

THE CENTRE AND LOCAL INSTITUTIONS OF GOVERNANCE

By

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1. INTRODUCTION

Moves to establish Local Authorities started in 1982 when several pieces of legislation were passed. These include Act No. 7 of 1982, which provided for the establishment of district authorities, Act No. 8 of 1982, which provided for the establishment and functions of urban authorities; and Act No. 9 of 1982 which provides for the control of financial matters in local governments, and which is generally referred to as the local finances Act. Other Acts included the local government service Act No. 10 of 1982, the local government negotiating machinery Act No. 11 of 1982 and Act No. 2 of 1983, which deals with urban authorities rating.

2. FORMS OF PARTICIPATION OR CONTROL

Authorities described under Act No. 7 of 1982 are the district council, Township authority and village government. Urban authorities, on the other hand, as described by Act No. 8 of 1982 are the city council, municipal councils and town councils.

Act No. 7 of 1982 spells out the procedure through which a district authority could be established. The Act empowers the minister concerned with local governments to initiate the proposal to establish a specific authority. People, either as individuals or communities, cannot petition for the establishment of a local authority according to their felt needs — only Ministers can do so, according to

the needs of statecraft. Thereafter, the minister is required to publish the proposal in the Government Gazette where it has to be retained for a period of two months before presenting it to the national assembly for final ratification. Of course very few Tanzanians get access to the gazette, even when and if it is published.

The procedure of establishing urban authorities is almost similar to that of establishing district authorities, except that the clerk to the National Assembly is required to furnish urban authorities with certificates of establishment upon their approval by the parliament. While the Minister initiates proposals for the establishment of Town and Municipal councils just as he does for District Authorities, the proposal to establish a city council is made by the President instead of the minister.

Act No. 7 of 1982 also empowers the minister concerned with local governments to recognize a village government and township authority even if they do not meet minimal prescribed qualification. The minimum prescribed qualification is 250 and 5000 households for a village government and a township authority respectively. Act No. 8 of 1982 also empowers the President to propose the establishment of a city council irrespective of whether the prescribed features are met or not. The key initiative in the establishment of local government authorities comes from the centre.

The district council is composed of councillors elected from the wards within the district. The ward forms the local government's electoral constituency. The minister concerned with local governments retains powers to vary the boundaries of wards and increase or decrease the number of wards in local authorities. While these powers did not arouse controversy in the old days of one partyism, things may change in the future. Desperate members of a party in power may play around with boundaries in order to secure political advantage.

Other members of the district council are national and constituency members of parliament residing in the district; not more than three appointees of the Minister responsible for local governments; five representatives of the five organizations affiliated to the Party; and finally, Chairmen of village councils in the District elected on a rotational basis. These cannot exceed one third of the total number of elected councillors.

The town council, on the other hand, is composed of councillors from wards in the council, national and constituency members of parliament residing in that particular town, as well as five members appointed by the minister concerned with local government. The municipal council's composition is the same as that of the town council. The city council on the other hand, on top of councillors elected from wards as well as national and constituency MPs, includes six members appointed by the minister of local governments from among residents of the city. In district councils, meetings are presided over by the council chairmen elected by the councillors from among the members of each council. Urban councils are presided over by the Mayor also elected by Councillors from among the council members. The council directors in all local authorities are secretaries to the councils but hold no vote, despite the fact that they wield a lot of influence over the activities of the council. All of them (The District Executive Director, the Town Director, the Municipal Director and the City Director) are presidential appointees. The various central government control provisions under this Act No. 8 are summarized in table 1 below:

TABLE 1 — CENTRAL CONTROL PROVISIONS UNDER THE LOCAL GOVERNMENT (DISTRICT AUTHORITIES) ACT 1982 (NO. 7 OF 1982) AND THE LOCAL GOVERNMENT (URBAN AUTHORITIES) ACT 1982 (NO. 8 OF 1982)

