



THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR

THE CONSTITUTION OF ZANZIBAR

Publication made possible by a grant from UNDP

**Printed and Bound by:
College of Education Press
P.O BOX 1933
Tel: 255 24 2239396 Fax: 255 24 2234102
Chukwani - Zanzibar**

THE CONSTITUTION OF ZANZIBAR

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THE CONSTITUTION OF ZANZIBAR

PREAMBLE

**RESOLUTION OF THE HOUSE OF REPRESENTATIVES TO
ENACT CONSTITUTION OF ZANZIBAR**

WHREAS, the House of Representatives in its session held on the 9th day of October, 1984 on behalf of the People of Zanzibar realised and resolved to make historic responsibility of the People of Zanzibar be that of fostering unity carrying on socialist revolution in Zanzibar and actively supporting liberation struggle and Revolution strategies within the country, in Africa and World over;

AND WHEREAS, we realise the fact that the unity of the People of Zanzibar stems from long time interaction and co-operating starting way back during the days of independence struggle up to this stage of being successful which is embodied in our policy of Socialism and Self Reliance;

AND WHEREAS, we cherish and take cognisance of the good and revolutionary accomplishment secured by leaders of the Revolution, pioneered by the founder Member of Afro Shiraz Party ASP and the 1964 Revolution the late Elder Statesman Abeid Aman Karume, whose thinking shall be perpetuated and passed from one generation onto another generation in the struggle against colonialism, capitalism, down troddenness, injustice and despondence while advocating Independence and Unity, Justice and Equality and Respect for Human dignity;

AND WHEREAS, we are conscious of the fact that Revolutionary teaching and thought shall be protected, fostered and sustained through and by democratic principles;

AND WHEREAS, we are further conscious of the fact that the struggle and quest to build socialism in Zanzibar and our full participation in the revolutionary activities of Zanzibar needs a solid law that guides the people constitutionally basing on thought and thinking of workers and farmers;

AND WHEREAS, we the people of Zanzibar, have firmly and solemnly resolved to build in our country a society founded on the principles of freedom, justice, fraternity and concord;

AND WHEREAS, those principles can only be realised in a democratic society in which the Executive is accountable to a House of Representative composed of elected members and representatives of the people and also a judiciary which is independent and dispenses justice without fear or favour thereby ensuring that all human rights are preserved and protected and that the duties of every person are faithfully discharged;

NOW THEREFORE, THIS CONSTITUTION IS ENACTED BY THE HOUSE OF REPRESENTATIVES in its session held on the 9th day of October 1984, on behalf of People for the purpose of building such a society and ensuring that Zanzibar is governed by a government that adheres to the principles of democracy and socialism.

CHAPTER ONE
ZANZIBAR

PART ONE
ZANZIBAR

1. Zanzibar is an integral part of the United Republic of Tanzania. Zanziba

2.(1) The area of Zanzibar consists of the whole area of the Islands of Unguja and Pemba and all small Islands surrounding them and includes the territorial waters that before the Union formed the then People's Republic of Zanzibar. The Are of Zanzibar regional and district boundarie

(2) For the purpose of the efficient discharge of the functions of the Government, the President of the United Republic in consultation with the President, may divide Zanzibar into Regions, Districts and any other areas in accordance with procedures prescribed.

3.(1) There shall be a Seal of the Revolutionary Government of Zanzibar whose insignia shall be as laid down by law enacted by the House of Representatives. Governme seal.

(2) The Revolutionary Government of Zanzibar shall be empowered to prescribe anything whatsoever that shall serve to identify the Government in accordance with the law as enacted by the House of Representatives.

4. This Constitution is the Constitution of Zanzibar and shall have the force of law throughout the Country save for provisions of Article 80 if any legislation is found to be in conflict with this Constitution this Constitution shall prevail and that law shall be null and void to that extent that conflicts with this Constitution. The Constitution of Zanzibar.

Zanzibar to be a state of multiparty democracy.

5. Zanzibar shall be a state of multiparty democracy which shall uphold the rule of law, human rights, equality, peace, justice and equity.

Distribution of power. Act No. 2 of 2002 S. 4.

5A.(1) Zanzibar shall follow the system of separation of powers between three authorities, the Executive Authority, the Legislative Authority and the Judicial Authority.

(2) The Executive Authority is the Revolutionary Government of Zanzibar, the Legislative Authority is the House of Representatives and the Judicial Authority is the Court.

(3) No Authority shall intervene in another Authority except in the manner provided in this Constitution.

**PART TWO
THE PEOPLE**

A Zanzibari. Act No. 2 of 2002 S. 5.

6.(1) There shall be a Zanzibari, the attainment, deprivation and re-instatement of Zanzibarian status of a person shall be in accordance with the law enacted by the House of Representatives in that respect.

(2) Every Zanzibari shall enjoy rights and privileges be fitting a Zanzibari in accordance with this Constitution, and shall be obliged to perform duties, functions and responsibilities as provided in this Constitution or law enacted by the House of Representatives.

7.(1) Any Zanzibari who has attained the age of eighteen years shall have the right to vote in the election taking place in Zanzibar. And this right shall be exercised in accordance with the provision of sub-article (2) of this Article together with other provisions of this Constitution and law applicable in Zanzibar on election matters.

Right to vote. Act No. 2 of 2002 S. 6.

(2) The House of Representatives may enact a law and make provisions which may bar a Zanzibari from exercising a right to vote from any of the following reasons, that is that Zanzibari:

- (a) has a citizenship of another country;
- (b) has a mental disease certified by the High Court;
- (c) has been convicted of criminal offence and serving his sentence in the Education Centre, except that a person in custody shall have the right to register and vote;
- (d) not able or fails to prove or provide certificate of age, citizenship or registration as a voter.

(3) The House of Representatives shall enact a law relating to the election of the President, Members of the House of Representatives and Councilors for Local Government and make provision for the following matters:

- (a) establishment of permanent register of voters and provide procedure of correcting the content of that register;
- (b) to indicate the area, time of voters' registration and the period of residency in the electoral Constituency for the purpose of voting;

- (c) procedure of enabling a voter registered in one part to vote in another part and provide conditions of implementing that procedure;
 - (d) to provide duties and functions of the Electoral Commission and procedure for every election conducted under the leadership and supervision of the Zanzibar Electoral Commission;
- (4) A part from the reasons laid down in this Article there is no other reason which can bar a Zanzibari from exercising a right to vote.

**CHAPTER TWO
FUNDAMENTAL OBJECTIVES AND DIRECTIVE
PRINCIPLES AND POLICIES OF THE REVOLUTIONARY
GOVERNMENT OF ZANZIBAR**

Fundamental
objective
of the
Government.

8. It shall be the duty and responsibility of the Government, all its organs and all persons or authorities exercising executive, legislative or judicial functions to observe the principles of independence, justice and peace.

The
Government
and the
People.

9.(1) Zanzibar shall be a state that adheres to the principles of democracy and social justice.

(2) Therefore hereunder it is stipulated as follows:

- (a) sovereignty resides in the people and it is from the people that the Government through this Constitution shall derive all its power and authority;
- (b) security for the people and their welfare shall be the primary objective of the Government;

- (c) the people shall participate in the affairs of their Government in accordance with the provisions of this Constitution.

(3) The structure of the Revolutionary Government of Zanzibar or any of its organs and the discharge of its functions shall be so effected as to take into account the need to promote national unity in the country and the overall goal of attaining democracy.

10. For the purposes of promoting unity and development of the people and social welfare in the country it shall be the responsibility of the Revolutionary Government of Zanzibar to ensure: Political objectives.

(1) That adequate provision of equal opportunities to all citizens to exercise freedom of movement, rendering of services to all, guaranteeing the right to a Zanzibari to live anywhere in Zanzibar.

(2) That corruption and abuse of office against the public by any person holding public office is totally eradicated.

(3) That national economy is managed and controlled in accordance with the principles and objectives laid down in this Constitution without let to the need for utmost efficient service, control and manage vital sectors of the economy. Economic objectives.

(4) That in accordance with the Constitution the economy is planned and promoted in a balanced and integrated manner, economic activities are not conducted in a manner capable of resulting in the concentration of wealth or the major means of production in the hands of a few individuals or a certain group. Social objectives.

(5) That in the implementation of the said policy every citizen in terms of justice is treated equally, accorded equal responsibility and opportunity in accordance with the law, human dignity and other human rights are respected and cherished, freedom, absence of favouritism, impartiality of the judiciary and opportunity of access to the courts of law is guaranteed and respected.

Health, educational and cultural objectives.

(6) Shall direct its policy toward ensuring that every person has access to adequate health care, equal opportunity to adequate education for all and that Zanzibar culture is protected enhanced and promoted.

Towards work objectives.

(7) That every person who is able to work has the opportunity to work, and work means any legitimate activity by which a person earns a living, disadvantaged groups such as the elderly, the sick, children and disabled are assisted.

(8) All posts in public offices are responsibilities and are there for the benefit of the public and all those who have responsibilities shall be accountable directly to the public or House of Representatives.

(9) All Government organs shall and its servants be follow and adhere the international treaties on human rights and good governance.

Amendment of the provisions of Chapter Two. Act No. 2 of 2002 S. 8.

10.A The provisions of this part in this Chapter shall not be enforced by any court, and all courts in the country shall have no power to decide any matter either to do or not to be done by any person or authority or law or any judgement which is in accordance with the provisions of this part in this Chapter.

CHAPTER THREE PROTECTION OF FUNDAMENTAL RIGHTS AND INDIVIDUAL FREEDOM

11.(1) All people are born free and are all equal.

Equality of people.

(2) Every person is entitled to recognition and respect of his dignity.

12.(1) All persons are equal before the law and are entitled without any discrimination, to protection and equality before the law.

Equality before the law.

(2) No law shall make any provision that is discriminatory either of itself or in its effect.

(3) The civic rights, duties and interests of every person shall be protected and determined by the courts of law, state organs and others organs established by the law.

(4) No person shall be discriminated against by any person or any authority acting under any law or in the discharge of the functions of any state office or by any management of any party and its organs.

(5) For the purposes of this Article the expression means to satisfy the needs, rights or other requirements of different persons on the basis of their nationality, tribe, gender, place of origin, political opinion, colour, religion or station in life such that certain categories of people are regarded as weak or inferior and are subjected to restrictions or conditions whereas persons of other categories are treated differently or are accorded opportunities or advantage outside the specified conditions or the prescribed necessary qualifications.

Except that the word "discrimination" shall not be construed in such a way as to restrain the Government from taking necessary measures with the aim of rectifying peculiar problem in the society.

(6) To ensure equality before the law, the government shall make procedures which are appropriate or which take into account the following principles namely:

- (a) when the rights and duties of any person are being determined by the court or any other agency, that person shall be entitled to a fair hearing and to the right of appeal or other legal remedy against the decision of the court or of the other agency concerned;
- (b) no person charged with a criminal offence shall be treated as guilty of the offence until proved guilty of that offence;
- (c) no person shall be punished for any act which at the time of its commission was not an offence under the law, and also no penalty shall be imposed which is heavier than the penalty in force at the time the offence was committed;
- (d) for the purposes of preserving the right of equality of human beings, human dignity shall be protected in all activities pertaining to criminal investigations and process, and in any other matters for which a person is restrained, or in the execution of a sentence;
- (e) speedy hearing of the criminal cases and delivering of judgment;

- (f) the accused in criminal cases has the opportunity of being defended by the advocate of his choice.

13.(1) Every person has the right to the preservation of his life. Right to life.

(2) Every person has the right to live and to the protection of his life by the society in accordance with the law.

(3) It is prohibited for a person to be tortured, inhumanly punished or to be given punishment which are degrading and humiliating.

14.(1) Every person has the right to freedom and to live as a free person. Right to personal freedom.

(2) For the purposes of preserving individual freedom and the right to live as a free person, no person shall be arrested, imprisoned, confined, detained, deported or otherwise be deprived of his freedom save only:

- (a) under circumstances and in accordance with procedures prescribed by law; or
- (b) in the execution of a judgement, order or a sentence given or passed by the court following a decision in a legal proceeding or a conviction for a criminal offence.

15.(1) Every person is entitled to respect and protection of his person, the privacy of his own person, his family and of his matrimonial life, and respect and protection of his residence and private communication. Right to privacy and personal security.

(2) For the purpose of preserving the person's right in accordance with this Article, the state authority shall lay down legal procedures regarding the circumstances, manner and extent to which the right to privacy, security of his person, his property and residence may be encroached upon without prejudice to the provisions of this Article.

Protection
of freedom
of
movement.

16.(1) No person shall be denied his freedom of movement and for the purpose of this Article, freedom being referred to means the right of freedom of movement in Zanzibar and the right to live in any part of Zanzibar, the right to enter Zanzibar, the right to leave Zanzibar and the right not to be expelled from Zanzibar.

(2) Any curtail on a person's freedom of movement due to that person being restrained or imprisoned in accordance with the law shall not be construed as being in conflict with this Article.

Protection
from
deprivation
of
property.

17. No person shall be deprived of his property interest or right in that property except and upon compliance with the following conditions:

- (a) that the acquisition and occupancy of the property is of utmost importance for defence and security of the people health requirement, town planning and any other development in the public interest;
- (b) that the need to acquire the property in question is absolutely important to the extent that it legalises its acquisition even if it be to the detriment of its owner;

- (c) that there exists a law in respect of which acquisition or occupation of the property provides for fair and adequate compensation.

18.(1) Without prejudice to the relevant laws of the land, every person has the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media regardless of national frontiers and also has the right of freedom from interference with his communications. The
freedom
of
expression.

(2) Every citizen has the right to be informed at all times of various events in the country and in the world at large which are of importance to the lives and activities of the people and also of issues of importance to society.

