

**THE THIRD SECTOR IN TANZANIA –
LEARNING MORE ABOUT CIVIL SOCIETY
ORGANISATIONS, THEIR CAPABILITIES AND
CHALLENGES**

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Preface to an Updated Survey of the Civil Society Sector in Tanzania.

In 2001 John Hopkins University from the USA, initiated a non-profit sector study in many countries of the world, with support from, amongst others, the Aga Khan Foundation. A team from the University of Dar es Salaam were the counterparts and carried out a great deal of original research using a methodology designed by the John Hopkins University. One of the key researchers, Andrew Kiondo, very sadly died during the period of the research.

The results of the research were published in a book called “Global Civil Society Vol 2” by the John Hopkins University in 2005. Tanzania, along with Kenya, Uganda and many other countries which had been researched, were showcased in a 14 page chapter in that book.

All those who had been involved with the work, knew that there was considerable data gathered in the research that had not been published, and not brought to the attention of those involved from the Government Sector and the Civil Society Sector who were interested in what CSOs actually did in Tanzania, and how their role could be strengthened. Unfortunately a lot of the work remained on the shelves of the University.

In 2006 the Aga Khan Development Network, under the guidance of HH the Aga Khan, decided to launch a new Civil Society programme in eight countries of the world, one of which was Tanzania. AKDN works in Tanzania in hotels, insurance companies, schools, hospitals and clinics, banks, micro-credit, and CSO training. The new programme was designed to help such AKDN agencies work better with civil society organisations in Tanzania, and also to try and support and strengthen the civil society sector – by which it meant village organisations, professional associations, trusts, CSOs, CBOs, NGOs, and all manner of organisations formed by Tanzanians to do useful and valuable work which was not part of the government and not part of business, but which could collaborate with both these groups.

Before starting such a programme HH the Aga Khan pointed out that it was essential to know as much as possible about the Civil Society Sector at the start, so that in five years time, you would know what impact you had had. At this moment the recollection of the unpublished data from the John Hopkins Study came into my mind. I met Laurean Ndumbaro, who was responsible for the original study, who confirmed that there was much material that had not been yet seen the light of day, and that it could be updated from 2002 to the present.

What you have, therefore, in this book is valuable material about the state of civil society in Tanzania based on rigorous field work in 2001, and updated to 2007. There have been other studies of the civil society sector in Tanzania since 2002 – principally Allavida’s work “The Non-Profit Sector in Tanzania” 2004, and MWENGO’s work called “Civil Society and Democratic Development in Tanzania” ed

by Andrew Kiondo and Julius Nyang'oro, but these papers do I think provide information that you cannot get elsewhere.

1. **Defining the Non-Profit Sector in Tanzania.**
This provides a historical background to the range of traditional and early civil society organisations in the country, discusses the vexed questions of definitions, and kinds of CSOs which exist, and clarifies the characteristics of CSOs
2. **The Size and Scope of the Non-Profit Sector**
Ndumbaro and Mvungi relates the results of his research into the size and membership of CSOs, the amount of employment they provide in Tanzania, the numbers of people who volunteer for CSOs, the amount of money that CSOs pay to their staff, and the amount of revenue they get.
3. **The Legal Context**
Makaramba discusses the vexed and complicated situation of legal issues and CSOs in Tanzania. He describes how they have been treated legally over time and the variety of institutional forms that they can take, the critical issues for CSOs today including the unhelpful NGO law of 2002 with its slightly better Policy, key trends and outstanding issues (like taxation and government support)
4. **Revenue of the Sector.**
Rusatira and Ngowi use the data from an 87 CSO survey in 1999 to ascertain what funds and in-kind support CSOs are acquiring, from what sources, in their major categories of activities, and what problems this presents.
5. **The Impact of the Civil Society sector in Tanzania**
Mhina describes three areas in which CSOs have done valuable work in Tanzania – in health, micro-finance and human rights and documents their achievement.

Some of the material is old, but as far as I know, it has not been seen before, and it reflects detailed surveys which have not been done since. I hope very much that it will encourage re-thinking from CSOs and from government about what they can do to work together, to set up an enabling and supportive environment, and to appreciate the different skills and experience that they bring to the development of Tanzania

Richard Holloway
Director, Civil Society Programme, Aga Khan Development Network.

Introduction

Laurean Ndumbaro

The increased interest in studying the non-profit sector and its contribution to development since the 1980s can be linked to economic crisis which resulted in state withdrawal in the provision of services in most countries; the collapse of the Soviet Bloc, marketization of global economy and democratization of governance processes in the world following what Huntington calls the “Third Wave of Democracy” which started in Southern Europe in the early 1970s. This wave manifested itself more clearly in Africa in the early 1990s. Studies on the non profit sector and particularly civil society in Africa can be categorised into two groups. One group represented by scholars such Rothschild and Chazan (1988), Diamond (1988), Bratton (1988), Chabal (1992), Chazan (1992), Shivji (1993) Hartman (1994), Kiondo (1995) and Meena (1997) focused on the meaning and applicability of the concept civil society in Africa as well as its role and behavior in relation to the African state.

The other group represented by research institutions such as the Centre for Civil Society Studies, Johns Hopkins University which after realizing the size and the contribution of the non profit sector is not known nor its potential contribution engaged in research to fill this gap. One such study which forms a back bone of this book was the Johns Hopkins Comparative Non-Profit Sector Project. This study was initiated by the Centre for Civil Society studies, Johns Hopkins University to study the size and contribution of the non profit sector across countries in a comparable fashion. The University of Dar es Salaam was part of the Johns Hopkins’ Project. The project focused on the definition, size and scope of the non profit sector, the policy and legal regimes guiding the operation of the sector and the impact of the sector in specific fields. The Tanzanian aspect of the research was possible with a support from the Ford Foundation and Aga Khan Foundation. We are very grateful to them.

In terms of the methodology employed, the study used documentary evidence and survey methods to collect data. Estimation techniques were also used to project the larger picture of the size and scope, employment, revenue, membership and volunteering in the non profit sector. Documentary evidence was used to obtain data from both published and unpublished works. Two different surveys were conducted with more or less similar results. The first survey had two types of questionnaires. The first was administered to institutions, while the second questionnaire was administered to randomly sampled Non Profit Organizations (NPOs) from 13 randomly sampled regions (12 from the Mainland and one from Zanzibar). The selection of the twelve regions was based on the Vice President's Office Inventory of NGOs 2001. In each region a rural and urban district were randomly selected for the study. In each district 40 different NPOs leaders were interviewed making a total 1040 respondents. These provided data which are discussed in chapter 2

The second survey was conducted to 87 non profit sector organizations. Out of the 87 NPOs 69 were from Dar es Salaam and 18 from Zanzibar. These were randomly selected from the Vice President's Office Inventory of NGOs 2001. Observations on "in-kind" sources were also made. Data from the second survey are presented in chapter 4. Ford Foundation provided funding for the data which are used in this book. The Aga Khan Foundation funded the up-dating of the data including editing and publication of the book. We are grateful to them all.

The book is organized in six chapters. Chapter One is an introduction. Chapter Two deals with the definition of the non profit sector in Tanzania. It argues that though historically the concepts of charitable and voluntary organizations, non-governmental organizations were used to express a majority of the non profit sector organizations, there is no single term that fully captures the complex nature of the non profit sector in the country. All these concepts seem to apply only to a limited category of organizations. For example, non-governmental organization as a concept was widely applied and used to capture a significant part of the non profit

sector from the early 1990s to a period before the enactment of the NGO Act. However, the Act gave the concept a very restricted meaning to the exclusion of even some non profit organizations which the term captured early on. In this respect, the concept NGO as expressed in the NGO Act cannot be used to capture all organizations in the non profit sector. Findings from the study also show that the concept of civil society is widely used by government officials, NGOs, Development Trusts, the donor community and other associations to express some organizations in the non profit sector. Though the concept captures a majority of non profit organizations including all NGOs as defined in the NGO Act, it does not capture all non-profit organizations in the country. Traditional associations, sports and cultural associations are not included. However, despite that limitation civil society as a concept applies to a large part of non profit organizations. Thus, civil society as it is used in Tanzania seems to be a subset of the non profit sector. Therefore, the concept non profit organizations should be used if one intends to capture all organizations in the non profit sector.

Chapter Three presents the estimated size and scope of NPO sector in Tanzania in terms of employment, membership, revenue and expenditure. The paper reveals that the contribution of the non-profit sector to social and economic development was very significant as the sector employed slightly above a quarter of the state employees 2001. It was discovered that most NPOs engaged in education, health, development and settlements and it was NPOs found in these areas which had the highest revenues. It was also noted that most NPOs were relatively small, member based with people having multiple membership. In addition the NPOS employed both permanent and volunteer staff. Volunteering was highest in the culture and community based organizations. The chapter points out that most NPOs were dependent on outside for funding reflecting the general external dependence of the state. In addition it was revealed that transparency among the NPOs and those who issue funding was very low in terms of providing information on revenue sources, revenue and expenditure.

