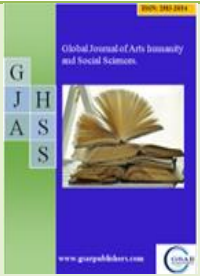
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A COMPREHENSIVE ANALYSIS OF THE LEGAL AND INSTITUTIONAL FRAMEWORK GOVERNING VILLAGE COUNCIL'S AUTONOMY IN TANZANIA

By

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Abstract

The autonomy of village councils in Tanzania is governed by a different legal framework that includes the Constitution of the United Republic of Tanzania, various Acts of Parliament, and local government policies and regulations. This paper explores the extent of autonomy granted to village councils under Tanzanian laws, analyzing main legislative instruments such as the Constitution of the United Republic of Tanzania, the Regional Administration Act, the Local Government (District Authorities) Act, the Local Government Finance Act, the Village Land Act, and the Local Government Elections Act. By examining the structure, governance, and functions of village councils. The study highlights the challenges and opportunities in enhancing local and good governance and the importance of village councils in local governance. Hence, recommendations are provided to improve their autonomy and effectiveness.

Keywords: Village Council, Autonomy, Governance, Local Government Authorities, Legal and Institutional Framework.

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1.0 INTRODUCTION

1.1 General Overview

The Local Government Authorities (LGAs) including the village councils in Tanzania are established under the Constitution of United Republic of Tanzania and relevant Acts of Parliament to decentralize administrative and decision-making powers from the central government to local communities. This decentralization is intended to improve governance by bringing government services closer to the people and enhancing local participation in decision-making processes. As of 2020, Tanzania had 185 district councils and over 12,000 village councils, which are the most grassroots level of governance¹. These Local Government Authorities are responsible for implementing government policies, laws, managing local resources, and facilitating community development².

2.1 VILLAGE COUNCIL AND VILLAGE COUNCIL'S AUTONOMY

2.1.1 Establishment

Village councils in Tanzania are established by the Local Government (District Authorities) Act³. These councils represent the lowest level of local government and are tasked with the management and administration of village affairs. The Act mandates that village councils be formed in every village that has been legally recognized by the government⁴. According to the NBS (2021), there are over 12,000 registered village councils in Tanzania, each serving an average population of 3,000 to 5,000 people. The members of the village council are elected by villagers and serve a three-year term, during which they are expected to

¹ National Bureau of Statistics, 2021

² Article 145 and 146 of The Constitution of United Republic of Tanzania, 1977 Cap 2, [R.E 2002]

³ Cap 287 [R.E 2002].

⁴ See Section 25 of the Local Government) District Authorities) Act, Cap 287 [R.E 2002]



manage local resources, implement development projects, and uphold law and order⁵

2.1.2 Structure

The structure of a village council typically includes a chairperson, a vice-chairperson, and other elected members who represent different sections of the village. The council also includes various committees responsible for specific areas such as health, education, and infrastructure. According to the Local Government (District Authorities) Act, each village council must have a minimum of 25 members, with at least one-third being women.⁶ This structure is designed to ensure that all segments of the village population are represented in the decision-making process. A study by the World Bank (2019) found that villages with well-structured councils were more effective in delivering public services and managing communal resources.

2.1.3 Governance and Functions

The governance of village councils is grounded in the principles of participatory democracy, which allows villagers to have a direct say in the decisions affecting their lives and development. Village councils are responsible for various functions, including the management of communal resources, oversight of local development projects, and the maintenance of law and order. According to the Local Government (District Authorities) Act, village councils have the authority to enact by-laws, collect local taxes, and manage village land⁷. A report by the United Nations Development Programme (UNDP) in 2020 indicated that village councils in Tanzania are crucial in implementing national policies at the local level, contributing to an overall increase in rural development by 15% over the past decade.

2.1.4 Essentials of Village Council's Autonomy

The autonomy of village councils is crucial for effective local and good governance. Autonomy allows village councils to make decisions independently, reflecting the unique needs and priorities of their communities. However, this autonomy is often limited by the need for alignment with national policies and the oversight of higher levels of government. The Local Government (District Authorities) Act, provide village councils with a certain degree of autonomy, particularly in areas such as resource management and local development planning.⁸ A study by the International Monetary Fund (IMF) in 2020 highlighted that villages with higher autonomy in decision-making were more likely to achieve sustainable development goals, with a reported 20% higher success rate in local development projects compared to less autonomous villages.