PROVISION ENABLING CONTROL		LOCAL AUTHORITY TO WHICH APPLICABLE	WAY IN WHICH CONTROL IS OR MAY BE EXERCISED	PERSON OR BODY EXERCISING CONTROL
ACT NO.	SECTION			
7/1982	4(1) (C)	All District Authorities	Guiding, controlling & directing all local authorities to secure their execution of national policy on local government	Minister
8/1982	4(1) (c)	All Urban Authorities		
7/1982	5	District Council	Giving establishment orders (establishing the local authorities)	Minister
	13	Township Authorities		
8/1982	5(1)	Municipal & Town Council		
	5(3)	City/municipal Council	Conferring city status on a municipality	President
7/1982	22	Village Councils	Registering villages	Registrar of Villages
	7	District Councils	Considering & deterring objections to proposed establishment orders	Minister
8/1992	7	Urban Council		
7/1982	10	District Councils	Varying the boundaries of areas of jurisdiction	Minister
	18	Township Authorities		
8/1982	10	Urban Councils		
	20	Township Authority	Setting conditions for attaining Town Council Status	Minister
	27	Village Councils	Setting conditions for Township Authority Status.	
8/1982	30	All District Authorities.	Dividing areas into wards	

PROVISION ENABLING CONTROL		LOCAL AUTHORITY TO WHICH APPLICABLE	WAY IN WHICH CONTROL IS OR MAY BE EXERCISED	PERSON OR BODY EXERCISING CONTROL
ACT NO.	SECTION			
	14	All Urban Authorities		
	19	All urban Authorities	Appointing some councillors	
7/1982	35(c)	District Councils		
	56(1)	Village Councils	Making Rules for Council election	
	70	District Councils	Approving standing orders	
8/1982	37	Urban Councils		
	38(9)	Urban Councils	Waiving conditions that may disqualify sitting councillor(s)	
7/1982	71(9)	District Councils		
	75(2)	District Councils	Specifying conditions for Education Committee	Minister for National Education
8/1982	42(4)	Urban Council	Giving directions for forming joint committee	Minister
	48	Urban Councils		
7/1982	80	District Councils		
	86	District Councils	Making rules for Committee Affairs	
	102	Township Authorities		
	110	Village Councils	Making rules for and directions to councils	
	112	District Councils		
	132	Township Authorities	Specifying powers and duties	
8/1982	56	Urban Councils		

PROVISION ENABLING CONTROL		LOCAL AUTHORITY TO WHICH APPLICABLE	WAY IN WHICH CONTROL IS OR MAY BE EXERCISED	PERSON OR BODY EXERCISING CONTROL
ACT NO.	SECTION			
7/1983	144	Village Councils	Conferring any power and functions upon council	President
	114	All District Authorities	Approving request to acquire land.	
8/1982	60	Urban Councils		Minister
	61	Urban Councils	Approving sale, Letting (& charging rent) or mortgaging land.	
7/1982	115	All District Authorities		
7/1982	118(2)(z)	District Councils	Prescribing trades and occupations which councils may license, regulate or supervise.	Minister
7/1982	120	District Councils	Approving delegation of functions to Township Authorities & Village Councils	Proper Officer
8/1982	59(e)	Urban Councils	Approving the designing of the layout of streets and building areas.	Minister
	59(g)	Urban Councils	Approving form of municipal trading or industry undertaken	
	59(h)	Urban Councils	Approving the provision of transport service	
	63	Urban Councils	Prescribing limit value of contracts approving those whose value exceed the prescribed limit.	Proper Officer
	125	District Councils		
7/1982	135	Township Authorities		