Chapter Four examines the types of domestic sources of non profit sector finance by major source (public and private) and also international sources based on a

survey of 87 NPOs (69 in Dar es Salaam and 18 from Zanzibar). The chapter also uses observations on “in-kind” sources in its analysis. Findings from the study revealed that private-based sources of cash revenue dominated while the public sector contribution was small. This result contrasts with findings for developed countries where the public sector contributes a higher and significant share of cash to NPOs. However, public contribution of in-kind assistance to NPOs in Tanzania is significant. The results imply the need for NPOs in Tanzania to devise strategies to increase domestic financial and in-kind resources. The chapter calls for the need of NPOs to adopt best practices in financial management including, but not limited to, allowing disclosure of sources in the interest of financial accountability to those who contribute cash and in-kind resources – domestic and external. Moreover, it shows that most NPOs need capacity building support in financial management. It also calls for self-regulation among the NPOs.

Chapter Five is about the legal context of the NPOs. It shows that the NPOs sector is governed by several laws including: the recently enacted Non-Governmental Organizations Act; Societies Act; The Trustees’ Incorporation Act; the Companies Act (Act No.12 of 2002) which governs companies limited by guarantee; the Law of Contract Act; the Building Societies Act; the Tanganyika Law Society Act, The Wakf Commissioners Ordinance, Cap.326, which governs Islamic waqfs (trusts);the National Sports Council of Tanzania Act; and the Copyright and Neighbouring Rights Act. It also argues that the recently enacted Non-Governmental Organizations Act whose spirit was to harmonize and decentralize registration process did not live to that spirit as it did not repeal other laws. It was just another law. According to the author, both the NGO policy and the Act have provided narrow definitions which tend to exclude a number of NPOs. It also limiting in the sense that it requires NPOs registered under the Act to be non partisan and not for profit making which limit their capacity to engage in profit making initiatives for sustaining the mission and vision of the organizations.

The chapter also argues that most non profit sector organizations are registered as unincorporated societies. The legal implication of the unincorporated nature of non profit organizations is that they cannot sue or be sued in their own name; or borrow money,

acquire, hold and dispose of property. If such organizations require making legally binding things like holding title to real estate or concluding contracts, they have to do it by the registered board of trustees.

In terms of tax treatment the author argues that there is a close relationship between non profit status and tax treatment. The Minister of Finance is empowered by law to exempt tax after being satisfied that it is in the "interest of the public" to do so. The merit of the non profit sector organizations seeking tax exemption are assessed on a case-to-case basis. There are two types of tax provision which NPOs apply in most cases - taxation of the organization itself and taxation to contributions made to these organizations by individuals or businesses.

As for recommendations for improving the legal framework governing not for profit organizations, the chapter calls for the review of the NGO policy and law in order to incorporate other excluded non profit organizations. Such policy will provide guidelines for the whole non-profit sector and how non-profit organizations should be organized, coordinated and network. It will also chart out a strategy for its implementation and plan of action for achieving its objective. It will also be a basis for the harmonization of NPOs laws and, if possible, adoption of the national sector wide law on non profit organization, currently lacking in the country.

The impact analysis which is presented in chapter six attempts to answer the question what difference the non profit sector makes to the social, economic and political life of Tanzania. It uses three case studies one from each of the following key fields: traditional human service; improvement of economic conditions and pursuit of economic opportunity and protection of political and civil rights. While the health sector was picked to represent the traditional human service field, microfinance promotion and assistance was sampled to be a case study for improvement of economic conditions field and human rights for protection of political and civil rights. The chapter reveals that in the health sector non-profit organizations have played a very significant role since the colonial period. In terms of the quality and efficiency in service delivery, concern for the disadvantaged and cost effectiveness of non profit organizations' health services

have a very good reputation. Many church hospitals have made names, the country over, because of their high quality of their services. These have been able to offer quality services because of good attention accorded to patients by health personnel, availability of drugs at reasonable costs and availability of proper health facilities.

It further shows that microfinance promotion and assistance is an area where non profit organizations have been making a difference for low income groups, especially women. Following the adoption structural adjustment policies including privatization policy, many people lost their jobs through retrenchment. Also some local medium range enterprises which could not compete with cheap foreign imports collapsed and resulted in loss of jobs. The non-profit organizations in this area are critical as Banks are generally ineffective in micro-financing.

The third case is that of human rights advocacy. Similar achievements have been witnessed in tackling gender and human rights issues. These organizations have been important in ensuring justice and fairness to marginalized groups in the society. Human rights advocacy organizations are trying to provide services that would reduce cases of human rights abuse. Services provided include counselling, arbitration, drafting of legal documents and court representation. These are followed by different forms of dissemination of information, human right literacy and advocacy through lobbying and public activism. They also provide legal aid usually, in case of matrimonial relations, inheritance, violence and abuse and land questions especially for marginalized ethnic groups versus big investors. Legal and human rights education is carried by most of the NGOs, however, it is inadequate. Unfortunately while courts are expected to provide justice, the process is usually slow, cumbersome, expensive and is marred by corruption. As a result only a few cases can be taken. They are mainly found in urban areas. There is a critical need to reform the system.

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DEFINING THE NON-PROFIT SECTOR: THE TANZANIAN EXPERIENCE

Laurean Ndumbro and Andrew Kiondo

1. INTRODUCTION

The history of the non-profit sector in Tanzania could be traced back to the period before independence. However, the nature, strategies, scope of activities, and the organizational forms adopted by current non-profit organizations significantly differ from the early ones. These differences seem to reflect among other factors, the socio-economic and political context of the time. Moreover, public perception about the roles of these organizations has considerably changed.

The current non-profit sector reflects governance changes, which have taken place in Tanzania since the mid 1980s. In this sense, it can be argued that the present non-profit sector in Tanzania is very new, and as such it is largely undefined. Its boundaries are fluid and the scope of its activity remains elusive. The policies, which define boundaries, classifications, the role and the relationship between the non-profit sector, and other institutions, are of very recent. That is why the non-profit sector does not separately appear in the national classification systems. Legal frameworks which set parameters for the legal environment in which the non profit sector acquires legal identity are varied and some of them are very old, and as such they do not address the nature, roles and varieties of activities currently being performed by the non profit sector. The National NGO Policy (2001) and NGO Act (2002) which were expected to provide a legal framework for the sector did not repeal other laws which govern the sector rather provided freedom for those which wanted to be known as NGOs to register under the law.

2. HISTORICAL BACKGROUND

From the discussion of students of civil society in Tanzania such as Shivji (1993), Kiondo (1995) and Meena (1997) it is clear that the non-profit sector organizations in Tanzania are part and parcel of civil society. In this way, a study of the nonprofit sector in Tanzania that does not take into account the emergence and development of civil society will be inadequate. In Tanzania three major historical phases are important for an understanding of the emergence of civil society in general and the non-profit sector in particular. These periods are: the colonial period

and immediately after independence; post-Arusha Declaration (1967-85); and post-the IMF-Tanzania Agreement (1986- present).

2.1. The Colonial Period

During this period, various associations were formed partly as a response to colonial rule and also as a result of the social and economic changes which took place at that time. For example, following the introduction of cash crops in Tanzania, a number of producer associations/societies such as Kilimanjaro Coffee Growers Association were established. Peasants formed these in response to the exploitation by private cash crop buyers. These associations were expected to free small-scale cash crop producers from private buyers as producers could now market their products through their own societies. These societies were the foundation upon which larger Cooperative Unions were formed.

Additionally, the introduction of railways, postal services, harbors, plantations and factories led to the emergence of trade unions which articulated the interest of workers in those areas. Trade Unions were formed to demand for the improvement of both living and working conditions. Domestic workers such as cooks in European houses, and hotels formed similar organizations.

Welfare and social associations such as Tanganyika African Association (TAA) were also formed in the emerging towns of colonial Tanganyika. They were formed by civil servants who sought to advance their own welfare. Towns also attracted immigrants who came for different reasons, including a search for employment and living with relatives. Individuals originating from the same region or ethnic groups formed other social organizations in towns. These organizations dealt with a variety of issues, from cultural to economic. Their major objective was to help their members in different ways such as burial services, sickness, education, employment and weddings. Basically these forms of organizations emerged as a response to the social insecurity people encountered in town life.

The foundation of all these associational practices is the fundamental traditional value of helping each other and sharing. The practice is inherent in African culture and traditions. In addition to these, colonialism created a new social and economic environment in which people realized they could not survive without cooperation. Towards the end of the colonial rule in Tanganyika one witnessed an increasing number of civil society organizations which took different forms

and structures. Most of these organizations became the nucleus for the anti-colonial movement that led Tanganyika to independence in 1961.

