



## Assesment of conflicting laws in revenue collection at Chake Chake town council Znzibar

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### Abstract

This study assess the impact of conflicting laws in revenue collection at Chake Chake Town Council Zanzibar. The study was undertaken in Chake Chake Local Authority where was studied that they are unable to collect revenues sufficiently due to inadequate laws which empower them to collect revenues. The laws are conflicting with other laws which empower other institutions to collect revenues from similar sources. Hence they are financially weak and cannot finance local projects. The methods which were used for data collection are documentary review and interviews. The aim of the study is to find out the legislations which conflict each other on revenue collection by Chake Chake Town Council in which it is empowered to collect revenues from sources like extraction of sand and rocks, transportation of natural resources, business licenses and building under the Local Government Authorities Act No.7 of 2014. Other institutions like the Forest Department, the Environmental Department and Fisheries Department are also empowered to collect revenues form similar sources under their respective laws. Such situation causes multiplicity of taxes and impracticability of laws as among the impact of conflicting laws. Following such situation, several recommendations have been given including amendment of laws to allow only local authorities to collect revenues from such sources.

**Keywords:** collection, conflicting, council, laws, revenues, town, zanzibar

### Introduction

The central exercise their powers, duties and functions through decentralization whereby central government formally transfers its powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy Mawhood & Smith (1985) <sup>[6, 7]</sup>. This implies that in the decentralization, the central government allows authorities of lower level to exercise its powers and functions. The powers which are transferred are those relating to administration, legislation and finance. The transfer considers the hierarchy of the institutions. Zanzibar has different levels of local authorities. They are City Council, Municipal Council, Town Council, District Council, Ward Council and Shehia Consultative Committee (the Local Government Authorities Act No.7 of 2014). The establishment of these authorities implies that there is devolution of certain powers from central government to the local authorities. One of the powers devolved is that relating to finance. The authorities are required to administer financial affairs in their respective areas as authorized by the central government through particular legislation as mentioned in the Local Government Authorities Act No.7 of 2014. The local projects are required to be financed by the local authorities. The local authorities in Zanzibar like in any other jurisdiction are required to have sufficient sources of revenues. They are required to collect revenues for financing their local projects and running other activities which relate to local people. For revenues to be sufficient, there must be reliable sources of revenue collection and conducive environment for the revenues to be collected Gerishom Wafula Manase (2012). This study examined conflicting laws in revenue collection at Town Councils in Zanzibar with specific reference to Chake Chake Town Council.

### Statement of the Problem

The study examined complaints that revenues collection by local authorities is faced by a number of challenges including contradiction of laws on revenue collections between the laws which regulate revenue collection to local authorities and those of the institutions such as Forest Department and the Department of Environment. It is complained that in the legislative frame work concerning such institutions, there are provisions like section 72 of the Forest Resources Management and Conservation Act No.10 of 1996 and 71 of Environment Management Act No 3 of 2015 which allow them to collect revenues from similar sources. Chake Chake Town Council has large number of revenues collection points from which it is required to collect revenues.

Thus, Chake Chake Town Council fails to collect revenues properly due to the acontradiction of laws on revenue collections between the laws which regulate revenue collection to local authorities and those of the institutions such as Forest Department and the Department of Environments a result it does not get sufficient fund to finance its projects. This research explored the situation and then to suggests solution accordingly as all provisions of law discussed in this respect are applicable and the 2017 Regulations are just identifying sources for local authorities to collect revenues without making any attempt to resolve existing conflict.

### Methodology

The study used qualitative approach to manage primary and secondary data since both were involved and the study area based in Chake Chake within South Region of Pemba. The primary data were collected from workers of Chake Chake Town Council, police officers, officers from departments of environment and forest, lawyers and ordinary people who

participate in different economic activities in the study area from which revenues are collected by respective Council.