19.(1) Every person has the right to freedom of thought or conscience, belief or faith and choice in matters of religion, including the freedom to change his religion or faith. Right to
freedom
of
religion.

(2) Without prejudice to the relevant laws the profession of religion, worship and propagation of religion shall be free and a private affair of an individual; and the affairs and management of religious bodies shall not be part of the activities of the state authority.

(3) In this Article reference to the word "religion" shall be construed as including reference to religious denominations and cognate expressions shall be construed accordingly.

20.(1) Every person is entitled to freedom, subject to one's free choice to freely and peaceably assemble, associate and co-operate with other persons, and more specially to form or join associations or organisations formed for workers human rights organisations or other Protection
of freedom
of assembly
and
association.

organisations for his benefit and which are established in accordance with the laws of the land.

(2) Nothing provided for by or carried out in accordance with any law of the land shall be construed as being in conflict with or in contravention of this Article to the extent that principal legislation provides:

- (a) matters related to the interests of defence and security of the citizens, health aspects and those of society;
- (b) matters related to the preservation of rights and freedoms of other persons;
- (c) matters related to certain limitations for Government officials, military personnel or any other persons appointed on their free will.

Freedom to participate in public affairs, right to work, and receive remuneration.

21.(1) Every Zanzibari is entitled to take part in matters pertaining to governance of the country, either directly or through representatives freely elected.

(2) Every Zanzibari has the right and the freedom to participate fully in the process leading to the decision on matters affecting him, his well-being or the nation.

(3) Every Zanzibari has the right to work and is entitled to equal opportunity and right on equal terms to hold any office or discharge any function under the state authority of Zanzibar.

(4) Every person, without discrimination of any kind, is entitled to remuneration commensurate with his work and all persons working according to their ability shall be remunerated according to the measure and nature of the work done.

22.(1) Work alone creates material wealth in society, and is the source of well-being of the people and the measure of human dignity, every person has the duty to:

Duty to participate in work.

- (a) participate voluntarily and honestly in lawful and productive work; and
- (b) observe work discipline and strive to attain the individual and group productive targets desired or set by law.

(2) Notwithstanding the provisions of sub-article (1) of this Article there shall be no forced labour in Zanzibar.

23.(1) Every person has the duty to observe and abide by this Constitution and the laws of Zanzibar, to take legal action to ensure the protection of this Constitution and the laws of the land.

Duty to abide by the laws of the land, duty to safeguard public property and Defence of the Nation.

(2) Every person has the duty to protect the natural resources of Zanzibar, the property of the state Authority, all property collectively owned by the people and also to respect another person's property.

(3) All persons shall be required by law to safeguard the property of Zanzibar and collectively to combat all forms of waste and squander, and to manage the economy of Zanzibar assiduously with the attitude of people who are masters of the destiny of their nation.

(4) Every Zanzibari has the duty to protect, preserve and maintain independence, sovereignty, territory and unity of Zanzibar.

(5) The House of Representatives may enact appropriate laws to enable the people to serve in the forces and in the defence of the nation.

Limitations to the rights and freedoms and safeguard to the rights and obligation. Act No. 2 of 2002 S. 14.

24.(1) The human rights and freedoms, the principles of which are set out in this Constitution, shall not be exercised by a person in a manner that causes interference with or curtailment of the rights and freedoms of other persons or of the public interest and can be limited by the law enacted by the House of Representatives if that limitation is necessary and agreeable in the democratic system. In any case such limitation:

- (a) shall not limit the right not to be tortured, inhumanly punished and humiliated; or
- (b) shall not limit the foundation of that right; or
- (c) shall not bring more harms to the society more than what is there.

(2) Any person alleging that any provision in this Part of this Chapter or in any law concerning his right or duty owed to him has been, is being or is likely to be violated by any person anywhere in Zanzibar, may institute proceedings for redress in the High Court. The High Court shall have the power to declare and order compensation to any concerned person.

(3) The application against the decision of the High Court in the suit instituted against the provisions of this Chapter of the Constitution shall be heard by the High Court before three judges without including the judge who has decided that question on the first occasion. Those three judges shall be appointed by the Chief Justice.

(4) Subject to the other provisions of this Constitution, the High Court shall have original jurisdiction to hear and determine any matter brought before it in pursuant to this Article; and the state authority may enact legislation for the purposes of:

- (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;
- (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.

25.(1) Every person in Zanzibar without prejudice to that person's tribe, place of origin or domicile or any other relations whatsoever, political lineage, colour, religion or sex has the right and duties to enjoy fundamental human rights and personal freedom provided that personal freedom shall not be exercised in a manner that neither infringes upon the rights and freedoms of others nor the public interest, that person shall be entitled to get and receive protection of each and all of the following:

Fundamental rights, and individual freedoms.

- (a) the right to live, the right to individual freedom and protection in accordance with the law;
- (b) freedom of thought, freedom of expression, freedom of assembly and association; and
- (c) the rights to domestic privacy and protection of one's property and the right for that property not to be taken away without fair compensation.

(2) The provisions of this Chapter are intended to enable the preservation of the said rights and freedoms in accordance with prescribed limitations in respect of those rights and freedoms as provided for in the relevant Articles for the purpose of ensuring that the enjoyment of those rights and the individual freedoms does not infringe upon the rights and freedoms of others or national interest in general.

Institution of suit. Act No. 2 of 2002 S. 15.

25A.(1) Any person may institute a suit in the High Court if he sees that the Constitution is violated or is being violated or is likely to be violated.

(2) The High Court shall have the power to:

- (a) order any officer or any government organ to send required information and the High Court may do that by application or on its own motion;
- (b) to declare and order that this Constitution has been violated, being violated or likely to be violated, and the High Court may give order to the officer or government organ concerned.

**CHAPTER FOUR
THE EXECUTIVE**

**PART ONE
THE PRESIDENT**

26.(1) There shall be a President of Zanzibar who shall be the Head of Government of Zanzibar and Chairman of the Revolutionary Council.

The Office of the President and qualifications for election of President.

(2) Any person may be eligible for election as President if that person:

- (a) is a Zanzibari by birth;
- (b) has attained the age of forty years;
- (c) has qualifications that enable him to be elected as member of the House of Representatives;
- (d) is a member of and a candidate nominated by a political party duly registered in accordance with Political Parties Act 1992.

27.(1) The President shall be elected in accordance with this Constitution and in accordance with the law enacted by the House of Representatives concerning the election of the President and Chairman of the Revolutionary Council.

Election of President.

(2) The election of the President shall take place on a date appointed by the Zanzibar Electoral Commission.

(3) The election of the President shall be held within a period of not less than thirty days or more than sixty days before expiry of the term of office of the incumbent President.

(4) For the purposes of elections, Zanzibar shall be considered to be one constituency. Any person who is registered as a voter so as to be able to vote for a member of the House of Representatives shall be entitled to vote in the election of the President.

Term of
office of
President.

28.(1) Pursuant to this Constitution a person elected President shall hold the office of President until:

- (a) successor President takes oath of office of President;
- (b) he dies while holding office of the President;
- (c) when the President tenders resignation and that resignation is accepted;
- (d) when he is elected President of the United Republic of Tanzania;
- (e) when the House of Representatives is dissolved; or due to any other reason or cause he has ceased to be a leader in accordance with other provisions of this Constitution.

(2) Pursuant to provisions of sub-article (1) of this Article the President shall relinquish office after five years with effect from the date, when:

- (a) if it is the first time for that person to be elected President pursuant to this Constitution he subscribed to an oath of allegiance and an oath pertaining to the office of President; and
- (b) for any other reason the last person to hold office of President pursuant to this Constitution when that person took oath of allegiance and an oath as prescribed, and if death had not occurred that person would have taken oath of office of President.

(3) Without prejudice to the generality of the provisions of this Article of this Constitution, no person shall be elected to be President of Zanzibar for more than two consecutive terms of a period of five years each.

29. If the United Republic is at war and Zanzibar is also involved and if the President considers that it is not practicable to hold elections, the House of Representatives, by a resolution, may extend the period of five years in sub-article (2) of Article 28 from time to time save that no such extension shall exceed a period of six months at any one time continuously.

Extension
of five
years
period.

30.(1) No person shall be eligible for election as President if:

- (a) by commission or omission of any deed or act had he been member of the House of Representatives would cause him to cease being a member of the House of Representatives;
- (b) for two past consecutive terms that person has been elected to the office of President.

Disqualifica-
tion of
President.

This sub-article however should not be construed as disqualifying that person from being elected President of the United Republic of Tanzania.

(2) During his term of office, the President shall not hold any other remunerative office save that of President.

Oath of
the
President.

31.(1) A person assuming office of the President before assuming the functions of the office of President shall take and subscribe the oath of allegiance and such other oath for the execution of functions as may be prescribed by the House of Representatives, but in any event he shall assume office before the expiration of not more than seven days after it is declared that he has been elected President.

(2) The oaths referred to above shall be administered by the Chief Justice of Zanzibar, in the absence of the Chief Justice, they shall be administered by a person acting in that capacity.

Removal
from
office of
the
President
due to ill
health.

32.(1) Any decision regarding the issue of the President or any person discharging the functions of the President or who is about to discharge the functions of the President is unable to discharge the functions of his office due to physical or mental infirmity, shall be decided in accordance with Article.

(2) Where the issue pertains to the question of the President being unable to discharge the functions of his office by reason of physical or mental infirmity and the Chief Justice is requested by the Revolutionary Council to deal with the issue, then:

- (a) the Chief Justice shall appoint a committee of not less than five persons amongst whom there shall be doctors and two persons who qualify to serve as High Court Judges;

- (b) the committee shall enquire into the issue of the state of health of the President after which it shall report to the Chief Justice expressing its opinion whether due to physical or mental infirmity of the President he is unable to discharge the functions of his office; and
- (c) the Chief Justice after considering the report shall certify to the Speaker of the House of Representatives that due to physical or mental infirmity the President is incapable of discharging the functions of his office, the Speaker shall submit the report to the House of Representatives for information.

33.(1) Where the office of the President and Chairman of the Revolutionary Council becomes vacant:

Vacancy
in the
office of
the
President

- (a) by reason of death;
- (b) by resignation of the incumbent President;
- (c) by reason of ill health;

the following persons shall fill the vacancy in the following order of sequence -

- (i) the Chief Minister, and should he be away;
- (ii) the Speaker of the House of Representatives and should he also be away;
- (iii) the Chief Justice of Zanzibar.

(2) In the event that the presidency:

- (a) due to the reason that the President shall be absent from Tanzania; or
- (b) for any other reason whatsoever, the President, under his hand in writing and subject to specified instructions of the President, shall delegate the duties and functions of the President shall be discharged by one of the following in accordance with the following order hereunder:

the Chief Minister and if he is away;

one member of the Revolutionary Council who is a minister with a longer period of experience in such matters when compared to others.

(3) Where any person discharges the duties and functions of the office of the President in accordance with sub-articles (1) and (2) of this Article, shall continue to discharge those functions until the return of one of the persons who preceded him in terms of sub-article (1) of this Article until the election of another President or in the case of sub-article (2) of this Article until such time when the President shall have returned in the country or until such time when he shall revoke the powers delegated to that person.

34.(1) Where the office of the President becomes vacant by reason of death of the President or by resignation of the President or due to ill health in accordance with Article 33 of this Constitution, the vacancy shall be filled in the following manner:

Election procedure where the office of the President is vacant. Act No. 5 of 1990.

- (i) where the then President has served for a period under four years, the person next following in terms of succession shall assume office of the President for the time being and elections shall be held within a period of one hundred and twenty days; and the elections shall be conducted in accordance with the procedures pursuant to sub-articles (2) to (7) of this Articles;
- (ii) where the then President had served for a period of four or more than four years, the person next following in terms of succession shall assume office of the President for the remainder period of Presidency;
- (iii) the person who shall hold the office of the President shall be vested with full powers of the President according to this Constitution and he shall appoint the Chief Minister, the Cabinet and other leaders as he shall deem it fit so to do.

(2) Where any of the situations mentioned in this Constitution occurs which necessitates the holding of Presidential elections, every political party that opts and wishes to take part in the Presidential elections shall submit to the Zanzibar Electoral Commission, one name of its member that it wishes to contest Presidential elections for Zanzibar.

(3) Proposals for prospective Presidential candidates shall be submitted to the Zanzibar Electoral Commission on the day and time so appointed in accordance with the law enacted by the House of

Representatives and a person shall not be lawfully proposed unless his proposal is supported by registered voters whose number and in which manner shall be spelt out in accordance with the law enacted by the House of Representatives.

(4) Where on the appointed date and time for submission of proposed names of candidates it so happens that only one candidate is lawfully proposed, the Zanzibar Electoral Commission, shall submit that name to the electorate who shall cast votes for or against in accordance with the provisions of this Article and the Constitution.

(5) Presidential elections for the President of Zanzibar shall be held on the day so appointed by the Zanzibar Electoral Commission in accordance with the law enacted by the House of Representatives.

(6) All matters and details pertaining to the election of the President of Zanzibar shall be as provided for in the law enacted by the House of Representatives in that behalf.

(7) Where a candidate has been declared by the Zanzibar Electoral Commission to have been elected President in accordance with this Article, no court whatsoever shall be empowered to enquire into that candidate's election.

Salary and other allowances of President.

35.(1) The President shall be paid a salary and allowances and on retirement shall be paid a pension, gratuity or allowances as it shall be resolved by the House of Representatives.

(2) The salary and other allowances of the President shall not be reduced during his tenure of office.

(3) All the moneys referred to in this Article shall be charged on the Consolidated Fund.