The consolidation and institutionalization of the state, under the nation-building project and single-partyism, characterized the independence-Arusha declaration period. These processes led to the suppression and forcible affiliation of civil society organizations to the party (Hartmann, 1994). The state viewed civil society organizations as a source of factionalism and sectarianism as well as an engine for organized resistance, which could lay the foundation for the formation of a strong opposition. The state justified its direct control over societal organizations and life with the ideology of national building. As a result of this, there was little, if any, room left for the organization of autonomous civil society organizations. The state authoritarian character thus became predominant.

2.2. The Post-Arusha Declaration Period

The 1967 the Arusha Declaration cemented authoritarian trends, which had begun immediately after independence. The party enhanced its monopoly over societal organizations in all spheres of life. Potential pressure groups such as women, youths, students, workers, were co-opted. The party's control over society demobilized the people and discouraged any independent organizations or associations that could act as developmental pressure groups, or lobbies for some specific policies (Ndumbaro 2003 and Peter 2006).

The destruction of the rural setting in the 1970s following the villagization campaign eroded further any potential capacity for self-organization in Tanzania. The spirit of voluntarism was equally affected as many organizations formed during that time were forced to follow party/government guidelines. By the end of 1970s all organizations were under the auspices of the party (Ndumbaro 2003). Those, which were allowed to operate independent of the party control, were required to either be apolitical or pro-party in their activities. The abolition of Local Government Authorities and Urban Authorities in the early 1970s and Cooperative Unions in 1976 further eroded people's capacity to organize. Statist policies adopted by the government including the introduction of regional and district development directorates (RDDS and DDDS), significantly affected people's initiatives and participation in voluntary works. In fact, it reduced Tanzanians to become mere recipients of government service. The government worked for them even on those things that people could work for themselves.

2.3. Post-the IMF-Tanzania Agreement

In the mid-1980s Tanzania had started implementing economic liberalization policies. The coming of president Mwinyi to power in 1985 speeded the move away from monolithic politics. Structural adjustment policies including the move to liberalize the economy gave room for the emergence of a nascent civil society. The development of civil society organizations in the 1980s was not only a response to the changes which were taking place, but also an attempt by those who had the potential, to independently participate in country's development (but who had been marginalized by single party politics) to organize. They thus wanted to make themselves heard and advance their interests (Hartman, 1994). The emerging civil society organizations included different groups and lobby associations.

By the time Tanzania was embarking on multiparty politics, a number of civil society organizations such as NGOs, other local organizations and District Development Trusts had already been formed (Kiondo, 1995). Factors accounting for the emergence of civil organizations in the 1980s and 1990s include:

- the need to fill the gap left by state withdrawal from social services delivery (Kiondo, 1995);
- the effect of Structural Adjustment Programs (SAPs) including increasing social differentiation, and translation of environmental concerns to among top global policy agenda (Kamata, 2005);
- the need for certain social groups including women to organize and articulate their interests (Hartman, 1994);
- the move by international aid agencies to encourage voluntary organizations (thereby by-passing government organizations) as donors lost trust in the state (Caiden 1991);
- privatization and retrenchment programs that increased the number of unemployed people who found voluntary organizations as their alternative (Ndumbaro, 2003).

In the 1980s and 1990s most of the NGOs registered were in the areas of human rights, environmental conservation, gender issues, and professional organizations, etc.

3. MAJOR DEFINITIONS OF ORGANIZATIONS IN THE NON-PROFIT SECTOR

The concept of non-profit sector is rarely used in Tanzania. However, people use various names to refer to organizations falling under this sector. The names used need to be examined

in the context of historical development of the sector. Historically, three major concepts have been used to refer to the non-profit sector organizations in Tanzania. In the 1970s and late 1980s the term voluntary organizations and charitable organizations were widely used while from late 1980s the term NGOs has dominated the scene.

3.1. Voluntary Organizations

Despite the fact that there were more than 800 civil society organizations, which were registered between the mid-1980s and the mid-1990s, the term NGOs is a very recent phenomenon. Before the term NGOs came to be used most non-profit sector organizations were called voluntary organizations. Voluntary organizations included professional organizations, regional and district trust funds and some religious, cultural and social organizations. Most of these associations now call themselves as NGOs.

Some professional associations such as the Tanganyika Law Society existed even at the time when the state was stifling popular and autonomous organizations. They survived that era because they concentrated on issues which did not antagonize the state. This was largely because matters which could have forced them to confront the state, were left with trade unions, which were affiliated and controlled by the state. In the early 1990s, however, some of these organizations started taking up issues with the state particularly those issues concerning their welfare.

Cultural and other social Associations have been in existence in most cities and towns since the colonial period. Though they declined in the 1970s and 1980s, they managed to survive state authoritarianism of previous regimes because they remained "apolitical." Those, which were involved in politics, were pro-the regime in power. The negative consequences of the economic crisis and Structural Adjustment Programs necessitated the resurgence of these types of organizations.

Most regional or district development Associations or Trusts, which Kiondo (1995) described as the Tanzanian version of "home town" associations were formed in the 1980s. They were urban-based; formed by people, usually elite, who were concerned with development predicaments of their regions or districts of birth. They were voluntaristic in character and mobilized funds for the provision of education and social services, especially secondary education, health services, and water supply to their respective regions or districts. In areas

where Trusts are strong there is a tendency of supplanting local authorities and hence its privatization (Kiondo, 1995).

3.2. Charity Organizations

These organizations carry out activities aimed at assisting people in need. For instance, associations assisting:

- AIDS victims with counseling services;
- people with disabilities;
- people affected by different types of disaster;
- orphans.

Religious organizations or members of religious congregations independent of the religious organization itself organized some of these associations. Some of them were affiliated to international charity organizations. Charity organizations demonstrated a high degree of voluntarism.

3.3. Non-Governmental Organizations (NGOs)

From the above explanation, two terms were used to define organizations in the non-profit sector in Tanzania before late 1980s. The two terms were charitable and voluntary organizations. In the 1990s the term NGO replaced the other two terms. However, the NGO policy and the Act did not translate popular perceptions into law. The term NGO, as popularly used, includes most organizations which were considered as charity or voluntary organizations. However, the NGO Policy and Law as discussed below exclude some non-profit sector organizations from the NGO's definition.

The National NGO Policy which was approved by the government in 2001 was result of a long process which was initiated by umbrella NGOs organizations and the NGOs Coordination Unit under the Vice President's Office in the mid 1990s. The process was highly participatory. The national workshop which involved several umbrella NGOs including the Tanzania Non-Governmental Organisation (TANGO), Association of Non-Governmental Organisations of Zanzibar (ANGOZA) and Tanzania Council for Social Development (TACOSODE) and government officials was organized by the Vice-President's Office in May 1996 to discuss policy draft. Several policy drafts were

produced and discussed in subsequent national consultative workshops and zonal workshops. The National NGO policy was supposed to provide a functional definition of an NGO. However, its definition of NGO is narrow than that of the ACT. The Policy defines an NGO as:

“a voluntary grouping of individuals or organizations which is autonomous and not-for-profit sharing; organized locally at the grassroots level, nationally or internationally for the purpose of enhancing the legitimate economic, social and/or cultural development or lobbying or advocating on issues of public interest or interest of a group of individuals or organizations” (para 5.1).

The spirit of the policy was to streamline the registration of NGOs by removing deficiencies in existing registration laws. It sought to address some of those weaknesses by harmonizing the current more than five laws governing NGO matters by enacting a new single NGO law for the whole of Tanzania. However, the *Non-Governmental Organizations Act* (Act No.24 of 2002) betrayed that spirit by making the NGO Act just another law dealing with NGO matters. The Act did neither repeal nor harmonize those laws. It allowed the non profit sector organizations to register under what ever law they preferred. Only those which wanted to be legally known as NGOs were supposed to register under the Act. However, there are other organizations which have not registered under that law which still call themselves as NGOs. The NGO Act narrows the definition of an NGO even further by defining an NGO as:

“ 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.”¹

This definition clearly narrows down the definition of non-profit organizations by using “*non-profit making*” instead of *not for profit sharing* among the characteristics of NGOs. The later

¹ It should be noted that due to pressure from civil society organizations and some donors the NGO Act was amended in 2005 under the Written Laws (Miscellaneous Amendment) (No.2) Act, 2005. The word “non-partisan” was defined to mean “not seeking political power or campaigning for any political party and the word “non-profit making” was replaced by “non-profit sharing.”

concept allows NPOs to make profit and plough back the profit for the development of the organization and not to pay it out as a dividend to members. Additionally, the law excludes trade union, sports clubs, political parties, religious organizations and community based organizations from the definition of NGO. Thus, the law excludes other organizations which are part and parcel of the Non-profit sector. In this respect, then the concept NGO as defined in the policy and Act can not be used to explain the non-profit sector in Tanzania. It rather seems to us that the concept “civil society organizations” captures a majority of the Non Profit Sector organizations (NPOs) in Tanzania.

