, flows of capital and investment fluctuated, and tourist and demand for tourism products were reduced. These effects worsened the balance of payments and exerted inflationary pressures on the economy. The severity of the impact of this slow-down in GDP will, however, vary between sectors. Indeed, those sectors which are either export or import intensive will suffer most. Tourism and mining have already shown signs of slowdown.

32. The structure of the Tanzania's economy in terms of GDP composition has been changing gradually (which is also the case with sectoral employment proportions, as per the Integrated Labour Force Survey 2006). The share of agriculture in GDP and its proportion in total employment has been declining relative to the services sector, and manufacturing and construction (taken together). However, the majority of Tanzanians still depend on agriculture for their livelihoods. Services constitute the main sector of the economy, and its growth will continue to be critical for sustaining higher economic growth.

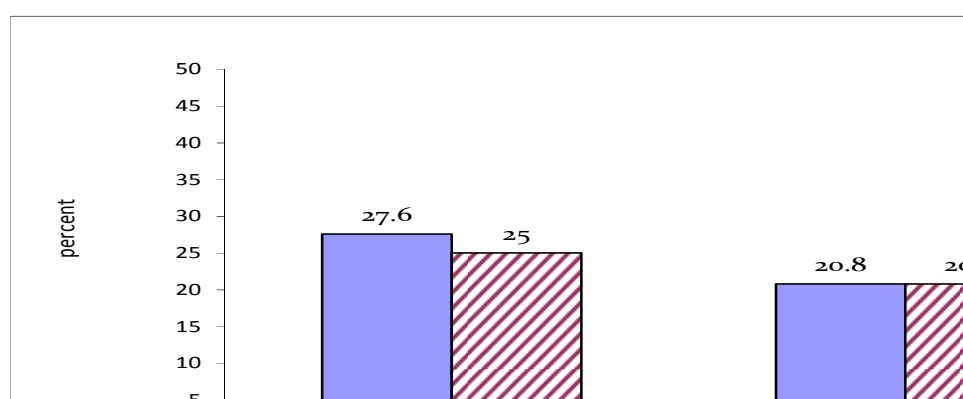
33. *Agriculture:* Agriculture is still dominated by small-scale farmers; about 70% of farming is dependent on the hand hoe, 20% on ox-ploughs, and 10% on tractors. Notwithstanding this, the sector has been identified as a growth driver. Due to its diverse climatic zones it has potential for many crops, livestock and forestry products, sufficient water for both irrigation and livestock, and large size of arable land. Thus, given its role in supporting the rural poor and in reducing malnutrition, it has the potential for lifting many of them out of poverty. Moreover, food demand from the neighbouring countries indicates opportunities for increased food exports to these countries. The following figure shows shares of major sectors in GDP 2005 and 2009.

34. Agriculture growth averaged about 4% between 2005 and 2008. The sector's sluggish growth is a result of a combination of many challenges. These include poor infrastructure to support agriculture, inadequate extension services, poor technology of production, low value addition, lack of appropriate financing mechanisms for agriculture,

unreliable market, unfair and uncompetitive farm gate prices, and environmental degradation.

35. *Fisheries Sector:* The fisheries sector has maintained modest growth since 2000, attaining a rate of 5% in 2008. It then declined to 2.7% in 2009. Tanzania has immense fishery resource potential – both in fresh and marine waters, which if unleashed would contribute to improving the stakeholders’ livelihoods, including their nutrition. The main challenges include illegal fishing and trafficking of fish and fisheries products across borders, which reduce the sector’s contribution to growth and reduction of poverty and undermines its sustainable development. Specific constraints for small and medium scale fishing include credit facilitation, resource degradation, and poor fishing technologies.

Figure 1  
Shares of Major Sectors in GDP 2005 and 2009



Source: MOFEA (2010) Guidelines for the Preparation of Medium Term Plan and Budget Framework for 2010/11-2012/13.

36. *Manufacturing Sector:* Manufacturing development constitutes an integral part of industrial transformation to facilitate growth and generation of employment. The sector’s forward and backward linkages facilitate improvements of other sectors, for example, agriculture and mineral sectors; in turn, these linkages will spur more growth in the manufacturing sector itself. Hence, manufacturing has potentials for driving growth and employment. In 2009, it grew by 8.0%, compared to growth rate of 9.9% in 2008, mainly due to the global financial crisis. Despite this relatively good performance, the sector is constrained by high costs of doing business and bureaucratic and infrastructure impediments, the latter mainly due to unreliable supply of utilities (water, power, etc.), leading to capacity underutilization; ineffective transport networks and other ICT&STI infrastructure; and small domestic markets, with intense import competition, and inadequate export drive.

37. *Mineral Sector:* Tanzania has deposits of gold, diamond, tanzanite, ruby, tin, copper, nickel, iron, phosphate, gypsum, coal, natural gas and potential for petroleum extraction. Mining involves large and small scales, both of which are important. Before 2007, the sector grew at about 15% annually, which dropped to 2.5% in 2008 and further to 1.2% in 2009 due to the decline in export of diamonds and gold production (as the largest gold mine faced serious infrastructural problems). Such wide fluctuations in growth are one of the challenges facing the sector. Other challenges include weak linkages between the sector and local supply chains, hence low domestic value addition; limited multiplier effects and employment creation; environmental-related conflicts; and technical and institutional capacities for effective management of the sector. Nevertheless, the vast mineral deposits in

the country point to a high potential of the sector's contribution to growth and socio-economic transformation. Hence, the sector has been identified as a driver of growth.

38. *Tourism Sector:* Tanzania has some of the world's finest tourist attractions and game reserves. Equally famous are trekking expeditions (notably Mount Kilimanjaro) and coastal tourism. These attractions, among others, qualify tourism as a growth sector, as they offer immense opportunities for expansion of the sector.

39. Growth of tourism sector was 2.3% in 2009. This explains the risks of its reliance on foreign tourists (domestic tourism is rather small), which makes it susceptible to swings of the global economy. The sector also faces insufficient technical, managerial, and entrepreneurial skills for a modern tourism industry and infrastructural bottlenecks and poor tourist supporting services (health, finances, insurances, ICT, etc.), which have resulted in substantial under-exploitation of the nation's tourism potential. Addressing these constraints will lead to expansion of not only natural resource based tourism, but also cultural tourism, sports tourism, and conference/convention tourism. Institutional set-ups in dealing with tourism sector, e.g. hunting block rights, need to be reviewed and strengthened.