36.(1) No criminal proceedings shall be commenced or continued against the President during the President's tenure of office, or against any person for the time being discharging the duties and functions of the President in accordance with the provisions of Article 33 of the Constitution.

President's Immunity from Legal proceedings while in office.

(2) During the tenure of office, no civil proceedings shall be instituted or continued in court against the president, in respect of anything done or not done, or against any person discharging the duties and functions of the President.

(3) Where there is an existing law which provides for specific period of time limit within which court proceedings of whatsoever nature may be commenced against any person, the whole period that person is President or discharges the functions of the President shall not be taken to fall into the limitation period in accordance with the law in case all the court proceedings mentioned in sub-article (1) or (2) are against the person discharging duties and functions of the President.

37.(1) Without prejudice to the provisions of Article 36 of this Constitution, the House of Representatives may by a resolution, remove the President from office if a motion to impeach the President shall be moved and carried in accordance with conditions of this Article.

Impeachment by the House of Representatives.

(2) Without prejudice to the provisions of this Article no motion to impeach the President shall be moved unless it is alleged that the President has committed acts which generally violate the Constitution

or has conducted himself in a manner that lowers the esteem of the Union between Tanganyika and Zanzibar, and no such motion shall be moved within the period of twelve months from the time a similar motion was moved and rejected by the House of Representatives.

(3) The House of Representatives shall not pass a motion to impeach the President save only if:

- (a) written notice signed and supported by not less than one half of all members of the House of Representatives is submitted to the Speaker thirty days prior to the sitting at which such motion is intended to be moved in the House of Representatives specifying the wrong committed by the President and proposing that a Special Committee of Inquiry be constituted to inquire into the charges brought against the President;
- (b) at any time after the Speaker receives the notice duly signed by the members of the House of Representatives and satisfies himself that the provisions of the Constitution for moving the motion have been complied with, the Speaker without debate shall ask the House of Representatives to vote on the motion to constitute a Special Committee of Inquiry, and if the motions if supported by not less than two thirds of all the members of the House of Representatives, the Speaker shall announce the names of the members of the Special Committee of Inquiry;

- (c) the Special Committee of Inquiry for the purposes of this Article shall consist of the following members, that is to say:
 - (i) the Chief Justice of Zanzibar who shall be Chairman of the Committee;
 - (ii) a Justice of Appeal of the Court of Appeal of Tanzania;
 - (iii) any Judge from any member country of Commonwealth;
 - (iv) four members from the Standing Committee of the House of Representatives on Constitution and Legal Affairs Committee including the Chairman of that Committee;
- (d) within seven days after the Special Committee of Inquiry has been constituted, it shall sit, to inquire into and analyse the charges preferred against the President, and as soon as possible shall submit its report to the House of Representatives giving its opinion of whether the charges preferred against the President are of any basis or baseless;
- (e) the President shall have the right to defend himself and to be represented before the Special Committee of Inquiry.

(4) Where the Special Committee of Inquiry reports to the House of Representatives that something in the charges preferred

against the President has no basis, then the House of Representatives shall not concern itself any further with the motion to impeach the President in that respect.

(5) Where the Special Committee of Inquiry reports to the House of Representatives that the charges preferred against the President have a basis, the issue of impeachment of the President shall be brought to the full house of the House of Representatives, and after debate the House of Representatives, may by vote of not less than two thirds majority of all the members of House of Representatives pass a resolution that the impeachment charges have been proven and that he is unworthy of continuing to hold the office of President; whereupon the President shall be obliged to resign before the expiry of three days from the day the House of Representatives passed the resolution.

(6) The Speaker of the House of Representatives shall officially inform the President and the Chairman of the Zanzibar Electoral Commission about such resolution.

(7) Pursuant to this Article no proceedings whatsoever shall be commenced or continued while the House of Representatives stands adjourned.

(8) In the event the President ceases to hold the office of President by reason of the charges against him being proved:

- (i) he shall not be entitled to receive any payment by way of pension or to receive any benefits or other privileges which he has under the Constitution or any law enacted by the House of Representatives; and

- (ii) for a period of five years starting from the day he was obliged to resign he shall be disqualified to contest for the Presidency or member of the House of Representatives.

Provide that if the President has served for a five years period and the impeachment occurs during his second term, he shall be paid one half of all the payments and privileges he is entitled to in accordance with this Constitution or any other law enacted by the House of Representatives.

38. It shall be the duty of the government to maintain the status of a person who leaves office of the President due to not being re-elected, expiry of his term of office, resignation or due to any other cause provided for under this Constitution and signified as such by law enacted by the House of Representatives in that behalf.

Status of
former
President.

PART TWO THE CHIEF MINISTER

39.(1) There shall be Chief Minister for Zanzibar who shall be appointed by the President.

The Chief
Minister
of
Zanzibar.

(2) The President shall appoint the Chief Minister from amongst members of the House of Representatives on condition that no appointment of the Chief Minister shall be made during all that period the discharge of duties and functions of the office of the President shall be performed by any other person save the President himself.

(3) The Chief Minister shall be the principal adviser to the President in the execution of his functions and shall have the authority over the control, supervision and execution of the day-to-day function

and affairs of the Revolutionary Government of Zanzibar and also shall be the Leader of Government business of the Revolutionary Government of Zanzibar in the House of Representatives.

(4) The Chief Minister, before assuming office, shall take and subscribe the oath of allegiance and such other oath of office as shall be prescribed by the House of Representatives.

Vacancy in
the Office
of Chief
Minister.

40. Where the office of the Chief Minister becomes vacant due to:

- (a) death or resignation;
- (b) the President having so ordered;
- (c) the holder of that office has ceased to be a member of the House of Representatives save in the case of the House of Representatives being dissolved;
- (d) the newly elected President is just about to assume office,

the President shall appoint the Chief Minister.

Resolution
of Vote of
no
confidence.

41.(1) Notwithstanding the provisions of this Constitution, the House of Representatives may pass a resolution of no confidence in the Chief Minister in case such resolution shall be moved proposing a vote of no confidence and that resolution is carried in accordance with the provisions of this Article.

(2) Without prejudice to the provisions of this Article, a motion for a vote of no confidence in the Chief Minister shall not be moved in the House of Representatives if:

- (a) six months have not elapsed since the Chief Minister was appointed by the President;
- (b) nine months have not elapsed since a similar motion was moved in the House of Representatives and the House of Representatives rejected the motion.

(3) The motion of no confidence in the Chief Minister shall not be passed by the House of Representatives save only if:

- (a) a written notice, signed and supported by not less than one half of all members of the House of Representatives is submitted to the Speaker, at least fourteen days prior to the day the motion is intended to be moved in the House of Representatives;
- (b) the Speaker satisfies himself that the provisions of this Constitution have been complied with and that the motion has explained the reasons for lack of confidence, then the motion shall be moved in the House of Representatives.

(4) Where the Speaker is satisfied and orders the motion to be moved in the House of Representatives the motion shall be moved in the House of Representatives as soon as possible in accordance with the standing orders of the House of Representatives.

(5) The resolution for a vote of no confidence in the Chief Minister shall be passed only if it is supported by a two thirds majority of all the members of House of Representatives.

(6) As soon as possible, and in any event, within two days from the day the House of Representatives passed the vote of no confidence in the Chief Minister, the Speaker shall submit that resolution to the President, the Chief Minister shall be required to resign, and the President shall appoint another member of the House of Representatives to be Chief Minister.

(7) In the event the Chief Minister ceases to hold office due to a resolution of vote of no confidence:

- (i) he shall have no right to be paid any pension or any other allowances or gratuity in accordance with the Constitution or any other law enacted by the House of Representatives, and
- (ii) he will retain his being member of the House of Representatives but he shall not be entitled to be appointed Chief Minister, Minister, Deputy Minister or Regional Commissioner for the whole of that remainder life of the House of Representatives.

PART THREE MINISTERS, DEPUTY MINISTERS AND THE REVOLUTIONARY COUNCIL

42.(1) There shall be ministries of the Revolutionary Government of Zanzibar as shall be established by the President.

(2) The President shall appoint Ministers from amongst members of the House of Representatives on consultation with the

Ministries
of
Revolutio-
nary
Government
of
Zanzibar.

Chief Minister. In the event that there is need to appoint a Minister during the period the House of Representatives is dissolved, a person who was a member of the House of Representatives prior to its dissolution may be appointed to hold that office.

43.(1) There shall be a Revolutionary Council which shall comprise the President, Chief Minister, Ministers together with other members as the President shall deem it fit. The
Revolutio-
nary
Council.

(2) Members of the Revolutionary Council shall be appointed by the President from amongst members of the House of Representatives.

(3) The Attorney General shall attend all meetings of the Revolutionary Council and shall have all the rights of a member of that Council.

(4) The functions of the Revolutionary Council shall be:

- (a) to assist and advise the President regarding all matters of the Revolutionary Government of Zanzibar;
- (b) to co-ordinate the functions of the President, Chief Minister and the Ministries of the Revolutionary Government of Zanzibar in the exercise of their functions.

(5) The Revolutionary Council shall collectively be responsible to the House of Representatives and the people in general regarding all matters implemented by and or the President's order or the Chief Minister or any other Minister in the execution of his functions.

(6) The provisions in sub-articles (4) and (5) of this Article shall not apply with regard to:

- (a) appointment and dismissal of the Chief Minister, Minister, members of the Revolutionary Council and Deputy Ministers pursuant to Articles 39, 42 and 47 or appointment of any Minister under Article 44;
- (b) dissolution of the House of Representatives; or
- (c) matters provided for in Article 59 (which concern prerogative of mercy).

Assignment
of
Ministers
to
Ministries.

44.(1) All the duties of the Revolutionary Government of Zanzibar including the administration of any department of the Government may be assigned to the Chief Minister and other Ministers as the President shall so signify in writing.

(2) Members of the Revolutionary Council who shall not have been assigned ministries shall be Ministers without portfolio.

Meeting of
the
Council.

45.(1) The President who is Chairman of the Revolutionary Council shall preside over all meetings and in his absence, the Chief Minister shall be acting Chairman.

(2) In the event that the Chief Minister is absent from Zanzibar then the meetings shall be presided over by the person discharging the duties and functions of the President.

(3) The quorum for the Revolutionary Council meeting shall be two thirds of all the members.

46. A member of the Revolutionary Council shall not assume office until he has taken oath of allegiance and an oath for the due discharge of the duties of his office as may be prescribed by the House of Representatives. Oath of
allegiance.

47. The President in consultation with the Chief Minister may appoint Deputy Ministers from amongst members of the House of Representatives in order to assist the President, the Chief Minister and Ministers in the execution of their functions and they shall not assume office until they have subscribed an oath of allegiance and an oath for the due discharge of the duties of their offices as may be prescribed by the House of Representatives. Deputy
Ministers.

48. The Office of a Minister, Member of the Revolutionary Council and Deputy Minister shall be vacant: Vacancy in
offices of
Minister,
Member of
the
Revolutionary
Council.

- (a) where the President shall remove him from office in writing and signified by Government Seal;
- (b) if a member ceases to be member of the House of Representatives for any reason other than dissolution of the House of Representatives;
- (c) if the President accepts the resignation of the person concerned;
- (d) immediately before the President assumes office.

49.(1) There shall be a Secretary to the Revolutionary Council who shall be appointed by the President and who shall be the Chief Executive Officer in office of the Council and shall comply with directions issued to him by the President, to work out a programme Secretary
to the
Revolutionary
Council.

for meetings and record minutes of those meetings, to notify relevant persons and institutions' decisions thereof and shall discharge other duties and functions as shall be directed from time to time by the President.

(2) The Secretary to the Revolutionary Council shall be the head of the civil service of the Revolutionary Government of the Zanzibar.

Principal Secretaries.

50.(1) Where the Chief Minister or any other Minister is responsible for any Ministry of the Government, he shall be held responsible for that Ministry and without prejudice to the general terms of supervision, a Ministry of the Government shall be under the superintendence of the Principal Secretary whose designation shall be the civil service.

(2) There shall be a Principal Secretary in the Office of the President and a Principal Secretary in the Office of the Chief Minister.

(3) All Principal Secretaries shall be appointed by the President.

(4) The Secretary to the Revolutionary Council together with any other Principal Secretary or Deputy Principal Secretary shall not assume the functions of his office until he has subscribed an taken oath of allegiance and an oath for the due discharge of functions as may be prescribed by the House of Representatives.

**PART FOUR
GOVERNMENT AUTHORITY**

Objectives of the Government of Zanzibar.

51. The authority of the Government of Zanzibar shall be vested in the President pursuant to this Constitution the President himself may

exercise the authority of the Government directly or by delegating that authority to other leaders subordinate to himself. It is hereby declared that without prejudice to the provisions of this Article, it shall be lawful for any legislation to provide for delegation of authority to discharge duties and functions of any public entity to any other person who is not the President of Zanzibar.

52. The President of Zanzibar, subject to directions of the law shall not be obliged to take the advice given to him by any person in the performance of his functions.

The President not bound to adhere to any advice.

53. Pursuant to this Constitution and without prejudice to Chapter eight or any other law enacted by the House of Representatives the power to:

Establishment of offices and appointment of officers.

- (a) establish and abolish office in Zanzibar; and
- (b) appoint officers to those offices, to promote officers during their tenure of office, dismiss and take disciplinary action in respect of officers appointed to those offices, shall vest in the President.

54.(1) Save as otherwise provided for in this Constitution or any other law, any person holding office in the Government of Zanzibar shall occupy that office at the pleasure of the President.

Tenure of office in service of the Revolutionary Government of Zanzibar.

