

# The Revolutionary Government of Zanzibar



Ministry of State (President's Office)  
Constitutional Affairs and Good Governance

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## Review and Analysis of the Report of the PBO Policy Steering Committee

By

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#### List of Abbreviations

<b>ANGOZA</b>	<b>Association of Non-Governmental Organizations of Zanzibar</b>
<b>BLM</b>	<i>Baraza la Mapinduzi</i>
<b>CMO</b>	<b>Chief Minister's Office</b>
<b>CMSA</b>	<b>Capital Market and Securities Authority</b>
<b>DV 2020</b>	<b>Development Vision 2020</b>
<b>MOCAGG</b>	<b>Ministry of State, Constitutional Affairs and Good Governance</b>
<b>NGOs</b>	<b>Non-Governmental Organizations</b>
<b>NPO</b>	<b>Non-Profit Organizations; Not-for-Profit Organizations</b>
<b>No.</b>	<b>Number</b>
<b>PBOs</b>	<b>Public Benefit Organizations</b>
<b>RGoZ</b>	<b>Revolutionary Government of Zanzibar</b>
<b>SPA</b>	<b>Self Progressive Association</b>
<b>ToR</b>	<b>Terms of Reference</b>
<b>TRA</b>	<b>Tanzania Revenue Authority</b>
<b>UNDP</b>	<b>United Nations Development Programme</b>
<b>URT</b>	<b>United Republic of Tanzania</b>
<b>ZAG</b>	<b>Zanzibar Attorney General</b>
<b>ZGGSP</b>	<b>Zanzibar Good Governance Strategic Plan</b>
<b>ZPRP</b>	<b>Zanzibar Poverty Reduction Plan</b>

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# Review and Analysis of the Report of the PBO Policy Steering Committee<sup>1</sup>

## 1.0 INTRODUCTION

The civil society sector in Zanzibar has a significant role to play in the country's development process. Civil society organizations and particularly NGOs are instrumental in people's political, social, economic, and cultural development and are the most effective tools for achieving socio-economic growth. Civil society in Zanzibar is however, still highly undeveloped. This has greatly affected the culture of participation in Zanzibar, which as in many other Sub-Saharan African countries, is also very low. It is anticipated that the proposed NGO Policy would contribute towards the development of the people and thus ensure the revival and promotion of the culture of participation in associational life. The intention of the Revolutionary Government of Zanzibar (RGoZ) in promulgating the NGO Policy is very clear – to put in place a set of principles for the promotion of the continuing development of civil society organizations in Zanzibar.

In principle a government policy is a deliberate statement by government, incorporating a set of guiding principles and intentions with regard to dealing with the management of a specific thing, and in this particular instance, not-for-profit organizations. Such a policy would play a major role in meeting the development needs of civil society organizations. The main purpose of the proposed policy proposals is to feed into the efforts of the Revolutionary Government of Zanzibar in coming out with a policy on NGOs as a matter of prioritizing problems confronting the regulation and management of NGOs. The expected outcome would be a policy that sets out clearly objectives to be achieved and provide the mechanism for allocating meager resources equitably in order to achieve those objectives.

A separate NGO Policy for Zanzibar is justifiable not largely on the basis of the constitutional principle of “non-union matters”, which is enshrined in the Constitution of the United Republic of Tanzania (the Union Constitution) but by the mere fact that Zanzibar is a country<sup>2</sup> with its peculiar policies, laws and institutions and thus requiring to have in place its own NGO policy. The existing NGO regulatory framework is inadequate and NGOs currently are experiencing a number of problems including lack of transparency and accountability.

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<sup>1</sup> Creating an Enabling Environment for Government-Civil Society Partnership for Sustainable National Development

<sup>2</sup> Zanzibar is a constituent of the sovereign united state of Tanzania, which is a merger of the former Republic of Tanganyika (now Tanzania Mainland), and the Revolutionary Government of Zanzibar (now Tanzania Zanzibar), comprising the two Islands of Unguja and Pemba respectively. The *Constitution of the United Republic of Tanzania* of 1977 (the Union Constitution) as amended, governs "union matters" as well as matters for Tanzania Mainland. The *Constitution of Zanzibar* of 1984 on the other hand governs non-union matters for Tanzania Zanzibar. The legal system of Tanzania is dual in nature. Each part of the Union has its own system of laws, courts, governance institutions and local government. Each of the two constituent units of the Union also has its own system of laws on not-for-profits and institutional arrangement for the management of the not-for-profit sector.

## **1.1 Background**

### **1.1.1 Government Policy Initiatives**

The Revolutionary Government of Zanzibar (RGoZ) through the Ministry of State, President's Office, Constitutional Affairs and Good Governance (MOCAGG) intends to formulate a policy on Non-Governmental Organizations (NGOs). This is a clear recognition by the RGoZ of the important role civil society organizations are continuously playing in the development of Zanzibar and an indication of the tripartite relationship for development between government, the private sector and civil society. This partnership is geared at ensuring quality services to the people of Zanzibar as envisaged in the *Zanzibar Development Vision 2020* (DV 2020), the *Zanzibar Poverty Reduction Plan* (ZPRP) and the *Zanzibar Good Governance Strategic Plan* (ZGGSP) respectively. All of these are efforts by the RGoZ in attempting to correct previous socio-economic injustices and in ensuring to the people the right to organize and participate meaningfully in democratic decision-making.

### **1.1.2 The NGO Policy Making Process**

The NGO Policy making process begun way back in 1996 as an initiative between the Tanzania Mainland and Tanzania Zanzibar. This process culminated in holding several meetings, which brought together all the major stakeholders in the civil society sector to thrush out ideas and come out with proposals for a national NGO Policy.

For Tanzania Mainland, the proposals resulted in developing a National NGO Policy, which was finally approved by Cabinet.<sup>3</sup> In Tanzania Zanzibar the process was somewhat stalled until around the year 2003 when it was resuscitated. Working Committees were created to look into issues relating to the situation of NGOs in Zanzibar; the general management and control of NGOs; and shortcomings in the legal framework for NGOs.

Thereafter a PBO Policy Steering Committee was established to consolidate these findings into one Report, which forms the subject of this review. A consultant was then hired by the Ministry to review the Report, whose findings were discussed at a stakeholders' Workshop, which included Government and non-governmental parties.<sup>4</sup> The participants at that Workshop came out with a number of recommendations, which have now been incorporated into the Revised Draft of the Review Report by the Consultant. The revised draft Review Report will then be subjected to a discussion within the Ministry to come out with proposals for the Draft NGO Policy to be tabled before the Revolutionary Council and ultimately to be laid before the House of Representatives for approval most probably by October 2004.<sup>5</sup>

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<sup>3</sup> The National Policy on Non-Governmental Organizations (NGOs), November 2001

<sup>4</sup> One-day Forum to Discuss the Draft NGOs' Policy held at Bwawani Hotel, Zanzibar on the 12<sup>th</sup> May 2004

<sup>5</sup> Government policies in Zanzibar must be approved and passed by the House of Representatives, whereas in Tanzania Mainland it is the Cabinet, which approves all national policies without National Assembly approval.

## 1.2 The Current Situation

Zanzibar is currently undergoing a major process of socio-economic transformation as it attempts to overcome previous socio-economic problems. This calls into play a number of stakeholders hence the need to have a clear policy on NGOs, which clearly sets out the modalities for collaboration between the three contemporary partners-in-development, namely, government, civil society and development partners (donors).