40. *Infrastructural Development:* There have been modest improvements in growth-related infrastructure such as roads, ports (sea and air), energy, but there has been little progress in the railway sector. The percentage of roads in fair and good conditions has increased since 2005, but the time taken to discharge cargos at the ports has declined. Installed energy production capacity has increased but lagged behind the growth in demand; exploration of fossil fuel continues. However some challenges need to be addressed, including frequent power shortages, port congestion, and poor conditions of rural roads. Tanzania could act as a regional transport, trade and logistic hub if it were to exploit its advantageous geographical location and immense potential for power generation. Other challenges include congestion in cities, high construction costs, climate change (leading to destruction of infrastructure and life span of the infrastructure), as well as environmental issues in construction sites. At local level, small scale infrastructure development has been facilitated by community participation in the construction of small dams and bridges, etc.) through various programs such as TASAF, PADEP, etc. Among the challenges in MKUKUTA II is how to scale-up such community contribution.

## **II. General framework for the protection and promotion of human rights**

### **A. Historical context**

41. The State Party protects and promotes human rights through the Constitutions of Zanzibar (1984) and that of the United Republic of Tanzania (1977). In both constitutions, the Bills of Rights were incorporated in 1984. For Tanzania mainland, it was through the amendment made to the Constitution and for Zanzibar it was through the enactment of the new Zanzibar Constitution. Prior to this period, the National Executive Council of CCM decided to review the constitution along the following lines: (i) the powers of the President; (ii) consolidation of the authority of the Parliament; (iii) strengthening the representative

character of the National Assembly; (iv) consolidation of the Union; and (v) consolidation of people's power.<sup>18</sup>

42. At the time the proposals of the ruling party were made public, there were three forces pressurising for inclusion of a Bill of Rights in the Constitution. Firstly, many people aired their views through the media, pressing for the inclusion of the Bill of Rights in the Constitution.<sup>19</sup> Secondly, there were pressures from Zanzibar for the return of the Bill of Rights in the Zanzibar Constitution, which ceased to be in force together with the *Independence Constitution* during the Zanzibar Revolution on 12th January 1964. Thirdly, the Union Government agreed to include a Bill of Rights in the Constitution due to the developments that were taking place in the African continent in relation to human rights protection. The African Charter on Human and Peoples' Rights had just been adopted in 1981, with Tanzania having taken a leading role in its promulgation. Given its good record on campaigning for human rights and liberation of the African continent, it would be unbecoming for Tanzania to have no Bill of Rights in her Constitution.

43. The above factors combined to drive the Government of the United Republic of Tanzania to incorporate the Bill of Rights in the Constitution in 1984 through the Constitution (Fifth Amendment) Act (1984),<sup>20</sup> which came into force in March 1985. Nonetheless, the justifiability of the Bill of Rights was delayed until 1988 vide the Constitution (Consequential, Transitional and Temporary Provisions) Act (1984).<sup>21</sup> The suspension was made in order for the Government to "clear out" laws that were deemed to be in direct conflict with the Bill of Rights.

## **B. Protection and promotion of human rights in the State party**

44. International human rights law requires that in order for human rights to be implemented effectively at the municipal level, there must be an effective protection mechanism in place. Therefore, it is traditional that in most contemporary jurisdictions, Bills of Rights in most constitutions contain provisions for enforcement of fundamental rights and freedoms guaranteed in the Bills of Rights. As such, the incorporation of the Bills of Rights in the Tanzanian Constitution and the Zanzibari Constitution in 1984 was in compliance with this rule of international law. On both the Mainland and Zanzibar, the Bills of Rights enshrine basic rights and fundamental freedoms to which every person is entitled.

## **C. Human rights protection and promotion mechanism in Tanzania Mainland**

45. In respect of Tanzania Mainland, the enabling law on the enforcement of the Bill of Rights was passed ten years after it was incorporated in the Constitution of Tanzania; that is, the Basic Rights and Duties Enforcement Act (1994).<sup>22</sup> This was done in accordance with a constitutional provision in the Bill of Rights – that is, Article 30(4) of the Constitution – which required the "state authority" to enact legislation for the purpose of:

<sup>18</sup> Chama cha Mapinduzi, 1983 NEC Proposals for Changes in the Constitution of the United Republic and the Constitution of the Revolutionary Government of Zanzibar, Dodoma: C.C.M. Department of Propaganda and Mass Mobilization, 1983.

<sup>19</sup> Ibid.

<sup>20</sup> Act No. 5 of 1984.

<sup>21</sup> Act No. 16 of 1984.

<sup>22</sup> Cap. 3, R.E. 2002.

- (a) Regulating procedure for instituting proceedings pursuant to this Article;
- (b) Specifying the powers of the High Court in relation to the hearing of proceedings instituted pursuant to this Article; and
- (c) Ensuring the effective exercise of the powers of the High Court, the preservation and enforcement of the rights, freedoms and duties in accordance with this Constitution.

46. Before the Basic Rights and Duties Enforcement Act was enacted section 17(2) of the Law Reform (Fatal Accidents and Miscellaneous Provisions) Ordinance,<sup>23</sup> was amended to the effect that, it made it mandatory in any proceedings involving the interpretation of the Constitution with regard to the basic freedoms, rights and duties specified in Part III of Chapter I of the Constitution, to enjoin the Attorney-General or his representative designated by him to attend the hearing. This amendment, however, allowed the Court to direct that the hearing be commenced or continue, as the case may be *ex parte* where the Attorney-General or his representative was not present at the hearing.<sup>24</sup>

47. Therefore, when the Basic Rights and Duties Enforcement Act (1994) was enacted it made provision for procedures for the enforcement of the justiciable fundamental rights and freedoms in the Constitution of Tanzania. Under section 1(2), this Act covers all claims and causes of action founded on the provisions of Articles 12 to 29 of the Constitution in relation to the basic rights, duties and fundamental freedoms.<sup>25</sup> It also vests the High Court of Tanzania with original jurisdiction in cases relating to fundamental rights and freedoms.<sup>26</sup>

48. Section 4 of the Basic Rights and Duties Enforcement Act provides that if “any person” alleges that any of the provisions of sections 12 to 29 of the Constitution has been, is being or is likely to be contravened in relation to him, he may, without prejudice to any other action with respect to the same matter that is lawfully available, apply to the High Court for redress. Reference to “any person” implies that every person, including a child, may bring a petition to the High Court for redress in the event that any of the basic rights and fundamental freedoms enlisted in the Bill of Rights is violated or is about to be violated. In this case, the High Court has power to make all such orders as shall be necessary and appropriate to secure the applicant the enjoyment of the basic rights, freedoms and duties conferred or imposed on him under the provisions of sections 12 to 29 of the Constitution.<sup>27</sup> Appeals against decisions of the High Court are lodged in the Court of Appeal of Tanzania for further remedies.