PROVISION ENABLING CONTROL		LOCAL AUTHORITY TO WHICH APPLICABLE	WAY IN WHICH CONTROL IS OR MAY BE EXERCISED	PERSON OR BODY EXERCISING CONTROL
ACT NO.	SECTION			
7/1982	127	District Councils	Approving writing off deficiencies and irrecoverable debts	Proper Officer
	137	Township		
8/1982	65	Urban Councils	Approving remission of fees and charges	
	66(2)	Urban Councils		
7/1982	128(2)	District Councils		
	138(2)	Township Authorities		
	145	Village Councils	Designating Ujamaa Villages	Minister
	147	District Councils	Making Uniform by-laws	
	157	Township Authorities		
	165	Village Councils		
	8/1992	82		
7/1982	83	Urban Councils		Considering and deciding of objections to proposed uniform by-laws.
	149	District Councils		
7/1982	165	District Councils		
	158	Township Authorities		
	156	Township Authorities		
7/1982	150(3)	District Councils	Giving consent to by-laws	Proper Officer
	150(4)	District Councils		
	8/1982	81		
71	Urban Councils			
7/1982	129	District Councils		
	132	Township Authorities		

PROVISION ENABLING CONTROL		LOCAL AUTHORITY TO WHICH APPLICABLE	WAY IN WHICH CONTROL IS OR MAY BE EXERCISED	PERSON OR BODY EXERCISING CONTROL
ACT NO.	SECTION			
7/1982	130	District Councils	Ordering enquiries into local affairs	
	140	Township Authorities		
8/1982	72	Urban Councils		
	73	Urban Councils		
7/1982	169	All District Authorities		
	171(1)	All District Authorities		
8/1982	75(1)	Urban Councils	Ordering performance or transfer of function(s) to other person(s)	
	75(3)	Urban Councils		
7/1982	171(3)	All District Authorities	Ordering suspension or premature dissolution of councils	
	172	All District Authorities		
	8/1982	76		
78	Urban Councils			
7/1982	174	All District Authorities	Requiring information	

SOURCE: Jamhuri ya Muungano wa Tanzania Tume ya Rais ya Mfumo wa Chama Kimoja au Vyama Vingi vya Siasa Tanzania. (Dar es Salaam: Government Printer 1991) Vol. 3

- NOTE: - "District Authorities" mean district councils, township authorities and village councils.
 - "Urban Authorities" or "Urban Councils" mean city, municipal or town councils.
 - "Proper officer" means, for district authorities the Regional Commissioner, and for urban authorities the Minister.
 - "Minister" means, the Minister for the time being responsible for local government.

The local government finances Act No. 9 of 1982 prescribes entirely, sources of revenue for various local government authorities. Indeed, this Act is potentially an important basis of fiscal powers of local governments essential to execute the long list of prescribed functions. Section 6 of the Act describes sources of revenue for urban authorities. This includes all assets vested in the authorities but for many of these councils, these are very few. Assets of former authorities have long been squandered. The list also includes money derived from urban development levy imposed by the authorities, funds derived from trade, industry, works, and services owned by the authorities. These are also few, non-existent or bankrupt. Other sources include all fees for licence and 50% of fees for licences granted under the Business Licence Act 1972, all funds derived from rates (property tax), permits dues, rents or buildings owned by authorities, funds derived from registration of tax-cabs plying in urban areas and such proportion of the revenue collected by the government under the Road Traffic Act of 1973.

Section 7 of Act No. 9 provides for sources of revenue for district councils. Some of them are listed here: Assets vested in the district council, development levy, licences revenue from the government and all money derived from fees for registration of vehicles, although with the exception of Dar es Salaam, Mwanza and Arusha, very few vehicles are registered in rural towns. Sections 8 and 9 provide for the sources of revenue for townships authorities and village councils respectively. Any potential revenue source which is not utilised must be approved by the minister of finance if at all a particular local authority intends to make use of it. Resources from the above sources, even if they were all harnessed (which is a big assumption) could hardly make any dent in the list of functions with which local authorities are charged.

Consequently, the central government is also required to disburse some amount of revenue to the local government authorities. However, there is no procedure whatsoever to be followed by the government to effect this activity. The only present vague assumption is that urban authorities have a fairly developed commercial sectors which in turn offer a significant contribution of revenue in town, municipal and city councils. Therefore urban authorities in general need less financial assistance from the government than their counterparts in the districts. But even within urban authorities the size of the commercial sector differs, with the city council having the largest business community. Towns like Musoma have a small commercial sector.