(2) In this Article, office of the Revolutionary Government of Zanzibar means Government office, Special Department for Prevention of Smuggling, Education Centre, National Service force or any other activity initiated by the Revolutionary Government of Zanzibar pursuant to this Constitution and includes all offices in Government parastatals.

The
Attorney
General.

55.(1) There shall be an Attorney General for Zanzibar who shall be a Zanzibari and who shall be appointed by the President.

(2) A person shall not qualify to be appointed to hold office of the Attorney-General or to perform the functions of the Attorney-General save only if he is qualified to be a lawyer in Zanzibar and he is so qualified for a period of not less than seven years.

(3) The Attorney-General shall be an ex officio member of the House of Representatives and shall remain such member until the President revokes his appointment or immediately before a newly elected President assumes office of the President.

Functions
of the
Attorney
General.

56. The Attorney General shall be the Chief Legal Adviser for the Revolutionary Government of Zanzibar and shall perform other legal duties that shall be submitted to him or as shall be directed by the President or pursuant to this Constitution or any other laws of the land.

"Director of
Public
Prosecutions,
Act No. 2 of
2002 S. 17.

56A(1)(a) There shall be a Director of Public Prosecutions appointed by the President.

(b) the Director of Public Prosecutions will hold his office for a term of five years and may be reappointed for other terms of five years.

(2) A person shall not be appointed as a Director of Public Prosecutions unless he has qualifications of being appointed a judge of High Court.

(3) The Director of Public Prosecutions shall have the power to do the following:

- (a) to institute and prosecute all criminal cases against any person before any Court (except martial court) in relation to any offence in which the person is charged;
- (b) to take and prosecute all criminal cases which were instituted earlier by any person or other organ;
- (c) to stop any criminal suit instituted by any person or other organ.

(4) The power of the Director of Public Prosecutions under sub-article (3) may be exercised by the Director of Public Prosecutions himself or other officers with the direction or special order from the Director of Public Prosecutions.

(5) The power of the Director of Public Prosecutions under paragraph (b) and (c) of sub-article (3) of this Article shall be in his hands and shall not be interfered by any person or organ. Except when another person or organ has instituted a criminal suit, nothing in this sub-article will bar the person or organ concerned from withdrawing the suit with the Court's permission.

(6) For the purpose of this Article, any appeal from the judgement of a criminal case in any Court or any question of law left from that suit so that it could be sent to another Court, it will be taken to be part of that suit. For consideration that the powers of the Director of Public prosecutions under sub-article (3) (c) of this Article will not be implemented for the purpose of any appeal of the person convicted of any criminal offence or in relation to any question of law kept purposefully for that person.

(7) In exercising his powers according to the provision of this Article the Director of Public Prosecution is not bound to follow any order or direction of any person or any government department. But the provisions of this Article will not bar the Court from using its power for the purpose of investigating whether the Director of Public Prosecutions is exercising his powers according to the provisions of this Constitution or not.

(8) In using his powers under this Article the Director of Public Prosecutions will take into consideration the importance of the nation in seeing that justice is done and his intention of stopping the abuse of the judicial organs is implemented.

(9) The Director of Public Prosecutions shall not be removed from his five years term except for reasons and procedures laid down for the removal of a High Court Judge according to Article 95 of this Constitution.

(10) The House of Representatives may enact laws regarding the following matters:

- (a) court proceeding in general;
- (b) officers or any person who qualify whom the Director of Public Prosecutions may delegate his powers;
- (c) appeal procedures and time of appeal against the decision of any court in criminal cases;
- (d) procedure of commencing or instituting a criminal case by a private individual or government and non-government institutions;

- (e) to be a criminal offence for any person to interfere or attempt to interfere in the exercise of the powers of the Director of Public Prosecutions according to this Constitution or any law.

57. The Attorney General and Director of Public Prosecutions shall not assume office until he has taken oath of allegiance and an oath for the due discharge of the functions of his office as may be prescribed by the House of Representatives. Oath of allegiance.

58.(1) The President may appoint any person as his Special Adviser so as to assist the President in the discharge of his duties and functions. Special advisers.

(2) Appointment under this Article shall be at the pleasure of the President and shall not be continued in the event another person assumes office of the President.

59. The President may:

- (a) pardon any person convicted of any offence and may grant such pardon unconditionally or on conditions;
- (b) grant temporary or permanent suspension of execution of any sentence handed down by any court in respect of any person for an offence committed by that person;
- (c) change any sentence handed down to any person in respect of any offence and make it less than what it originally was;

Prerogative of mercy.

- (d) absolutely or partially pardon any person sentenced in respect of any offence, or in the case of decree for confiscation decided upon by the Government against that person.

Advisory Committee on prerogative of mercy.

60.(1) There shall be a Presidential Advisory Committee in the exercise of prerogative of mercy whose members shall be the following:

- (a) the Attorney General who shall be the Chairman;
- (b) not less than three and not more than five members who shall be appointed by the President and amongst the members at least one should be a Minister and another who should have qualifications of being a doctor in Zanzibar.

(2) A member of the committee appointed pursuant to sub-article (1)(b) of this Article shall continue in that position for the period stipulated in the order of appointment. Taking into account vacancy shall occur:

- (i) in the event a person appointed to be a member is a Minister, when that person ceases to be a Minister;
- (ii) the President so orders in writing.

(3) The committee shall be empowered to transact its business notwithstanding a vacancy in the committee neither shall the deliberations of the committee be invalidated because of the presence or absence of a person who is not responsible to the committee nor because of that person taking part in the deliberations of the committee.

- (4) The committee may regulate its own procedures.

61.(1) There shall be a Regional Commissioner for every region of Zanzibar who shall be appointed by the President in consultation with the Union President.

Regional and District Commissioner.

(2) There shall be a District Commissioner for every district in Zanzibar who shall be appointed by the President.

(3) A Regional Commissioner or District Commissioner appointed pursuant to sub-articles (1) and (2) of this Article shall not assume office until he has subscribed an oath of allegiance and an oath of the due discharge of functions of his office.

62.(1) The Regional Commissioner or the District Commissioner shall be the chief executive as the case may be in respect of that region or district.

Functions of Regional and District Commissioner.

(2) A Regional Commissioner or District Commissioner may without prejudice to this Constitution or any other law, where he deems it fit delegate the powers of the Government vested in the Regional Commissioner or District Commissioner in respect of the region or district as the case may be, to any person the Regional Commissioner or District Commissioner deems suitable, save that the powers to appoint Acting Regional or District Commissioner shall vest in the President.

**CHAPTER FIVE
THE HOUSE OF REPRESENTATIVES**

**PART ONE
COMPOSITION OF THE HOUSE OF REPRESENTATIVES**

Legislative
Council.

63.(1) There shall be a Legislative Council which shall consist of two parts, the President of Zanzibar on one part and the House of Representatives on the other.

(2) Where any matter requires to be decided or done by both parts of the House of Representatives in accordance with the provisions of this Constitution or of any other law, then that matter shall not have a force of law unless it is decided or done by both the members of the House of Representatives and also the President.

Establish-
ment and
structure of
House of
Representa-
tives.

64. There shall be a House of Representatives which, without prejudice to the provisions contained in this Constitution, shall consist of the following members:

- (a) elected members pursuant to Article 65 of this Constitution;
- (b) nominated members pursuant to Article 66 of this Constitution;
- (c) women members of the House of Representatives pursuant to Article 67 of this Constitution;
- (d) all Regional Commissioners appointed in the regions of Zanzibar pursuant to Article 61 of this Constitution;

- (e) the Attorney General pursuant to Article 55 (3) of this Constitution.

65.(1) Zanzibar shall be demarcated into electoral constituencies pursuant to Article 120 of this Constitution and every constituency shall elect one person to be member of the House of Representatives in a manner that shall be laid down by this Constitution or any other law.

Election
of elected
members.

(2) Every person who has registered himself as a voter in a constituency for the purposes of electing a member unless that person has been lawfully detained or is by law disqualified to vote in the elections due to having been found to have committed an offence relating to elections or by way of being reported by the court that he committed an election offence or trying to nullify elections, that person shall be entitled to vote in that constituency in accordance with the law.

(3) Voters registration and process of the elections for elected members shall be administered and managed by the Zanzibar Electoral Commission.

66. There shall be ten nominated members of the House of Representatives who shall be appointed by the President from amongst persons who upon nomination shall be qualified to be member of the House of Representatives.

Nominated
members.

Except that not less than two members shall be appointed by the President in consultation with the opposition leader in the House of Representatives or in consultation with the political parties if there is no opposition leader.

Women
members
of the
House of
Representa-
tives.
Act No. 2
of 2002
S. 20.

67.(1) There shall be female members of the House of Representatives thirty percent (30%) in number of all elected members in electoral constituencies who are Zanzibaris and appointed by political parties represented in the House of Representatives according to the provision of subArticle (2) of this Article.

(2) Every political party winning more than ten (10) percent of the constituential seats in the House of Representatives shall recommend the names of women considering the provisions of the proportionality between the parties winning the election in the constituencies and get seats in the House of Representatives, and send names and their qualifications to the Chairman of the Zanzibar Electoral Commission.

(3) The Zanzibar Electoral Commission after satisfying itself that a proposed woman is qualified to be a member of the House of Representatives pursuant to Article 68 of the Constitution, the Commission shall immediately declare that woman to be a member of the House. It should be clear that in counting the members of every party, the part which is more than half of the member will be taken as full member.

Qualifica-
tion for
election.

68. A person shall be qualified to be a member of the House of Representatives if and shall not be qualified to be elected until his election on election day:

- (a) is a Zanzibari aged twenty one years;
- (b) is registered or is qualified to be registered in an election constituency as a voter in an election for members of the House of Representatives;

- (c) can read, but if he has an impaired vision or other physical infirmity is capable of speaking Kiswahili;
- (d) is a member and candidate proposed by a political party that has permanent registration in accordance with Political Parties Registration Act, 1992;
- (e) is a person who is not disqualified to contest elections pursuant to the provisions of this Article or pursuant to any law enacted by the House of Representatives.

69.(1) No person shall be elected as a member of House of Representatives if that person:

- (a) has the citizenship of any other country; or
- (b) the High Court has decided after consultation with mental health specialist that he has a mental disease; or
- (c) is not a member and candidate nominated by party; or
- (d) has been convicted of criminal offence and sent to the Educational Centre or Prison in the Mainland for the period of six months or more or for election offences regarding honesty during the period of five years before election.

Disqualifica-
tion for
election.
Act No. 2
of 2002
S. 22.

(2) A person shall not contest to become member of the House of Representatives if he is at that time Chairman of the Revolutionary Council.

(3) The following regulations shall be applied for the purposes of interpreting paragraph (d) of sub-article (1) of this Article, that is to say:

- (a) if a person is sentenced to two or more terms of imprisonment and sentences are to run concurrently, then those sentences shall be taken to be separate sentences in the case that none of them exceeds the period of six months, however, if the period in any one of those sentences exceeds the period of six months then all the separate sentences shall be taken to be one sentence;
- (b) where a person is sentenced to imprisonment in Educational Centre or prison and it is well known that imprisonment is in lieu of a fine or imprisonment has been imposed because that person failed to pay the fine imposed on him then such jail term shall not be taken into consideration.

(4) For the purposes of interpretation of the qualifications for election contained in the following Articles wherever it is stated in this Constitution that the implementation of any matter requires a person who has the qualifications for election or a person who has not been disqualified from election then unless the context requires otherwise, it shall be understood that the qualifications concerned are those which enable a person to be elected a member of the House of Representatives or member of the Revolutionary Council as leaders in the Revolutionary Government of Zanzibar as provided for in the different provisions of this Constitution amongst which are:

- (a) it is prohibited for a leader to use public office for his personal gain, or in a manner that amounts to favoritism or in any way whatsoever that contravene the objective of the intended powers of that office;
- (b) it is prohibited for a leader to accept secret income, or bribes and corruption or to take part in any smuggling activity; and
- (c) where a leader has been dismissed from position of leadership shall not be eligible to apply for leadership position again until a period of five years has elapsed.

70. Every Representative member shall be required to take oath of allegiance in the House of Representatives as it shall be prescribed by the House of Representatives; however a Representative Member may take part in the election of the Speaker even before he has taken oath.

Oath of member of House of Representatives.

71.(1) A Representative Member shall cease to be a Representative Member and shall vacate his seat in the House of Representatives upon the occurrence of any of the following:

- (a) where anything happens which, had he not been a Representative Member, disqualified him from being a Representative Member or lose leadership qualifications;
- (b) where a Representative Member is elected President of Zanzibar;

Tenure of office by members of the House of Representatives.

- (c) if a Representative Member without the Speaker's permission missed attending three consecutive meetings of the House of Representatives;
- (d) where the House of Representatives is dissolved;
- (e) where the High Court decrees that a Member loses his seat pursuant to Article 72 of this Constitution;
- (f) where a Member in his own writing submits to the Speaker, his resignation from being a Member of the House of Representatives;
- (g) where a Member ceases to be a member of the party that proposed him to stand for elections.

(2) Speaker of the House of Representatives shall formally inform the House and the Chairman of the Zanzibar Electoral Commission regarding the vacancy of the seat of the Representative member pursuant to the provisions of sub-article (1) of this Article.

(3) The House of Representatives may enact a law for the purposes of making provisions enabling a Member of the House of Representatives to appeal in accordance with the law, against a decision which confirms that his is a person of unsound mind, or against a sentence of death or imprisonment in Educational Centre or Prison and that law may provide that the decision appealed against by the member shall have no effect in law until the expiration of the period prescribed in that law.

72.(1) The High Court of Zanzibar shall have exclusive jurisdiction and authority to hear and determine all cases concerning the elections in Zanzibar.

Determination whether a person is a member of the House of Representatives or not.