3.1 LEGAL FRAMEWORK GOVERNING VILLAGE COUNCIL'S AUTONOMY

3.1.1 The Constitution of the United Republic of Tanzania, 1977

The Constitution of Tanzania serves as the supreme law of the land and provides the foundational legal framework for the existence and operation of local government authorities, including village councils. Article 145 of the Constitution explicitly recognizes the establishment of local government authorities, empowering them to participate in the administration of local affairs. The Constitution emphasizes decentralization as a means of promoting democracy and ensuring governance is closer to the people. Village councils derive their legitimacy and recognition from the Constitution, which grants them the authority to manage local affairs. The 2021 Population and Housing Census reported that approximately 70% of Tanzania's population resides in rural areas, underscoring the importance of village councils in local governance.⁹

3.1.2 The Local Government (District Authorities) Act, Cap 287

The Local Government (District Authorities) Act, is the primary legislative instrument governing the operation of village councils in Tanzania. The Act outlines the procedures for the establishment, composition, and functions of village councils, providing a detailed legal framework for their governance.¹⁰ According to the Act, village councils are responsible for promoting the social and economic development of their communities, managing village land, and maintaining law and order. The Act also grants village councils the authority to enact by-laws, collect local taxes, and manage communal resources, ensuring they have the necessary tools to fulfill their responsibilities.¹¹ A survey by the Tanzanian Ministry of Local Government in 2019 found that 85% of village councils were actively involved in local development planning, contributing significantly to community development projects.

3.1.3 The Local Government Finance Act, Cap. 290 R.E 2019

The financial autonomy of village councils is governed by the Local Government Finance Act, which provides the legal basis for the collection and management of local revenue. The Act stipulates the types of taxes and levies that village councils are authorized to collect, as well as the procedures for managing these funds.¹² Financial autonomy is very crucial for the effective functioning of village councils, as it enables them to finance local development projects and meet the needs of their communities. A report by the Tanzanian Ministry of Finance in 2020 indicated that village councils with higher financial autonomy were more likely to achieve their development objectives, with a 25% higher success

⁵ See Section 57 of the Local Government) District Authorities) Act, Cap 287 [R.E 2002]

⁶ See Section 56 of the Local Government) District Authorities) Act, Cap 287 [R.E 2002]

⁷ See section 168 of Cap 287, [R.E 2002], Section 16 of Cap 290 [R.E 2019]

⁸ See Section 147 of the Local Government) District Authorities) Act, Cap 287 [R.E 2002]

⁹ (NBS, 2021).

¹⁰ See Section 25,56 and 147 of the Local Government (District Authorities) Act, Cap 287 [R.E 2002]

¹¹ S.168 of Cap 287 R.E 2002, S. 9 and 16 of the Local Government Finance Act, Cap 290[R.E 2019]

¹² Section 9 of the Local Government Finance Act, Cap 290, [R.E 2019]



rate in project implementation compared to councils with limited financial autonomy. However, the Act also places certain restrictions on the financial autonomy of village councils, requiring them to align their budgets with national priorities and obtain approval from higher levels of government for certain expenditures¹³.

3.1.4 The Village Land Act, Cap. 119 R.E 2019

Land management is a critical function of village councils, and the Village Land Act provides the legal framework for the administration of village land. The Act empowers village councils to allocate land within their jurisdiction, manage communal land resources, and resolve land disputes¹⁴. The autonomy of village councils in land management is crucial for ensuring that land is used in a manner that benefits the community and supports local development. According to 2018 study by the Tanzania Natural Resource Forum, villages with effective land management practices experienced a 30% increase in agricultural productivity, highlighting the importance of land autonomy in local governance. The Act also requires village councils to maintain land registries and adhere to principles of sustainable land use, ensuring that land resources are managed responsibly¹⁵. However, the Act also imposes certain limitations on the autonomy of village councils, requiring them to comply with national land policies and regulations.

3.1.5 The Local Government Elections Authorities Act, Cap. 292 R.E 2002

The Local Government Elections Authorities Act governs the election of members of District councils, providing the legal framework for the democratic representation. The Act outlines the procedures for the nomination, election, and removal of District Council members, ensuring that the election process is transparent and fair¹⁶. The autonomy of village councils is closely tied to the democratic legitimacy of their members, as elected representatives are accountable to the villagers who elect them. A report by the National Electoral Commission in 2020 indicated that voter turnout in village council elections averaged 75%, reflecting strong community engagement in the local governance process. The Act also provides for the resolution of election disputes and the oversight of the election process by higher levels of government, ensuring that the autonomy of village councils is balanced with the need for accountability and transparency.¹⁷

3.1.6 The Regional Administration Act, Cap. 97 R.E 2002

The Regional Administration Act, provides the legal framework for the relationship between village councils and higher levels of government, particularly regional and district authorities. The Act outlines the roles and responsibilities of regional and district

authorities in overseeing the operation of district authorities including the village councils, providing guidance and support while respecting their autonomy¹⁸. The Act also establishes mechanisms for coordination and cooperation between village councils and higher levels of government, ensuring that local development initiatives are aligned with national policies. A study by the University of Dar es Salaam in 2020 found that villages with strong coordination between local and regional authorities were more successful in implementing development projects, with a 20% higher success rate compared to villages with weak coordination.