### 1.2.1 The Increasing Role of NGOs in Zanzibar

The people of Zanzibar have of recent witnessed the increasing role of civil society organizations in development processes in Zanzibar. Given this remarkable development, the civil society sector clearly seems to be a viable option to government monopoly in the provision of services to the people and in steering development processes. There is clearly a need for a government direction on the management and the operation of civil society organizations.

### 1.2.2 The Growth of the Not-for-Profit Sector in Zanzibar

Since the mid 1980's when major political, social and economic reforms were introduced, activities of NGOs have steadily increased and their numbers have also grown tremendously. According to statistics obtained from the Registrar General's Office, by June 2003, in Zanzibar there were about 233 organizations registered under the *Societies Act*.<sup>6</sup> These organizations deal with a wide range of issues including gender, environment, HIV/AIDS, participatory development, etc. Furthermore, according to the Ministry State, Constitutional Affairs and Good Governance, there are more than 50 unregistered village development associations or committees and other forms of grassroots social organizations.

Despite the burgeoning of the civil society sector, lack of information and a commonly agreed legal definition of what really constitutes civil society organizations have somewhat limited their activities in extent and effectiveness. Moreover, the need for coordination, networking, capacity development and information exchange, was somehow taken care of by the establishment in 1993 of ANGOZA, an umbrella organization, to nurture and support the nascent civil society organizations.

All of the above factors call for a comprehensive policy, which will not only solve the immediate problems of NGOs, but also assist in the promotion and development of the NGO sector in Zanzibar. The Report reiterates and retains all the fundamental principles of PBOs/NGOs, that is, they are formed, run, developed or terminated only through free and voluntary acts of individuals and associations; are managed and controlled by members, trustees or directors independent of the Government, but within the framework of liberties and constraints provided for in the laws.

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<sup>6</sup> Act No.6 of 1995.

## 1.3 The Constitutional and Existing Legal Framework

### 1.3.1 The Constitutional Framework

The management and control of NGOs should be in the hands of members, trustees or directors independent of the Government. However, sight should not be lost of the framework of liberties and constraints provided for in the laws within which NGOs have to operate. There are some implications of the guaranteeing freedom of association and of assembly; of free speech; and of worship, on the activities of NGOs. These fundamental rights and freedoms are firmly embedded in the Bill of Rights and Duties that is enshrined in the Constitution of Zanzibar of 1984. Article 20 of the Constitution of Zanzibar guarantees the freedom of every person to freely associate (dissociate) and cooperate (not-cooperate) with other persons. And any person can exercise such freedoms by "*forming or joining association or organizations for purposes of preserving or furthering his benefits or interests or any other interests and which have been legally recognized.*" The Constitution of Zanzibar therefore guarantees both the positive freedom of forming or joining associations or organizations and the negative freedom of not being forced to join such associations or organizations.

The enjoyment of the freedom of association however, is not absolute. It is subjected to other laws of the land under Article 24(2) of the Constitution of Zanzibar. According to that article, the Revolutionary Government of Zanzibar can legitimately limit the exercise of the guaranteed rights and freedoms by enacting laws or taking reasonable action, which may abridge or even violate such rights and freedoms. Article 24(2) of the Constitution of Zanzibar has a double impact. First, it permits existing laws that abridge human rights to continue to operate. Secondly, Article 24(2)(e) gives the state authority in Zanzibar the power to enact legislation or do lawful acts "*for the purpose of imposing restrictions, supervising and controlling the formation, management and activities of private societies and organizations in the country.*"

Another equally important fundamental freedom, which may impact on NGOs is freedom of worship, which is also incorporated in the Constitution of Zanzibar. Zanzibar, though a secular state, guarantees both the freedom of worship and non-worship. This means that the "state" in Zanzibar cannot pass laws to force its citizens to adopt any particular form of religion. It means also that the "state" in Zanzibar cannot take action or make laws favouring one religion over another. Despite its secular orientation, state law in Zanzibar however, treats religious establishments as private charitable organizations. The implication is that the state does not support religious organizations in any way apart from controlling and regulating their activities through legislation relating to their registration. In Zanzibar the registration of Moslem religious organizations is subject to comment by the Office of Mufti before the Registrar General can grant them registration.

The apparently religiously neutral sovereign secular state of Zanzibar guarantees freedom of worship, and all religions are treated equally before the law. The main legal consequence of this for the not-for-profit sector is that the Revolutionary Government of Zanzibar cannot legally support not-for-profit organizations through state subventions from the Treasury coffers. Consequently not-for-profit organizations are forced to rely on charitable donations, both from internal and external sources, for funding their various social and development activities, despite that they might be for public benefit.

### 1.3.2 The Existing Legal Framework

Both principal legal systems of the world - the civil law and the common law - recognize the value of organizations, which are created by citizens and/or operate in the interest of the public. The common law system allows almost any legal organization, which operates in the interest of the public to qualify as a PBO for tax purposes. The civil law system usually requires that NPOs fit into one of two distinct categories: foundations and associations.

Analysis of the codification of the common law system of charity usually commences with the English *Statute of Charitable Uses*, passed in 1601 under the reign of Queen Elizabeth I. Its twofold purpose was to enumerate charitable causes and eliminate abuse. The notion of public benefit was for the first time formally expanded beyond the relief of poverty, to include care of the sick, the training of apprentices, the building of bridges, the maintenance of roads, and other related beneficial purposes. The sovereign clearly wanted to encourage wealthy citizens to contribute to societal causes, and avoid undue reliance upon controversial ecclesiastical trusts. Accordingly, the concept of public benefit was to be more broadly construed. One of the principal historical mechanisms utilized to achieve this purpose and provide incentives to the populace has been the charitable trust, an equitable convention, which separates the ownership and use of property. Common law has followed the British flag around the world. Therefore, many of the principles relating to charitable activity apply in current and former members of the British Commonwealth. Interestingly, some countries, which were previously colonies, such as Zanzibar, continue to apply laws and procedures, which have long since been superseded in England itself.

The Zanzibar legal system bears much of the common law marks. Zanzibar however, does not have a single body of law for the entire classes of not-for-profit organizations (NPOs)<sup>7</sup>, which is a term more in use in the USA than anywhere else in the world. Not-for-profit organizations can be formed with several different legal structures as incorporated registered societies under the *Societies Act*<sup>8</sup>, trusts<sup>9</sup> and companies limited by guarantee under the *Companies Decree*.<sup>10</sup> The Report quite rightly explores the current legal and regulatory framework with regard to civil society organizations and notes that the existing *Societies Act*<sup>11</sup>, under which “societies”<sup>12</sup> are registered, has a number of defects including many criminal

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<sup>7</sup> A **non-profit organization** (often called "non-profit org" or simply "non-profit" or "not-for-profit") may be a formal incorporated not-for-profit organization that does not have shareholders, i.e. a company limited by guarantee, though it may have members and issue membership certificates or require membership fees. It may also be a trust or association of members. The organization may be controlled by its members who elect the Board of Directors or Board of Trustees. More generally, the "Model Nonprofit Corporations Act" developed by the American Bar Association for consideration by states proposes a three-part classification: *public benefit corporations*, *mutual benefit corporations*, and *religious corporations*. Public benefit corporations can only distribute assets to other public benefit corporations. Mutual benefit corporations can distribute assets to their own members (under certain conditions) as well as for public benefit purposes. Religious corporations must follow the rules of their governing bodies.

<sup>8</sup> Act No.6 of 1995

<sup>9</sup> Registered under the *Land Perpetual Succession Decree*, Cap.101 of the Laws of Zanzibar.

<sup>10</sup> Cap.153.