#### **D. Human rights protection and promotion mechanism in Zanzibar**

49. In Zanzibar, cases of violations of the basic rights and fundamental freedoms enlisted in the Bill of Rights are lodged in the Zanzibar High Court, whereby any person, including a child, can petition the Court for redress. Unlike in Tanzania Mainland, in Zanzibar there is no procedural or enabling law for regulating the procedure of the High Court in determining cases of violation of human rights. However, the Constitution itself caters for this matter; whereby an appeal against the decision of the High Court is not referred to the Court of Appeal of Tanzania, but is referred to a panel of three High Court

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<sup>23</sup> Cap. 360 of the Revised Laws of Tanzania. This amendment was effected vide Act No. 27 of 1991.

<sup>24</sup> Ibid. Section 17A (2).

<sup>25</sup> Section 3 of the Basic Rights and Duties Enforcement Act (1994).

<sup>26</sup> Ibid. Section 4.

<sup>27</sup> Ibid. Section 13(1).



Judges solely appointed by the Chief Justice of Zanzibar to entertain an appeal. Any judge who had previously heard the same petition at its first instance is excluded from sitting on the panel.

50. In Zanzibar the Kadhi's Court, which is established under the Kadhi's Court Act (1985),<sup>28</sup> has jurisdiction to determine issues relating to divorce, marriage, maintenance and personal status to those who subscribe themselves to Islam. The Kadhi's Courts are established in every locality and are presided over by Muslim scholars applying Islamic Laws only. However, the operation of the Kadhi's Courts faces a number of challenges, including lack of rules of procedure, non-admission of advocates in proceedings before the Kadhi's Courts and lack of clear qualification for a person to be officers of the Kadhi's Court. Currently the State Party (through the Revolutionary Government of Zanzibar) is reviewing the existing Kadhi's Court Act in order to address these challenges.

### **III. Non-discrimination and equality**

51. The State party upholds principles of non-discrimination and equality. The principles have been enshrined in the Constitution of URT and the Zanzibar Constitution as well as in the State party's statutory law.

#### **A. Constitutional prohibition of discrimination**

52. The Constitution of the United Republic of Tanzania (1977) and the Constitution of Zanzibar (1984) prohibit discrimination of any kind in Articles 13(5) and (6) and Article 12(4) and (5), respectively. Grounds of discrimination include discrimination on the basis of: nationality, tribe, place of origin, political opinion, colour, religion, or station of life. However, positive discrimination is permissible where certain categories of people are regarded as being disadvantaged in accessing their rights.<sup>29</sup>

#### **B. Policy prohibition of discrimination**

53. Discrimination of persons, including children, is also prohibited by various policies relating to children. In Tanzania Mainland, the Tanzania Child Development Policy (2<sup>nd</sup> ed., 2008) prohibits discrimination of children in two contexts: discrimination based on gender and discrimination basing on the child's station of life.<sup>30</sup> The National Education Policy and the National Policy on Disability (2004) also prohibit discrimination. In particular, the National Policy on Disability envisions that: "Tanzania values human rights and equality of all citizens. Every citizen has the right under the law to participate freely in activities beneficial to himself or herself and the society as a whole. Every citizen, including people with disabilities, have an equal right to receive basic needs from the society" without discrimination based on any of the listed grounds, including disability.

54. In Zanzibar the Child Survival, Protection and Development Policy of 2001 prohibits discrimination of children on any of the listed grounds: status, origin, religion, economic status or disability. The Zanzibar Education Policy of 2006 recognizes and protects the rights of children with disabilities. For instance, in Chapter Four the Policy

<sup>28</sup> No. 3 of 1985.

<sup>29</sup> Art. 13(5) of the Constitution of the United Republic of Tanzania (1977) and 12(5) of the Constitution of Zanzibar (1984).

<sup>30</sup> Para. 32 of the Tanzania Child Development Policy.

seeks to ensure that children with disabilities are able to access education on an equal footing with those without disabilities. In addition, the Policy states that:<sup>31</sup>

- Inclusive education shall be promoted to ensure that children with special needs (which include children with disabilities) get equal opportunities; barriers to learn are addressed and diverse range of learning needs are accommodated;
- Slow learners and highly gifted children shall be identified and given opportunities to learn at their own pace; and
- Children with disabilities and others with special needs shall, to the greatest extent possible, be able to attend a local where they will receive quality education alongside their peer without disabilities/special needs.<sup>32</sup>

This policy sets out strategies that facilitate the realization of the stated objectives which include, *inter alia*, identifying children with special needs at an early age and assessing their education and health needs.<sup>33</sup>

55. The Zanzibar Health Policy of 2009 is one of the State Party's tools, which aim at addressing the issues pertaining to health. It envisages the notion of quality health services to all people of Zanzibar including the vulnerable and disadvantaged one and ensures that their rights to health as special needs are guaranteed. The strategies to realize this goal include: mapping out the profiles and special needs of various disadvantaged groups, including children with disabilities; and working with the health institutions to ensure those who are unable to pay for service fees in health canterers such fees are waived so that they receive health services free of charge.<sup>34</sup>

## C. Statutory prohibition of discrimination

56. The State Party has enacted a number of laws that prohibit discrimination with a view to guaranteeing equality of all persons, including children. The laws prohibit discrimination in the following categories.

### 1. Prohibition of discrimination in the workplace

57. Section 7(1) of the Employment and Labour Relations Act prohibits discrimination in the workplace. The grounds for discrimination are set out in subsection (4) of section 7 of the ELRA, including: colour, nationality, tribe or place of origin, race, national extraction, social origin and political opinion or religion. Others are sex, gender, pregnancy, marital status or family responsibility, disability, HIV/AIDS, age, and station of life. This list of grounds of discrimination is not exhaustive and is expanded under Rule 28(2) of the Employment and Labour Relations (Code of Good Practice) Rules (2007) (the Code of Good Practice) to include other categories of discrimination.