3.4. Civil Society

The concept of civil society is increasingly becoming popular in Tanzania both within the intellectual community and the general public. Among academicians, the concept of civil society in Tanzania came into wide usage towards the end of the 1980s. This was the time when serious debate on democracy and democratization started in the country. Two levels at which the concept has been dealt with are important to discern here. The first level covers the usage of the concept by intellectuals. Most scholars used the concept without defining it, though a few did. Shivji (1993) for example, used the concept of civil society to imply autonomous (free from the state) organizations of the people within the society with no aim of taking state power, but seeking through different forms of organizations and activities, to control and democratize the state. Kiondo (1992) also subscribes to this description of the civil society when he discusses the role of NGOs in the democratization process. Like Shivji, he regards civil society, which includes NGOs, as autonomous and democratically oriented popular organizations.

Meena (1997) defines civil society as one which constitutes that sphere of more or less autonomous social organizations, which lie between the family, on the one hand, and the state on the other. To her, what characterizes civil society is institutional pluralism. Institutional pluralism refers to diversity of organizations, which includes, Non-Governmental Organizations, business unions, youth, women groups and other intermediate organizations.

Hartman (1994) on the other hand argues that the concept civil society as defined by either Gramsci or by pluralist political scientists does not apply to Africa (Hartmann 1994). According to her the applicability of the concept of civil society in Africa is problematic because in Africa both the state and society are artificial entities brought together by the forces of colonialism and the imperatives of the modern economy. As such, civil society in Africa lacks a common identity

and awareness of itself and it does not have a sufficiently developed collective consciousness. It is not sufficiently developed as a civil society to manage its affairs and become independent of the state.

In this sense civil society should be seen in relation to state making and the relationship between it and the state could take different forms of conflict, cooperation, and/or withdrawal. Ethnic based or oriented organizations, according to Hartmann, should not be included in the conception of the civil society as they work towards weakening or destroying the state.

Despite the debate, the above view which takes civil society as autonomous (free from state) organizations of the people within the society that do not aim at taking state power, but that seek, through different forms of organizations and activities, to control and democratize the state, is widely used in Tanzania.

The concept of civil society is more used today than ever before. The leadership in government, NGOs, Development Trusts, and other associations use it. However, rarely do they define the concept. It is very clear that a majority of non-profit sector organizations refer themselves as civil society organizations. Thus, in general, the way the concept is used both by the public and intellectuals seems to suggest that civil society organizations are a subset of the non-profit sector organizations.

NGOs form a part of not-for-profit organizations (NPOs). The confusion, which still exists in Tanzania in the way the two terms are treated, has roots in both policy and law. The definition in the policy and the NGO Act do not cover all non profit organizations. They exclude other forms of associational life in civil society, which could also qualify as not-for-profits. Although other forms, for example Community-Based Organizations (CBOs), may not be formal in the legal sense, they qualify as non profit organizations. Trade unions, social clubs, and entertainment sports clubs, political parties, religious or faith propagating organizations Community Based Organizations (CBOs) are also not included in both the policy and legal definitions. Thus civil society can be used to capture a majority of organizations in the Non-profit sector.

There are six major characteristics of NGOs that can be discerned from the definitions above. They have:

- an organizational form;
- free and voluntary membership;
- are managed by members;
- non-profit;
- autonomous and
- non-partisan.

Five out of six characteristics embodied in the definition above are in line with characteristics identified by the Johns Hopkins Comparative Non Profit Sector project (1998). These characteristics include: organization and institutionalization; autonomy; self-government and voluntary and volunteerism.

Taking these characteristics one by one:

(a) Organization and Institutionalization

Most Tanzanian NGOs are institutionalized in two senses; first, they are legally incorporated under different legislation; second, they have a well-defined internal structure, clearly stated objectives and they carry out activities within legal accepted limits. For legally incorporated NGOs, these aspects are imperative for their registration. There are a few organizations, which are not legally incorporated, and these too have some form of organizational structure, set of objectives, and carry out various activities. In some cases, both legally incorporated and unincorporated organizations fail to carry out their activity because of lack of funds. This is compounded by the fact that they are heavily dependent on external financing.

(b) Autonomy of Organizations

In principle and, to a large extent in practice, most Nonprofit sector organizations are independent and autonomous. They do not receive government subventions although the government regulates their activities, through the legislation under which they are registered. However, the space of operation of NGOs and other organizations in the non-profit sector are affected by the government desire to control them. Although there is an increased freedom for the operation of these organizations the culture of authoritarianism where the government controls all activities of the society is trying to resurface now and then. Civic organizations have

always been inclined to contest government's authoritarian tendencies -. the Media and NGO Act are cases in point

(c) Self-Government

Most of these organizations in Tanzania meet this criterion in that most are based on self government principles and have internal management procedures. Accountability is to the membership, which is voluntary. The leadership is governed by various organs created by the articles of association or constitutions on whose basis the organization was registered. The only external element of control derives from their dependency on external source of financing as on average 42 % of their financial resource comes from outside the country.

(d) Voluntary and Volunteerism

Most of these organizations are staffed by volunteers. Their boards are made up by people who carry out their duties and responsibilities on voluntary basis. Some do have paid staff, but even these are in most cases paid below their market values and membership is also voluntary. There are those that limit the number of members and others that allow unlimited membership. Members also make voluntary contributions for purposes of facilitating and supporting activities of the organization. This is done not because the law dictates it, but as a mutual and voluntary agreement made by members of the organization. Generally speaking, most non-profit sector organizations in Tanzania meet all the criteria mentioned above.

e. Non-partisan

The non-partisan criteria used in the NGO policy and Act definition is a controversial one. It seems to us it was put in place to deny opposition support from NGOs, because the practice shows that NGOs which challenge the government are deregistered or threatened to be deregistered on the basis of that clause (Peter, 2006). It shows that the NGO Policy's definition does not capture the whole non-profit sector as it excluded several types of NPOs in its definition. Thus, going by the NGO Policy and Act, an NGO is not a *de-jure* concept for the non-profit sector organizations in Tanzania. However, the concept civil society can be used for that purpose.

4. CLASSIFICATION OF THE NON-PROFIT SECTOR IN TANZANIA

4.1. Divisions by Origin

Two major groups can be distinguished in Tanzania. The first group consists of the international NGOs, and the second include local or national NGOs. The two distinctions are based on registration, membership and financing. Foreign NGOs are registered abroad but are given permission to operate locally. Their major source of financing is in their country of origin and membership too is drawn from the same source. Most of these are staffed by both local and foreign staff, but the common experience is that foreigners, usually from the country of origin fill the most responsible posts and locals the least responsible positions.

National NGOs are under two major categories i.e. national and local NGOs. NGOs with a national character deal with issues, which cater for cover the entire nation or a large section of the country. This is irrespective of the fact that some of these NGOs cater for or cover a specific group of people, e.g. Women, youth and disabled groups. Local based NGOs cater for specific areas. Examples of these NGOs are the Maasai Land Rights Organizations and others. In terms of staffing both the national and local organizations are staffed by locals.

4.2. The Non-Profit Sector and the National Standard Industrial Classification (SIC)

The nonprofit sector neither features separately in the Tanzanian SIC system nor is it given any special categorization (for accounting purposes) in the National Accounts or National Economic Surveys of Tanzania. In this respect, it is very difficult to assess or get the contribution of the non-profit sector from those sources. However, it is encouraging to see that the contributions of the nonprofit sector in such areas as health, education and culture, advocacy etc., are being acknowledged in recent (annual) Economic Surveys though without specific reference to their respective "quantitative" contributions.

The International Classification of Non Profit Organizations (ICNPO) also does not harmonize with the Tanzania SIC which is based on the UN International Standard Industrial Classification System (ISIC).² The UN Statistics office has brought out a Third Revision of the ISIC which seems to fit the ICNPO and if Tanzania adopts the Third Revision, it will be possible to make a better comparison and compute the contribution of the non-profit sector in national income.

² For the International Classification of Non Profit Organizations (ICNPO) see appendix 3

5.0 CONCLUSION

As we discussed above, the Tanzanian non-profit sector organization fits well in the structural definition as all registered non-profit organizations can be classified in the ICNPO. However, there is no single concept that fully captures the non profit sector in Tanzania. Popularly used terms such as charitable or voluntary organizations and non-governmental organizations seem to exclude several types of NPOs. Furthermore, both the NGO Policy's and the NGO Act definitions seem to apply only to a limited type of non profit sector organizations. Although the concept "civil society" as used in Tanzania consists of organizations beyond those that are defined by the NGO Policy and Act, it does not capture all the non-profit organizations. For example, associations belonging to sports and cultural sector are not included. Despite its limitation, the term civil society as it is used in Tanzania captures a larger part of non profit organizations than any other concept. Thus, the only concept that can apply to all organizations in the non profit sector in Tanzania is "non profit organizations."