(2) During the hearing of any case under this Article judge may appoint two experienced court assessors to assist him.

73.(1) There shall be a Speaker of the House of Representatives who shall be elected by Members of the House of Representatives from amongst persons who are members of the House of Representatives or who are qualified to be elected Member of the House of Representatives.

The speaker.

(2) A Member of the Revolutionary Council Chief Minister, Minister, Deputy Minister, Regional Commissioner or a person holding office pursuant to any law enacted by the House of Representatives for the purposes of this Article, shall not be qualified to be elected as Speaker.

(3) The Speaker shall cease to be Speaker and shall vacate the seat of Speaker upon the occurrence of any of the following events:

- (a) where that person was elected from amongst Members of the House of Representatives, he ceases to be a Member for any reason other than the dissolution of the House of Representatives; or
- (b) if anything happens which had he not been Speaker, would disqualify such person from election, or make him lose qualifications for being elected Speaker; or

- (c) that person is removed from office of Speaker by a resolution of the House of Representatives supported by not less than two thirds of all Member of the House of Representatives.

(4) No business other than the election of the Speaker shall be conducted in the House of Representatives while the office of the Speaker is vacant save that this sub-article shall not prevent committees of the House of Representatives from carrying out their functions.

(5) Any person not being a Member of the House of Representatives, who is elected Speaker shall be required, before commencing to discharge the functions of his office to take and subscribe the oath of allegiance before the House of Representatives.

The
Deputy
Speaker.

74.(1) There shall be a Deputy Speaker of the House of Representatives who shall be elected by the House of Representatives in accordance with the Standing Orders of the House who shall be a Representative Member who shall not be the Chief Minister, Minister, Deputy Minister, Regional Commissioner or Member of the Revolutionary Council.

- (2) The House of Representatives shall elect a Deputy Speaker:
- (a) pursuant to provisions of Article 73 (4) when the House of Representatives meets for the first time following dissolution of the House; and
- (b) at the first sitting of the House of Representatives after the office of Deputy Speaker becomes vacant for reasons other than dissolution of the House or as soon as possible.

- (3) The office of Deputy Speaker shall become vacant:
- (a) if the House of Representatives meets for the first time since dissolution of the previous House;
- (b) if he is appointed to be President or Chief Minister, or Minister, or Regional Commissioner or Member of the Revolutionary Council;
- (c) if he ceases to be a Member of the House of Representatives by reason other than dissolution of the House; or
- (d) if by resolution supported by not less than two thirds majority of all the Members, that the Deputy Speaker be removed from office.

75. The election of the Speaker or Deputy Speaker by Members of the House shall be by secret ballot.

Procedure
for
election
of the
Speaker
and Deputy
Speaker.

76.(1) There shall be a Clerk of the House of Representatives who shall be appointed by the President.

Clerk of
the House
of
Representa-
tives.

(2) The Office of the Clerk of the House of Representatives and offices of other employees of that office shall be civil service of the Government.

(3) The Clerk of the House of Representatives shall not assume office until he has subscribed and taken an oath of allegiance and such other oath as by law prescribed.

Office of
the House
of
Representa-
tives.

77.(1) There shall be office of the House of Representatives whose Chief Executive shall be the Clerk of the House of Representatives and shall be responsible for matters as shall be authorised by House of Representatives Services Commission.

(2) There shall be a House of Representatives Services Commission which shall be responsible for engaging officers and such other employees of the House, promote them, take disciplinary measures and carry out any other functions as shall by law be described in service with the House, save that the Clerk of the House of Representatives shall be appointed by the President in accordance with Article 76 of the Constitution.

(3) The structure and regulations of the House of Representatives Service Commission shall be as provided for in the law enacted in that behalf.

(4) The House of Representatives may enact a law prescribing a system of administration and management and any other matters related to the office of the House of Representatives.

PART TWO

LEGISLATION PROCEDURE IN THE HOUSE OF REPRESENTATIVES

Power to
legislate.

78.(1) Legislative power in relation to all matters that are not Union Matters in Zanzibar is hereby vested in the House of Representatives.

(2) Without prejudice to the generality of the provisions in this Constitution, the legislative powers in the House of Representatives shall be by passing Bills in the House of Representatives.

(3) Where a Bill is passed by the House of Representatives it shall be presented to the President for his assent.

(4) Where a Bill passed by the House of Representatives is presented to the President of Zanzibar and assented to, it shall become law and shall be printed in the Official Gazette.

(5) The House of Representatives may postpone to the coming into effect of a law enacted and without prejudice to the provisions of Article 12 of this Constitution may provide for a law to be retrospective.

(6) A law enacted by the House of Representatives shall be known as "Enactment of the House of Representatives" and the citation shall be "Enacted by the House of Representatives of Zanzibar".

79.(1) After a Bill is presented to the President for his assent, the President may either assent to the Bill or withhold his assent and in the event the President withholds his assent to the Bill, he shall return it to the House of Representatives together with a statement of his reasons for withholding his assent to the Bill. Legislative
procedure.

(2) After a Bill is returned to the House of Representatives pursuant to the provisions of this Article it shall not be presented again to the President for his assent before the expiration of six months since it was so returned except if at the last stage in the House of Representatives before it is again presented to the President it is supported by the votes of not less than two thirds of all Members of the House of Representatives.

(3) If a Bill is returned to the House of Representatives by the President, and it is then supported in the House of Representatives by

not less than two thirds of all Members of the House of Representatives as provided in sub-article (2) and it is presented a second time to the President for assent within six months of its being so returned, then the President shall be obliged to assent to the Bill within twenty-one days of its being presented to him, otherwise he shall have to dissolve the House of Representatives.

(4) The provisions contained in this sub-article or in Article 79 (1) of this Constitution shall not prevent the House of Representatives from enacting a law providing for conditions for delegation of Government powers to make regulations that have force of law or giving legal force to any regulations made by any person or any department of the Government.

Amendment
of the
Constitution.

80.(1) Subject to the conditions of this Article, the House of Representatives may amend any Article of this Constitution.

(2) A Bill in the House of Representatives to amend this Constitution shall not be passed by the House unless it is supported both at first and second reading by votes not less than two thirds of all votes of Members of the House of Representatives.

(3) In this Article:

- (a) reference to this Constitution means reference to the Constitution as amended from time to time;
- (b) reference to amend this Constitution means reference to amend, modification or enactment with amendment or modification in any Article of this Constitution to suspend or to repeal that Article and enactment of a new Article in the place of previous Article.

81. Every sitting of the House of Representatives shall be presided over by:

- (a) the Speaker; or
- (b) if the Speaker is absent, the Deputy Speakers; or
- (c) if the Speaker is absent and the Deputy Speaker is absent, another Member of the House of Representatives (who is not the Chief Minister, Minister, Deputy Minister, Member of the Revolutionary Council or Regional Commissioner) who shall be elected by Members of the House of Representatives in that behalf.

Presiding
at sittings
of the
House of
Representa-
tives.

82.(1) The House of Representatives may conduct business during its sittings notwithstanding any vacant seat in respect of a Member regarding seat that was left vacant when the House convened or was constituted for the first time and such business shall continue notwithstanding the presence of a person who is not entitled to be present in the House or to vote in the House or to be present during the continuity of proceedings.

Vacant
seats in the
House of
Representa-
tives and
procedure
to conduct
business of
the House
of
Representa-
tives.

(2) Without prejudice to the conditions contained in Article 80 of this Constitution, the quorum for Members to hold a meeting shall be one half of all Members of the House of Representatives.

83.(1) Unless the context requires otherwise in this Constitution any matter or decision in the House of Representatives shall be made by majority of the Members present and voting.

Voting in
the House
of
Representa-
tives.

(2) Any matter brought before the House of Representatives for decision, the person presiding over the sitting of the House of Representatives.

- (a) if it be the Speaker, he shall have a casting vote and not a deliberative vote;
- (b) if it be not the Speaker, he shall have a casting vote as well as a deliberative vote;

(3) The Standing Orders of the House of Representatives may make provisions for a voting Member who has an interest in a matter that comes for voting not to vote.

Responsibility of the President in the House of Representatives.

84. The President, in the discharge of his functions as President of the Revolutionary Government of Zanzibar, may address the House of Representatives when he deems it fit to do so.

Committees of the House of Representatives.

85.(1) There shall be Standing Committees of the House of Representatives which shall be constituted in accordance with Standing Orders of the House of Representatives.

(2) For the purposes of this Article of this Constitution the duties and functions of the committees of the House of Representatives shall be as provided for in the Standing Orders of the House of Representatives.

(3) The House may establish various Standing Committees as it may deem fit.

86.(1) The House of Representatives may for the purposes of better discharge of its functions, enact a law in relation to rights, powers, immunities and privileges of Member and their committees on acceptable principle. The House to enact law.

(2) Subject to other conditions contained in this Constitution, the House of Representatives, may make Standing Orders of the House lay down procedures of conducting meetings taking into consideration laws enacted in accordance with sub-article (1) of this Article provide for rights, powers, privileges and immunities of Members in those Committees.

(3) Members of the House of Representatives in the due discharge of their responsibility in the House and anywhere else:

- (a) shall have immunity from criminal charges or civil suits;
- (b) shall have immunity in respect of what they discuss; and
- (c) shall not be arrested in course of carrying out their responsibilities.

87.(1) Without prejudice to this Article, official language of the House of Representatives shall be Kiswahili. Official language.

(2) Any Bill (together with its attachments), every law enacted by the House, every substantive law or every law proposed under any institution by the House, financial transactions and any documents relating to any law or proposed law, amendment or continuing shall be written in Kiswahili and if necessary in English.

Functions of the House of Representatives.

88.(1) The House of Representatives, apart from deriving its functions from the provisions contained in this Constitution, shall also concern itself in the implementation of the following:

- (a) enact legislation where implementation of that matter requires legislation;
- (b) debate the performance of each Ministry during the annual budget session in the House of Representatives;
- (c) put different questions to the Revolutionary Government of Zanzibar in the House of Representatives;
- (d) to approve and oversee development plans of the Government in similar manner that Government budget is approved.

PART THREE SUMMONING AND DISSOLUTION OF THE HOUSE OF REPRESENTATIVES

Summoning the session of the House of Representatives.
Act No. 2 of 2002 S. 24.

89.(1) Without prejudice to the provision of this Article the session of the House shall be in any part of Zanzibar and shall take place any time so ordered by the President.

(2) There shall be, at least once a year a session of the House of Representatives, and a period of twelve months shall not elapse between one session and another.

90.(1) When the House is dissolved, general elections for Members of the House of Representatives shall be held and the first session of the House shall be summoned in not more than ninety days from the day the House was dissolved.

General elections and the first session.
Act No. 2 of 2002 S. 25.

(2) Without prejudice to the provisions of this Article a sitting of the House of Representatives in any session of the House shall take place at any time and at any place in accordance with Standing Orders of the House.

(3) If there is emergency or if there is an emergency which the President sees fit to summon a session of the House of Representatives and if at that time the House of Representatives has been dissolved and majority of the election results of the general election has not been declared, the President may issue a special notice of summoning a session of the House of Representatives and direct that the Speaker and all persons who were members of the House of Representatives soon before the House of Representatives was dissolved to attend that session and shall be so regarded until the mid-night of the day the majority of the election results of the general election are declared.

91.(1) The President may at any time summon the House of Representatives to continue with its functions.

Summoning and dissolution of the House of Representatives.

(2) The President shall not have power to dissolve the House of Representatives at any time save only:

- (a) if the life of the House of Representatives has expired in terms of Article 92 of the Constitution; or

- (b) at any time within the last twelve months of the life of the House of Representatives for the purposes of calling an earlier general election; or
- (c) if the House of Representatives has refused to approve Government Budget; or
- (d) if the House of Representatives refuses to approve a Bill in terms of Article 79 of the Constitution; or
- (e) if the House of Representatives declines to pass a motion which is of fundamental importance of Government policies and the President considers the way out in the National interest is not to dissolve cabinet or appoint a new Chief Minister but to call for a general election; or
- (f) if having regard to the proportional representation of political parties in the House of Representatives, the President considers that it is no longer legitimate for the Government in power to continue in office, and it is not feasible to form a new Government.

Save that the President shall not have the Power to dissolve the House of Representatives in terms of paragraphs (b) (c) (e) and (f) if the Speaker receives a formal notice under Article 37 of the Constitution proposing the formation of a Special Committee of Inquiry with a view to impeach the President.

(3) Without prejudice to the provisions of the Constitution, the Speaker may summon the House of Representatives at any time on a matter of urgency after receiving proposal from a Member of the House

and the Speaker is satisfied that the reasons advanced in the proposal have a basis and that the House of Representatives should be summoned.

92.(1) The life of the House of Representatives shall continue for period of five years from the date the first meeting was summoned after being constituted, save only in the event that the House of Representatives is dissolved before expiration of its life due to reasons as prescribed in this Constitution. Life of House of Representatives.

(2) During the period that Tanzania is at war, from time to time, the House of Representatives may extend beyond the prescribed five years period provided for in sub-article (1) of this Article for a period not exceeding six months at any one time of such extension.

CHAPTER SIX THE JUDICIARY

PART ONE THE HIGH COURT

93.(1) There shall be a High Court of Zanzibar which shall be a superior Court of record and which shall have unlimited jurisdiction on criminal and civil cases and other powers as may be conferred in accordance with this Constitution or any other law. Establishment of the High Court.

(2) The Judges of the High Court shall comprise the Chief Justice and other Judges not less than two who shall be referred to as High Court Judges.

(3) Notwithstanding there being a vacancy in the seat of a Judge of the High Court, the High Court shall be legally constituted.

(4) The office of Judge shall not be annulled while there is a person holding that office.