58. Under rule 31 of the Code of Good Practice, discrimination may be direct or indirect. Direct discrimination "occurs where an employee is treated prejudicially on the listed grounds referred to in Rule 30".<sup>35</sup> Indirect discrimination occurs "where a

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<sup>31</sup> Policy statement 4.6 of the Zanzibar Education Policy.

<sup>32</sup> Ibid. Policy statement 4.6.2.3.

<sup>33</sup> Ibid. Policy statement 4.6.2.4.

<sup>34</sup> Ibid. Policy statement 3.3.

<sup>35</sup> Rule 31(2) of the Code of Conduct.

requirement or condition, which on the face of it, appears to be neutral, has the effect of discriminating against a person or category or persons on the grounds listed in Rule 30”.<sup>36</sup>

## **2. Prohibition of discrimination on the basis of HIV/AIDS**

### **(a) The prevalence of discrimination in the workplace on ground of HIV/AIDS**

59. The advent of HIV/AIDS in Africa has been responsible for a number of human rights issues, common amongst which being the question of discrimination of persons affected by or infected with the disease. Largely, HIV/AIDS has been deemed as a disease befalling those individuals who are promiscuous. Based on the fact that promiscuity is a taboo in most African customary norms, those affected by or infected with the viral disease have also been stigmatised.

60. This stigma has faced persons from different walks of life affected by or infected with the viral disease, including those who are in employment. Over the time since HIV/AIDS was for the first time diagnosed in 1983 in Tanzania, persons who are affected by or infected with this viral disease have been constantly discriminated. Discrimination of persons affected by or infected with the viral disease has been taking several forms and at different stages of the socio-economic relations process. At the recruitment stage, for instance, employers have been discriminating against prospective employees through “involuntary” HIV testing; and, where a prospective employee tests positive, then the employer would not consider such prospective employee for employment. In some cases, on-going employees’ contracts have been terminated because they have tested positive.<sup>37</sup>

61. Discrimination of persons based on their HIV/AIDS status contravenes provisions of international human rights instruments as well as against the provisions of Article 13(5) and (6) of the Constitution of Tanzania and provisions of the Employment and Labour Relations Act as well as sections 28 to 32 of the HIV/AIDS (Prevention and Control) Act (2008).<sup>38</sup>

### **(b) Prohibition of stigma and discrimination against persons with HIV/AIDS**

62. Section 31 of the HIV/AIDS (Prevention and Control) Act (2008) prohibits any kind of stigma and discrimination against any person on actual, perceived or suspected HIV/AIDS status. In particular, section 28 prohibits a person (natural or juristic) to formulate a policy, enact any law or act in a manner that discriminates directly or by its implication persons with HIV/AIDS, orphans or their families. In addition, section 29 obliges any health practitioner, who deals with persons living with HIV/AIDS, to provide health services without any kind of stigma or discrimination.

63. Under this law, a person shall not deny any person admission, participation into services or expel that other person from any institution on ground that the person’s actual, perceived or suspected HIV/AIDS status. Denial is also prohibited in respect of restricting a person to travel within or outside Tanzania; employment opportunity; residing anywhere or right of residence on such grounds.<sup>39</sup> A person who contravenes the foregoing prohibition

<sup>36</sup> Ibid. Rule 31(3).

<sup>37</sup> For instance, in *Boniface Njohole” Reli Assets Holdings Co. Ltd.*, High Court of Tanzania at Dar es Salaam, Misc. Civil Case No. 68 of 2009 (still pending before Rugaziya, Mbise and Juma, JJ), the petitioner’s employment with Tanzania Railways Corporation, which was under the care of the Respondent, was terminated in 2002 after he was diagnosed of HIV. The petitioner eventually challenged this move in the High Court basing on the discrimination clause contained in Art. 13(1) of the Constitution of Tanzania.

<sup>38</sup> Act No. 28 of 2008.

<sup>39</sup> Ibid. Section 30.

commits an offence and on conviction shall be liable to a fine of not less than two million Tanzanian shillings or to imprisonment for a term not exceeding one year or to both.<sup>40</sup>

**(c) Prohibition of discrimination in the workplace on ground of HIV/AIDS in Tanzania**

64. In recognition of the international commitment to eliminate discrimination in the workplace on the ground of HIV/AIDS, Tanzania has incorporated provisions prohibiting discrimination of employees infected with and/or affected by HIV/AIDS in the workplace. In this regard, section 7(1) of the Employment and Labour Relations Act prohibits discrimination in matters related to work on a number of grounds including HIV/AIDS.<sup>41</sup> Progressively, this law criminalises all acts of discrimination in subsection (7) section 7. In terms of section 28 of the HIV/AIDS (Prevention and Control) Act (2008)<sup>42</sup>, discrimination of a person on the grounds of HIV/AIDS status is prohibited. In particular, section 30(c) prohibits discrimination of persons affected by or infected with HIV/AIDS at the workplace.

65. Under rule 31 of the Code of Good Practice, discrimination may be direct or indirect. Direct discrimination “occurs where an employee is treated prejudicially on the listed grounds referred to in Rule 30”.<sup>43</sup> Indirect discrimination occurs “where a requirement or condition, which on the face of it, appears to be neutral, has the effect of discriminating against a person or category or persons on the grounds listed in Rule 30”.<sup>44</sup>

**3. Prohibition of discrimination under the persons with Disabilities Act**

66. The Persons with Disabilities Act (PDA) was enacted by Parliament in April 2010 in order to give legal effect that National Policy on Disability and the UN Disability Convention. It strives “to make provisions for the health care, social support, accessibility, rehabilitation, education and vocational training, communication, employment or work, promotion of basic rights for the persons with disabilities and to provide for related matters”.<sup>45</sup> Prohibition of discrimination against persons with disabilities is one of the principles underlying the Persons with Disabilities Act.<sup>46</sup> The PDA imposes an obligation on the Minister responsible for social welfare to “take appropriate steps to ensure the realisation of all rights and freedoms of persons with disabilities without discrimination”.<sup>47</sup>

67. In particular, the PDA contains a very strongly-worded non-discrimination principle in section 6, which categorically provides that:

“6. The Government shall:

(a) Ensure that all persons with disabilities are equal under this Act, and that all persons with disabilities are fully entitled without any discrimination to the equal protection and benefit of this Act;

(b) Prohibit all forms of discrimination on the basis of disability and guarantee the persons with disabilities equal and effective legal protection against discrimination on all grounds; and

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<sup>40</sup> Ibid. Section 32.