### Scope

The focus of the study was Zanzibar laws governing revenues collection by the local authorities. It based on analysis of only one Town Council which is Chake Chake Town Council as one among local authorities of Zanzibar. Therefore all respondents interviewed in the study are from Chake Chake Town Council only.

### Literature Review

The works of some authors were reviewed in the course of the study. The first one is of Wallevik, J. *etail*, (1999) <sup>[16]</sup>, present ideas that local authorities in the developing countries are faced by a number of challenges in the process of revenue collection. Among the challenges are estimating higher revenues than their capacity to collect, having no reliable data for exact number of tax payers who are required to pay revenues in their localities, poor methods and techniques which are employed for revenue collection, failure to educate local people for paying taxes instead they use threat to compel them paying taxes and poor reporting system by those who are involved in the process of revenue collection as a result the local authorities fail to understand barriers in the revenue collection process. Wallevik, J. *etail*, (1999) <sup>[16]</sup>. They examine that local authorities are unable to collect revenues effectively hence they are unable to finance local projects. The revenues collected are insufficient for local authorities to run their activities effectively. The factors mentioned by the authors are considered by them as challenges facing local authorities in the process of revenue collection.

Moreover, Hans N.W. (1990) <sup>[2]</sup> says that the revenue collection process by the local government authorities is negatively affected by the behaviors and perceptions of those who are involved in the tax collection process. He said that revenue collection at local level involves many people. These people have different behavior and perceptions. The local institutions have workers who are used for revenue collection but such workers are not clean and transparent. They collect revenues but following their behaviors and perceptions they fail to be loyal and truthful. They indulge themselves in the corrupt practices, thus multiplicity of persons in the revenue collection causes inefficiency in such exercise. This author is of the view that revenues are collected by local authorities' workers who are many and are of different behaviors and perceptions. There are those who think that there is no legal action which will be taken against them even if they decide to be corrupt Hans N.W. (1990) <sup>[2]</sup>. They consider the business of collecting revenues as one of the alternative opportunities of making income. They steal money collected as a result they cause leakage of revenues to local government authorities.

The third is of Mukandala and Othman (1990) <sup>[9]</sup>, who explain challenges which face local government authorities in the revenues collection in Zanzibar. They say that the challenges which face such authorities in the said exercise include lack of sufficient sources of revenues, poor capacity of local authorities to plan the mode for revenues collection, and absence of clear demarcation on the sources of revenues between the central government and local authorities. This causes contradiction in the revenues collection process. The same sources are engaged by both central government and

local authorities as a result local authorities are defeated in the war and to suffer shortage of revenues. These authors have found that in Zanzibar by such time the sources of revenues to local authorities fall short. They are unable to meet the demands of local authorities. They further noted that there is tag of war between local authorities and central government in the revenues collections and the local authorities fail to prepare methods which are appropriate for revenue collection at their localities. Therefore, the local authorities at the end of the process they suffer insufficiency of funds.

The fourth is of Mzenzi. (2015) <sup>[10]</sup> that addresses challenges which face local authorities in Tanzania in revenue collection in terms of agency relationship between local authorities and revenues collectors at the local level. He says that local authorities enter into contractual relations with some other persons who act as agents of local authorities in the revenues collections. The way the contracts are drafted, they result more benefits to the agents than to the local authorities concerned. Therefore, local revenues go more to agents' revenues collectors as a result the local authorities are faced by shortage of revenues. The author has gone to the theory of agency in revenue collection. Although his study based on theoretical orientation, there is truth on that as he went to collect data in the localities and find that the theory reflects such truth. Thus it is something to consider as far as revenues collection by local authorities is concerned.

The fifth is by Semboja and Fjeldstand (1999) <sup>[13]</sup>, who present that in Mainland Tanzania and Zanzibar local authorities are faced by a number of challenges in the revenues collection. Among them are lack of capacity to collect revenues effectively from authorized sources, the existence of the problem of tax evasion from the tax payers especially in the form of resistance of tax payers in the payment of taxes at local level and corruption among the revenues collector at the local level. Those who are assigned duties to collect revenues engage in corrupt activities and either not to deliver revenues collected to relevant local authorities or to hide those who are supposed to pay taxes hence not to pay taxes. All these factors finally cause local authorities to be unable to collect sufficient revenues for their local expenditures.