<sup>11</sup> Act No.6 of 1995

<sup>12</sup> The Act does not attempt to give a definition of the term “societies” but explains what are not “societies”, which include a political party; company; public enterprise; trade union; firm or partnership; cooperative

sanctions and inconsistencies. NGOs are also subjected to dual regulation under the Act.<sup>13</sup> There is a need therefore of combining the procedures, the registration and the conferment of legal personality into a single regulatory regime.

## **2.0 JUSTIFICATION FOR THE NGO POLICY**

### **2.1 Proliferation of NGOs**

Civil society organizations are an important partner in the development process. This is in line with the concept of good governance, which enshrines the idea of people's meaningful participation and consultation in the decision-making processes at all levels. Policy formulation has hitherto been considered a reserve of the government. Policy formulation and implementation is therefore one of the means of involving the people effectively and meaningfully in making decisions on matters that affect them directly including and for a wider participation in all developmental processes in the country. It is thus important to ensure that the management of the development process conforms to recommended principles outlined in various government policies, plans and programmes.

NGOs address diverse issues ranging from lobbying, advocacy, to service provision. They bring creativity, innovation, and develop strong community links and in addition to their direct work can have a catalytic role in improving the delivery of various types of services. Considering the increasing number of NGOs and the important role they play in the development process, there is a need for a Policy, which recognizes the role of NGOs as development agencies in their own right.

Considering the increasing number of NGOs, there is need to enhance self-regulation, transparency and accountability of NGOs and establish modalities for interaction between NGOs and the state and between NGOs and other stakeholders.

## **3.0 POLICY ISSUES**

### **3.1 Defining NGOs**

In order to avoid confusion, the Report suggests that the term "*Public Benefit Organization*" (PBO) should be used rather than the term NGO and CBO, which have acquired common usage in Zanzibar. The term "public benefit" complicates the issue further and brings in even more confusion because Governmental Organizations (GOs) also perform a "public benefit" function. The Report rejects the idea of using the term Non-Governmental Organizations (NGOs) simply for the reason that "*all organizations which are not government organizations are in the broad sense non governmental*" (Ibid. p.8). The main reason for resorting to the term Public Benefit Organization (PBO) instead of NGO seems to have been largely influenced by its widespread use in many countries. Under UK and US laws, PBOs are referred to as charities. If the sole reason for adopting the term PBO instead of NGO is its

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society; school, cultural, aesthetic, sports or similar group; International Intergovernmental Organization or a combination or associations of these See section 2(1) of the Act).

<sup>13</sup> When the Societies Act was enacted in 1995, all societies, which had been registered under Cap, 101 were required to apply for change of registration under the new Act as per section 58(1) of Act No.6 of 1995.

prolific use, then even the term NGO qualifies under this rubric. The term NGO is now commonly used in many Sub-Saharan countries, including Tanzania Mainland.<sup>14</sup>

NGOs fall within the ambit of not-for-profit organizations (NPOs) distinct from for-profit organizations (FPOs). The latter are basically organizations involved in "*any form of trade, commerce, craftsmanship or specified profession carried on for profit or gain*" as defined by business and revenue laws respectively. Both not-for-profit and for-profit organizations are an integral part of civil society.

There is no law in any country in the world, which has successfully been able to define legally the term "non-profit organization" (NPO). The term "non-governmental organization" (NGO) however, has now been legally defined in a number of national legislation. Under section 2 of the recently enacted *Non-Governmental Organizations Act*<sup>15</sup> of Tanzania Mainland, the term NGO is defined in the following terms:

*"Non-governmental Organization" also known in its acronym "NGO" means a **voluntary** grouping of individuals or organization which is **autonomous, non-partisan, non profit making** which is organized locally at the grassroots, national or international levels for the purpose of enhancing or promoting economic, environmental, social or cultural development or protecting environment, lobbying or advocating on issues of **public interest** of a group of individuals or organization, and includes a Non-Governmental Organization, established under the auspices of any religious organization or faith propagating Organization, trade union, sports club, political party, or community based organization; but does not include a trade union, a social club or a sports club, a political party, a religious organization or a **community based organization.**"*

In the Report of the PBO Policy Steering Committee, a PBO is defined as:

*"a **voluntary** group of individuals or organizations which is **self governing, non-partisan, not for profit sharing**, established locally at the grassroots level, nationally or internationally for **public benefit** purposes particularly for the purpose of enhancing the legitimate economic, social and or cultural development or lobbying and advocating on issues of **public interest.**" (Ibid. at p.9)*

The Report reiterates that this definition excludes trade unions, cooperatives, political parties or religious/faith groups as well as private benefit organizations such as social and sports club but includes such groups where the majority of activities are socio-economic development. With the exception of stating explicitly the term Non-Government Organizations, the definition of a PBO in the Report is somewhat very similar to what is found in the NGO Policy and law from Tanzania Mainland. It seems that both NGOs and PBOs share the same qualities. However, "public benefit" is of more functional utility than a defining element of what constitutes a registered civil society organization bearing the characteristics of voluntariness, self-governing, non-partisan and not for profit sharing. The

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<sup>14</sup> Tanzania Mainland (2002), Uganda, Kenya and the Republic of South Africa. See the World Bank Handbook on *Good Practices for Laws Relating to Nongovernmental Organizations* and the *International Guide to Nonprofit Law* (by Lester Salamon, John Wiley & Sons)

<sup>15</sup> Act No.24 of 2002

main difference in the definition of NGO in the Mainland NGO Policy and the Tanzania Zanzibar PBO Policy proposals is in the treatment of community-based organizations (CBOs). The former expressly excludes CBOs from the definition of NGOs. The latter does not. The implication is that the PBO Policy proposals seem to recognize CBOs as potential candidates for becoming NGOs provided they meet the NGO eligibility criteria.

The definition of NGOs or PBOs narrows down the definition of not-for-profit organizations (NPOs) by making *not-for-profit* making a characteristic of NGOs (Tanzania Mainland) and PBOs (Zanzibar). Accordingly, this would mean that all NGOs and PBOs for that matter are by necessary implication NPOs but not all NPOs are NGOs or PBOs. This comes out very clearly in the exclusion clause contained in the two definitions. Trade unions, sports club, political parties and community-based organizations (CBOs) are not NGOs, although they are civil society organizations (CSOs). The term "not-for-profit" however, is a term of art rather than law thus escaping any concrete definition. A not-for-profit organization can only be defined in terms of its main features and characteristics. These are outlined in paragraph 3.1 of the Report (p.8); and how it is treated in the various laws that govern its relation in contrast with for-profit organizations. What is meant by the nature of not-for-profit organizations (NPOs) is basically how they come into existence. In Zanzibar, not-for-profit organizations differ in the way they are established. Most of the existing not-for-profit organizations (societies) in Zanzibar were established by registration under the Land Perpetual Succession Decree, the *Societies Act* of 1995 and the *Companies Decree*, Cap.153 (companies limited by guarantee without share capital).

In the word of Philippe Schmitter, NGOs are "intermediary organizations and arrangements that lie between the primary units of society - individuals, families, clans, ethnic groups of various kinds, village units - and the ruling collective institutions and agencies of the society" (Quoted in Michael Clough, M. 1992:55). Non-governmental organizations are autonomous, nonprofit organizations, initiated by private citizens for a stated national or international activity, supported mainly by voluntary contributions in cash and in kind from private sources [Beigbeder, 1990:80]. NGOs link citizens to government and protect them from government.