<sup>41</sup> See section 7(4) of the Employment and Labour Relations Act.

<sup>42</sup> Act No. 28 of 2008.

<sup>43</sup> Rule 31(2) of the Code of Conduct.

<sup>44</sup> Ibid. Rule 31(3).

<sup>45</sup> See the long citation of the PDA.

<sup>46</sup> Ibid. Section 4(a).

<sup>47</sup> Ibid. Section 5(1).

(c) For purposes of promoting equality and elimination of all forms of discrimination, take all appropriate measures to ensure that reasonable changes is provided to persons with disabilities of all ages and genders.”

#### **4. Prohibition of discrimination under the Law of the Child Act (2009) and the Zanzibar Children’s Act (2011)**

68. Under section 5(1) of the Law of the Child Act and section 6(1) of the Zanzibar Children’s Act, a child “shall have a right to live free from any discrimination”. In a similar construction, the two sections enlist the grounds of discrimination against the child as follows: gender, race, age, religion, language, political opinion, disability, health status, custom, ethnic origin, rural or urban background, birth, socio-economic status, being a refugee or of other status.<sup>48</sup>

#### **D. Judicial protection of the right to non-discrimination**

69. The principle of non-discrimination (equality) has been given due judicial consideration in many cases in the State Party, including *Julius Ishengoma Francis Ndyanabo v. A.G.*,<sup>49</sup> where the Court of Appeal of Tanzania held that discrimination as described in Article 13(5) may be committed not only by or against a natural but also juristic person. This judicial authority was cited with approval by the High Court in *Legal and Human Rights Centre, Lawyers Environmental Action Team & National organisation for Legal Assistance v. A.G.*,<sup>50</sup> where Kimaro, J. (as she then was) held that whereas Article 13(1) guarantees the right to equality before the law, Article 13(2) prohibits the enactment of law which is directly discriminatory or discriminatory in effect.

### **IV. The right to an effective remedy**

70. The State Party, being a member to a number of international and regional human rights instruments, adheres to guaranteeing its citizens’ realisation of the right to an effective remedy as amplified in international law. At the procedural level, the State Party has committed itself to realizing its obligation of protecting and promoting the right to an effective remedy under international law by establishing suitable and functioning institutions from which a person who believes that his or her rights are violated can get an effective remedy. Highly committed to the rule of law and the supremacy of human rights, the State Party has established judicial bodies (in the form of ordinary courts, national human rights institution and quasi-judicial tribunals), which decide on the complaints of victims of alleged human rights violations. Through these judicial bodies, the State Party ensures that both penal and civil courts grant effective remedies to victims of violations of human and legal rights.

#### **A. Courts of law**

71. Adhering to the international law principle that legal remedy against human rights violations is primarily to be ensured at the national level, the State Party has a court system that functions from the grassroots to the national level in both Zanzibar and Tanzania Mainland.

<sup>48</sup> See section 5(2) of the Law of the Child Act; and section 6(1) of the Zanzibar Children’s Act.

<sup>49</sup> Court of Appeal of Tanzania at Dar es Salaam, Civil Appeal No. 64 of 2001 (Unreported).

<sup>50</sup> High Court of Tanzania at Dar es Salaam, Miscellaneous Civil Cause No. 77 of 2005 (Unreported).

72. In Zanzibar, there is a dual court system applying different laws and procedures: the common law system founded on the English legal system; and the Kadhi's Courts<sup>51</sup> administering Islamic laws relating to personal related matters: i.e., marriage, divorce, inheritance, maintenance and custody of children. The judicial hierarchy of Zanzibar is such that at the lowest level there are Primary Courts,<sup>52</sup> then the District Courts,<sup>53</sup> Regional Magistrates' Courts<sup>54</sup> and at the apex is the High Court of Zanzibar.<sup>55</sup> Zanzibar shares the State Party's Supreme Court – the Court of Appeal of Tanzania<sup>56</sup> – with its counterparty (Tanzania Mainland). The Court of Appeal hears all appeals from the High Courts of Zanzibar and the one for Tanzania Mainland.<sup>57</sup> However, the Court of Appeal of Tanzania has no power to hear appeals emanating from the decision of the High court of Zanzibar in respect of enforcement of human rights and in matters originating from the Kadhi's Courts.<sup>58</sup>

73. The Kadhi's Court hierarchy is such that at the lowest level is the District Kadhi's Court, followed up the ladder by the Chief Kadhi's Court and the High Court of Zanzibar, which is the apex appeal court for matters originating the District Kadhi's Court. When hearing matters relating to the Kadhi's Courts, the High Court of Zanzibar should be presided over by a High Court Judge sitting with a panel of *ulamaa*, who are assessors with sufficient knowledge on Islamic law and are there to assist the judge reach a fair and just decision in the context of Islamic law.<sup>59</sup>

74. Whereas subordinate courts (i.e. Primary Courts, the District Courts, Regional Magistrates' Courts) are presided over by magistrates appointed by the Judicial Services Commission,<sup>60</sup> the High Court of Zanzibar is headed by the Chief Justice of Zanzibar appointed by the President of Zanzibar. The High Court of Zanzibar is presided over by judges appointed by the President of Zanzibar upon recommendation by the Judicial Services Commission.<sup>61</sup>

75. In Tanzania Mainland, the Judiciary is a constitutional creature, mandated to interpret laws of the country. Under Article 107A of the Constitution of the United Republic of Tanzania it is provided that: "The Authority with final decision in the dispensation of justice in the United Republic shall be Judiciary". The court system in Tanzania Mainland is founded on the English common law system, with courts at different ladders of the judicial system being established by the Constitution or relevant laws. At the apex level of the judicial hierarchy is the Court of Appeal of Tanzania<sup>62</sup>, followed down by the High Court of the United Republic of Tanzania<sup>63</sup> (usually called the High Court of

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<sup>51</sup> See particularly the Kadhi's Court Act, Act No. 3 of 1985.

<sup>52</sup> See the Magistrates' Courts Act, Act No. 6 of 1985.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> The High Court of Zanzibar is established under Art. 93 of the Zanzibar Constitution (1984).

See also the High Court Act, Act No. 2 of 1985.

<sup>56</sup> The Court of Appeal of Tanzania is established under Art. 117 of the Constitution of the United Republic of Tanzania (1977). See also the Appellate Jurisdiction Act (1979), Cap. 141 R.E. 2002.