Needless to say, the final authority on which council should receive what, rests with the ministers for finance and local governments who sit to deliberate on the issue. The amount of cash from the central government to a particular local council certainly depends on the ability of its leaders to lobby the central government and particularly the two ministers. But the ability of the Government is structurally limited, given the financial strain under which it operates.

Not surprisingly, in 1986 an amendment was passed to the finances Act under Act No. 10 section 10 whereby the minister of finance was no longer required to meet 100% expenses on expenditure on social services, particularly education, health and roads, as had hitherto been the case.

Within Act No. 9 of 1982 there is a provision on the management of funds in local councils. Under section 3 of the Act, the minister for local government is appointed as the proper officer of urban authorities and the regional commissioner is the proper officer for district authorities in his region. As proper officers:

The minister and the regional commissioners are therefore empowered to approve the annual budgets of their respective authorities. Their role and powers are to promote the timely preparations of annual budgets, and to see to it that each authority operates within the limits of the approved budgets. They are also supposed to facilitate the securing of funds for the operations of all authorities under their control.

Section 33 (4) of Act No. 9 provides for the accounting officers to local councils. The council directors in both urban and district authorities are appointed to shoulder this task. The accounting officer is the executive officer of the council and he is responsible and accountable for the money used by the council. Section 42 of this Act further empowers the minister to issue a financial memorandum - separate written instructions on the use of funds. Section 45 of the Act also gives power to the government controller and auditor-general to audit local government authorities accounts as an external auditor with internal auditing being undertaken by internal auditors employed by the councils. Here also much is being assumed for not only do councils lack qualified personnel but the central government itself is notorious for laxity in the control of its own funds.

Lastly part V and Act No. 9 establishes the Local Governments Loans Board (LGLB). The objectives of this board is to receive, administer and invest funds deposited by local authorities. Another function of the LGLB is to lend the funds to local authorities for financing major development programmes and to provide and operate social services on behalf of local authorities. This objective was of course made moot by the financial and credit squeeze mandated by structural adjustment politics of the IMF and the World Bank.

The various sections of Act No. 9 therefore bestow pervasive powers of control on the state. These are summarised in Table 2 below.

TABLE 2— CENTRAL CONTROL PROVISIONS UNDER THE LOCAL GOVERNMENT FINANCES ACT 1982 (NO. 9 OF 1982)

SECTION ENABLING CONTROL	PERSON OR BODY EXERCISING CONTROL	WAY IN WHICH CONTROL IS OR MAY BE EXERCISED
5(6)	Minister	Giving directions to govern transfer of assets from District Council to Township Authority.
6(1) (f)	Minister	Determining proportion of Urban Council revenue from the Road Traffic Act 1973
9(1)	Proper Officer	Giving Directions to govern sources of village council revenues
	Minister	Approving the foregoing directions
10	Minister	Determining the amount of grants
11	Minister	Approving the raising of loans and security for the same
12	Proper Officer	Approving rules to govern imposition of local rates and taxes
13	Minister	Making rules to govern imposition of local rates and taxes
15	Minister	Approving Methods of rating
19(1) (b) (iv)	Minister	Exempting tenements from rating
28	Proper Officer	Approving the appointment of agents for the rate collection
31	Minister	Making rating rules
34	Proper Officer	Ensuring the proper management of finances
36	Minister	Directing or approving the maintenance of reserve and special funds.
37	Proper Officer	Setting or approving limits and conditions for making advances and operating deposit and suspense accounts
38	Proper Officer	Approving investment

