



LAND LAW MAKING PROCESS IN TANZANIA

Land law is at the intellectual and institutional center of efforts to build legal systems in poor countries. Tanzania is a country whose future depends on the success of its rural agricultural sector and it is indeed a representative of many developing countries facing pressures to reform their land law.

The Constitution of Tanzania dictates, among other things, how the legislatures (Parliament, provincial legislatures and municipal councils) should conduct their legislative processes. In addition there are the relevant Rules of Parliament and the conventions of the other legislatures that have a bearing on lawmaking. Parliament has the power to pass new laws, amend existing laws and repeal old laws in the “national sphere” of government. The same power is exercised by municipal councils in the “local sphere”. Legislation is a body of law consisting of acts properly passed by Parliament, that is, the president and National Assembly. It is important to note that legislation passed by Parliament does not, as a general rule, apply to Zanzibar. There are detailed rules in articles 98-99 of the Tanzania Constitution which set out the different law-making processes that apply to different types of legislation.

Deciding what the law should be is the Parliament’s responsibility. Deciding how a law applies in a particular case is the function of the courts. Courts also finally determine what a law means. Thus as well as applying the law, the courts interpret the law. Administration and enforcement of the law is the responsibility of the Government.

A Bill in its ordinary meaning simply means a new law in the making. It may be introduced in the House by a Government, Minister or by a Private Member. This means that there are two types of Bills, namely Government Bills which are introduced into the Assembly by a Minister (eg *Minister for Lands, Housing and Human Settlements Developments*) or Attorney-General, and Private Member’s Bills which are introduced into the Assembly by a Member of Parliament who is not a Minister or the Attorney-General.

After the Bill has been approved by the Cabinet, (in the case of government bills) it is published in the official Gazette with a statement of its objects and reasons, signed by the Minister responsible for introducing the bill in the National Assembly. It must be published in at least two issues of the gazette at intervals of not less than seven clear days.

The first reading stage of any bill is done by the Clerk at the Table reading the long title of the Bill before the Assembly. At this stage no discussion takes place, instead, the Speaker refers the Bill to the appropriate Standing Committee for consideration. The appropriate Standing Committee has no power to amend a Bill referred to it but may request the



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Minister responsible for the Bill to introduce amendment to the Bill in the Assembly.

After the Chairman of the appropriate Standing Committee has reported to the Speaker that his Committee has concluded its consideration of the Bill, then the Speaker orders the Bill to be entered on the Order Paper ready for the Second Reading. The minister normally explains about the bill and the leader of the opposition is also given a chance to air their views on the bill. Then the bill is debated by the whole parliament.

On completion of the general debate, the Assembly immediately resolves itself into a Committee of the whole House. The Clerk calls the number of each clause in succession together with any amendments which may have been made by the Minister in charge on the Bill. The Presiding Officer (who at this stage is designated Chairman, not Speaker) puts the question "that the Clause (or the clause as amended) be approved.

When the clauses of the Bill have been dealt with, the Assembly resumes and the speaker returns to the Chair at the conclusion of the proceedings in the Committee of the whole House. The Minister in-charge of the Bill then reports to the Assembly that the Committee has considered the Bill, Clause by clause and approved the same. Thereafter he requests the Assembly to concur with the findings of the Committee. At this stage the Assembly votes, and if the majority of the MPs give their consent then the Bill has been passed by the House. If the majority of MPs say 'No' then the Bill has been rejected by the Assembly.

When a Bill has been passed by the Assembly, a printed copy of the Bill is submitted by the Clerk of the National Assembly to the President for his assent or other order if the bill is assented to then it becomes an Act of Parliament and the law.

Everyone who is, or may be, affected by a law may be involved in its interpretation-deciding what it means and how it will affect them: everyone is expected to know the law as it applies to them. However, because there are many laws particularly in relation to Land and some are complex and use difficult legal expressions, on occasions advice may need to be sought from lawyers, who are trained to interpret the law.