

THE WARD TRIBUNALS ACT, 1985

ARRANGEMENT *or* SECTIONS

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SCHEDULE

Particular Matters of Jurisdiction

THE UNITED REPUBLIC OF TANZANIA



No. 7 OF 1985

I ASSENT,

Tulisa K. Nyerera

President

23rd July 1985

An Act to establish Ward Tribunals, to provide for their jurisdiction, powers, practice and procedure, and other related matters

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY

1. This Act may be cited as the Ward Tribunals Act, 1985, and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint. Short title and commencement

2. In this Act unless the context requires otherwise:—

“appropriate authority” when used in relation to a Tribunal means the district council or the urban authority within whose area the Tribunal is established, and includes any person appointed by the appropriate authority to perform any of its functions under this Act; Interpretation

“Chairman” means the Chairman of the Tribunal and includes a person appointed to preside at proceedings of the Tribunal;

“dispute” includes any case where a person complains of, and is genuinely aggrieved by, the actions of another person, or any case in which a complaint is made in an official capacity or is a complaint against an official act;

“member” means a member of the Tribunal, and includes the Chairman;

“Minister” means the Minister for the time being responsible for legal affairs;

“Tribunal” means Ward Tribunal established under section 3;

“urban ward” means any ward constituted under the jurisdiction of an urban authority;

- Acts. 1982 Nos. 7 and 8 "ward committee" means a ward committee established under the Local Government (District Authorities) Act, 1982, or the Local Government (Urban Authorities) Act, 1982, for the ward in which the Tribunal is established:
- Act, 1982 Nos. 7 and 8 "village" means any registered village or Ujamaa Village registered or designated under the Local Government (District Authorities) Act, 1982, or the Local Government (Urban Authorities) Act, 1982;
- Acts, 1982 Nos. 7 and 8 "village council" means a village council established under the Local Government (District Authorities) Act, 1982, or the Local Government (Urban Authorities) Act, 1982.

PART II

THE WARD TRIBUNALS

- Establishment of Ward Tribunals 3. There is hereby established a tribunal for every ward in Mainland Tanzania to be known as the Ward Tribunal for the Ward for which it is established.
- Composition of the Tribunal 4.-(1) Every Tribunal shall consist of-
- (a) not less than four nor more than eight members elected by the Ward Committee from amongst, list of names of persons residing the Ward compiled in prescribed manner.
 - (b) an appropriate authority shall appoint the Chairman of the Tribunal from among the members elected under paragraph (a) above.
 - (2) There shall be a secretary of the Tribunal who shall be appointed by the local government authority in which the ward in question situated, upon recommendation by the Ward Committee.
 - (3) No person shall be appointed Secretary of a Tribunal unless *he is* a resident of the ward for which the Tribunal is established.
 - (4) The quorum at a sitting of the Tribunal shall be The one half of the total number of members.
 - (5) At any sitting of the Tribunal a decision of the majority of members present shall be deemed to be the decision of the Tribunal, and in the event of an equality of votes the Chairman shall have a casting vote in addition to his original vote.
- Qualifications of members 5.-(1) No person shall be entitled to be nominated as a member of the Tribunal if he is-
- (a) a Member of the National Assembly;
 - (b) a member of village council or a Ward Committee;
 - (c) a civil servant;
 - (d) a legally qualified person or any person who is employed in the Judiciary;
 - (e) a person wider the apparent age of eighteen years;
 - (f) a mentally unfit person;
 - (g) a person who has previously been convicted of a criminal offence involving moral turpitude
 - (h) a person who is not a citizen of the United Republic of Tanzania.

(2) No person shall be recommended as a Secretary of the Tribunal unless he is, in the opinion of the Ward Committee a sufficiently literate and educated and capable of satisfactorily discharging the duties of Secretary.

(3) A Secretary of the Tribunal shall attend all sittings of the Tribunal and record all its proceedings but shall not participate in decision making.

6.-(1) Every member of the Tribunal shall hold office for a term of three years from the date of his election -and shall be eligible for re-election

Tenure of office members

(2) If a vacancy occurs in the membership of the Tribunal by death, resignation or effluxion of the or any other reasonable cause the appropriate authority shall appoint an appropriate person to fill the vacancy until the date of the next election of members.

(3) A person appointed to be a Secretary of the Tribunal shall hold that office for a term of live years from the date of his appointment, and shall be eligible for reappointment.

(4) Any member or Secretary may, at any time, resign by giving notice of his intention to resign to the secretary of the Ward Committee and the resignation shall take effect from the date specified in the notice or, if no date is so specified from the date when the Secretary of the Ward Committee receives the notice.