NGOs occupy a special place in civil society - an arena "where manifold social movements ...and civil organizations from all classes ... attempt to constitute themselves in an ensemble of arrangements so that they can express themselves and advance their interests" (Stepan, A. 1988:3-4). Or more simply civil society can be defined as "public political activity that occurs in the realm between the state and the family" (Bratton, 1989:56). Generally NGOs can be characterized as civil society institutions that: (a) are formed voluntarily by private citizens; (b) enjoy tax-exempt status; (c) serve a philanthropic purpose; (d) are engaged in a range of activities from relief, development, conservation, social mobilization to cultural; (e) are privately and voluntarily funded, at least in portion (Gorman, 1984:10).

NGOs are an integral part of civil society. They are not primarily involved in market relationships, although they may promote the economic interests of members. They differ from government institutions in not directly making and implementing authoritative decisions, based on monopoly of legitimate coercion (Max Weber's classic definition). NGOs assist in integrating groups in civil society and within the political process. Yet NGOs

interact extensively with governments and at the same time serving as buffers against both the state and the market structure (Kjaerum, 1993:13).

Although the concept of non-governmental organizations is a very old one, NGOs, like political parties, are "modern" entities. They have proliferated since World War II, and especially in the 1980s. Zanzibar now boasts of more than 233 "societies" registered under the Societies Act of 1995 (Registrar General Office, 12<sup>th</sup> June 2003 at p. 5 of the Report), and more than 50 unregistered societies, which are concerned with various matters such as economic and cultural activities, social, health and educational services, charitable and religious issues, environmental protection and resource conservation, poverty alleviation and rural development.

The law in Zanzibar does not explicitly provide that not-for-profit organizations may only operate in fields where there is a governmentally "recognized need" or "public benefit." Most registered "societies" (non-governmental organizations) render public services such as health and education, areas, which the Government also has some role to play but due to budgetary constraints it has failed to deliver such services.

It seems that the term PBO is being used solely for the purpose of being peculiar to Zanzibar and not for adding anything new in the NGO literature. It would be advisable to resort to NGO for purposes of consistency and commonality both internally and externally. The Report seems to adapt the term NGOs in relation to International PBOs and PBOs in terms of national NGOs! To avoid the confusion and pitfalls of complexity and exclusion, it is necessary also to set out a basis in which, within the proposed NGO Policy framework, there can be some common understanding of the term "NGO." Most of the participants at the Bwawani NGO Policy Forum agreed to the use of the term NGO instead of PBO.

## **4.0 INSTITUTIONAL FRAMEWORK**

### **4.1 The NGO Unit**

The Ministry of State, President's Office, Constitutional Affairs and Good Governance is vested with the responsibilities to coordinate the activities of NGOs. However, there has never been coordination between sector ministries dealing with NGOs and at regional and district levels. It has been proposed both in the ZGGSP and the Streamlining Exercise Report that the Ministry should continue holding the NGO coordination responsibilities. The participants at the Bwawani NGO Forum however, insisted that much as there is a need for coordination of NGO activities at the Government level, it is absolutely necessary that NGOs themselves should have their own representative and self-regulating coordination body.

The Report directs the Government to establish PBO unit in the relevant ministry for the facilitation of interaction between the different government ministries and PBOs to cover issues such as PBO input into government policies. The idea of unit is a welcome one. Much as this is a matter of internal organization of the government, there is need for a policy directive on this matter. Although the responsibilities and functions of the Government machinery and ministries are given at the discretion of the President and the Chief Minister, it is not a bad idea to provide so in a policy. Already there are proposals for the

establishment of an NGO Coordination Unit in the Ministry of State, President's Office, Constitutional Affairs and Good Governance.

#### **4.2 The NGO Board: Structure, Composition and Functions**

The Report only states that there shall be a PBO Board. The Board shall be composed of members appointed by Government and other members representing NGOs. The details of the composition and functions of the Board will be elaborated in legislation and in the regulations. The NGO Board will however, among other things approve NGO registration or refuse NGO applications or approve application for registration or certificate of compliance, among other things.

#### **4.3 The Umbrella Body for NGOs**

It is proposed that there should be established an umbrella organization for NGOs as a collective forum of NGOs for the purposes of coordination and networking of all NGOs operating in Tanzania Zanzibar. The body will be representative and self-regulatory in nature and shall develop and cause to be developed a code of conduct to facilitate self-regulation of NGOs. It will be composed of a specified number of members as may be appointed by NGOs to represent their respective interests.

#### **4.4 The Office of NGO Registrar**

The Report reiterates that there shall be a Registrar of NGOs who shall deal with the registration of NGOs.<sup>16</sup> It should be pointed out that the proposed Registrar should be appointed specifically for NGOs and not other types of collective entities. The Registrar should also serve as the Director for No-Governmental Organizations Coordination and provide a link between the Government and Non-Governmental Organizations. Some of the functions of the Director-cum-Registrar should be to advise on policy issues; ensure proper NGO policy and law implementation; receive NGOs application and recommend to the Board for consideration and determination; to register NGOs; to issue certificate of registration; to keep and maintain NGO register and to keep and maintain records and reports regarding NGOs, among other things. It is proposed that the Registrar should serve as Secretary to the NGO Board.

### **5.0 THE PROPOSED LEGAL FRAMEWORK**

#### **5.1 New Single NGO law**

The Report recommends that a single new law for NGOs shall be enacted which will include the definition of NGOs and strengthen the registration system and remove deficiencies in the current legislation. Furthermore, that the proposed new law shall provide for a single registration process, which will include the incorporation of NGOs to give legal personality and also confer recognition of the NGO legal status.

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<sup>16</sup> Under section 9(1) of the Societies Act, No.6 of 1995, the Registrar of societies is to be appointed by the Minister responsible for societies. Currently, the Registrar-General is the one who performs the function of registering NGOs. The Registrar-General also performs a host of other functions including the registration of companies, trade marks and names, copyright, trusts etc.

## **5.2 The Registration Process for NGOs**

### **5.2.1 Introduction**

Registration creates an institution and is demonstrated by some degree of organizational permanence; that is holding of regular meetings and making rules of procedures, adopting policies, strategies and management plans. Most not-for-profit organizations in Zanzibar and especially those, which fall under the broad category of "societies" must be registered under the law in order to be lawful and must also fulfill certain legally stipulated conditions.<sup>17</sup> NGOs are self-governing entities and are run according to their internal governance procedures, but nonetheless they have to operate within the ambit of the laws of the land.

### **5.2.2 NGO Legal Personality**

The registration of an NGO does not necessarily confer on it the status of a "juristic person", that is, granting it legal existence separate from its members. In order to acquire a legal personality, an NGO must have a registered board of trustees.<sup>18</sup> On becoming incorporated, an NGO acquires legal personality, which means that it can sue or be sued in its own name and hold and dispose off property. It is proposed that the registration of NGO should go in hand with the registration of board of trustees. This means that every NGO must appoint its own Board of Trustees and submits their names together with the other required documents and information at the time of applying for registration.

The Report suggests that NGOs may apply to Registrar for registration and that the requirements for registration will be outlined in the proposed legislation. Furthermore registration procedures should be streamlined, transparent and requirements should depend on the size of the organization. There should also be an appeal against refusal to register.

Under the current arrangement, the Registrar General's office is part of the portfolio of the Minister responsible for NGOs. Under the existing NGO law (*Societies Act, 1995*), any person aggrieved by the Registrar's decision to refuse to register or to cancel registration of an NGO may lodge an appeal with the High Court to contest the decision. It is proposed that this should be adopted in the new law to check on the risk of conflict of interest where the Minister might be minded to interfere administratively with the Registrar's decision.