<sup>57</sup> See particularly sections 3 and 4(1) of the Appellate Jurisdiction Act.

<sup>58</sup> See Art. 99(b) of the Zanzibar Constitution (1984).

<sup>59</sup> See section 10 of the Kadhi's Court Act (1985).

<sup>60</sup> See section 10(1) of the Magistrate Courts Act (1985).

<sup>61</sup> See Art. 94 of the Zanzibar Constitution (1984).

<sup>62</sup> The Court of Appeal of Tanzania is established under Art. 117 of the Constitution of the United Republic of Tanzania (1977). See also the Appellate Jurisdiction Act (1979), Cap. 141 R.E. 2002.

<sup>63</sup> See Art. 108 of the Constitution of Tanzania.

Tanzania), under which are the Resident Magistrate Courts and District Courts, which have concurrent jurisdiction. At the lowest level are the Primary Courts<sup>64</sup>.

76. Whereas the Primary Courts, District Courts and Resident Magistrates' Courts are presided over by magistrates appointed by the Judicial Services Commission of Tanzania<sup>65</sup>, the Judges of the High Court and the Justices of (the Court of) Appeal are appointed by the President of the United Republic, in consultation with the Judicial Services Commission of Tanzania<sup>66</sup>. Whereas the Court of Appeal is headed by the Chief Justice, the High Court of Tanzania is headed by the Principal Judge (known in Kiswahili as *Jaji Kiongozi*). Both the Chief Justice and the Principal Judge are appointed by the President of Tanzania.

77. Appeals from Primary Courts in Tanzania Mainland are processed through the District Courts, the High Court and then the Court of Appeal. Appeals from the Resident Magistrates' Courts and District Courts are processed through the High Court and then the Court of Appeal.

78. The State Party has ensured that the foregoing judicial system operates independent of any kind of interference which is the bedrock of an effective judicial system that effectively protects and promotes human rights in its jurisdiction. This independence is exhibited in the way judicial officials are appointed, whereby they take an oath to the effect that they would administer justice without fear or favour; conduct themselves in relation to the administration of justice and the procedure for termination of the judicial services. The State Party follows the common law system of terminating of services of judicial officers that prevents the Executive to take a leading role; rather a panel of experts from the Commonwealth should be involved in the investigations and recommendations on whether or not to terminate such services.

## **B. Quasi-judicial bodies or tribunals**

79. In addition to formal court systems, the State Party has quasi-judicial bodies or tribunals which have powers resembling those of a court of law or judge. Quasi-judicial bodies or tribunals are mainly individuals or organizations, with capacity to settle legal disputes by providing remedies to aggrieved parties and imposing legal penalties against a person(s) or organization(s). These bodies are essentially sector-specific: for instance, the labour, industrial and land dispute settlement bodies in Zanzibar and Tanzania Mainland.

### **1. Labour Dispute Settlement Bodies**

80. In Zanzibar, the Industrial Court is empowered to determine labour disputes referred to it under the Labour Relations Act (2005).<sup>67</sup> The Zanzibar Industrial Court is presided over by a judge appointed by the President of Zanzibar from amongst the judges or persons qualified to be judges of the High Court after consultation with the Chief Justice of Zanzibar.<sup>68</sup> When determining labour disputes, the judge sits with two assessors appointed by the Chief Justice from each of the panel of assessors submitted by employers' organisations and a federation of trade unions.<sup>69</sup>

<sup>64</sup> Primary Courts, District Courts and Resident Magistrates' Courts are established under the Magistrates' Court Act (1984), Cap. 11 R.E. 2002.

<sup>65</sup> See Art. 113(1) of the Constitution of Tanzania.

<sup>66</sup> Ibid. Art. 109 and 118.

<sup>67</sup> Act No. 1 of 2005.

<sup>68</sup> Section 81(1)(a) of the Labour Relations Act (2005).

<sup>69</sup> Ibid. Section 81(1)(b).

81. Below the Zanzibar Industrial Court there is the Dispute Handling Unit (DHU) established by the Labour Commission to deal with all labour disputes referred to the Commission under the Labour Relations Act.<sup>70</sup> The DHU determines labour disputes by first mediation;<sup>71</sup> and where mediation fails, by arbitration.<sup>72</sup>

82. In Tanzania Mainland, the State Party has also established labour dispute settlement bodies to determine all disputes arising from employment and labour relations. The mechanism for settling labour disputes is more or less formal compared to civil cases. Usually, labour disputes commences with mediation<sup>73</sup> conducted under the auspices of the Commission for Mediation and Arbitration (CMA).<sup>74</sup> Where mediation fails as was held by the Labour Court in *Salim Kitojo v. Vodacom (T) Ltd.*,<sup>75</sup> the matter should be referred to arbitration<sup>76</sup> conducted under the CMA and later to the Labour Court.<sup>77</sup>

83. The power to appoint mediators and arbitrators is vested in the CMA under section 19(1) of the Labour Institutions Act (2004), in consultation with the Office of the Public Service Management.<sup>78</sup> The CMA shall have regard to the need to constitute an independent and professional body in appointing mediators; and it shall prepare a code of conduct<sup>79</sup> for the said cadre, together with arbitrators serving on the CMA.<sup>80</sup> Between 2007 and 2011, the State Party managed to establish a CMA office in every region in Tanzania Mainland. This means that all persons or institutions with labour disputes can easily access the CMA to resolve their disputes.

84. The number of Judges to constitute the Labour Court may be determined by the Chief Justice where he considers necessary; but one of the judges shall be designated by Chief Justice as “Judge In-Charge”. The Judge In-Charge shall head the labour Court and shall designate any Judge to be in charge of any court zonal centre.<sup>81</sup> The Labour court shall also consist of two panels of assessors appointed in terms of section 53 of the LIA.<sup>82</sup> The Coram of the Labour Court shall be constituted by a Judge sitting with at least two assessors nominated by the presiding Judge from each of the panels appointed in terms of subsection (2)(b) of section 50 of the Labour Institutions Act.<sup>83</sup> However, it is not necessary for the Judge to sit with assessors in certain circumstances. This may happen where the

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<sup>70</sup> Ibid. Section 72(1).

<sup>71</sup> Ibid. Section 74(1).

<sup>72</sup> Ibid. Section 75(1).