The authors of this work direct their concern to the fact that workers of the local authorities lack necessary skills and capacity to collect revenues. They fail also to tackle the resistance of tax payers who evade payment of taxes. They are also unethical in the performance of their duties. They engage in the corruption something very harmful in the revenue collection and economic prosperity of every institution including local authorities.

### Results and Discussions

#### Mandate of Local Government Authorities in Revenues Collection

The study found that the Zanzibar Local Government Authorities Act No 7 of 2014 empowers local authorities to collect revenues taxes from local authorities' properties and any other tax permitted by the law, local rates such as user service charge, license fees, administrative fines, permits, applicable court fees and fines, contract fees, auction fees and any other fee in accordance with the law and local earnings from investments and projects of respective local government authority (Zanzibar Local Authorities Act No.7

of 2014). Therefore it is upon the local authority to use such ways and sources in order to raise its revenues to finance its local projects.

**Conflicting Laws on Revenues Collection between Town Councils and other Institutions**

There are four pieces of legislation found to contradict each other on revenues collection by local authorities. These are Forest Resources Management and Conservation Act No.10 of 1996, the Fisheries Act No. 7 of 2010, the Environmental Management Act No.3 of 2015 and the Zanzibar Revenues Board Act No.7 of 1996. Each of these Acts allows revenue collection by respective institution in the manner the particular piece of legislation provides for. Though the word revenues may not be seen, in practice it is noted that it exists because what are collected by respective institution are revenues in their turn.

**The Impact of Conflicting Laws on Revenues Collection by Town Councils**

The study found that conflicting laws in the revenues collection has negative impact to the effective operation of local authorities including the following:

**Payment of Multiple Charges Over the Same Matter**

The people are forced to pay several charges on the matter hence making business very expensive. For example those who deal with extraction of bricks and rocks or stones pay charges to Town Councils and Department of Environment as a result bricks and stones become very expensive and people do not like to engage in such kind of businesses.

**Town Councils to Collect Very Low Revenues**

It becomes difficult for Town Councils and other local authorities to collect sufficient revenues from their sources as other institutions collect revenues from such sources. Local authorities have to charge low charges or sometimes not to charge at large in order to give those who pay charges relief or avoid conflicts with other institutions Gerishom Wafula Manase (2012). Worse still, other institutions which collect revenues from such sources send them to central government as a result local authorities become unable to finance their local projects.

**Table 1**

Source of Revenue	2013	2014
Parking	5,550,000/-	3,510,000/-
Extraction of sand and rocks,	2,750,000/-	1,385,000/-

The chart above shows how the revenues decreased due to the existing of contradiction of laws.

**Source of Data Chake Chake Town Council. Impracticability of Laws**

The laws which empower local authorities to collect revenues for financing their projects become difficult to be practiced. When they are attempted to be materialized several conflicts arise. Likewise the laws which require local authorities to perform certain functions become impossible to implement. section 21,of Local Government Authorities Act No.7 of 2014.

**Guidelines on Handling Conflicts in Revenues Collection between Local Authorities and other Institutions**

The study found that there are no guidelines on how to handle conflicts in the course of revenues collection between Chake Chake Town Council and other institutions. Each institution does what it deems fit when such contradictions arise in such process. The guidelines as hinted out above are missed in both laws and administrative orders this is because there are no guideline issued by neither law nor administrative order on how to handle contradiction which arise in the course of revenue collection.