### **5.2.3 Eligibility for Registration**

The Report recommends that local PBOs that meet the definition of PBO contained in the Policy shall be eligible for registration. Organizations that are currently registered under the existing laws, and which meet the definition of PBO, shall be provided with certificate of compliance. Networks, coalitions or umbrella organizations may apply for registration.

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<sup>17</sup> According to the Societies Act, a "society" means a registered society and an unregistered society applying for registration. An unregistered society means a body of five or more persons organized, whether a specified name is ascribed thereto or not, for the purpose of undertaking any activity and includes any organizations formed with intent to apply for registration under the Act [section 3 of Act No.6 of 1995].

<sup>18</sup> Section 11(1)(a) of the Societies Act, 1995 stipulates that every application for registration shall be in writing and accompanied with among other things the constitution of the society. The Schedule to the Act provides for matters to be provided for in the constitution or rules of every society. They include among others Board of Trustees.

There is clearly confusion in the Report between the definition of PBO and eligibility for registration. A legal definition of an entity does not necessarily create eligibility for the registration of that entity. There has to be certain legal requirements, which have to be met by that entity in order for it to qualify for registration. The proposed law will have to specify the terms and conditions for registration.

The Report seems to suggest that NGOs will not be precluded from applying for registration under other written laws. It is not expected therefore that the proposed new law will repeal other written laws in force in the country dealing with the registration of civil society organizations. However, the proposal is that NGOs registered or established under any other written law will have to apply for a certificate of compliance. It means that “societies” registered under the *Societies Act*, “companies limited by guarantee” under the *Companies Decree* and trustees under the trustees’ incorporation law, must first fulfill the requirements of the new proposed Act before they qualify for a certificate of compliance.

#### **5.2.4 International NGOs**

The Report directs that an international NGO will only be registered if it is recognized in the country of origin and its objectives are compatible with the laws of Zanzibar. Registered international NGOs will also get a certificate of compliance and must respect the religion, culture and traditions of the people and communities in Tanzania Zanzibar unless such religions, cultures and traditions are contrary to any written law. International NGOs must also foster and promote the capacities and abilities of other NGOs and refrain from doing any act, which is likely to cause competition or misunderstanding among NGOs.

#### **5.2.5 Reporting**

The condition that registered local and international NGOs have to produce annual reports on their activities as well as audited and non-audited reports is a welcome development towards ensuring the transparency and accountability of NGOs.

Nonprofit organization particularly those incorporated by statute are required to prepare audited accounts and submit them together with auditors' report to their governing boards or councils and to the Minister of Finance.

#### **5.2.6 Compliance**

The Report dwells on the consequences of breach by NGOs. These are matters, which should be left for the proposed new law.

#### **5.2.7 Termination, Dissolution and Liquidation of NGO**

The idea of winding up, dissolution or termination of NGO is welcome. A registered NGO should be free to dissolve itself but subject to the prior written consent of the Registrar obtained upon written application by officers of the NGO. Furthermore, members of an NGO should be free to pass a resolution to wind up an NGO and submit a copy of the resolution to the Registrar. Winding up of an NGO should also be possible through a court order.

## **6.0 NETWORKS AND COALITIONS**

### **6.1 Creation of Umbrella Body**

The Report states that NGOs may form coalitions and networks to represent their interests. These bodies shall be self-regulatory and shall determine their own structures, rules and procedures for the efficient administration of their activities. This will assist NGOs to express clearly their concerns to the public, Government and the international community.

Coalitions and networks are crucial for NGO work. The proposed national NGO umbrella organization will be the most appropriate a body for facilitating the networking, collaboration and coordination of NGOs in Tanzania Zanzibar. As intimated earlier in this Report, it is expected that the proposed umbrella body will be representative in nature, self-regulatory with its own structures, rules and procedures for the efficient administration of its activities.

## **7.0 EXCHANGE OF INFORMATION AND REPORTING**

### **7.1 Exchange of information**

The Report underscores the need for exchange of information and dialogues between public benefit organizations, the general public, government, and international agencies. However, this has to take into consideration existing government regulations on communication and information.

## **8.0 NGOS ACCOUNTABILITY AND TRANSPARENCY**

### **8.1 Need for Code of Conduct**

Nonprofit organizations must be accountable to its members and particularly by holding regular meetings according to their rules and/or constitutions. The idea of each registered NGO having its own code of conduct for the purpose of accountability and transparency is a healthy one. The problem however, will be the enforcement of the code of conduct. There is no need however, for the proposed code of conduct to have a legal force. Compliance with it should be voluntary and its breach should not be a matter of legal sanctioned. As intimated earlier on in this Report, the national NGO umbrella body should be responsible for developing the code of conduct and facilitate the compliance to the code as well as self-regulation of NGOs.

The main problem NGOs face is lack of transparency, accountability and awareness among NGOs themselves, the Government and other stakeholders. The existing law imposes reporting and disclosure requirements for not-for-profit organizations. The requirement however, is to make this information available only to the government (i.e supervisory and revenue authorities) and not to the public. Apart from this requirement there are no other or additional means of public oversight over not-for-profit organizations. Actually lack of accountability to the public on the part of nonprofit organizations has been a major source of criticism of the way these organizations operate.

The existing law prescribes on internal governance and management issues of not-profit-for organizations, merely by specifying that societies must prepare a constitution and draw up a set of rules, without going into details of the content of such rules. The Report suggests that

there should be guidelines for the code of conduct. These are matters, which should be taken up further in drafting the proposed NGO law.

The existing law in Zanzibar merely specifies that “societies” registered under the Societies Act must prepare a constitution and draw up a set of internal rules. The constitution and rules are supposed to address issues such as (1) election procedures in the selection of directors or trustees and (2) the locus of ultimate control in organizations (members or board). For many existing NGOs, there are no specific regulations concerning the size, the terms of office, code of conduct and the role of the governing board or the number and role of officers.

## **9.0 GOVERNMENT/NGOs PARTNERSHIP**

### **9.1 NGOs as Government’s Partners in Development**

The idea of government working in partnership with NGOs needs to be backed up by legislation.

The Report suggests that registered NGOs should be given tax exemption subject to certification by the Certification Board to be established by law. It is being proposed that the Board whose composition is to be set out in legislation, should be empowered to review, verify the applications and assess and decide on whether applying PBO deserves the such fiscal benefits. This might create a problem within the government tax administration machinery. Fiscal powers matters are the prerogative of the Minister responsible for finance. Revenue laws govern applications for and the criteria for tax exemptions and not NGOs laws.

Tax exemption to not-for-profit organizations has been a subject of complaints due to allegations of flagrant abuse of the privilege by the organizations. In order to avoid this, it is recommended that the blanket kind exemption should be avoided and instead NGOs should apply for tax exemption on a case-to-case basis. Any NGO seeking tax exemption has to lodge an application with the Minister of Finance. The Minister would then consider the application for eligibility for tax exemption.

Nonprofit organizations exercise a certain degree of freedom in the conduct of their affairs. The government retains only a certain measure of control through legislative enactments.

The new law should not try to circumscribe the areas in which NGOs may operate. For example it is not expected that the law should attempt to specify particular areas for partnership. If this is done it may run the risk of eliminating a whole range of areas in which NGOs are quite active such human rights and in which the government may feel uncomfortable. The new law should also identify a set of permissible purposes that not-for-profit organizations must serve such as engaging in trade or business activities. Thus leaving not-for-profit organizations free to carry on non-commercial activities and other mutually beneficial purposes for the 'public.' The suggestion in the Report that NGOs should be permitted to minimum charge for their services and engage in income generating activities provided it does not engage in business and not for profit sharing is a welcome one. This should be left in the rules of the game and there is no need to make policy statement and directive on this matter.