7. The appropriate authority in respect of the Tribunal shall be responsible for the general policy regarding the operation of the Tribunal and shall ensure, facilitate and promote the smooth and effectual performance by the Tribunal of its functions

Role of appropriate authority in relation to Tribunal

PART III

JURISDICTION, POWER AND PROCEDURE

8.-(1) The primary function of each Tribunal shall be to secure peace and harmony in the area for which it is established by mediating and endeavouring to obtain just and amicable settlement of disputes.

General Jurisdiction

(2) In all matters before it relating to a dispute, a Tribunal shall attempt to reach a settlement by mediation before exercising its compulsive jurisdiction as provided under this Act, and may adjourn any proceedings relating to a dispute in which it is exercising that jurisdiction if it thinks that by doing so a just and amicable settlement of the dispute may be reached

(3) Without prejudice to the generally of sub-sections (1) and (2) Tribunal shall have and exercise jurisdiction in relation to all matters and disputes arising under all laws and directives passed by the appropriate authority, and laws and orders for the time being in force in relation to or affecting the business and affairs of the Ward made or passed by a local government authority or any other competent legislative authority within the area of the Tribunal

9.-(1) Without prejudice to the generality of the jurisdiction conferred on the Tribunal by section 8 the Tribunal shall have jurisdiction to enquire and determine disputes relating to the offences and civil disputes specified in the schedule to this Act.

(2) The Minister may, from time to time, by order published in the *Gazette*, vary or replace any of the provisions of the Schedule to this Act.

10.-(1) Notwithstanding measures imposed by the Tribunal unless section 17, the Tribunal shall, in the exercise of its jurisdiction be limited to the following awards and penalties-

- (a) in criminal matters, a fine not exceeding two thousand shillings;
- (b) in default of payment of a fine which does not exceed one thousand shillings the convicted person shall be committed to work on an on going communal project for not more than ten days;
- (c) in case of default of payment of a fine exceeding one thousand shillings the matter shall be referred to the Primary Court for committal to prison or any other appropriate action under the law;
- (d) in civil matters awards not exceeding three thousand shillings.

(2) Subject to section 19 the power to commit persons to imprisonment under this Act shall vest in the Primary Court.

Reference
of matters
to the
Tribunal

11.-(1) Proceedings may be instituted by the making of a complaint to the Secretary of the Tribunal, the Secretary of an appropriate authority, the Chairman, of a Village Council or a ten-cell leader.

(2) Any person who reasonably believes that any person has committed an offence under this Act may complain about the matter to any of the persons specified in sub-section (1)

(3) A complaint may be made orally or in writing, but if made orally shall be reduced in writing by the person to whom it is made and, in either case, shall be signed by the complainant and the person to whom it is made.

(4) When a complaint is made to that person shall, if he is not the Secretary of the Tribunal cause it to be submitted to the Secretary of the Tribunal who shall enter it in the records of the Tribunal and arrange for it to be heard and determined by the Tribunal in accordance with the procedure of the Tribunal for the hearing and determination of disputes submitted to it.

Summons
and date
of hearing

12. Subject to the procedure made in that behalf by the appropriate authority, the Secretary shall issue summons to the parties involved in a complaint requiring them to attend before the Tribunal on the date specified in the summons for the complaint to be investigated and determined.

Appearance
of
parties

13. (1) On the date specified in the summons the parties shall, subject to sub-section (3) appear in person before the Tribunal, give their evidence and answer all questions put to them by any member of the Tribunal.

(2) If on the date specified in the summons the complainant does not without reasonable cause, appear, the Tribunal shall dismiss the complainant and it shall not subsequently be brought before it; but if the Tribunal considers that the absence of the complainant is due to a reasonable cause or if the person complained against is absent, the Tribunal shall adjourn the hearing to some date which it may specify, and inform the appropriate authority of the absence of the person complained against.

(3) Where the complainant or the person complained against is a child below eighteen years of age, or is a person who for any sufficient cause can not adequately put his case or defend himself, that person may appear before the Tribunal together with his parent, guardian, relative or friend who may, subject to the procedure adopted by the Tribunal, assist him in the examination or cross examination of witnesses or the making of submissions before the Tribunal.

14. All proceedings before the Tribunal shall be open to the public unless, in the opinion of the Tribunal, it is in the public interest that the public or any person be excluded from any part of the proceedings. Proceedings to be in public

15.—(1) The Tribunal shall not be bound by any rules of evidence or procedure applicable to any court. Proceedings before the Tribunal

(2) The Tribunal shall, subject to the provisions of this Act, regulate its own procedure.