**ESTIMATING THE SIZE AND SCOPE OF THE
NON-PROFIT SECTOR IN TANZANIA:
EMPLOYMENT, MEMBERSHIP, REVENUE AND EXPENDITURE
Laurean Ndumbaro and Abu Mvungi**

1. INTRODUCTION

This was the first attempt to estimate the size and scope of the Non Profit Sector in Tanzania in terms of employment, membership, revenue and expenditure. In the past there have been some studies such as Kiondo (1995) and the Vice Presidents Office (2001) which tried to estimate the size of the Non Profit Sector in the country. Kiondo's study was done before the rapid proliferation of Non Profit Organizations (NPOs) in the country, which followed political and economic liberalization. This means that the findings from this study cannot be a fair representation of the current situation. The study by the Office of the Vice President which was done in 2001 put the number of NGOs at 3700³. This data from the VPO's office has a number of problems which made it inconclusive. First, during the current study it was revealed that a number of listed NGOs no longer existed and/or were not found in the physical addresses indicated. Second, some operating NGOs were missing from the list and finally, the list did not include Community Based Organizations (CBOs) which are important development players in Tanzania.

Besides, both works did not estimate the contribution that the non-profit sector was making specifically in the areas of employment, membership, revenue, expenditure and their outputs. For our purpose, not even the national accounting technique was of any help. This was because it used the household survey method, which does not take into account the contribution of the Non Profit sector. Even in areas like employment and revenue where information was available, it was not disaggregated in terms of for profit and non-profit categories. As a result, it was necessary to carry out a study that would provide quantitative data for analyzing employment, membership, revenue and expenditure of the non profit

³ It should be noted that the NGO Act of 2002 required civil society organisations which wanted to be known as NGOs to register afresh under the Act. So far less than a 1000 Civil society organizations have registered under the Act

sector in Tanzania. Such data would then enable us to determine the contribution of the non profit sector to the national economy.

This paper is divided into five major sections. The first section is the introduction. The next section discusses the methodology used to collect data. This is followed by a section dealing with the size and membership of organizations in the non profit sector. The fourth part deals with revenue and expenditure. The last part highlights some emerging issues and conclusions.

2. METHODOLOGY

A combination of documentary evidence and survey methods was used to collect data. Additionally estimation was used to project the larger picture as far as NPOs were concerned. Documentary evidence was used to obtain data from published works, reports and other written sources. In the survey technique two types of questionnaires were used. The first questionnaire was administered to institutions such as Bureau of Statistics, Ministry of Education and Culture, Ministry of Health, Ministry of Home Affairs, Vice President's Office, Office of the Attorney General, National Sports Council, National Environmental Council and the National Arts Council. Others, where the first questionnaire was administered, included sports umbrella organizations, NGOs umbrella organizations, the Cooperative Association of Tanzania and the Trade Union Confederation of Tanzania.

The second questionnaire was administered to a sample of Non Profit Organisations (NPOs) from 12 regions in the mainland and one from Zanzibar. The selection of the twelve regions was based on the Vice President's Office Inventory of 2001. This inventory enabled us to group the regions into three categories namely those with high, medium and low NPO concentration.⁴ Four regions were randomly selected from each category making a total of 12 regions from Tanzania Mainland. These regions included Dar es Salaam, Arusha, Kilimanjaro and Morogoro representing regions with high concentration of NPOs while Mbeya, Mwanza, Ruvuma and Tanga were randomly selected to represent regions with medium concentration of NPOs. The last category was represented by Mtwara, Mara, Rukwa and Tabora. Zanzibar (Unguja and Pemba) was taken as one region to make a total of 13 regions. In each region a rural and urban district were randomly selected. Leaders from 40

⁴ See Appendix 1

different NPOs were interviewed in each district this made a sample size of 1040 NPOs. Simultaneously, a list of NPOs in the district was compiled.

Looking at the distribution and concentration of NPOs in Tanzania, it is interesting to note that regions with high concentration of NPOs were those that are also categorized as rich regions in the country with a significant number of educated people such as Dar es Salaam, Kilimanjaro and Arusha. Regions that are categorized as poor such as Lindi, Singida and Tabora had the lowest number of NPOs. In this respect, the distribution of NPOs in the country clearly coincided with the level of development and easy accessibility in the regions. That is, the lower the level of development and accessibility, the less the number of NPOs.

A total of 867 NPOs were actually interviewed which was 83% of the anticipated number. The NPOs varied in terms of when they were established. The survey indicates that most of the NPOs (i.e. 465 or 54.9%) were established after 1995 while 195 NPOs (23.2%) started between 1990 and 1995. Another 184 NPOs (21.95%) were founded before 1990 and this includes 23 NPOs (3.0%), which were established before independence. The high percent of NPOs established after the 1990s is indicative of the economic liberalization policies and state withdrawal from social and economic ventures, which started in mid 1980s and affected both the economic and political spheres. Among the interviewed NPOs only 18.1% indicated that they were not registered. When we generalize to the whole population 18.1% of non registered NPOs is reasonably low. Given the rapid proliferation of NPOs and registration complications a much higher percentage of non-registered NPOs was expected. The inclusion of NPOs registered with the village government partly contributed to this lower percentage.

3. THE SIZE AND MEMBERSHIP OF NON-PROFIT ORGANIZATIONS

In estimating the size of the NPOs five categories were used: cooperative societies, sports associations, NGOs, culture and art organisations, and Community Based Organisations (CBOs) (which were not already listed as “cultural”). On the basis of documentary evidence from different government and NGOs’ reports, and from an organizational survey the total number of registered NPOs in Tanzania was estimated to be 58,807 in 2001⁵. This was based on the survey questions “How many organizations in your village are not cultural?”

⁵ By registration here it is mean all NPOs that are legally or administratively registered.

and “How many organizations in your village are cultural?” Computation from sample statistics showed that there is an average of 2 CBOs in each of the surveyed villages. When we multiplied this average by the number of registered villages in Mainland Tanzania (i.e. 10,313) we got a total of 20,626 non-cultural CBOs. For cultural CBOs, the average was 1.3 groups per village. When this was multiplied by the number of registered villages (10,313 villages) we got a total of 13,407. In the sports category documentary evidence showed that there are about 3,989 NPOs registered with sports authorities. Survey data on the other hand indicated an average of 1.1 sports organization per village. When this was multiplied by the total number of registered villages (10,313) we got a total of 11,345 NPOs to which we added 3,898 sports groups collected from documentary sources to get 15,243 NPOs as shown in the Table 1.

Table 1. The Total Number of Registered NPOs in Tanzania

Category	Number	Percentage
Cooperative Societies	5,436	9.2
Sports	15,243	26.3
NGOS	3,865	6.6
Culture and Arts	13,407	22.8
CBOs (not cultural)	20,626	35.1
Total	58,807	100%

Source: Compiled from government reports, NPOs reports, and the Survey

Based on the survey data we categorized studied NPOs according to the International Classification of NPOs (ICNPOs)⁶. Findings are presented in Table 2 which shows that NPOs dealing with education had the highest percentage (15.9%) followed by Health (14%) and development and settlement (12.2%). It is important to note that the three are basic to improving the livelihood of the people. The comparatively high ranking of these three sub-sectors point to the fact that most NPOs were engaged in important areas of the societal development. It is also indicative of the extent to which the NPOs are filling the ever widening gap created by the government withdrawal from offering social services and development activities as a result of the neo liberal policies.

⁶ Please see Appendix 1 for a full list of the Categories in ICNPO

Table 2: Distribution of NPOs According to ICNPO Categories in Percentage Terms

ICNPO Category	%
Culture & Entertainment	9
Education & Research	15.9
Health	14
Social Services	11.4
Environment	8.8
Development and Settlement	12.2
Civil Rights & Advocacy	7.1
Philanthropy	7.9
International Activities	4.3
Commerce/Professional/Workers	3.4
Associations	0.3
Religious	6.0
Other	
Total	100%

Membership in the Non Profit Sector

Our findings indicated that the majority of sampled NPOs were member based. Out of the 867 NPOs interviewed 754 (87%) indicated they had members while 82 (9.5%) had no membership and 31 (3.5%) NPOs did not indicate whether they had members or not. Those who said they had no members were largely those registered under the Company Law.

Additionally, findings from the survey showed that, on average, respondents were members of 3.4 NPOs. The 754 NPOs which indicated that they had membership in the survey had a total of 216,740 members. We had to divide this number by 3.4 because on average an individual had membership in 3.4 NPOs. Therefore the actual number of membership of the 754 NPOs is 63, 747. We then divided this number by the total number of NPOs which were indicated to have members and obtained 85 members as an average number of members per organization. This average number of members (85) per organization was then multiplied

with the estimated total number of NPOs (58,807) from the survey and we obtained the figure of 4,998,595 as an estimate of the number of members of NPOs in the country⁷.

Findings also showed the majority of NPOs (27.3%) were small with a membership of between 51 and 100 people. The next category (22.5%) had a membership of between 11 and 25 people. Very few NPOs (760) had a membership of more than 5000. Since the efficacy and sustainability of the NGOs obviously depends on membership, it is obvious that the low membership in NPOs dealing with pertinent issues had a bearing on their efficiency, coverage, scope and sustainability. This may also be explained by the fact that some people treat NPOs as their private property and, in this sense, are limited in membership. Thus, from the data above, we can estimate membership of the non-profit sector organizations in Tanzania at 5,000,000.