**Recommendations and Conclusion**

As stated above the study assess the impact of conflicting laws in revenue collection at Chake Chake Town Council Zanzibar. The following are recommendations observed from the study;

**Legal Control of Central Government Powers on Sources of Revenues of Local Authorities**

It has been observed in the study that sometimes central government issues orders and directives on matters relating to sources of revenues of local authorities. For example, closure of areas which local authorities use to generate revenues. The law should limit the powers of central government on issuing orders and directives concerning these areas. The law should impose condition that there should be proper consultation with local authority concerned before making final decision. In the consultation, the local authority should be empowered to deny particular advice when it thinks that it is not proper and it is going to undermine revenues of local authorities.

**Areas for Local Authorities**

The law should provide essential features for a particular area to be declared Town Council instead of making it a matter of ministerial discretion or providing for unnecessary features. For example, the law should consider the possibility for particular local authority to get sources of revenues for financing its projects. It is undesirable to see that a particular area is declared Town Council on the bases of population size and the size of geographical area without paying attention to existing resources. Failure to consider essential factors will cause having local authorities which are unable to discharge their functions because of financial constraints or they will become financially dependent to central government.

**Curing the Contradiction of Laws**

All necessary laws should be amended to cure on going contradictions of allowing several institutions to impose charges of fees over the same matter. This will go hand in hand with reducing multiplicity of charges or fees over the same matter. There are two ways of doing this matter. The first one is to allow local authorities only to collect revenues from such sources because they are required to be financially independent for financing local projects. The second option is to allow only one institution to impose charges and then respective institutors will share revenues collected priority being given to local authorities.

### Legal Authority to Employ Qualified Personnel

The law which establishes local authorities should allow them to employ qualified persons on fulltime bases especially those relating to revenues. Those persons will be able to think how to use existing sources of revenues to generate finance and how to manage revenues collected in order to be safe and used for intended purpose.

### Establishment of Permanent Court for Local Authorities

The law should allow local authorities to have the court which is within their authority. The judicial officer to preside such court will be reconciled between the judiciary and respective local authorities. This is possible because even land tribunals which are presided over by magistrates are under ministry of land but there is good arrangement between judiciary and ministry of land on how to obtain such magistrates. Therefore this system can be used as well to get magistrates to preside over local authorities courts instead of the current system of borrowing magistrates from the judiciary who also have several cases to adjudicate in their normal courts.

### Enforcement of Administrative Fines

This is also the matter of law. The law should not only provide for administrative fines which may be imposed by local authorities. It is required to go further explaining the legal consequences when a person fails to pay administrative fines. For example; a person who fails to pay administrative fine should have been considered committed offence and when found guilty he should be ordered to pay twice or more of the administrative fine which he failed to pay.

### Conclusion

In the modern governance system, it is preferable that local authorities should be empowered in order to help central governments in the discharge of their functions. The local authorities are believed to be more efficient, more democratic and closer to the people when compared to central governments. From this situation, it is believed that local authorities are in the good position to bring about social, economic and political development in the society. This causes central governments to transfer some of their powers to local authorities in order to achieve such end.

In Zanzibar local authorities have long time history of existence and operation but in 2014 there were changes in the local authorities. New tiers of local authorities were established which are City Council, Municipal Council, Town Council, Ward Council and Shehia Council. Each Council was given mandate to discharge certain functions within its area of establishment. Several powers were devolved from central government to local authorities though some of the powers were removed in 2021 following the argument of central government that the performance was poor.

For local authorities to discharge their functions successfully several resources are needed. One among such resources is financial resources. When this resource is weak, local authorities cannot work properly. The law in Zanzibar specifies several sources from which local authorities are required to raise revenues in order to finance their projects. The sources are found within the jurisdiction of each local authority as established by the law in such respect. They include parking fees, cleaning charges, business license

fees, building permit fees, charges from contracts of local authorities' assets, charges from auctions and transportation of several resources and fees for extraction of different resources which are found with the locality of a respective local authority hence it important to enable them collecting revenues from their areas without any contradiction of laws for their effective operation.

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