(3) In the exercise of its functions under this Act the Tribunal shall have power to hear statements of witnesses produced by parties to a complaint, and to examine any relevant document produced by any party.

16.—(1) Notwithstanding the provisions of section 4, the Tribunal shall in all proceedings seek to do justice to the parties and to reach a decision which will secure the peaceful and amicable resolution of the dispute, reconciliation of the parties and the furtherance of the social and economic interests of the village or ward as a whole in which the dispute originates. Tribunal to pursue principles of justice

(2) For the purposes of securing a just determination of a complaint, the Tribunal shall not make a decision on any complaint unless—

- (a) it has given an equal opportunity to each party to explain his part of the matter and to present his witnesses; and
- (b) any member of the Tribunal who has any personal or financial interest in the complaint has disclosed it and not taken part in the proceedings.

17. At the conclusion of the proceedings the Tribunal may order that— Measures imposed by the Tribunal

- (a) the party at fault apologise to the other party;
- (b) a person be censured or admonished at a meeting of the Village Assembly or Ward meeting;
- (c) the party at fault pay a specified fine not exceeding a certain amount prescribed by the appropriate or other legislative authority;
- (d) one party pay back what is due to the other party;
- (e) the defaulting party do some specific community work;
- (f) the defaulting party pay compensation;
- (g) a person carry out any other sanction acceptable in the village or ward concerned; or

- (h) the parties perform any customary act or acts which signify reconciliation.
- Enforcement of measures of Tribunal
- 18.-(1) The appropriate authority shall devise an appropriate system for facilitating and securing the proper and full performance of the measures imposed and orders made by the Tribunal at the conclusion of proceedings in relation to any matter referred to it.
- (2) A person who fails, without reasonable cause (the burden of proof of which is on him), to obey any order of the Tribunal under this Act for which no other penalty is prescribed shall be guilty of an offence and shall be liable, on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months or to both that fine and imprisonment.
- Order of imprisonment and its endorsement
- 19.-(1) An order of a Tribunal for imprisonment under this Act shall be in the prescribe form, and pending endorsement of the order under sub-section (2) the convicted person shall be held in such custody, or shall be released on such terms, as maybe ordered by the Tribunal.
- (2) Subject to sub-section (3), an order or imprisonment under this Act shall have no force or effect unless endorsed by the Primary Court Magistrate for the area in which the Tribunal is established.
- (3) The Tribunal after making an order for imprisonment shall immediately cause it to be presented to the Primary Court Magistrate for endorsement.
- (4) The Primary Court Magistrate to whom the order is presented for endorsement, shall endorse the order without delay, unless he has reason to believe that the Tribunal acted without jurisdiction or in excess of its powers.
- (5) If the Primary Court Magistrate is convinced that the Tribunal has acted without jurisdiction or in excess of its powers, he shall exercise the power of revision provided under section 2 1.
- (6) The endorsed order under this section shall have the same effect as any sentence of imprisonment imposed by Primary Court under any other written law.
- Acts, 1984 No. 2
- (7) Where the order remitted to the Primary Court under subsection (3) is beyond the pecuniary jurisdiction of the Primary Court the Magistrate shall immediately refer the same to the higher court of appropriate jurisdiction in accordance with the provisions of the Magistrate Courts Act, 1984.

PART IV

MISCELLANEOUS PROVISIONS

- Appeals from the decision of the Tribunal
- 20.-1) Subject to sub-section (2), a person aggrieved by a decision of the Tribunal may appeal in writing to the Primary Court.
- (2) Except with the leave of the Primary Court, no appeal shall be entertained under the following circumstances-
- (a) in criminal cases in which the fine imposed does not exceed five hundred shillings;
 - (b) in civil matters where the award does not exceed eight hundred shillings.

(3) Except on points of law where the final appeal ties to the District Court, a decision of the Primary Court on any appeal made to it shall be final and conclusive.

21.--(1) A primary court may call for and examine the record of any proceedings of the Tribunal, for the purpose of satisfying itself as to whether in such proceedings the Tribunal's decision has-

- (a) not contravened any Act of Parliament, any by-laws or subsidiary legislation;
- (b) not conflicted with the rules of natural justice; and whether the Tribunal has been properly constituted or has exceeded its jurisdiction,

and may revise any such proceedings.

Review and revisionary jurisdiction of the Primary Court

(2) In the exercise of its revisional jurisdiction, a Primary Court has power to substitute a conviction and sentence for an acquittal, to quash the proceedings and to order a rehearing.