The Report by suggesting that the term “public benefit” should define not-for-profit organizations runs the risk of restricting not-for-profit status to organizations that serve some special public benefit only. The contention is whether the concept of "public benefit" should apply to the legal treatment of not-for-profit organizations in Zanzibar. While welcoming the idea of civic groups cooperating with national and local government authorities in the provision of services to the public, it is also quite healthy for these groups to engage in other non-public activities as well. At any rate any attempt to define the term "services to the public" would be un-surmountable.

It would appear that the concept "services to the public" would apply to not-for-profit organizations in relation to public utilities and the government will be the one to make this determination. This term however, does not apply to the basic registration of nonprofit organizations but only to the granting of certain tax privileges.

The circumstances under which nonprofit organizations can be found not to meet this "public benefit" test, is when they carry out their activities predominantly for a lawful trade or business. For example, on the Mainland, the Self Progressive Association (SPA) a nonprofit organization created to alleviate poverty, established a certain kind of lottery called locally as "UPATU." The Capital Market and Securities Authority (CMSA) and the Tanzania Revenue Authority (TRA) stepped in and required it to register with the Dar es Salaam Stock Exchange.

## **9.2 Fundraising and Government Financial Support**

Nonprofit organizations in Tanzania as a matter of fact are not entitled to any government support such as subsidy. The majority of NGOs therefore rely on external donor support. This has created donor-dependence among them.

In Zanzibar the overwhelming majority of non-governmental organizations are restricted in funding. Most of the nonprofit organizations, which are urban based, draw their support from urban, educated (elite), and operate in harsh economic climate as they survive private voluntary donations. In Zanzibar the roots of civil society remain shallow and the Government has been paying little heed to NGO work and does not support them either in cash or in kind but only control them through legislation.

## **10.0 Implementation**

In the Report, the implementation provisions of the PBO appear at the very beginning instead of at the end. Otherwise there is no problem with the other statements on Key Players for Implementation; Adoption of this Policy; Revision of this Policy; Minimum Bureaucracy; and Resources

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**Annex I**  
**Terms of Reference to Review and Analysis of the Draft Policy on Non  
Governmental Organizations (NGOs)**

**1.0 Background**

Over the past 20 years, Non Governmental Organizations have become the new hope of development cooperation. Governments have come to realise, particularly at the national level, that the experiences, work and capabilities of NGOs are very valuable to the country's development and to the government own programmes. The NGO's are believed to be less bureaucratic, flexible, efficient and close to the target groups at grassroots' level.

The growing importance of the NGO and increasing role they have assumed in all spheres of development activities has made it crucial that the government creates conducive environment for them to operate. In Zanzibar the importance of NGO was recognised many years ago, hence the adoption of the Society Act of 19... Unfortunately the law was not preceded by any comprehensive policy. In recent years some efforts have been made to develop a policy for Non Governmental Organisations. This was developed mainly by the NGOs themselves and submitted to the relevant Ministry. The policy, which is still in the form of a draft document, now needs to be reviewed and analysed by a team of independent consultants.

**1.1 Overall objective**

The overall objective of this consultancy is to assist the Ministry of Constitutional Affairs and Good Governance (MoCAGG) to finalize the existing Draft policy document. The consultancy work will therefore contribute towards finalization of the policy formulation process.

**1.2 Specific Tasks**

The task of the consultants will be as follows: -

1. Review of the draft policy document
2. Analyse the draft policy and see how best it suits the needs for such a policy
3. Identify problematic or controversial areas (if any)
4. Recommend remedies to be effected to make the policy satisfy the needs of such policy
5. Propose important considerations to be accorded more weight in order to maintain the role of the government to provide for conducive environment for NGOs to operate.

**1.3 Outputs**

1. A review of NGOs Draft Policy for presentation to the consultative review meeting.
2. An independent draft NGO policy, which comes from Draft Policy document, comments from the consultative review discussion and Consultants' own recommendations.

3. Final Report (of the above two) incorporating the comments given by members of consultative review meeting in both hard and soft copy.

## **2.0 Methodology**

The consultant will work closely with and under the guidance of the Principal Secretary of Ministry of Constitutional Affairs and Good Governance. The consultants will critically read the draft policy and discuss it with staff of the different Ministries and institutions in Zanzibar, NGOs and other stakeholders in Unguja and Pemba. The consultant will also read the Societies Act and see how it fits with the NGOs Policy

The consultant will be stationed at the MoCAGG and will be working very closely with the UNDP, which will provide guidance at crucial stages of the consultancy.

## **3.0 Consultants Profile**

The consultancy requires the services of two competent professionals with a minimum of three years of relevant post-graduate work in the field. Academic qualification will, at a minimum be Master Degree. The Consultants should have proven experience in the work of both the Government and Non Governmental Organisations.

The consultants will be required to have the following expertise and skills:

- **Laws**
- **Governance**
- **Public Administration**
- Public Sector Reform
- Planning
- Civil Society

The Consultant should be a Tanzanian, with a very good knowledge of Zanzibar civil society and Zanzibar political, social and economic situation.

## **4.0 Time Frame**

The consultancy will last not more than 20 days. All outputs are to be delivered within the consultancy period.

## **5.0 Remuneration**

Depends on the UNDP established rates.

## **Annex II: THE PROPOSED NGO POLICY**

### **Introduction**

The civil society sector and Non-Governmental Organizations (NGOs) particularly are increasingly being recognized by the Government as an important force and vital instrument in fostering economic and social development; important partners in nation building and development; a valuable force in promoting democracy; and contributors to the growth of gross domestic product.

### **Why NGOs?**

The Revolutionary Government of Zanzibar recognizes the need to work together with NGOs and the need for such cooperation to extend to other key players, stakeholders and the wider public. NGOs provide needed services to the society as a whole, thus functioning alongside government and private business as important economic and social actors. The roles of NGOs in society are both social and economic, both public and private. As private organizations, they provide an outlet for individuals and groups to express their own needs and concerns.

NGOs as partners in the development process apart from rendering a public service, are also a practical expression of the fulfillment of the enjoyment of the freedom of association and assembly, which is a basic human right recognized and guaranteed by the Constitution of Zanzibar of 1984 as amended, article 20(1) of which states thus:

*“Unless of his own volition, no person shall be prevented to his freedom of assembly and association, that is to mean, his to associate and participate with others and more specially to or become a member of trade unions or other associations legally table for his own interest.”* (unofficial English translation e Kiswahili version).

### **Growth of the NGO sector in Zanzibar**

Since the mid 1980's when major political, social and economic reforms were introduced in Zanzibar, activities of NGOs have steadily increased and their numbers have grown.

The number of registered NGOs currently stands at 280. There are well over 50 unregistered village development associations or committees and other forms of grassroots social organizations in Zanzibar. The NGO sector in Zanzibar clearly is mushrooming quite rapidly.

There are a number of NGOs, which have already lodged their application with the office of the Registrar General but still waiting to be registered.

### **Lack of NGO Policy**

Despite the burgeoning of the civil society sector and the proliferation of civil society organizations, lack of a clear policy, lack of information and a commonly agreed legal definition of what really constitutes civil society organizations have somewhat limited their activities in extent and effectiveness.