(5) The High Court shall hold its sittings at any place where the Chief Justice shall designate in that behalf.

Appointment
of Judges
of
the High
Court.
Act No. 2
of 2002
S. 27.

94.(1) The Chief Justice shall be appointed by the President from amongst judges of the High Court and after consultation with the Judicial Service Commission.

(2) Judges of the High Court shall be appointed by the President on the recommendation of the Judicial Service Commission.

(3) A person shall not be appointed Judge or Acting judge of the High Court unless :

- (a) he holds a law degree from a recognized university or from a similar institution :
- (b) (i) he is or was a judge of a similar court to this court with civil and criminal jurisdiction in Tanzania or any other place in the Commonwealth or a court with appellate jurisdiction from those courts.
- (ii) he is an advocate of Zanzibar or Tanzania for a period of not less than seven years.
- (iii) he combines experience of (i) and (ii) above for not less than seven years.

(4) In the event that the office of a Judge is vacant or the Chief Justice is for any reason unable to perform the functions of his office, those functions shall be performed by one of the Judges who shall be appointed by the President for that purpose as Acting Chief Justice and that Judge so appointed shall perform those functions until a new Chief Justice is appointed and assume the functions of office of the Chief Justice or until the Chief Justice who was unable to perform his functions resumes office.

(5) Where a Judge of the High Court is appointed Acting Chief Justice or if for any other reason is unable to perform the functions of a Judge or if the Chief Justice shall advise the President that in the state of affairs the High Court requires the services of another Judge the President in consultation with the Judicial Service Commission may appoint any person to be Judge of the High Court notwithstanding the prescribed age in terms of Article 95 (1) of this Constitution.

- (6) (a) The President may appoint any person to be Acting Judge of the High Court for the period not exceeding twelve months or Judge of the High Court by a contract of a particular period on recommendation of the Judicial Service Commission.
- (b) conditions of work, allowance and pension of the Judge appointed by a contract of a particular period shall be decided by the Judicial Service Commission.

(7) Any person appointed in terms of sub- article (5) to fill the vacancy of a Judge of the High Court shall continue in office, notwithstanding the conditions contained in sub-article (4) and (6) of Article 95, until that appointment is revoked by the President upon

advice of the Judicial Service commission and shall continue in office until he has completed the preparation and delivery of a decision or until he completes any other thing which he has started hearing before himself.

(8) The Chief Justice shall not be removed from the seat of Chief Justice except for the reasons and procedure laid down for the removal of the Judge of the High Court according to Article 95 of this Constitution.

Tenure of
office of
judges.
Act No. 2
of 2002
S. 28.

95.(1) Without prejudice to the provision of this Article the Judge of the High Court shall continue to hold his office until he reached the age of sixty where he may voluntarily retire or continue until he reached the age of sixty-five where he shall be bound to retire.

(2) Notwithstanding provisions of sub-article (1) of this Article the President may in consultation with Judicial Service Commission re-appoint a retired judge to hold the office of the High Court judge for a specified period or for a particular case.

(3) In spite of the fact that a Judge has attained the age prescribed in sub-article (1) above, a Judge of the High Court may continue in office to perform the functions of that office until he completes all functions that engaged him before he attained that age.

(4) A Judge of the High Court of Zanzibar may only be removed from office of a Judge by reason of failure to discharge his functions (or because of any other reason) or because of misbehaviour and shall not be removed from office save in accordance with the provisions of this Article.

(5) A Judge of the High Court may be removed from office by the President if the question of removal from office has been referred to special Commission appointed for that purpose under sub-article (6) of this Article and the Commission recommends to the President that Judge should be removed from office due to inability to discharge his function or due to grounds of misbehaviour.

(6) Where the President considers that the question of removal of the Chief Justice from office needs to be investigated, or where the Chief Justice submits to the President that a removal from office of a Judge needs to be investigated :

- (a) the President shall appoint a Chairman and two members who are Judges or have held the office of Judges of the High Court of Zanzibar or the United Republic or an Appellate Court to the said High Courts;
- (b) the Commission shall investigate the entire issue and shall report to the President of Zanzibar in respect of the whole issue and shall advise the President of Zanzibar whether the Judge in question should be removed from office due to failure to discharge the functions of his office in accordance with conditions contained in this Article arising out of illness or any other reason or on grounds of misbehaviour;

(7) Where the question of removal of a Judge from office is referred to a Commission for investigation in accordance with this Article, the President, upon consultation with the Judicial Service Commission

in the case of a Judge of the High Court, or by his own proposal in the case of the Chief Justice, may suspend that Judge from office and the suspension may at any time be revoked in the same manner as prescribed at the time of suspension from office and in any event the suspension from office shall cease to have any effect when the Commission recommends that the Judge in question should not be removed from office.

(8) The Chief Justice or Judge of the High Court shall not be appointed or elected to perform other work in the Revolutionary government of Zanzibar or in any other place for any period without his consent in writing.

Oaths to be taken by judges of the High Court.

96. A Judge of the High Court shall not assume the functions of his office until he has first taken oath of allegiance and such other oath as may be prescribed by law enacted in that behalf.

Membership in political parties.

97. It is hereby prohibited for a Judge of the High Court (including the Chief Justice), Magistrates of all grades Registrar, Acting Registrar, Deputy Registrar and Assistant Registrar and all Kadhis (together with the Chief Kadhi) to join any political party save only that he shall have the right to vote which is provided for in Article 7 of this Constitution.

PART THREE THE COURT OF APPEAL

Repeal of Article 98. Act No. 2 of 2002 S. 29.

98. Article 98 is repealed.

99.(1) The Appellate Court of the United Republic of Tanzania shall have the power of hearing appeal from the High Court of Zanzibar except cases relating to:

Recognition of the Court of Appeal. Act No. 2 of 2002 S. 29.

- (a) Interpretation of this Constitution;
- (b) Matters of Islamic law which begun at the Qadhi's Court;
- (c) any other matters mentioned in this Constitution or by any other law enacted by the House of Representatives.

Function and Jurisdiction of the Court of Appeal. Act No. 2 of 2002 S. 30.

99A.(1) In any suit before any court below the High Court if the question of interpretation of this Constitution appears that question shall immediately be referred to the High Court for the decision and the suit shall not proceed until the decision of the High Court is reached.

Interpretation of the constitution to be sent to the High Court. Act No. 2 of 2002 S. 31.

(2) The appeal against the decision of the High Court on the question of interpretation of this Constitution shall be heard by three judges of the High Court without including the judge who has decided that question on the first occasion. Those three judges shall be appointed by the Chief Justice.

PART THREE OTHER COURTS

Establishment of other courts.
Act No. 2 of 2002 S. 32.

100. The House of Representatives may establish other courts subordinate to the High Court and without prejudice to the provisions of this Constitution, those courts so established shall be vested with power and jurisdiction as shall be provided by law.

PART FOUR PROCEDURE OF SERVING COURT ORDERS AND EXECUTING COURT DECREES

Execution of court process to be done throughout the entire United Republic of Tanzania.

101.(1) Documents containing court orders issued by courts in Mainland Tanzania and courts in Zanzibar in cases of whatever civil nature and criminal matters of all kinds (including warrants of arrest) may be served and may be executed in any place in Tanzania subject to the following provisions:

- (a) in the event that a court has issued a document containing orders to be implemented in a place where that court has no jurisdiction; then that document shall be transmitted to the place where execution of the order is to take place and the orders in that document shall be carried out in accordance with the procedure obtaining in that place in respect of transmittal of documents or execution of orders contained in a document issued by a court vested with jurisdiction in respect of the place the document was transmitted; and

- (b) in the event the applicable law where a document is transmitted provides for conditions that documents issued by courts without jurisdiction where the documents or orders are to be executed required approval by a court that has jurisdiction over that area where that law is applicable, then every document issued by any court outside that jurisdiction shall have to be first certified by that court in accordance with the applicable law before the orders and directions contained in that document are executed.

(2) Where a person is arrested in any place in Tanzania pursuant to a warrant of arrest issued by a court that has no jurisdiction where that person is arrested, that person shall be taken to be under lawful custody and may be produced before the court that issued the arrest warrant provided that the conditions contained in this Article shall be applied subject to procedure and government usage in respect of the place where that person is arrested.

(3) The provisions contained in this Article shall not bar any law from providing for procedure to enable service of court process emanating from the courts in Mainland Tanzania or courts in Zanzibar being served outside the borders of Tanzania.

PART FIVE JUDICIAL SERVICE COMMISSION

102.(1) There shall be a Judicial Service Commission which shall have the following Members :

The Judicial Service Commission. Act No. 2 of 2002 S. 33.

- (a) Chief Justice appointed by the President;
- (b) one judge of the High Court appointed by the President;
- (c) one retired Judge of the High Court or Appellate Court of Tanzania appointed by the President;
- (d) one advocate appointed by the President on recommendation of the Zanzibar Law Society;
- (e) Chairman of the Civil Service Commission;
- (f) Attorney General;
- (g) Chief Qadhi; and
- (h) any other person whom the President sees fit.

(2) No person shall be appointed under paragraphs (d) and (h) of this Article if he is a member of the House of Representatives or barred by the law enacted by the House of Representatives.

(3) The member of the Judicial Service Commission shall not be removed except for reasons of misbehaviour or failure to discharge his duties because of physical or mental illness confirmed by the Board of Medical Practitioners constituted by not less than three qualified medical practitioners.

(4) In carrying out its functions under this Constitution the Commission shall not be obliged to take into consideration any order or direction from any person.

(5) The Commission may carry out its functions notwithstanding any vacancy in its members or the absence of some member, and its functions shall not be invalid just because of the presence and taking part in the proceedings of a person who should not take part in those proceedings. Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

*Powers of the
Judicial Service
Commission.
Act No. 2 of
2002 S. 34.*

102A The Judicial Service Commission shall have the power to:

- (a) to advise the President on the appointment of Chief Justice; and
- (b) recommend to the President on the appointment of judges of the High Court.

103.(1) The power to appoint persons to officer provided for in this Article (including power to confirm and take disciplinary action in respect of person in those positions), shall vest in the Judicial Service Commission.

*Appointment
of Judicial
Officers.
Act No. 2
of 2002
S. 35.*

Provided the Chief Justice shall not be a Chairman on any disciplinary meeting, and the members of the Commission shall appoint one among them as a Chairman.

(2) The offices to which this sub article applies are:

- (a) office of the Registrar and Deputy Registrar of the High court;

- (b) office of the Regional Magistrate and District Magistrate;
- (c) office of any subordinate court Magistrate that has jurisdiction for criminal matters;
- (d) office of Kadhi;
- (e) all other offices of Members of the Court or related to the Court as may be prescribed by the House of Representatives.

(3) Judicial Service Commission shall have the power of recommending salaries, allowances and pensions for the Judges and Magistrates.

(4) Chief Justice shall have the power of transferring Magistrates and any Magistrate aggrieved shall have the right of appeal to the Judicial Service Commission.

(5) The House of Representatives may enact laws on the following matters:

- (a) meeting procedures of the Judicial Service Commission; and
- (b) allowances and other gratuities of the members of the Commission; and
- (c) other matters relating to the Judicial Service Commission.

CHAPTER SEVEN PART ONE

FINANCE PROVISIONS REGARDING THE FINANCES OF THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR

104.(1) There shall be a Consolidated Fund of the Revolutionary Government of Zanzibar which, Without prejudice to any other law applicable shall be paid all revenue derived from various sources for the use of the Revolutionary Government of Zanzibar for:

Consolidated Fund and other finances of the Revolutionary Government of Zanzibar.

- (a) payment into a fund of the Government (other than the Consolidated Fund) which shall be for special use, or
- (b) depositing, by the Revolutionary Government of Zanzibar, into different banks within the country and outside the country for the purposes of settling payments of expenditures of the Revolutionary Government of Zanzibar.

(2) It is hereby declared that funds shall not be withdrawn from that fund unless the withdrawal is authorized by the Revolutionary Government of Zanzibar or by law enacted by the House of Representatives in that behalf.

105.(1) The Minister responsible for finance shall prepare estimates for Government expenditure for the following year and submit them to the House of Representatives.

The budget.

(2) The budget estimates shall indicate different expenditures as required by law (as defined in sub-article (3) of Article 106 and other ordinary expenditures that require withdrawal from the Consolidated Fund.

Authorisation of expenditure out of the Consolidated Fund by Appropriation Act.

106.(1) Every beginning of Financial year as soon as is practicable, the Minister responsible for finance shall submit to the House of Representatives, a Bill for authorization of Government Expenditure with relevant heads for different functions required to be undertaken together with the total sum of the finances for the particular expenditure not forgetting expenditure as by law required for that year.

(2) In the event:

- (a) that finances expended or which are about to be spent in any financial year for certain purposes exceed the sums authorized in the Appropriation Act for that year; or
- (b) that finances spent or that are about to be spent (excluding expenditures that have to be met in accordance with the law) for any financial year and for any purpose whatsoever and the finances were not authorized to be expended by the Appropriation Act for that year;

Statement of excess expenditure, or supplementary estimates as the case may be, shall be submitted to the House of Representatives for approval of the supplementary estimates or the statement of excess

expenditure, a Bill for authorization Government expenditure from the Consolidated Fund shall be introduced in the House of Representatives and that the funds shall be utilized to pay for costs of the functions related to the estimates or statement.

(3) For the purpose of this Article and following Articles "Expenditure by law required" means :

- (a) expenditure from the Consolidated Fund or from revenues of the nation pursuant to provisions of any other applicable law;
- (b) Interest in respect of national debt, finances deposited for payment of debt and all costs related to management of that debt.

107.(1) No payment shall be made out of the Consolidate Fund save upon the Minister responsible for Finance issuing special document in respect of the expenditure.