4.1 INSTITUTIONAL FRAMEWORK GOVERNING VILLAGE COUNCIL'S AUTONOMY

The institutional framework governing the autonomy of village councils in Tanzania is multi-layered, involving various actors from the national to the local level. This framework ensures that village councils have the necessary support and oversight to function effectively while maintaining a degree of autonomy in managing local affairs.

4.1.1 The Ministry Responsible for Local Government Authorities

This is established by the constitution of the United Republic of Tanzania to manage and administer regional and local development. The Ministry of Local Government, currently under the President's Office, Regional Administration and Local Government (PO-RALG), is the highest authority overseeing the functioning of local government authorities, including village councils. The Ministry is responsible for formulating policies, providing guidelines, and monitoring the performance of local governments to ensure they align with national development goals¹⁹. According to the Ministry's 2021 annual report, approximately 80% of Tanzanian village councils received technical and financial support from the Ministry, which helped improve their administrative capacities and service delivery²⁰. However, the Ministry also has the authority to intervene in the affairs of village councils, particularly when there are issues of non-compliance with national laws, which can limit their autonomy.

4.1.2 The Regional and District Authorities

The authorities were established under sections 4 and 13 respectively of the Regional Administrative Act²¹. Regional and district authorities play a critical role in supervising the activities of village councils. Regional Commissioners (RCs) and District Commissioners (DCs) are appointed by the President and are responsible for ensuring that village councils operate within the

¹³ Section 39 and 45 of the Local Government Finance Act, Cap 290, [R.E 2019]

¹⁴ Section 25, 50 and 53 of the village Land Act, Cap 114 [R.E 2019]

¹⁵ Section 8 of the village Land Act Cap 114 [R.E 2019]

¹⁶ See Section 39 and 40 of Cap 292 [R.E 2002]

¹⁷ See Section 57,58,59 and 60 of Cap 287 [R.E 2002]

¹⁸ See Section 5 and 6 of the Regional Administration Act, Cap 287 [R.E 2002]

¹⁹ (URT, 2002).

²⁰ (PO-RALG, 2021).

²¹ Cap 287, [R.E. 2002]



legal framework and adhere to national policies²². The Regional Administration Act empowers these authorities to oversee the implementation of development projects and the management of resources at the local and village level²³. A 2020 survey by the Tanzanian Local Government Reform Programme (LGRP) found that 65% of district authorities reported regular interactions with village councils, which helped in coordinating local development efforts and resolving conflicts.²⁴ However, this oversight can sometimes infringe on the autonomy of village councils, especially when there are disagreements over resource allocation or policy implementation.

4.1.3 The District Council

The council is established under section 5 of the Local Government (District Authorities) Act²⁵, for the purpose of promoting decentralized governance and local development²⁶. The District Council serves as the primary local government body responsible for the overall governance of villages within its jurisdiction. It acts as a bridge between village councils and higher levels of government, ensuring that village-level decisions and actions align with district and national priorities. District Council is also responsible for allocating resources to village councils, providing them with the necessary financial and technical support to carry out their functions. According to the 2019 Tanzania Governance Review, districts with effective councils have a 22% improvement in public service delivery at the village level, demonstrating the importance of this institutional support²⁷. However, the need for district council approval on major village council decisions can sometimes limit the autonomy of these councils, particularly in financial matters.

4.1.4 The Ward Development Committee(WDC)

The institution is established under section 31 of the Local Government (District Authorities) Act for the objective of ensuring the implementation of the decisions and policies of the district council, and of the development schemes which relate to the ward²⁸. The Ward Development Committee (WDC) is an essential part of the local governance structure, providing a forum for coordination and planning at the ward level, which comprises several villages. The WDC is responsible for developing ward-level plans and ensuring that village council activities are in line with these plans²⁹. The Committee is composed of the ward councilor, chairpersons of village councils, and representatives of various government departments at the ward level. A 2020 report by the Tanzania Rural Development Strategy (TRDS) indicated

that wards with active WDCs experienced a 15% higher success rate in implementing local development projects compared to wards without such active committees³⁰. The WDC's role in coordinating village councils is crucial, but its oversight functions can sometimes restrict the decision-making autonomy of village councils.