Findings also indicated the presence of five types of membership. The sample indicated that a majority of NPOs had individual membership. A “significant others” category combines group with honorary membership or individual with honorary membership. Organizations which combine all types of membership are very few.

4. EMPLOYMENT IN THE NON PROFIT SECTOR

Estimates based on the survey indicate that the sampled NPOs employed 23,004 permanent workers in 2001. The same estimation shows that about 22,481 people were employed by the same NPOs as part timers. Nationally the employment in the Non Profit Sector was estimated to be 82,193 people. These were distributed as shown in Table 3.

⁷ This is can be rounded of to 5 million members (5,000,000).

Table 3: National Estimates of Employment Distribution by ICNPO Categories

INCPO Category	%	Employment
Culture and Entertainment	9.0	7,397
Education and Research	15.9	13,069
Health	14.0	11,507
Social Service	11.2	9,206
Environment	8.8	7,233
Development and Settlement	12.2	10,027
Civil Rights & Advocacy	7.1	5,836
Philanthropy	7.9	6,493
International Activities	4.3	3,534
Commerce/Professional/Workers Associations	3.4	2,795
Religious	0.2	164
Other	6.0	4,932
Total	100%	82,193

Table 4 above indicates that the NPOs which are engaged in sectors that are central to the wellbeing of the people employ the most people. Education and Research leads with 15.9%, followed by Health with 14%, development and settlement with 12.2%, and social services with 11.2%. Commerce professional/Workers Associations employ the lowest number (0.2%) - something that can be explained by the fact that there is a lot of volunteering in this category.

5. VOLUNTEERING IN THE NON PROFIT SECTOR

Many NPOs (504) in the sample had volunteer workers while 259 did not have any. Thus a majority of NPOs indicated that they had engaged volunteers. Calculations from the data collected indicate a monthly average of 21,313 volunteers in the nonprofit organizations in 2000. However, the number of Volunteers in these NPOs did not show any increase over time. For example 535 NPOs responded to the question on whether the number of volunteer workers had increased compared to previous year, but only 60 NPOs had more volunteers. 50 NPOs indicated that they had fewer volunteers than in previous years. 419 responded that the number of Volunteers remained more or less the same. In terms of hours committed by Volunteer workers in the NPOs a big variation was noted as shown in Table 4.

Table 4: Number of Hours per Month Committed by Volunteers to NPOs

No of hours	No of Volunteers
Up to 60	246
61 – 120	432
121 – 180	71
Over 180	66

As shown in Table 4, most volunteers (432) committed to NPOs between 60 and 120 hours per month. Very few NPOs (66) committed over 180 hours per month. The study used these figures to estimate the number of hours spent by Volunteers per year. The study found that the mean volunteer hours per organization per year for the year 2000 was 13,437 hours.

According to the survey, about one third (33.9%) of the organizations did not have volunteers. This is equivalent to 19,936 organizations out of the estimated total of 58,807 organizations. Thus, the number of organizations that had volunteers was 38,871. This number was used to estimate the national Volunteer hours per year by multiplying it with the mean volunteer hours per organization. This gave us 522,309,627 hours as estimated total National volunteer hours per year. These hours were distributed in accordance to the ICNPO categories as indicated in Table 5.

Table 5: National Estimates of Volunteer Hours by ICNPO Categories

ICNPO Category	%	Vol. Hours
Culture and Entertainment	10.8	56,409,440
Education and Research	10.3	53,797,892
Health	9.3	48,574,795
Social Service	18.0	94,015,733
Environment	11.2	58,498,678
Development and Settlement	12.9	67,377,942
Civil Rights & Advocacy	7.1	37,083,984
Philanthropy	7.7	40,217,841
International Activities	3.7	19,325,456
Commerce/Professional/Workers Assocs.	3.1	19,191,598
Religious	0.2	1,044,619
Other	5.7	29,771,649
	100	522,309,627

Source: Calculated from survey data

As can be seen in Table 5, the NPO with most volunteer hours were those in the sub-sectors of Social Services, Development and Settlement, Culture and Entertainment. The Religious category had the lowest Volunteer hours followed by the Commerce /Professional/Workers Associations category.

6. WAGE BILL

The Study found that the Wage Bills for the people working with the NPOs varied greatly as indicated in Table 6.

Table 6: The Extent of the Wage Bill in Relation to NPOs' Expenditure

Tshillings	No. of NPOs	Total Tshillings
Up to 100,000	597	29,850,000
100,001 – 250,000	24	4,224,000
250,001 – 500,000	31	11,656,000
500,001 – 1,000,000	38	28,538,000
1,000,001– 5,000, 000	66	198,000,000
5,000,001 – 10,000,000	17	127,500,000
10,000,001 – 50,000,000	22	660,000,000
50,000,001– 100,000,000	2	150,000,000
> 100,000,000	4	400,000,000
TOTAL	801	1,609,768,000

Source: Survey data

As Table 6 shows a majority of NPOs (597) paid salaries only up to 100,000 Tshs making a total wage bill of 29,850,000 Tshs. This was a relatively low Wage Bill. In the same table 4 NPOs had a Wage Bill of 100,000,000 TShs making a total of 400,000,000 Tshs in wage Bills.

Most surveyed NPOs (603) spent less than 13% of their revenue on wages as indicated in Table 7. NPOs in Development and Settlement were the ones that used the highest percentage (12.2) of their revenue on wages. Religious organization had the lowest percentage (0.2%) of their revenue spent on Wage Bills

Table 7: Percentage Spent on Wages by NPOs by ICNPO Categories

ICNPO Category	%	Tan Sh
Education & Research	15.9	13,069
Health	14	11,507
Social Services	11	9,041
Environment	8.8	7,233
Development & Settlement	12.2	10,027
Culture & Entertainment	9	7,397
Civil Rights & Advocacy	7.1	5,836
Philanthropy	7.9	6,493
International Activities	4.3	3,534
Commerce/Professional/Workers Associations	3.4	2,795
Religious	0.2	164
Other	6.0	4,932
Total	100%	82,193

From the Survey only 70 NPOs reported their Wage Bill, their Permanent and Part Time employees. The Wage Bill of these organizations was Tshs 629,816,819 .The Total number of permanent employment was 558 while Part Timers were 337. For purposes of estimation of full employment we divided the number of Part-timers by 2 and obtained about 168. Therefore, the estimated number of full time employees was equivalent to 727 (558 + 169) employees. Therefore the average annual wage for NPOs employee in the NPO sector was about Tan sh. 866,223 per year (equivalent to US\$ 1,162 using an exchange rate of Tshs 745.34 to a dollar that prevailed at that time). Thus, the estimated total wage bill in the NPO sector was $82,193 \times 866,223 = 71,197,467,039$ Tshs (or US\$ 61,255,135).

7. REVENUE

The total revenue of the 282 (1998) and 284 (1999) out of 867 surveyed NPOs was 5,877,680,610 Tshs for 1998 and 6,547,350,205 Tshs. for 1999 respectively. There is a considerable difference among the NPOs as indicated in the Table 8.

Table 8: Distribution of Revenue among the Surveyed NPOs

Revenue in Tshs.	No. Of NPOs	
	1998	1999
Up to 100,000 Tshs N	1,432,100 (25)	26,158,190 (32)
100,001 – 250,000	5,163,584 (28)	7,959,445 (38)
250,001 – 500,000	11,986,811 (31)	38,351,233 (31)
500,001 – 1,000,000	30,435,260 (40)	39,715,114 52
1m – 5m	182,970,902 (77)	393,757,964 (76)
5m – 10m	184,693,102 (24)	214,944,122 (24)
10 – 50m	993,587,275 (38)	1,017,961,813 (38)
50 – 100m	842,198,7334 (12)	923,323,911 (12)
Above 100m	3,625,212,841 (7)	3,885178,413 (7)
TOTAL	5,877,680,610 (282)	6,547,350,205 (284)

Table 8 shows that 124 out of 282 NPOs had revenue not exceeding 1 million Tshs in 1998. This number increased to 153 out of 284 in 1999. When the NPO revenue for 1998 and 1999 was compared there was an increase of about 11.4%. While data from the documentary survey showed the average percentage of the wage bill for NPOs was 6.2%, estimation from the survey data showed that on average wages were 36% of the organizational revenue. This discrepancy could partly be explained by the fact that the majority of these organizations had limited revenues and wage bill seemed to be higher in relation to their revenues. From the above explanation we can estimate the total revenue of

the nonprofit sector in Tanzania to be $100 \times 71,197,467,039/36 = 197,770,741,775$ Tshs. Revenue distribution by ICNPO category was as shown in Table 9.