<sup>73</sup> See Rule 20(1) of the Labour Institutions (Mediation and Arbitration Guidelines) Rules, GN. No. 67 of 2007. These Rules are made under section 15(1)(f) of the Labour Institutions Act, Act No. 7 of 2004.

<sup>74</sup> The Commission for Mediation and Arbitration (CMA) is established under section 12 of the Labour Institutions Act (2004).

<sup>75</sup> High Court of Tanzania (Labour Division) at Dar es Salaam, Labour Division No. 5 of 2010 (Unreported).

<sup>76</sup> Section 86(7)(b)(i) of the Employment and Labour Relations Act; and Rule 18(2) of the Labour Institutions (Mediation and Arbitration Guidelines) Rules. (2007).

<sup>77</sup> Labour Division of the High Court of Tanzania (henceforth, “the Labour Court”) is established under section 50(1) of the Labour Institutions Act (2004) and became operations on the 5<sup>th</sup> day of January 2007.

<sup>78</sup> Section 19(2) of the Labour Institutions Act.

<sup>79</sup> See the Labour Institutions Act (Ethics and Code of Conduct for Mediators and Arbitrators) Rules (2007), GN. No. 66, dated 23<sup>rd</sup> March 2007.

<sup>80</sup> Section 19(3) and (4) of the Labour Institutions Act (2004).

<sup>81</sup> Ibid. Section 50(2)(a).

<sup>82</sup> Ibid. Section 50(2)(b).

<sup>83</sup> Ibid. Section 50(3).



Judge determines an application the Labour Court;<sup>84</sup> where the parties to the dispute have agreed that the assessors are not necessary;<sup>85</sup> or if it is necessary for the expeditious determination of proceedings.<sup>86</sup>

85. The jurisdiction of the Labour Court is spelt out in section 94 of the ELRA and section 51 of the LIA. Under these provisions, the Labour Court has exclusive jurisdiction over any matter reserved for its decision by the labour laws and over any employment matter falling under common law, tortious liability, vicarious liability or breach of contract within the pecuniary jurisdiction of the High Court. In principle, “What this means is that if any party has any matter relating to labour laws the proper court of resort is the Labour Court, but this does not take away the general powers and jurisdiction of the High Court under the Judicature and application of Laws Act”.<sup>87</sup> In particular, the Labour Court has power to determine appeals from the decisions of the Registrar made under Part IV of the ELRA; reviews and revisions of the CMA arbitrator's awards; and decisions of the Essential Services Committee. The Labour Court also has exclusive jurisdiction to determine reviews of decisions, codes, guidelines or regulations made by the Minister under this Act;<sup>88</sup> and complaints, other than those that are to be decided by arbitration under the provisions of this Act.

86. When it started functioning in 2007 in Tanzania Mainland, the Labour Court had only one registry based in Dar es Salaam. It used to reach the upcountry regions of Tanzania through circuit sessions. However, in 2010 the Chief Justice, acting under the power given to him under rule 5 of the Labour Court Rules,<sup>89</sup> made the High Court of the United Republic of Tanzania Labour Court (Labour Division) (Zonal Centres) (Establishment) Rules (2010).<sup>90</sup> These Rules established a High Court Division Zonal Centre of the Labour Court in each region.<sup>91</sup> In Dar es Salaam, there was established a Zonal centre together with the main registry of the Labour Court.<sup>92</sup>

87. As in all cases, being civil or criminal, decided by any court of law in the State Party may be appealed against to the Court of Appeal of Tanzania. The right to appeal against decisions of the Labour Court to the Court of Appeal, in Tanzania Mainland, is created in section 57 of the Labour Institutions Act, which provides that: “Any party to the proceedings in the Labour Court may appeal against the decision of that Court to the Court of Appeal of Tanzania on a point of law only”. This applies to Zanzibar, where the Labour Relations Act provides, in section 87(1), that any person aggrieved by any decision or order of the Industrial Court “may appeal against such decision to the Court of Appeal in accordance with the Court of Appeal Rules”. The right of appeal in this regard guarantees an individual to seek further remedy if such individual is not satisfied with the decision of either the Labour Court (in Tanzania Mainland) or the Industrial Court (in Zanzibar).

<sup>84</sup> Ibid. Section 50(3)(a).

<sup>85</sup> Ibid. Section 50(3)(b).

<sup>86</sup> Ibid. Section 50(3)(c).

<sup>87</sup> *Tanzania Railway Ltd. The Minister for Labour, Employment and Youth Development & 2 Others*. High Court of Tanzania (Labour Division) at Dar es Salaam, Application No. 4 of 2008 (Unreported).

<sup>88</sup> Ibid.

<sup>89</sup> GN. No. 106 of 2007.

<sup>90</sup> GN No. 209 of 11 June 2010.

<sup>91</sup> Rule 2(1) of the High Court of the United Republic of Tanzania Labour Court (Labour Division) (Zonal Centres) (Establishment) Rules (2010).

<sup>92</sup> Ibid. Rule 2(2).

## 2. Land dispute settlement bodies

88. The State Party has established in Tanzania Mainland a separate system of dealing with land disputes from the ordinary civil courts. This separate land dispute settlement system is less formal compared to the complex civil procedures in the ordinary courts of law; and is intended to make it more accessible as well as comprehensible even to those citizens with less formal education. In accordance with section 62 of the Village Land Act (1999) and section 3 of the Courts (Land Dispute Settlement) Act (2002), land dispute settlement structure starts from the Village Land Council, the Ward Tribunal, The District Land and Housing Tribunal, the Land Division of the High Court and the Court of Appeal. Administratively, the Village Land Council and the Ward Tribunal fall under the Prime Minister's Office (Regional Administration and Local Government). Their lines of responsibility, is in accordance to the provisions of the Regional Administration and Local Government Act, 1997.