**Lack of institutional set up** Moreover, the need for coordination, networking, capacity development and information exchange, calls for the creation of an institution to nurture and support the nascent and burgeoning civil society organizations.

## **NGO POLICY VISION AND OBJECTIVES**

**Policy Vision** **The vision of this policy is the existence of strong, vibrant and sustainable Non-Governmental Organizations, which are guided by high degree of integrity and ethical conduct, transparency and accountability, in order for them to contribute effectively to national development.**

**Policy Objectives** The overall objective of this Policy is to create an enabling environment for NGOs to operate efficiently and effectively in the social and economic transformation of the country. The specific goals and objectives of this Policy are:

- (i) To provide an operational definition of NGOs;
- (ii) To provide a broad framework for legal and institutional arrangements to facilitate the operations of NGOs ion Zanzibar;
- (iii) To put in place registration procedures which are transparent and which facilitate better coordination of NGOs while safeguarding the freedom of association;
- (iv) To strengthen the relationship between the Government and civil society;
- (v) To enhance mechanisms for collaboration between NGOs, the Government, funding and international agencies and other stakeholders;
- (vi) To facilitate mechanisms for Government support to NGOs;
- (vii) To facilitate exchange and flow of information on NGOs activities in order to maximize utilization of resources and also share experiences or research findings;
- (viii) To build the legitimacy of citizen organizations as an essential element of democratic governance to ensure public investment both national and international in the sector; and
- (ix) To encourage participatory self-help entrepreneurial spirit.

## **POLICY ISSUES**

**Policy Statement** **NGOs shall have characteristics that distinguish themselves from Government organizations and other registered or non-registered private sector organizations.**

**NGO characteristics** The term NGOs will be applied to organizations, which possess the following characteristics:

*(i) Organization*

This means an established or permanent institution. This is demonstrated by a degree of organization, structure, and regular meetings, rules of procedures, constitution and code of conduct.

**(ii) Voluntary**

NGOs are institutions that are formed freely, willingly and spontaneously by individuals, groups or people or organizations with an element of voluntary participation. Membership should be free and voluntary and no person can be compelled to form or join NGOs.

**(iii) Self-governing**

NGOs operate, subject to the laws of the country, according to their mission for, which they are established in line with their objectives as set out in their respective internal governance procedures as stipulated in their constitutions and rules or by-laws and regulations.

**(iv) Not for profit sharing**

NGOs must not function in a manner, which suggests that they are geared towards making profit. Profits and/or benefits accrued are not for personal or private gain by members or leaders but for the purposes of fulfilling the mission and objectives of the organization.

**(v) Non partisan**

NGOs must not seek political power or campaign for any political party, but they can lobby and advocate for issues of human rights and fundamental freedoms of the people.

**Definition of  
NGO**

For the purpose of this Policy Document, the following definition shall be used in Zanzibar:

*“Non-Governmental Organization” also known in its acronym “NGO” is a group of individuals or organizations which is self-governing, non-profit sharing, established locally at the grassroots level, or internationally for purposes of enhancing the legitimate social and/or cultural development or lobbying and advocating on public interest or interest of a group of individuals or organizations, is a Non-Governmental Organization, established under the any religious organization or faith propagating organization, sports club or political party.”*

**Excluded  
Organizations**

The definition of NGOs does not include a trade union, a cooperative union, a political party or religious or faith propagating organization or group, a social club and an entertainment club and a sports club.

## INSTITUTIONAL FRAMEWORK

<b>Policy Statement</b>	<b>Appropriate institutional framework and mechanisms at national (Unguja) and zonal level (Pemba) shall be established to facilitate the registration, public reporting by NGOs, communication and consultation between government and NGOs.</b>
<b>NGO Board</b>	There shall be established a Board to be known as the NGO Coordination Board and which shall be conferred with legal personality.
<b>Composition of NGO Board</b>	<p>The composition, tenure of office, proceedings at meetings of the Board and other matters relating to the Board shall be elaborated in the NGO legislation.</p> <p>The Board shall consist of members appointed by the Minister on the recommendation of the body representing the diversified areas of NGOs' interests and members appointed by the Minister by virtue of their knowledge or experience in development and welfare management representing the Government.</p> <p>The composition of the Board should consider a fair representation of civil society by considering the relative size and importance of the civil society sector.</p>
<b>Functions of the NGO Board</b>	<p>The functions of the Board shall include:</p> <ul style="list-style-type: none"> <li>(i) to approve and coordinate registration of NGOs;</li> <li>(ii) to facilitate the implementation of the NGO Policy;</li> <li>(iii) to facilitate and coordinate activities of NGOs;</li> <li>(iv) to approve application for registration or certificate of compliance;</li> <li>(v) to direct suspension or cancellation of any NGO;</li> <li>(vi) to examine the annual reports of NGOs;</li> <li>(vii) to advise the Government on the activities of NGOs;</li> <li>(viii) to review the NGO register book and advice accordingly;</li> <li>(ix) to provide policy guidelines to NGOs for harmonizing their activities in the light of the national development plan;</li> <li>(x) to facilitate information sharing and</li> <li>(xi) to perform such other functions as may deem necessary and appropriate.</li> </ul>
<b>NGO Coordination Unit</b>	There shall be NGOs' Coordination Unit in the Ministry responsible for NGOs, which shall facilitate coordination and interaction between the different government ministries and NGOs. The Unit will serve as a link between the Government, NGOs and other development partners.
<b>Registrar of NGOs</b>	There shall be appointed by the President of Zanzibar a public officer to be the Registrar of NGOs. The Registrar shall also be the coordinator of NGOs.
<b>Functions of</b>	The functions of the Registrar-cum-Director shall include-

## **Registrar**

- (a) to advise on policy and other matters regarding NGOs;
- (b) to ensure proper implementation of the NGO legislation;
- (c) to ensure that operations and activities of NGOs are available for the Government and public for consumption;
- (d) to encourage cooperation with sector Ministries in matters relating to NGOs;
- (e) to register NGOs;
- (f) to keep and maintain the register of NGOs;
- (g) to keep records and reports regarding NGOs;
- (h) to appoint officers;
- (i) to serve as Secretary to the NGO Board
- (j) to perform such other duties as may be assigned to him by the Board.

## **Zonal Registry Offices**

There shall be two (2) zonal registry offices, one in Unguja and another in Pemba, which are to be established to speed up the NGO registration process.

## **NGOs Coalitions and Networks**

NGOs may form coalitions and networks to represent their interests. Networking and building coalitions is most effectively achieved if there is a body to facilitate it. This will assist NGOs in putting forward their different concerns to the public, Government and International community.

## **National NGO Umbrella Body**

For the purpose of networking and building coalitions among NGOs, NGOs shall form a self-regulatory body, which will determine its own structure, rules and procedures for the efficient administration of its activities. The NGO legislation to be enacted should define the structure and roles of the networks.

There shall be a National NGO umbrella body that shall be a collective forum of NGO for purposes of coordination and networking of all NGO operating in Tanzania Zanzibar.

The National NGO umbrella body shall develop and cause to be adopted a code of conduct and such other regulations, which shall facilitate self-regulation of NGOs; and shall facilitate information sharing and provide guidelines for networking between NGOs.

## **LEGAL FRAMEWORK**

### **Policy Statement**

**An effective registration mechanism for NGOs shall be put in place to enable the streamlining of NGOs registration.**

### **New NGO Law**

A new single law for NGOs shall be enacted, to cater for the current deficiencies in NGOs registration, deregistration, appeals and termination/dissolution. The new law shall include the definition of NGOs and provide for a single registration process, which will include the incorporation of NGOs to give them legal personality by conferring on them legal status upon registration.