Paym on th authc of a specis docum

(2) Without prejudice to the provisions of Article 108, no authority shall be given except in respect of expenditure authorized in the annual Appropriation Act or in respect of statement of excess or in respect of supplementary budget as authorised by the House of Representatives in terms of Article 106(2) or in respect of functions which by law payments are made from the Consolidated Fund.

108.(1) The House of Representatives may enact a law establishing a contingencies fund and authorise the Minister responsible for finance, where satisfied that there exists a grave contingency requiring expenditure to which there are no legal means in that behalf, for that purpose to withdraw funds from that fund.

Expend from Contingency Fun

(2) Where funds have been drawn from the contingency fund, supplementary estimates shall be submitted to the House of Representatives for the purposes of voting back the moneys so expended.

Authoriza-
tion of
expenditure
in advance
of
appropria-
tion Act.

109.(1) Where the financial year has started and the relevant Appropriation Act in respect of Government expenditure for that year is yet to be applicable then the President of Zanzibar may authorise moneys to be issued from the Consolidated Fund for the purposes of paying for necessary costs of Government functions, and the fund shall be used for a period not exceeding three months from the beginning of the financial year or until the Government Appropriation Act comes into effect. Depending on which one of the two proceeds the other.

(2) On condition that the authorization for that period shall not exceed one quarter of the moneys appropriated in the Consolidated Fund by the House of Representatives for the previous financial year, but also on condition that the moneys shall in total sum be appropriated into relevant heads in the ensuing Appropriation Act.

Public debt
of the
Revolutio-
nary
Government
of
Zanzibar.

110.(1) The public debt of the Revolutionary Government of Zanzibar shall be secured on the Consolidated Fund of the Revolutionary Government of Zanzibar.

(2) For the purposes of interpretation of this Article "the public debt of the Revolutionary Government of Zanzibar" means the principal debt itself and also the interest charged on it, sinking fund payments in respect of that debt and the costs incidental to the management of that debt.

111.(1) Holders of public office to whom the provisions of this Article apply shall be paid salaries and allowances as shall be prescribed by a law enacted by the House of Representatives.

Remunera-
tion of
certain
officers.
Act No. 2
of 2002
S. 36.

(2) The salaries and allowance payable to holders of offices to whom the provisions of this Article apply together with pension and gratuity for those entitled to such payments shall be a charge on the Consolidated Fund.

(3) The salary payable to the holder of a public office to whom the provisions of this Article apply together with his terms and conditions of service, (apart from gratuity and allowances calculated in relation to his pension) shall not be varied in a manner which is less beneficial to him.

(4) When a person's salary or other terms of service depend upon his option, the salary or terms for which he opts shall, for the purposes of sub-article (3) of this Article, be deemed to be more advantageous to him than other for which he might have opted.

(5) This Article shall apply to the Chief Minister, Speaker, Chief Justice, Judges of the High Court, Chief Qadhi, Justices of Appeal, Member of the Civil Service Commission, the Attorney-General, Director of Public Prosecutions and Controller and Auditor General of Zanzibar.

112.(1) There shall be a Controller and Auditor General of the Revolutionary Government of Zanzibar who shall be appointed by the President.

Controller
and
Auditor-
General of
Zanzibar.

(2) A person shall not be appointed Controller and Auditor General unless he has the following qualifications:

- (a) a recognized university degree in matters related to auditing of accounts; or
- (b) other diploma certificates of auditing of accounts; and
- (c) other courses related to such subject which are acquired after obtaining one of the degrees mentioned in sub-article (2)(a) of this Article and has held office in related matters for a period of not less than five years.

(3) The Controller and Auditor-General shall be responsible for the following:

- (a) to ensure that the use of any moneys proposed to be paid out of the Consolidated Fund of the Revolutionary Government of Zanzibar has been authorized in accordance with the law and if he is satisfied that those conditions have been properly complied with then he shall authorize payment of such moneys.
- (b) to ensure that all the moneys the payment of which has been authorized for use, the issue is from the Consolidated Fund of the Revolutionary Government or moneys whose use is authorized by law enacted by the House of Representatives

and that the moneys have been spent on matters related to the use of the moneys in respect of the use of that money and that the expenditure has complied with the authority given in respect of such expenditure; and

- (c) at least once a year to conduct audit and give an audit reporting respect of the accounts of the Revolutionary Government of Zanzibar, the accounts managed by all officers of the Revolutionary Government of Zanzibar, the accounts of all courts in Zanzibar, the accounts of Commissions or other organs established by this Constitution and the accounts related to the House of Representatives.

(4) The Controller and Auditor General and every servant of the Revolutionary Government of Zanzibar authorized by the Controller and Auditor General shall have the right to examine books, records, statements of accounts, reports and all other documents concerning any type of account referred to in sub-article (3) of this Article.

(5) The Controller and Auditor General shall submit to the President every report he makes pursuant to the provision of sub-article (3)(c) of this Article. Upon receipt of such report, the President shall direct the persons concerned to submit that report before the first sitting of the House of Representatives which shall be held after the President has received the report and it shall have to be submitted to such sitting before the expiration of seven days from the day the sitting of the House of Representatives began. If the President does not take steps of submitting such report to the House of Representatives, then

the Controller and Auditor General shall submit the report to the Speaker of the House of Representatives or the Deputy Speaker who shall submit the report to the House of Representatives.

(6) The Controller and Auditor General shall also have responsibility of discharging other functions, and shall have other various powers as shall be specified by the law concerning the accounts of the Revolutionary Government of Zanzibar or the accounts of other public corporations and bodies of Zanzibar.

(7) In the discharge of his functions in accordance with the provisions of sub-articles (3), (4) and (5) of this Article, the Controller and Auditor General shall not be obliged to comply with the order or direction of any other person, or Government Department, but the provisions of this sub-article shall not preclude a court from exercising jurisdiction to enquire into whether the Controller and Auditor General has discharged his functions in accordance with the provisions of this Constitution or not.

(8) The Controller and Auditor General shall not assume office until he has subscribed and taken oath of allegiance and such other oath for due discharge of his functions as shall be prescribed by the House of Representatives.

Removal
from office
of the
Controller
and
Auditor-
General.

113.(1) The Controller and Auditor General may be removed from office only for inability to perform the functions of his office (either due to illness or to any other reason) or for misbehavior and shall not be removed from office except in accordance with the provisions of sub-article (3) of this Article otherwise he shall continue in office until he attains the age of retirement as shall be prescribed by law enacted in that behalf by the House of Representatives.

(2) If the question of the removal of the Controller and Auditor General from office under the provisions of this Article needs to be investigated, then the following procedure shall be observed:

- (a) the President shall appoint a special Commission which shall consist of the Chairman and other members who shall be not less than two;
- (b) the Commission shall investigate and submit a report to the President on the whole matter and shall advise the President whether the Controller and Auditor General should be removed from office in accordance with the provisions of this Article on the grounds of inability to perform functions of his office due to illness or any other reason or on grounds of misbehavior.

(3) If the Commission appointed in accordance with the provisions of sub-article (2) of this Article advises the President that the Controller and Auditor General be removed from office on grounds of inability to perform functions of his office due to illness or any other reason or on grounds of misbehavior, then the President shall remove him from office.

(4) If the Commission advises the President that the Controller and Auditor General should not be removed from office, the President may or may not agree with the advice given and the President shall then use his own prudence.

(5) A person who holds or who has held the office of Controller and Auditor General shall not be appointed to, or act in any other office in the service of the Revolutionary Government of Zanzibar.

**PART TWO
FINANCIAL PROVISIONS RELATING TO
UNION MATTERS**

Union
Contribution.

114. All the moneys that are part of the Union contribution which is the responsibility of the Revolutionary Government of Zanzibar to pay, shall be on the Consolidated Fund.

Powers to
expend the
allocation.

115. Moneys shall not be expended in this part until:

- (a) the Joint Finance Commission in relation to Union Matters as established by the Union Constitution has analysed the revenue and expenditure relating to affairs of the Union and make its recommendations to relevant institution on the allocation of the expenditure; and
- (b) the Revolutionary Government of Zanzibar agrees with the said recommendations and allocation.

**CHAPTER EIGHT
CIVIL SERVICE COMMISSION**

Civil
Service
Commission.

116.(1) There shall be a Civil Service Commission of the Revolutionary Government of Zanzibar which shall comprise of the Chairman, Vice Chairman and five other members.

(2) The Chairman and members of the Commission shall be appointed by the President.

117.(1) A person shall not be qualified to be a member of the Civil Service Commission if:

Appoint-
ment and
termination
of a
member of
the Civil
Service
Commission.

- (a) is a Minister or Member of the Revolutionary Council;
- (b) is a Deputy Minister;
- (c) is a Member of the House of Representatives;
- (d) is a civil servant.

(2) The office of a Member of the Commission shall be vacant:

- (a) after the expiration of three years from the date he was appointed;
- (b) in the event there occurs anything which if a person that occupies office as member would be disqualified as a Member, then he would not have been qualified to be member of the Commission.

However it is hereby declared that such Member may be reappointed for another period of three years and not more.

(3) A Member of the Commission may be removed from office due to his failure to perform the duties entrusted to him (arising out of either physical or mental infirmity or for any other reason) or because of indiscipline and shall not be removed from office save in accordance with the conditions of this Article.

(4) A Member of the Commission shall be removed from office by the President if the question of his removal shall be referred to a Commission and the Commission recommends to the President that the Member should be removed due to inability to perform his functions as described hereinabove.

(5) If the President thinks the question of removal of a Member should be investigated then :

- (a) the President shall appoint a Special Commission having a Chairman and other Members who shall be not less than two from amongst persons who hold or held positions of Judges of a court that has jurisdiction over cases of any kind in Tanzania or Judge of Court of Appeal which court has appellate jurisdiction from the said courts; and
- (b) the Commission shall investigate the whole matter and shall report to the President whether the Member should be removed or not.

(6) If the question of removal of a Member is referred to a Special Commission for investigation, the President may suspend the Member from office and the suspension may be revoked by the President at any time, and in any case the suspension shall be of no effect whatsoever in the case where the Commission recommends that the Member should not be removed from his position of responsibility.

(7) If the office of the Chairman is vacant, or in the event the Chairman, due to any reason whatsoever is unable to perform his functions then until such a time a person is appointed to perform the

functions of the Chairman and has embarked on carrying out the functions of the Chairman or up to when the Chairman shall be able to resumed the functions of his office as the case may be, the Deputy Chairman or in the event the office of the Deputy Chairman is vacant or due to any reasons whatsoever the Deputy Chairman can not perform the functions of the Chairman any other Member appointed by the President may perform the functions of the Chairman or any other Member shall continue to hold that office notwithstanding the provisions of sub-articles (2), (4) and (5) as the case may be until the Chairman resumes his functions.

(8) If the office of a Member of the Commission, save that of the Chairman is vacant or if a Member is acting as Chairman under sub-article (7) of this Article or for whatever reason is unable to perform his functions, the President may appoint another suitable person to fill the vacancy for the time being and the person so appointed shall continue in that position without prejudice to conditions provided for in sub-articles (2), (4) and (5) of this Article until such time the substantive member resumes the functions of his office.

(9) The Commission, without prejudice to provisions in this Constitution shall, in the performance of its functions, not be obliged to follow any orders or directions from any person.

(10) The Commission, pursuant to its regulations, may conduct its functions despite the absence or vacancy in the office of a Member and its functions shall not be invalidated because of the presence of a person who should not have been present.

Provided that any decision of the Commission shall have to be by a majority of not less than two thirds of all the Members.

Appoint-
ment of Civil
Servants.

118.(1) Without prejudice to the provisions of this Constitution, the power to appoint persons to responsible positions in the Government (together powers to confirm them in office), power to punish in disciplined officer in their positions and the power to remove them from their responsibilities shall vest in the Civil Service Commission.

(2) Without prejudice to the provisions of this Article together with sub-article (9) of Article 117, the House of Representatives may enact a law providing for procedure to be followed by the Commission under this Article and all other matters related to those functions.

(3) No person shall be appointed in terms of this Article to perform any function in the office of the President without first obtaining permission from the following offices:

- (a) offices of Principal Representatives of Zanzibar in any other country;
- (b) any other office in service with the functions of the Government the appointment to which is prescribed by law.

CHAPTER NINE ZANZIBAR ELECTORAL COMMISSION

119.(1) There shall be a Zanzibar Electoral Commission which shall have the following Members:

- (a) the Chairman appointed by the President in the manner deems fit;

- (b) two members appointed by the President on the recommendation of the Leader of government business in the House of Representatives.
- (c) two members appointed by the President on the recommendation of the Opposition Leader in the House of Representatives or if there is no opposition leader by consultation with the political parties.
- (d) one member appointed by the President from among the judges of the High Court.
- (e) one member appointed by the President as he sees fit.

- (2) (a) The Chairman of the Zanzibar Electoral Commission shall be a person with qualification to be a judge of High Court or Court of Appeal of any member Country of the Commonwealth or a respected person in the society.
- (b) The Zanzibar Electoral Commission shall appoint a Vice-Chairman from among its members.

(3) The following persons shall not be appointed as Members of the Zanzibar Electoral Commission :

- (a) Minister or Deputy Minister;
- (b) Member of the House of Representatives, or a Member of the armed forces of Tanzania or

Zanzibar
Electoral
Commission.
*Act No. 2
of 2002
S. 37.
Act No. 8
of 2002
S. 4.*

Appoint-
ment of Civil
Servants.

118.(1) Without prejudice to the provisions of this Constitution, the power to appoint persons to responsible positions in the Government (together powers to confirm them in office), power to punish in disciplined officer in their positions and the power to remove them from their responsibilities shall vest in the Civil Service Commission.