89. The District Land and Housing Tribunal handles land disputes at the district level. The administrative structure which also forms the lines of responsibility falls under the Ministry of Lands and Human Settlement Development. The Land Division of the High Court and the Court of Appeal of Tanzania form part and parcel of the Judiciary which is headed by the Honourable Chief Justice of the United Republic of Tanzania. The judiciary is under the Ministry of Constitutional and Legal Affairs. Although the judiciary is a department within the ministry of Justice, when it comes to the administration of justice, it stands independently forming the third pillar of Government under the doctrine of separation of powers. It is within this scope that the judiciary is solely vested with powers to administer justice with its internal systems of hiring and firing judicial officers as per the Constitution and the Judicial Services Act.<sup>93</sup>

## C. The Commission for Human Rights and Good Governance

90. The State Party adheres to well-established principle of international law that national human rights institutions are pivotal in the promotion and protection of human rights at the municipal level. In translating this principle into practice the State Party set up the Commission for Human Rights and Good Governance (CHRAGG), which is a national human rights institution established in 2000 vide the 13<sup>th</sup> Constitutional Amendment to the 1977 Constitution of Tanzania. It became operational in 2001 following the enactment and the coming into force of its founding statute, the Commission for Human Rights and Good Governance Act<sup>94</sup> (henceforth, the founding legislation). CHRAGG was officially inaugurated in mid-March 2002, following the appointment and swearing in of its Commissioners;<sup>95</sup> and it now has offices in both Zanzibar and Tanzania Mainland.

91. CHRAGG took over the functions of the defunct Permanent Commission of Enquiry (PCE). The PCE was established in 1965, making it the first ombudsman to be established in Sub-Saharan Africa, with its primary duty being concerning investigation of abuse of authority (mal-administration). Thus, CHRAGG, apart from its mandate to deal with human rights issues, it is also concerned with addressing abuse of public authority.

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<sup>93</sup> See, for instance, section 19 of the Judicial Services Act, Cap. 237 R.E. 2002

<sup>94</sup> Cap. 391 R.E. 2002. This Act was amended by Act No. 16 of 2001. The Act came into force on 9<sup>th</sup> May 2001 vide Government Notice No. 67 of 4<sup>th</sup> May 2001.

<sup>95</sup> Kisanga, R.H., "The State of Human Rights in Tanzania – The Commission for Human Rights and Good Governance: Role, Constraints and Prospects," a paper presented at the Half-Annual General Meeting of the Tanganyika Law Society, Bagamoyo, 8<sup>th</sup> August 2003, p. 3.

92. The functions of CHRAGG are stipulated in Article 130(1) of the Union Constitution as well as in section 6(1) of its founding legislation. Accordingly, the main core function of CHRAGG is to promote, protect and preserve human rights and duties of the citizens to the society. In other words generally, CHRAGG has four main functions, namely, the protective,<sup>96</sup> promotive,<sup>97</sup> advisory and mediatory/conciliatory functions. According to section 28(4) of the founding legislation, CHRAGG can resolve any complaint or rectify an act or omission emanating from a violation of any fundamental right or acts of mal-administration by *mediation, conciliation* or *negotiation*. According to the founding CHRAGG Chairman, Hon. Justice (retired.) Kisanga, when the Commission is involved in mediation or conciliation “it is acting in a quasi-judicial capacity.”<sup>98</sup> The quasi-adjudicatory function of the Commission is particularly in relation to carrying out public hearings or enquiries. Mediation is a means to an end. It seeks to reconcile people. That is why the Commission has a role to play in conflict resolution by way of mediation, conciliation and adjudication, apart from investigating complaints and conducting enquiries into violations of human rights and contravention of principles of good governance”.<sup>99</sup>

93. In discharging its quasi-adjudicatory function CHRAGG is governed by both rules of procedure, evidence and its own set of Regulations<sup>100</sup> that have been made under the founding legislation,<sup>101</sup> though, for the sake of *fairness* and *flexibility*, it is not bound by the former. The decisions of the Commission have the status of recommendations. The Commission lacks the judicially binding power of the courts to enforce its recommendations. The Commission however, can go to court to enforce its recommendations if need be. CHRAGG may also delegate its function of commencing court proceedings to enforce its recommendations to another appropriate body.<sup>102</sup>

<sup>96</sup> This function includes: receiving and investigating complaints and/or allegations on violation of human rights and contravention of principles of administrative justice, as well as conducting public hearings (enquiries) on the same, and giving remedies; initiating proceedings without being triggered off by anybody else; going to court to secure the enforcement of its recommendations and inspecting prisons and similar detention facilities.

<sup>97</sup> This function embodies such duties as educating the public on human rights and good governance issues (section 6(1)(d) of the founding legislation); carrying out research on human rights and good governance issues; and monitoring compliance with human rights standards and good governance principles (section 6(1)(i)).

<sup>98</sup> According to Justice (retired) Kisanga, “quasi-judicial” indicates something that “resembles a judicial function, but is distinct from this insofar as it rests with an administrative body. In this context the term refers to those functions of a national human rights institution, where complaints of human rights violations are received, examined according to procedures reflecting principles of fairness and flexibility and in a manner appropriate to the nature of the complaint, by a body other than a judicial instance.” Kisanga, R.H., H., “The State of Human Rights in Tanzania – The Commission for Human Rights and Good Governance: Role, Constraints and Prospects,” *op. cit.*, p. 16.

<sup>99</sup> *Ibid.*, pp. 5-6.

<sup>100</sup> The Commission for Human Rights and Good Governance (Complaints Procedure) Regulations, 2003, which are made under section 38 of the Commission for Human Rights and Good Governance Act, 2001, No. 7 of 2001.

<sup>101</sup> In terms of section 20(2) of the founding legislation, CHRAGG is obliged to “observe the rules of natural justice but shall not be bound by any legal or technical rules of evidence applicable to proceedings before the courts; and all proceedings shall be conducted informally and expeditiously”.

<sup>102</sup> Section 28(3) of the Commission for Human Rights and Good Governance Act. The Commission recommended an appropriate authority (Legal and Human Rights Centre, a Dar es Salaam-based human rights NGO) to bring an action in court to enforce its recommendations was in *Ibrahimu Korosso & 134 Others together with the Legal and Human Rights Centre* District Commissioner and the Police Officer in Command of Serengeti District together with the Attorney General, HBUB/S/1032/2002/2003/MARA.

So, CHRAGG has so far ensured that the promotion and protection of human rights in the State Party are effective.

**D. Exhaustion of local remedy and references of violations of human rights to international human rights bodies**

94. The foregoing elaboration of the efforts undertaken by the State Party to ensure that its citizens enjoy the right to an effective remedy underlies the principle that both the court and quasi-judicial bodies in the State Party have power to for, amongst other reliefs, reparation to victims of legal and human rights violations. The State Party has also put referral and appeal mechanisms for any aggrieved party to seek further remedy in an appellate forum. Where a person exhausts local remedies, the State Party allows such persons to refer complaints to any of the international human rights treaty monitoring bodies to which it is a party.

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