Table 9: National Estimates of Revenue Distribution by ICNPO Categories

ICNPO Category	%	Revenue Tshs.
Culture and Entertainment	5.7	11,240,216,053
Education and Research	16.2	31,945,877,206
Health	12.4	24,452,399,837
Social Service	14.2	28,001,941,748
Environment	6.1	12,029,003,145
Development and Settlement	22.7	44,763,667,443
Civil Rights & Advocacy	8.6	16,958,922,467
Philanthropy	5.0	9,859,838,644
International Activities	3.6	7,099,083,824
Commerce/Professional/Workers Associations	1.4	2,760,754,820
Religious	0.6	1,183,180,637
Other	3.5	6,901,887,051
Total	100%	197,196,772,875

As can be discerned from the table above Development and Settlement category had the highest revenue followed by Education and Research, Social Services with Health category being the fourth. The religious category came last as far as revenue distribution was concerned. We note here again that NPOs categories that were dealing directly with improvement of peoples livelihood had the highest revenues.

8. SOURCES OF REVENUE FOR THE NON PROFIT SECTOR

The NPOs receive revenues from a number of sources both outside and inside the country. Table 13 shows the various sources of revenue for the NPOs.

Table 13: Sources of Revenue

Source of Revenue	Amount Received	%
Governments Grants and Contracts	380,028,382	4.35
Government Reimbursement Arrangements	28,859,210	0.33

Individual Contributions	91,635,132	1.05
Contributions from Private Corporations	88,296,540	1.01
Contributions from Parastatal Organizations	470,664,816	5.39
Aid Organizations and Foundations	3,505,647,616	42.25
	(Public)	
	184,507,769	
	(private)	
Transfers from Parent Organization/Church	439,266,279	5.03
Fees & Charges for Services	553,668,025	6.34
Sales of Products and Business Income	329,992,430	3.78
Membership Dues	390,490,097	4.47
Earnings from Endowment or Investments	527,405,768	6.04
Other	1,743,852,4147	19.97
Total	8,734,314,478	100

The table 13 above show that 42% of the NPOs revenue comes from outside. This is not healthy for the sustainability of the nonprofit sector in the country. However this is a reflection of the general dependency the country has on foreign aid. About 84% of the Civic and Advocacy subsector revenue and 69% of the Development and Housing revenue as well as 59% of Environment subsector revenue is from external sources. This partly explains the high priority donors have accorded to the areas of Human Rights and Democracy, Poverty Alleviation and the Protection of the Environment. Interestingly, Professional Associations and Unions depend on domestic funding by 87%, while the Religion sub sector, and Culture and Recreation sub sectors both depend on domestic revenue at 62%. This can partly be explained by the fact that these are the traditional areas of volunteering in Tanzania.

It is important to note that there is a higher sense of ownership by members in these sub sectors than in the other sub sectors. Thus, there is a need for organizations in the Human Rights and Advocacy, Environment and Development sub sectors to increase public awareness on the importance of their activities so that people can contribute their time or money to support their activities.

9. EMERGING ISSUES AND CONCLUSIONS

The study has shown that the contribution of the non-profit sector to social and economic development was very significant. The sector is big and it employs about 25% of the number of state employees. However, the sector is highly donor dependent in terms of its revenues. Up to 42 percent of the NPOs revenue comes from outside. This is not healthy for the sustainability of the nonprofit sector in the country. The patterns also show that people do apply for funding in those areas that have a high probability of attracting donor assistance. Study findings has also shown that about 5 percent of registered NGOs in these areas are pocket organizations that have been established mainly to cater for private interests. In this regard people register their NPOs in areas which have donor priority.

Professional Associations and Unions are not as dependent on external funding as NPOs in Civil Rights and Advocacy, Environment etc sub-sectors which depend up to 84% on external funding. Professional Associations and Unions depend on domestic funding to the extent of 87%, the Religion sub sector, and Culture and Recreation sub sectors both depend on domestic revenue to the extent of 62%. This can partly be explained by the fact that these are the traditional areas of volunteering in Tanzania. NPOs in these subgroups are the only ones that can survive with minimum problems without external funding.

It is also interesting to note that volunteers manage most nonprofit sector organizations in the Sports and Culture sub sector as well as the majority of Community Based Organizations. These have contributed a lot to the high volunteer time in Tanzania. During the single party era state institutions as well as a few nonprofit sector organizations that were allowed to exist used to organize community works. In recent years, a number of Community Based Organizations as well as NGOs have been mobilizing volunteers for community works including road and bridge constructions, building of schools, health facilities, city/town cleaning, and tree planting. All these have contributed to high volunteer hours.

Volunteering, particularly of people working in an established organization, is new to Tanzania. The unemployed, particularly graduates, are increasingly volunteering to work in some of the nonprofit organizations. However, most of them volunteer as a way of acquiring job experience, which is a prerequisite for employment in the job market.

Another interesting issue is that the level of transparency (as far as revenue and revenues sources are concerned) in most NPOs is very low. Most organizations were very reluctant to disclose their revenues let alone their sources and expenditures. Most donor agencies have also been very reluctant to disclose names of NPOs to whom they have allocated funds as well as the amount disbursed. Some of the reasons given by donors include the observation that the government of Tanzania is still authoritarian and so it can use the financial data to harass organizations that are funded. To approve or disapprove this claim is beyond the scope of this paper., What worries us, however, is the implication of this claim for organizational transparency and accountability. Implicitly, it seems as if some donors are encouraging the NPOs they fund not to reveal their financial matters to the public. If one places this donor's view in the context of a country with rampant corruption it becomes a serious blow to accountability. This is more serious when one considers the findings from 2000 Research and Education for Democracy (REDET) study that revealed 56.2 percent of members of the NPOs interviewed did not know the amount donors had contributed to their organizations/projects. All these factors make us conclude that this view not only encourages, but also reinforces the anti-transparency and accountability culture that was prominent under the single party era.

THE LEGAL CONTEXT OF THE NONPROFIT SECTOR IN TANZANIA

Robert V. Makaramba

1.0 INTRODUCTION: THE LEGAL CONTEXT

This part discusses the general legal context of the nonprofit sector in Tanzania as well as the treatment of religion and religious institutions. It examines the underlying, basic legal principles that shape the way the nonprofit sector is dealt with in the law of Tanzania and how they have affected the legal treatment of nonprofit organizations. It also makes recommendations for improving the legal framework governing not for profit organizations.

In Tanzania, the legal forms available for nonprofit organizations include NGOs. The bulk of the law concerning not-for-profit organizations (NPOs) in Tanzania Mainland is founded on statutory provisions and a small part on common law and equity principles. Although the concept of non-governmental organizations is a very old one, NGOs, like political parties, are "modern" entities. NGOs operating in the country deal with a number of social and development issues including economic and cultural activities, social, health and educational services, charitable and religious matters, environmental protection and resource conservation, poverty alleviation and rural development, to mention only a few.

1.1. Tanzania: Dualism in government, constitution and legal system

The discussion on the nature of government, constitutional setting and legal system is pertinent to our discussion as it impacts on the non profit sector particularly in the way non profit organizations are treated in the laws of the two constituent entities of the Union, that is, Tanzania Mainland and Tanzania Zanzibar respectively. The united sovereign state of Tanzania is a United Republic, which came into existence in 1964 following the merger of the Republic of Tanganyika (now Tanzania Mainland), and the People's Republic of Zanzibar (now Tanzania Zanzibar). The latter comprises of two islands, Unguja and Pemba respectively.

The political "power map" of the united sovereign state of Tanzania is charted out in the *Constitution of the United Republic of Tanzania* of 1977 (the Union Constitution) as amended, which governs "union matters" as well as matters for Tanzania Mainland. The regulation and control of non-profit organizations does not constitute part of the "union matters" mentioned in the Union Constitution. The implication here is that each of the two constituent entities of the Union can make its own provisions to regulate the non-profit sector and organizations. Consequently, the Union Parliament cannot legislate on the non-profit sector with respect to Tanzania Zanzibar. The *Constitution of Zanzibar* of 1984 governs the other constituent part of the Union, Tanzania Zanzibar.

As a result of the delineation between union matters and non-union matters, Tanzania has a dual legal system because laws and legal institutions do not form part of union matters stipulated in the Union Constitution. Each constituent part of the Union therefore has its own system of laws concerning non-profit organizations and institutional arrangement for the management of the non-profit sector. This Part therefore concerns itself with the legal context of the non-profit sector in Tanzania Mainland, however, where appropriate reference will also be made to the legal position in Tanzania Zanzibar.

1.2 The Legal System of Tanzania

The dual legal system of Tanzania is characterized by the "triple heritage" (Mazrui, 1989). It comprises "received laws" mainly the English common law, doctrines of equity and statutes of general application; religious systems of laws, mainly Islamic and Hindu; and customary or traditional laws of the more than 120 matrilineal and patrilineal tribes in the country. The laws governing non-profit organizations in the Tanzania are partly of common law origin and largely of statutory nature. Some of the statutes, which deal with non-profit organizations were promulgated during the colonial period but are still in force in the country.