(3) In the case of civil matters, the revisional jurisdiction of a Primary Court shall be restricted to increasing any sum awarded or altering the rights of any party to his detriment.

(4) No proceedings under this section shall be revised after the expiration of twelve months from the termination of such proceedings in the Tribunal.

22.--(1) In the hearing of an appeal against any decision of the Tribunal the Primary Court Magistrate shall sit with not less than two assessors.

(2) The Primary Court in dealing with appeals against any decision of the Tribunal shall-

- (a) consider the records relevant to the decision- and
- (b) receive such evidence, if any, and make such inquiries as it may deem necessary.

Hearing of appeals and exercise of revisional jurisdiction

(3) A party to any proceeding appealed against or under revision, may appear-

- (a) personally; or
- (b) by representative (other than a lawyer).

23.--(1) A Primary Court hearing an appeal against or making a review of a decision of the Tribunal may-

- (a) confirm the decision - or
- (b) quash the decision; or
- (c) order the matter to be dealt with again by the Tribunal, and may, if it deems appropriate, give an order or direction as to how any defect in the earlier decision may be rectified.

Decision on appeal or revision

(2) The Primary Court Magistrate hearing an appeal or making a revision shall--

- (a) record the decision of the court on the appeal or revision and the reasons thereof; and
- (b) forward it to the District Court.

(3) The District Court may apply its revisional jurisdiction under the Magistrate's Courts Act, 1984, in respect of any appeal or revision recorded by the Primary Court Magistrate under sub-section (2).

Records of the Tribunal	<p>24.-(1) The Tribunal shall cause to be kept and maintained proper records of its proceedings in appropriate form.</p> <p>(2) The Secretary of the Tribunal shall be responsible for recording all the evidence adduced and other matters formally transpiring during the proceedings before the Tribunal and all other matters in connection with it.</p> <p>(3) The records of the Tribunal shall be deemed to be records of the Ward Committee and shall, for that purpose, be public records.</p>
Inspection of Tribunals	<p>25--(1) The Minister shall, after consultation with the Minister for the time being responsible for regional administration, by notice published in the Gazette, make provisions for a system of inspection of the Tribunals and instruction of local government authorities and Ward Committees for the purposes of ensuring the furtherance of the purposes and objects of this Act..</p> <p>(2) The Minister may, in the notice under sub-section (1) appoint such persons or authorities as he may think fit for the purposes of this section.</p>
Public education of officers, etc.	<p>26. The Minister shall, in co-operation with any other Minister, Ministry, Department or other public authority formulate suitable programmes, schemes and seminars for the information and education of the public and the officers and members of the Tribunals on the methods of performing the functions of the Tribunals, for the purposes of ensuring their efficient and just operation.</p>
Remuneration of members	<p>27.--(1) The, members of the Tribunal shall be paid such sitting or other allowance as the appropriate authority may, in collaboration with the Ward Committee, determine.</p> <p>(2) The Secretary of the Tribunal shall be paid such salary and allowances as the appropriate authority, in collaboration with the Ward Committee, may determine.</p>
Offences	<p>28. Any person who-</p> <p>(a) Willfully or without reasonable cause fails or refuses to attend before the Tribunal in response to a summons served on him;</p> <p>(b) having attended, refuses or fails to answer any question put to him by any member;</p> <p>(c) does any act or thing which obstructs the proper functioning of the Tribunal or impedes any officer of the Tribunal or other person authorized by the Tribunal in the performance of its functions,</p> <p>is guilty of the offence the contempt of the Tribunal and shall be liable on conviction to a fine not exceeding eight hundred shillings or to be required to perform some specific community work or to both the fine and the requirement to perform the community work.</p>
Directions by the Minister	<p>29.-(1) The Minister may, from time to time, give directions to the appropriate authorities in connection with operations of the Tribunals including prescribing, matters required to be prescribed by or under this Act, and all authorities and persons concerned shall carry out or comply with all those directions and prescriptions.</p> <p>(2) The Minister shall cause to be published all directions and prescriptions under this section in such manner as he deems appropriate including publication in the <i>Gazette</i>.</p>

30. The Arbitration Tribunals Regulations, 1969, and the Kiswahili equivalent of those Regulations entitled "Kanuni Kuhusu Mabaraza ya Usuluhishi" and the Marriage Conciliation Board (Establishment) Order, 1971 are hereby revoked.