SECTION ENABLING CONTROL	PERSON OR BODY EXERCISING CONTROL	WAY IN WHICH CONTROL IS OR MAY BE EXERCISED
39	Minister	Approving the opening and maintaining of accounts additional to a banking account.
42	Minister	Issuing Financial Memoranda
43	Proper Officer	Approving annual and supplementary budgets.
44	Proper Officer	Authorizing access to records and books of accounts
45(1)	Controller Auditor General	Auditing the accounts of district and urban councils
45(2)	Proper Officer	Appointing Auditors for Township Authorities Approving the foregoing appointments
	Minister	
45(3)	Proper Officer	Directs who to audit village council accounts
50	Proper Officer	Waiving charges on unsanctioned or otherwise unlawful expenditure
51(2)	Proper Officer	Disallowing unlawful expenditure
51(3)	Minister	Hearing and determining appeals against surcharges
54	Minister	Appointing members of the local Government Loans Board
55	Minister	Appointing the Secretary of the Board
57(2)	Minister	Approving the Board's guarantees for financial assistance to local authorities
58	Minister	Issuing directions to govern the Board
60	Minister	Approving borrowing by the Board
61	Minister	Determining interests rates on local Government deposits with the Board
65	Minister	Making regulations

The suffocating state control powers in Act No. 9 are strengthened by more powers granted under Act No. 2 of 1983 in relation to the rating of properties etc. These are summarized in Table 3 below.

TABLE 3 — CONTROL PROVISIONS UNDER THE URBAN AUTHORITIES (RATING) ACT 1983 (NO. 2 OF 1983)

SECTION ENABLING CONTROL	PERSON OR BODY EXERCISING CONTROL	WAY IN WHICH CONTROL IS OR MAY BE EXERCISED
4(10)	Minister	Approving appointment of Valuation Surveyor
6(1)	Minister	Declaring or altering rateable areas considering objections to his declarations or alterations of rateable areas.
7(1) (ix)	Minister	Exempting property from rates
11(4)	Minister	postponing the effective date of rating (or supplementary) roll for enabling objections to be heard.
16(2)	Minister	Approving rates to be levied
19(1)	Minister	Approving special rates Levied to defray costs of capital works scheme
19(2)	Minister	Considering objections to special rates
19(3)	Minister	Varying capital works scheme and special rates
22(3)	Minister	Prescribing basis for rate assessment to apply in lieu of statutory basis
23(3)	Minister	Approving reduction of remission of rates
33	Minister	Appointing members of the Rating Valuation Tribunal and determining their terms and conditions
34	Rating valuation Tribunal	Determining objections to rating (or supplementary) roll
51	Minister	Making regulations.

SOURCE: Jamhuri ya Muungano wa Tanzania Tume ya Rais ya mfumo wa Chama Kimoja au Vyama Vingi Vya Siasa Tanzania. (Dar es Salaam: Government Printer 1991) Vol. 3.

NOTE: — The Act applies to all Urban Councils as well as to Township Authorities.

The local government service Act No. 10 of 1982 provides for the establishment of the local government service commission (LGSC), specifically designed to cater for personnel matters in local governments. Such matters included recruitment, transfer, promotions, as well as training. The Act empower individual local governments to employ their own staff. However, in order to make sure that local authorities throughout the country share the scarce skilled manpower, the local government service commission is required to recruit and appoint senior personnel. LGSC is also empowered to maintain discipline in local authorities and formulate regulations to govern staff matters. It is also mandated to advise the ministry on matters relating to staff members of local government authorities. There is little or no popular control of this body which continues to deploy manpower from the centre. The Minister and at times the president wields immense powers in personnel matters as summarized in table 4 below.

TABLE 4 — CENTRAL CONTROL PROVISION UNDER THE LOCAL GOVERNMENT SERVICE ACT 1982 (NO. 10 OF 1982)