4.1.5 The Village Assembly

The village assembly is established under section 25³¹ as the highest decision-making body within the village and consists of all adult members of the village community. The Assembly is responsible for approving village plans, budgets, and by-laws, and for electing members of the village council³². The Assembly provides a direct means for villagers to participate in governance, ensuring that village council decisions reflect the will of the people. According to the Local Government (District Authorities) Act, the Village Assembly must meet at least four times a year, and its decisions are binding on the village council³³. A 2018 study by the International Institute for Environment and Development (IIED) found that villages with active assemblies were more effective in resource management, with a 25% lower incidence of land disputes compared to villages with inactive assemblies.³⁴ However, the need for Assembly approval on major decisions can sometimes slow down the decision-making process and limit the council's autonomy in urgent matters.

5.1 CHALLENGES TO VILLAGE COUNCIL AUTONOMY IN TANZANIA

Village councils in Tanzania play a vital role in local governance and rural development. They are intended to function independently and autonomously, as provided by the laws governing it, such as the Local Government (District Authorities) Act³⁵, the Village Land Act,³⁶ and the Local Government Finance Act³⁷. However, several challenges limit their ability to operate freely and effectively. These challenges, ranging from legal and financial issues to political and social factors, prevent village councils from reaching their full potential as independent decision-makers.

5.1.1 Legal and Structural Problems

One major challenge is that Tanzania's government system is still highly centralized. Although village councils are legally recognized as autonomous, their decisions are often overruled by district and regional authorities³⁸. This makes it difficult for them

²² See Article 61 of the United Republic of Tanzania 1977, Cap 2.

²³ See section 5(1) and (3),8(1),10 and 11 of the Regional Administration Act, Cap 97 [R.E 2002]

²⁴ Local Government Reform Programme, 2020

²⁵ Cap 287, [R.E 2002]

²⁶ See article 146 of the United Republic of Tanzania Constitution, Cap 2, and Section 121 of the Local Government (District Authorities) Act, Cap 287, [R.E 2002]

²⁷ (Policy Forum, 2019).

²⁸ See Section 32 of the Local Government (District Authorities) Act, Cap 287, [R.E 2002]

²⁹ (URT, 2002).

³⁰ (TRDS, 2020).

³¹ Cap 287 R.E 2002

³² Cap 287 R.E 2002

³³ (URT, 2002).

³⁴ (IIED, 2018).

³⁵ Cap 287 [R.E 2002]

³⁶ Cap 114 [R.E 2019]

³⁷ Cap 290, [R.E 2019]

³⁸ Athuman J. Liviga(1995), *The Over- Centralized state and its limitations to participation in Tanzania*, The African Review: A Journal of African Politics, Development and



to implement local initiatives without interference from higher levels of government. Additionally, some parts of the law governing village councils are unclear, leading to misunderstandings about their powers by creating significant control and oversight over village councils³⁹. For example, responsibilities for managing resources or approving budgets often overlap with those of district councils, causing disputes and confusion, limiting decision-making authority, and undermining village councils' autonomy.

5.1.2 Lack of Financial Independence

Village councils struggle financially because they have limited ways to generate their income. They depend heavily on funds from the central government, which are often not enough to meet their needs. Even when money is provided, it comes with strict rules on how it can be used, leaving little room for the councils to address their community's priorities. Therefore, this financial dependence undermines their independence and frustrates residents, who expect the councils to deliver meaningful development projects⁴⁰.

5.1.3 Political Interference

Political influence is another challenge for village councils. Instead of making decisions based on the needs of their communities, some council members prioritize party interests or follow directives from higher authorities⁴¹. This undermines their ability to act independently and weakens public trust in their leadership. Higher-level authorities sometimes interfere directly, overruling decisions made by the councils. This makes it harder for village councils to assert their authority and carry out their responsibilities effectively.

5.1.4 Shortages of Human resources and skills

Many village council members lack the skills and training needed to perform their roles well. They often have little knowledge of governance, budgeting, or legal processes, which makes it hard for them to handle their responsibilities effectively⁴². In addition, many councils lack basic resources like offices, transportation, or communication tools. These shortages make it difficult for them to organize their work, monitor progress, or engage with their communities.

5.1.5 Low Community Participation

Village councils rely on community involvement to function well, but many people in rural areas are not actively involved in local governance. Some are unaware of their right to participate, while others are discouraged by a lack of visible results from previous efforts.

This lack of participation reduces the councils' accountability and weakens their ability to make decisions that reflect the needs of the community. Corruption and poor oversight further damage their credibility, making it harder for them to build trust.