(2) Without prejudice to the provisions of this Article together with sub-article (9) of Article 117, the House of Representatives may enact a law providing for procedure to be followed by the Commission under this Article and all other matters related to those functions.

(3) No person shall be appointed in terms of this Article to perform any function in the office of the President without first obtaining permission from the following offices:

- (a) offices of Principal Representatives of Zanzibar in any other country;
- (b) any other office in service with the functions of the Government the appointment to which is prescribed by law.

CHAPTER NINE ZANZIBAR ELECTORAL COMMISSION

Zanzibar
Electoral
Commission.
*Act No. 2
of 2002
S. 37.
Act No. 8
of 2002
S. 4.*

119.(1) There shall be a Zanzibar Electoral Commission which shall have the following Members:

- (a) the Chairman appointed by the President in the manner deems fit;

(b) two members appointed by the President on the recommendation of the Leader of government business in the House of Representatives.

(c) two members appointed by the President on the recommendation of the Opposition Leader in the House of Representatives or if there is no opposition leader by consultation with the political parties.

(d) one member appointed by the President from among the judges of the High Court.

(e) one member appointed by the President as he sees fit.

(2) (a) The Chairman of the Zanzibar Electoral Commission shall be a person with qualification to be a judge of High Court or Court of Appeal of any member Country of the Commonwealth or a respected person in the society.

(b) The Zanzibar Electoral Commission shall appoint a Vice-Chairman from among its members.

(3) The following persons shall not be appointed as Members of the Zanzibar Electoral Commission :

(a) Minister or Deputy Minister;

(b) Member of the House of Representatives, or a Member of the armed forces of Tanzania or

occupies a position which in law does not permit him to be Member of the Commission.

- (c) a Member of Parliament or any other person in position of responsibility referred to in any law enacted by Parliament in terms of the conditions in paragraph (9) of sub-article (2) of article 67 of the Union Constitution.
- (d) a leader of any political party.

(4) Without prejudice to other provisions in this Article a Member of the Zanzibar Electoral Commission shall cease to be Member on occurrence of any of the following:

- (a) upon expiration of a period of five years since he was appointed; or
- (b) upon occurrence of any event if he were not member of the Commission, would have rendered him not to be appointed Member of the Zanzibar Electoral Commission.

(5) The President may only remove a Member of the Zanzibar Electoral Commission for failure to perform his functions, either because of illness or for any other reason or because of misbehavior or due to disqualification to be a member.

(6) A member of the Commission shall be removed from office by the President if the question of his removal from office is referred to a Special Commission established in that behalf in terms of

sub-article (7) of this Article and the Commission recommends to the President that the Member should be removed due to his inability to perform his functions as described hereinabove.

(7) In the event the President thinks the question of removal of a Member of the Commission should be investigated then:

- (a) the President shall appoint a Special Commission with a Chairman and not less than two other Members from persons holding or who held positions of Judges of Courts of unlimited jurisdiction in Tanzania, or Justice of Appeal the Appellate court having jurisdiction over the other courts, and
- (b) the Commission shall investigate the issue and recommend to the President whether the Member should be removed or not.

(8) Where the question of removal of a Member is referred to a Special Commission for investigation the President may suspend the Member from duty and the suspension may at any time be revoked by the President and in any case the suspension shall have no effect whatsoever where the Commission recommends to the President that the Member should not be removed from office.

(9) For better carrying out of its functions, the Electoral Commission shall be an autonomous department and its Chief Executive shall be Director of Elections who shall be appointed and perform his functions as provided for by law enacted by the House of Representatives.

(10) The quorum of the Commission is the Chairman or Vice Chairman and four members and every decision of the Commission shall be supported by the majority of the members of the Commission.

(11) The House of Representatives may enact a law providing for conditions for making procedures of appointing Members to oversee Presidential Elections, Members of the House of Representatives and Councillors and without prejudice to legal conditions of similar nature or directions of the Electoral Commission to oversee the elections may be carried out by the Members.

(12) In the performance of its functions pursuant to conditions of this Constitution, the Electoral Commission shall not be obliged to follow any orders or directions from any person or any department of the Government or the opinion of a political party.

(13) No court shall have jurisdiction to enquire into anything done by the Zanzibar Electoral Commission in the performance of its functions in accordance with the provisions of this Constitution.

(14) In the performance of its functions in accordance with this Constitution the Zanzibar Electoral Commission shall from time to time consult with the National Electoral Commission of the United Republic.

Constitu-
encies.

120.(1) Without prejudice to the conditions contained in the provisions of this Article Zanzibar may be divided into election constituencies with names and boundaries as shall be described by the Commission.

(2) The House of Representatives may by law fix the minimum number of election constituencies being not less than 40 and the maximum number not exceeding 55.

(3) All the constituencies shall as far as possible have an equal number of residents as the Commission may determine, however the Commission may dispense with this condition to the extent deemed appropriate taking into consideration:

- (a) the size of the population particularly ensuring appropriate representation in urban areas and towns in rural areas thinly populated;
- (b) population growth;
- (c) the means of communication;
- (d) administrative demarcations and for the purposes of this Article the number of inhabitants in any part of Zanzibar shall be ascertained by the latest census report conducted in accordance with the law.

(4) Within a period of between 8 and 10 years, or any other time the House of Representatives decides so to do, the Commission shall review the number of election constituencies boundaries and their names to the extent it deems fit to review; and may, by notice change the number, boundaries and the names of the constituencies.

(5) Where a population census has been conducted in accordance with the law, or if administrative boundaries have been made in any area thereof, the Commission may investigate the situation and treat the changed situation to the extent which the Commission thinks fit to effect the change.

(6) Any order made by the Commission in terms of this Article shall be gazetted and shall come into effect on the date it is published in the Gazette.

**CHAPTER TEN
SPECIAL DEPARTMENTS**

Special
Departments.

121.(1) There shall be Special Departments of the Revolutionary Government of Zanzibar whose duties and functions shall be as prescribed in relevant laws.

(2) The Special Departments referred to above are:

- (a) Economic Development Force (in short JKU);
- (b) Special Force for Prevention of Smuggling (in short KMKM);
- (c) Educational Center for offenders (Chuo cha Mafunzo).

(3) The President of Zanzibar may when he deems it fit establish any other department and designate it special department.

(4) Any person in service with the Special Departments of the Revolutionary Government of Zanzibar is prohibited from taking part in political activities except voting in any election in accordance with the provisions of Article 7 of the Constitution.

Special
Departments'
Service
Commission.

122. There shall be Special Departments Service Commission whose powers, authority, functions and regulations of its procedures shall be as provided for in a law enacted by the House of Representatives in that behalf.

123.(1) The President shall be the Commander-in-chief of the Special Departments and shall have the powers to do anything he sees fit so to do in the interest of the Nation.

(2) The powers of the President under sub-article (1) of this Article include the power to order anything to be done in respect of a Special Department in the interest of the nation.

**CHAPTER ELEVEN
JURISDICTION OF
CERTAIN INSTITUTIONS OF THE UNION**

124.(1) The institutions provided for in sub-article (2) of this Article and in accordance with their establishment pursuant to provisions of articles of the Union Constitution shall be authorized to perform their functions in Zanzibar in terms of the procedure stipulated in the Union Constitution and any other law either enacted by Parliament or the House of Representatives in that behalf.

(2) The institutions referred to in sub-article (1) are:

- (a) The Constitutional Court of the United Republic;
- (b) The Permanent Commission of Enquiry;
- (c) National Electoral Commission of the United Republic.

(3) For the purposes of this Article, the institutions referred to in sub-article (2) of this Article shall be construed as institutions of the Revolutionary Government in the performance of their functions in Zanzibar.

**CHAPTER TWELVE
OTHER INSTITUTIONS OF THE REVOLUTIONARY
GOVERNMENT OF ZANZIBAR**

**PART ONE
PLANNING COMMISSION**

Planning Commission.

125.(1) There shall be a Planning Commission of the Revolutionary Government of Zanzibar which shall be the highest institution for planning and shall supervise the implementation of economic development and social services planning in Zanzibar.

(2) The procedure for performance of the duties and functions of the Planning Commission and matters related to Members of the Commission shall be as provided in the law enacted by the House of Representatives.

Members of the Commission.

126. Members of the Planning Commission and regulations of meetings shall be in accordance with the law enacted by the House of Representatives.

Secretary to the Planning Commission.

127. There shall be Secretary to the Planning Commission who shall be appointed by the President.

**PART TWO
LOCAL GOVERNMENT AUTHORITIES**

Local Government Authorities.

128.(1) There shall be Local Government Authorities for every Region, District and Area in respect of the Region, or District or Area as the case may be.

(2) Appointment of Members, powers and functions of every Local Government Authorities shall be as prescribed by law enacted by the House of Representatives.

**CHAPTER THIRTEEN
GENERAL PROVISIONS**

129.(1) Without prejudice to the provisions of this Article, any person who is mentioned, elected or appointed to hold any position provided for in this Constitution, may resign his position by submitting in his own hand writing resignation notice to the person who nominated, elected or appointed him.

(2) A person who gives notice of resignation in terms of the conditions contained in sub-article (1) of this Article shall be taken to have resigned his position from the date his resignation notice is received by the person permitted to receive that notice by a responsible person in an appropriate sitting however if the resignation notice relates to a future date that person shall be taken to have resigned with effect from that future date.

(3) Notice of resignation of the President shall be submitted to the Chief Justice who shall submit it to the Chairman of Zanzibar Electoral Commission.

(4) Notice of resignation of the Chief Minister shall be submitted to the President.

(5) Notice of resignation of the Speaker or Deputy Speaker of the House of Representatives shall be submitted to the House of Representatives.

(6) Notice of resignation of the Member of the House of Representatives or of a Chairman or Member of a committee of the House of Representatives shall be submitted to the Speaker of the House of Representatives.

New appointment and notification of termination.

130.(1) Where any person holding any office established by this Constitution resigns if he has all the necessary qualifications and is in every respect eligible, he may be appointed or elected to hold such office in accordance with the provisions of this Constitution.

(2) Where a person is removed from office or suspended from performing the functions of his office then the institution or the person removing or suspending him from office shall be obliged to inform the person concerned in writing that the institution or person has removed or suspended him from office.

Procedure for assignment of office responsibility in the Civil Service.

131. For the purposes of interpreting the provisions of this Constitution in relation to the procedure of assignment to the service of the Revolutionary Government of Zanzibar, it is hereby declared that any person having power pursuant to this Constitution to appoint or nominate another person to hold a certain office has also the power to appoint or nominate a person to act in as Deputy or temporarily perform the functions of that office.

Union Enactments.

132.(1) No law enacted by the Union Parliament shall apply to Zanzibar unless that law relates to Union affairs only and having complied with the provisions of the Union Constitution.

(2) The enactment shall be submitted to the House of Representatives by the responsible Minister.

(3) Where subsidiary legislation is made in terms of the authority provided for in sub-articles (1) and (2) of this Article in accordance with the law shall only apply on compliance with the conditions in the parent Act as prescribed in this Article.

133.(1) No tax of any kind shall be imposed save in accordance with a law enacted by the House of Representatives or pursuant to a procedure lawfully prescribed and having the force of law by virtue of a law enacted by the House of Representatives.

Constitution for tax

(2) The provisions contained in sub-article (1) of this Article shall not preclude the Union Parliament from exercising its power to impose tax of any kind in respect of Union matters in accordance with the powers of the Union Parliament; taking into consideration that Consultations between the Revolutionary Government of Zanzibar and the Government of the United Republic have been made and agreed to before enacting the relevant law.

134.(1) In this Constitution unless the context requires otherwise:

Interpretation. Act N of 20 S. 38.

"Revolutionary Council" includes the Cabinet.

"Party" means a political party officially registered in accordance with the Political Parties Act 1992.

"Judge" means a judge of the High Court and includes Acting judge;

"Oath" includes affirmation.

"Oath of allegiance " means any oath of allegiance as prescribed by the House of Representatives.

"Session of the House of Representatives" means a session or part of the day if the House did not sit for whole day which starts by a prayer and finishes adjournment until the following day or any future date.

"Employee of the Revolutionary Government of Zanzibar" means a person in service with or a person acting in any position in the Revolutionary Government of Zanzibar inclusive of Government parastatals.

"meeting of the House of Representatives" means series of sessions of the House starting with the first session and ending at the time when the activities fixed for that meeting has finalized.

"Financial year" means a period of 12 months ending on the 30th day of June of any year or any other day as shall be appointed by law as enacted by the House of Representatives.

"President" means the President of Zanzibar and Chairperson of the Revolutionary Council.

"Minister" means a member of the House of Representatives and a Member of the Revolutionary Council appointed to a position of Minister in the Revolutionary Government of Zanzibar.

(2) Unless the context requires otherwise any power vested in the House of Representatives by this Constitution shall in terms of establishing, or detailing anything shall be effected by legislation.

institution in the performance of its functions it shall not mean that courts in exercise of their jurisdiction are excluded from inquiring whether that person or institution acted in accordance with this Constitution or any other law.

(9) In this Constitution, where a mention is made of an amending Act, it is hereby declared that the relevant law includes the law as amended by that other law or which provides for continued use of that other law either with or without amendments or the law that introduces new conditions into another existing law.

Repealing of the Zanzibar Constitution of 1979.
Act No. 2 of 2002 S. 39.

134 A. The Constitution of Zanzibar of 1979 is hereby repealed.

The name of the Constitution and Commencement date.

135.(1) This Constitution may be cited as the Constitution of Zanzibar 1984.

(2) This Constitution shall come into operation on the 12th day of January, 1985.