SECTION ENABLING CONTROL	PERSON OR BODY EXERCISING CONTROL	WAY IN WHICH CONTROL IS OR MAY BE EXERCISED
4	President	Appointing Chairman of the Local Government Service Commission
5	Minister	Appointing members of the Commission
5	Minister	Formulating and amending the Local Government Service Scheme
6	President	Amending, varying or revoking the scheme or any provisions relating to it
8	Commission	Specifying limits of emolument for officers & staff not covered by the Scheme
8(2)	Proper Officer	Approving appointments and dismissals of officers and staff whose emolument exceed the foregoing limits.
11	Proper Officer	Approving or requiring joint appointment of staff by local authorities; employing on behalf of authority not complying with the requirements
14(2)	Proper Officer	Approving interdiction and removing officers and staff appointed under S.8(2)
15	Commission Minister	Making Service Regulations Approving Service Regulations made by the Commission. Making Service Regulations which prevail if in conflict with those made by the Commission
21	Minister	Approving the number and size of district council departments
22	President	Appointing District Executive Directors
23	Commission	Appointing other officers and staff of district councils.
25	Minister	Giving directions for number and sizes of departments of Township Authorities.
26	Commission	Appointing the Township Executive Officer
31	Minister	Giving directions which are binding in establishing urban council departments
32	President	Appointing Urban Council Directors
33	Commission	Appointing other officers and employees for urban councils
35	Minister	Making regulations

SOURCE: Jamhuri ya Muungano wa Tanzania Tume ya Rais ya mfumo wa Chama Kimoja au Vyama Vingi Vya Siasa Tanzania. (Dar es Salaam: Government Printer 1991) Vol. 3

Finally, Act No. 11 of 1982 provides for the establishment of local government negotiating machinery. The purpose of this legislation is to establish a local government staff council "with the responsibility to develop and enhance close working relationship between the local government authorities as employers on one hand, and the staff as employees on the other." The act provides for, *inter-alia*, ways and means of negotiating and settling disputes between the workers and the management who meet in this council.

3. CONCLUSIONS

The general point that should be clear as one looks through these elaborate pieces of legislation is the reality that they were passed by the state-party, not intent on democratization, but on furthering its control while lessening its financial burden. These pieces of legislation were passed at a time when the Party was undertaking measures to further consolidate itself and its stranglehold on the government and the society. At its congress in 1982, the party had expanded and consolidated its secretariat. Also, members of the central committee were chosen to head the various departments of the secretariat. An overall secretary to the NEC who was also to be the chief of services of the party, was appointed. Positions of Regional Commissioner and Regional Party Secretary, which up to then were held by a single person were now to be split. A party regional secretary, freed from government work was to consolidate party work and increase the party's capacity to supervise government activities. Also, all party Regional Secretaries were made members of NEC. The size of the central committee was reduced from 40 members to 18 in order to make it a lean, mean, and effective decision making body. The Party craved to be supreme, to "kushika hatamu" (hold the reigns of power).

It is within the above perspective that the 1982 pieces of legislation sought more rather than less Party-state-control over villagers and their organizations. The Chairman and Secretary of the village assembly and the village council were the chairman and secretary of the Party branch. Everything emanating from the village level or even the council had to be approved by the minister, if it was not initiated by him. The councillor, as already noted, was elected at the ward level, above the villages. Consequently one tends to agree with Ngware and Haule when they argue that the weak institutional and organizational structures of local governments are

partly due to the non-integration of the village governments into the local government structure due to the Party's dominance at the village level.

A report of a study team led by the country's Chief Justice in 1991 observes that while "both the government and the Party claim that local authorities are independent democratic institutions... observations of the basic laws that constitute local authorities (show that) it is a fact that they are not autonomous. They are under strict control by the party and the central government," Central government control is exercised in several distinct ways as summarized in the tables above. These include statutory instruments, such as orders, notices, rules, directions and regulations that central authorities are authorized to issue. According to Nyalali. "These are known as subsidiary legislations, which have the force of law, meaning that they should be obeyed and observed by everybody ... Local authorities cannot disobey, hence their strict control."

Secondly, local authorities are required to obtain central government approval for their decisions — "Subject to approval" clauses in the laws mandate this. Thirdly the central government is supposed to control and influence local authorities through supervision and inspection of their activities. Fourthly, the central government has appellate powers over the decisions made by or involving local authorities. Under these powers, local authority decisions can be reversed. The fifth method is through financial controls as pointed out above. Finally central government control is exercised through the right to appoint the Chief Executive officers of local authorities.

At the very least therefore, Local Authorities if they are to be retained, need to be set free.