5.1.6 Unequal Development and Economic Challenges

Economic challenges in rural Tanzania also affect village councils. Wealthier areas often have better resources and infrastructure, allowing their councils to operate more effectively. In poorer regions, councils struggle to provide even basic services, creating inequality between communities⁴³.

Therefore, the autonomy of village councils in Tanzania faces many obstacles, including legal confusion, financial dependence, political interference, and resource shortages. Addressing these problems will require changes to laws, better support from the government, and more active participation from local communities. By empowering village councils with the resources, skills, and independence they need, Tanzania can help them fulfill their role as key drivers of grassroots development and community growth. This will ensure they can make decisions that truly reflect the needs and aspirations of the people they serve.

6.1 Conclusion and Recommendation

6.1.1 Conclusion

In essence, Tanzania's legal system endeavors to provide village councils with independent powers but the implementation is markedly problematic. Despite the detailed language in legislation, there are often inadequate enforcement mechanisms that enable village councils to function autonomously. The political and financial reliance on district and central authorities still constrains their autonomy.

Reforms that safeguard village councils' legislative power and provide them with the necessary resources will also be necessary to enhance their autonomy. Additionally, rural areas in Tanzania should consider reducing bureaucratic interference. A more empowered local governance structure, which promotes both local development and democratic governance, maybe the outcome. While the legal system provides a basis for autonomy, reforms in institutions are necessary to overcome these limitations. The provision of resources and the protection of village councils from excessive central oversight are essential for genuine autonomy. Through these issues, Tanzania can enhance its local governance system, enabling village councils to better serve the community and promote sustainable development.

6.1.2 Recommendation

The legal and institutional framework governing village councils in Tanzania provides certain basis for their autonomy which has ineffective functioning. The Constitution of the United Republic of Tanzania, along with various Acts such as the Local Government (District Authorities) Act and the Village Land Act, grants village councils the authority to manage local affairs, enact by-laws, and

International Affairs, [Vol. 22, No. 1/2 \(1995\)](#), pp. 140-159 (20 pages)

³⁹ The Local Government Finance Act, Cap 290, R.E 2019

⁴⁰ Roy Kelly and Per Tidemand, Financial Decentralization in Tanzania: A Review of the Local Government Reform Programme Activities (1999-2006), report submitted to PMO-RALG, March 2007.

⁴¹ Servacius Likwelile, University of Dar Es Salaam and Pascal Assey, Victoria Foundation, September, 2018.

⁴² [State of Local Democracy and Good Local Governance in Tanzania \(clgf.org.uk\)](#)

⁴³ State of Local Democracy and Good Local Governance in Tanzania (LD & GLG) 2011



oversee development projects. However, the autonomy of these councils is often constrained by the need to align with national policies and the oversight exercised by higher levels of government.

To enhance the autonomy and effectiveness of village councils, several recommendations can be made:

6.1.2.1 Enhancing Financial Autonomy:

There is a need to grant village councils greater financial autonomy by allowing them to generate and manage local revenue independently. This could involve expanding the range of taxes and levies that village councils are authorized to collect and reducing the need for district council approval on financial matters. A study by the World Bank (2020) found that increasing financial autonomy at the local level could lead to a 20% increase in the efficiency of public service delivery in rural areas⁴⁴

6.1.2.2 Capacity Building:

There should be more capacity-building programs to ensure that village councils have the technical and administrative skills necessary to fulfill their responsibilities. This includes training in financial management, project planning, and governance. According to the PO-RALG (2021), capacity-building initiatives have already led to a 15% improvement in administrative efficiency among village councils that participated in these programs⁴⁵

6.1.2.3 Strengthening Coordination:

Improved coordination between village councils, district authorities, and national government bodies is essential for aligning local development initiatives with national policies while respecting local autonomy. Enhanced communication channels and regular joint planning sessions could help achieve this. A 2019 study by the Tanzanian Local Government Reform Programme found that villages with strong intergovernmental coordination had a 30% higher success rate in implementing development projects⁴⁶

6.1.2.4 Promoting Participatory Governance:

Encouraging greater participation of villagers in the decision-making process through the Village Assembly can help ensure that the decisions made by village councils reflect the will of the community. This can be facilitated by increasing the frequency of Village Assembly meetings and providing villagers with more information about the issues being discussed. The IIED (2018) study noted that participatory governance led to a 25% reduction in governance-related conflicts in villages with active assemblies.

While the legal and institutional framework governing village councils in Tanzania provides a foundation for their autonomy, there is room for improvement. By enhancing financial autonomy, building capacity, strengthening coordination, and promoting participatory governance, village councils can be better equipped

to fulfill their roles in local governance and contribute more effectively to national development goals.

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