Revocations
G.N. 1969
Nos. 219 and
219A
G.N. 1971
No. 108

SCHEDULE

PART I—UNDER THE PENAL CODE

Offence	Section	Maximum Penalty
Going armed in public...	s. 84	Fine of Shs. 800/- or 2 years imprisonment.
Forcible detainer	s. 86	Fine of Shs. 800/- or 2 years imprisonment.
Affray	s. 87	Fine of Shs. 500/- or imprisonment for 6 months.
Challenge to fight a duel	s. 88	Fine of Shs. 800/- or 2 years imprisonment.
Using abusive language and brawling	s. 89(1)	Fine of Shs. 500/- or imprisonment for 6 months.
Threatening with violence	s. 89(2)	Fine of Shs. 400/- or imprisonment for 1 year.
Dissuading persons from participating in self-help scheme	s. 89C	Fine of Shs. 1,000/- or imprisonment for 6 months.
Disturbing religious assembly	s. 126	Fine of Shs. 1,000/- or 2 years imprisonment.
Abduction of girls under 16 years	s. 134	Fine of Shs. 1,000/- or 2 years imprisonment.
Insulting the modesty of a woman	s. 135(3)	Fine of Shs. 800/- or imprisonment for 1 year.
Desertion of children	s. 166	Fine of Shs. 1,000/- or 2 years imprisonment.
Neglecting to provide food	s. 167	Fine of Shs. 400/- or 2 years imprisonment.
Idle and disorderly persons (certain offences only)	176(2) (3) and (9)	Fine of Shs. 500/- or imprisonment for 3 months.
Wearing uniform without authority	s. 178(1)	Fine of Shs 200/- or imprisonment for 1 month.
Bringing contempt on uniforms	s. 178(2)	Fine of Shs. 400/- or imprisonment for 3 months.
Fouling water	s. 185	Fine of Shs. 2,000/- or 2 years imprisonment.
Common assault	s. 240	Fine of Shs. 1,000/- or imprisonment for one year.
Omitting to take precautions against probable danger from any animal in his possession	s. 233(d)	Fine of Shs. 1,500/- or 2 years imprisonment.
Attempting suicide	s. 217	Fine of Shs. 300/- or 6 months imprisonment.
Concealing the birth of a child	s. 218	Fine of Shs. 1,000/- or 2 years imprisonment.
Other negligent acts causing harm not specified in s. 233	s. 234	Fine of Shs. 1,000/- or imprisonment for 6 months.
Criminal Trespass	s. 299	Fine of Shs. 800/- or imprisonment for 1 year.

PART II—UNDER OTHER LAWS

Offence	Section	Maximum Penalty
Gambling (gaming) under the Gambling Ordinance, Cap. 19	s. 3	Fine of Shs. 1,000/- or imprisonment for 1 month.

SCHEDULE—(contd.)

Offence	Section	Maximum Penalty
Under the Tsetse Fly Ordinance, Cap 100 (contravening regulations)	Fine of Shs. 200/- or imprisonment for 1 month.
The animals (Native Stock) (Branding) Rules Cap, 157	Fine of Shs. 100/-.
Contravening of laws made by the village council or Town, District and Municipal Councils which relate to agricultural, educational and health matters	—	The sanction provided by the by-laws concerned.
Smoking noxious plants (bhang)	Cap. 134	Fine of Shs. 2,000/- or imprisonment for 12 months.
Failure to enrol or send to school an enrolled child under the Public Primary Schools (Compulsory Enrolment and Attendance) Order, 1977	The whole Order	<p><i>First Offenders:</i> Fine of Shs. 100/- or imprisonment for 1 month.</p> <p><i>Second Offenders:</i> Fine of Shs. 500/- or imprisonment for 2 months.</p> <p><i>Subsequently:</i> Imprisonment for 6 months.</p>

PART III
CIVIL JURISDICTION

- (i) Minor disputes relating to dowry and land contravening the customs and traditions of the area in the village or ward not involving possession which is a more serious and more complex matter.
- (ii) All functions of Marriage Reconciliation Boards vested in the existing Arbitration Tribunals in terms of Government Notice No. 108 of 1971 under the Law of Marriage Act, 1971.
- (iii) Adultery.
- (iv) Any other matter referred to the tribunals by the disputing parties for Reconciliation.
- (v) Any other matter which the Minister for Justice may, by order, published in the *Gazette*, add on to the Schedule.

In the exercise of its customary law jurisdiction the tribunal shall apply customary law prevailing within the village or ward as the case may be.

Passed in the National Assembly on the sixteenth day of April, 1985.

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Clerk of the National Assembly