A local registered NGO that works with International NGO as associate must meet all the legal, regulatory and operational requirements in place in respect of local NGOs. This policy guideline applies also for NGOs registered in Tanzania Mainland wishing to establish a sub office in Tanzania Zanzibar

## EXCHANGE OF INFORMATION AND REPORTING

<b>Policy Statement</b>	<b>There shall be a facilitated exchange of information and dialogue between NGOs, the general public, government and international agencies. To maximize utilization of resources, minimize loss of understanding and general lack of information there is need for exchange of information and reporting.</b>
<b>Information exchange</b>	The Revolutionary Government of Zanzibar shall provide information relevant to NGO activities so as to promote a fair information exchange between the Government and NGOs. The NGO Board shall facilitate information sharing between NGOs and the Government.
<b>NGO Directorate</b>	The NGO networking body and the Ministry responsible for NGOs coordination shall take initiatives to publish and update NGO Directories in order to facilitate networking and exchange of information. The networking body and NGOs shall be at liberty to publish directories and produce publications of their constituent clients and members.
<b>Reporting mechanisms</b>	All local and International NGOs shall by law be required to produce annual reporting of finances and activities, reporting on fund-raising activities, and annual tax filings to the extent appropriate. These reports shall be made available to the public, the Government and other stakeholders. All NGOs, local and International, shall be required to make available annual financial and/or audited reports to the Registrar's Office, and other stakeholders.
<b>NGO address</b>	Each NGO shall have a physical address, a sign post and wherever possible, a notice board displaying its activities. <b>NGOs' ACCOUNTABILITY AND TRANSPARENCY; FUND RAISING; GENDER SENSITIVITY AND SUSTAINABILITY</b>
<b>Policy Statement</b>	<b>The NGO umbrella body shall provide national guidelines for networking and developing and cause to be adopted a code of conduct. Each registered NGO shall have its own code of conduct developed along the lines of the national guidelines for the purpose of accountability and transparency.</b>
<b>NGO governing documents</b>	The constitution and other instruments issued under the authority of the Constitution of an NGO will be the governing documents. In carrying out their operations and in communicating information about their work, International NGOs operating in Zanzibar will be required to: (a) Respect the laws of Zanzibar governing their operations (b) Respect the religion, culture and traditions of the people and communities in Zanzibar (c) At all times act to foster and promote the capacities and abilities of local NGOs including participating in relevant NGO networks and avoiding actions which may cause rivalry or competitions among local NGOs.
<b>Fund raising</b>	NGOs shall be allowed to engage in all legal fund raising activities. In the

interest of financial sustainability and in order to diversify sources of income, NGOs should be permitted to minimum charge for their services and engage in income generating activities provided that the NGO is organized and operated principally for the purpose of carrying out non business activities and all profits are used for public benefit purposes and not for sharing.

**Government assessment of NGO resources** All NGOs, Local and International shall be required to make available annual financial and/or audited reports to the Registrar’s Office and other stakeholders.

**Gender sensitivity** In carrying out their operations and in delivering their services to their targeted beneficiaries, NGOs are required, under this Policy, to be extremely gender sensitive. This includes, among others, mainstreaming gender participation, equity and rights to all NGOs’ programmes.

**Sustainability and resources** In carrying out their functions, NGOs are required to consider the need for continuity of their programmes. Specifically, by promoting programme sustainability; enhancing financial sustainability; strengthening organizational sustainability; and building and consolidating resource base sustainability.

### **GOVERNMENT-NGO PARTNERSHIP**

**Policy Statement** **The Revolutionary Government of Zanzibar recognizes the significant role and contributions of NGOs in the society and considers them as important partners in the development process. It is, therefore, in the interest of the Government to create a conducive and enabling environment to ensure that NGOs potentials are fully utilized.**

**Partnership in service delivery** The Government shall work in partnership with NGOs in the delivery of public services and programmes. The government shall therefore be free to subcontract NGOs to undertake programmes, where NGOs have comparative advantages and have expressed interest. In order to further the development work the Government shall develop partnership with NGOs in all sectors.

**Tax Exemptions** The Government will continue to exempt NGOs from tax and/or VAT under the existing tax and/or revenue laws.

### **POLICY IMPLEMENTATION MECHANISM**

**Policy Statement** **The implementation of the NGO Policy will require the participation of all actors at different levels.**

**Key players for implementation** All local and International NGOs, the ministry responsible for NGOs coordination, NGO network body, Government ministries, regions, Local Government Authorities shall work together to ensure the effective implementation of the NGO Policy.

**Policy Adoption** Government ministries, state corporations, regional and Local Government Authorities shall adopt policies, practices and guidelines which are in line with this Policy. They will also maintain up-to-date and

accurate information about NGOs operating in their fields of interest and/or geographical areas with which they are concerned.

**Policy Revision**

This Policy Document may be reviewed from time to time for the purpose of updating it to match with fast-changing social, political and economic context of Tanzania. The revision, whenever deemed necessary, shall be made through a participatory and democratic process.

**CONCLUSION**

The Revolutionary Government of Zanzibar and international agencies are giving increased recognition to the potentials of NGOs particularly in enhancing development with a human face especially in this era of globalization.

This Policy creates an effective and efficient institutional and legal framework, which would streamline and simplify the NGOs' registration process. Its implementation will hopefully promote efficiency, transparency and accountability of NGOs and make a maximum contribution to Zanzibar's development process.

This Policy reiterates and retains all the fundamental principles of NGOs, that is, they are formed, run, developed or terminated or dissolved by members, trustees or directors independent of government but within the framework of liberties and constraints provided for in the Constitution and laws of the country.

**GLOSSARY OF WORDS AND PHRASES**

**Interpretation of words and phrases**

In this Policy, unless the context provides otherwise-

<b>“Advocacy”</b>	Advocacy is about speaking out and making a case for something important in pursuit of influencing outcomes - including public policy and resource allocation decisions within political, economic, and social systems and institutions, that directly affect people's lives.
<b>“Cooperative”</b>	A cooperative is a voluntary nonprofit association of people performing some kind of economic activity for the benefit of its members. The three major classes are consumer, service, and producer cooperatives.
<b>“Community-based organization”</b>	A community-based organization, also known in its acronym “CBO”, is to be regarded as an NGO provided it fulfills the NGO defining criteria stipulated in this Policy; has clear objectives; defined membership; clear structure; identified beneficiaries; areas of operation; and proper financial and administrative systems.
<b>“For-profit-organization”</b>	A for-profit organization, also known in its acronym “FPO”, is an organization involved in any form of trade, commerce, craftsmanship or specified profession carried on for profit or gain.
<b>“Lobbying”</b>	Lobbying is a legal strategy for influencing the introduction or enactment of new legislation, or modification of existing legislation.
<b>“Not-for-profit organization”</b>	A non-profit organization (often called "non-profit org" or simply "non-profit" or "not-for-profit") is an organization that operates like a business but does not seek financial gain but exists to serve some public need without the intent of making a profit.
<b>“Public benefit organization”</b>	A public benefit organization, also know in its acronym “PBO”, is a nonprofit organization that serves a purpose that benefits the public.
<b>“Professional Association”</b>	A professional association is a nonprofit association of professional or specialized workers seeking to improve working conditions, skill levels, and public perceptions of it profession. Membership can be either mandatory or voluntary.
<b>“Trade Association”</b>	A trade association is a group of businesses within an industry that work together to build industry awareness, advocate certain political goals and provide services to members.