As stated above part of the law governing non-profit organizations is rooted in the common law system, which is in vogue in the country. This system of law was imported into the territory of Tanganyika by the English colonizers in 1920 through the *Tanganyika Order-in-Council*. The Order was promulgated by the King in Parliament, exercising powers under the *Foreign*

Jurisdiction Act of 1890. It made the common law of England applicable to the territory as from a specified date (22 July 1920) and empowered the King to promulgate other Orders and Ordinances for the Territory. The King acting on this power enacted the *Societies Ordinance* (now the Societies Act, Cap.337 of the R.E of the Laws of Tanzania, 2002), the *Trustees' Incorporation Ordinance* (now the Trustees' Incorporation Act, Cap. 318 of the R.E. of the Laws of Tanzania, 2002) and the *Companies Ordinance* (now the Companies Act, No.12 of 2002) respectively. These statutes constitute the main law dealing with non-profit organizations in Tanzania Mainland. Although they were promulgated by the British colonial state, they were inherited "lock, stock and barrel" by the independent Government. Apart from the Companies Ordinance, which has now been repealed and replaced by the Companies Act of 2002, the other two legislations, are still good law in the territory. The Order also established a High Court for Tanganyika and extended to it English court practices and procedures.

Until very recently, Tanzania Mainland did not have a law specifically on NGOs. In 2002, the National Assembly passed the Non-Governmental Organizations Act. The enactment of the NGO Act was intended to establish one law for all non-governmental organizations in the country. Instead the new law has only streamlined the registration of NGOs leaving intact the previous statutory provisions dealing with non-profit organizations, which are scattered in a number of statutes. We may venture therefore to say that still there is no single body of law in the country for the entire classes of nonprofit organizations. Similarly there are no different legal provisions at national and local levels for nonprofit organizations either. All the different types of nonprofit organizations are regulated centrally by national legislation and regulations although at the District level, the power and authority over NGOs operating at that level have now been delegated to the District Administrative Secretary (DAS).

The law governing nonprofit organizations in Tanzania, which is partly of English origins and largely based on statutory provisions, relates to the type of organizations concerned and is embodied in various statutes each of, which is administered by a separate central government ministry. We shall come back to this when discussing the statutory provisions relating to registration of NPOs. Let us first put the subject matter of our discussion in a constitutional context.

1.3.1 Guaranteed Rights and Nonprofit Organizations

Both the 1977 Constitution of the United Republic of Tanzania (the Union Constitution) and the Constitution of Zanzibar of 1984 guarantee human rights and freedoms such as freedom of association and of assembly; of free speech; and of worship, all of which impact on nonprofit activity. Article 20 of the Union Constitution and similar provision in the Constitution of Zanzibar guarantee the freedom of every person to freely and peaceably assemble, associate and cooperate with other persons, express views and publicly, but subject to "the laws of the land." However, following the 14th Amendment to the Union Constitution in 2005, the qualification that the enjoyment of freedom of association must be subject to other laws has now been effectively done away with. The freedom extends to any person exercising it by "*forming or joining association or organizations for purposes of preserving or furthering his benefits or interests or any other interests.*" Both the Union and Zanzibar constitutions guarantee both the positive freedom of forming or joining associations or organizations as well as the negative freedom of not being forced to join such associations or organizations.

Although the enjoyment of the freedom of association under the Union Constitution is no longer circumscribed, it is still affected by the omnibus limitation clause under Article 30(2)(e) which subjects it to other laws of the land. The Constitution of Zanzibar carries a similar limitation under Article 24(2)(e). The implication of this is that it gives the government a legitimate power to limit the exercise of the guaranteed rights and freedoms by enacting laws or taking reasonable action, which may abridge or even violate such rights or freedoms. Articles 30(2) and 24(2) therefore have a double impact. First, they permit existing laws that violate human rights to continue to operate in the country. Secondly, they give the government authority 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.*" It is within the ambit of these provisions that some very despotic pieces of legislations, which hinder the activities of non-profit organizations, have continued to operate amidst heavy criticism and castigation by human rights activists (Makaramba, 1998; C.M. Peter, 1997; C.M. Peter and Helen Kijo Bisimba, 2005).

Tanzania has in place a number of very oppressive laws in force, some which interfere with nonprofit activity. In 1992, a Presidential Commission, the Nyalali Commission, looked into some of these laws and made appropriate recommendations including their repeal and/or amendment in line with the new wave of multiparty democracy in the country. The Nyalali Commission reviewed and critically analyzed some “forty” despotic pieces of legislation (URT, 1992), including the 1953 colonial *Police Force Ordinance*, Chapter 322 of the Laws (now the Police and Auxiliary Police Act), which requires any person who wants to demonstrate or assemble peacefully in a public place to seek and get a written permission from the police. Otherwise assembling or demonstrating without such a permit constitutes a criminal offence both under the *Police Force Ordinance* and the 1930 colonial *Penal Code*, Chapter 16 of the Laws. According to section 74 of the Penal Code, if more than four persons assemble in public without a police permit, this amounts to an "unlawful assembly" punishable upon conviction with imprisonment. The 1976 *Newspapers Act* No.3 of 1976, which was also reviewed in the Nyalali Commission, makes it seditious for any person to write news in a manner, which is "inciting to the public" so as to cause a “breach of the peace." Sedition is also a criminal offence under the Penal Code, Chapter 16 of the Laws, which is modeled on the Indian Penal Code and was imported into the Tanganyika Territory by the British colonialists in 1930. It is still good law in the country.

The Union Constitution and the Zanzibar Constitution, though in a limited way, guarantee the right of everyone to freedom of peaceful assembly and association without being compelled to do so, they do not carry explicit guarantees for nonprofit organizations or specific types of nonprofit organizations. It is implied however, that "*activities of private societies and organizations*" or "*to form or join associations or organizations*" mentioned in Article 30(2)(e) and 20 of the Union Constitution and Article 24(2) and 20 of the Constitution of Zanzibar, include nonprofit organizations and other voluntary civic organizations and community-based associations.

Tanzania is a secular state and the constitution of the state guarantees both the freedom of worship or non-worship. It means that the state cannot pass laws to force its citizens to adopt any particular form of religion. It means also that state cannot take action or make laws

favouring one religion over another. Despite its secular orientation, state law in Tanzania however, treats religious congregations 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. Religious congregations however, are treated favourably under revenue laws, as they are tax exempt.

The freedom of worship, which is guaranteed both in the Union Constitution and the Constitution of Zanzibar, is also subject to other laws of the land. This creates a system of parity in church/mosque - state relations. Article 19 of the Union Constitution, and a similar provision in the Constitution of Zanzibar guaranteeing freedom of worship confer *status negativus* on legally recognized religions. This is the right of defence against any act of the state that could violate religious liberty. The concession on freedom of worship to the populace however, makes the profession, practice and propagation of religion "a free and private affair of individuals" and "the conduct and management of religious communities" do not form part of the official functions of the State. This creates a *status positivus*, meaning that the promotion of religious interests is to be carried out within the scope of legitimate state purposes, according to the laws of the land and the constitutional principle of equality before the law and equal protection by law (Makaramba, 1991:285).

The implication of constitutional secularism for religion is such that the "church" or the "mosque" and the state are legally separate and ecclesiastical or canon or Islamic law are not part of state law, with the exception of Muslim personal law. The religious neutralism of the state of Tanzania concedes to the application of religious laws in matters of personal status matters such as Islamic forms of marriage, divorce (*talaq*), *waqf* and inheritance, but subject to state laws.

The apparently religiously neutral sovereign secular united state of Tanzania guarantees freedom of worship and all religions are treated equally before the law. The main legal implication of this for the nonprofit sector is that the Government cannot legally support nonprofit organizations through subventions from the Treasury coffers. Consequently nonprofit organizations are forced to rely on charitable donations, from internal and external sources to fund their various social and development activities, thus making them dependent on donors,

which threaten their very own sustainability and freedom of action. A large part of non-profit organizations are therefore forced by financial circumstances to adjust their programmes to fit into their donors' agenda or requirements and conditions.

2.0: LEGAL TREATMENT OF NON PROFIT SECTOR ORGANIZATIONS

This part gives a synopsis of how the law in Tanzania Mainland deals with the eight major issues outlined below as being particularly crucial in the nonprofit field. It provides a fuller statement of the basic legal position of nonprofit organizations in Tanzania Mainland in terms of these critical issues.

2.1 Eligibility

There are certain general features that qualify organizations for legal recognition as nonprofit organizations or associations. They include the following: (a) the legal forms of organizations that are eligible; (b) the type of eligible purposes; (c) incorporation and registration procedures; and (d) other requirements. Let us now examine each one of them in turn.

2.1. A. Types of Organizations

The legal forms available for nonprofit organizations in the laws of Tanzania Mainland include non-governmental organizations (NGOs), "registered societies", partnerships, incorporated companies limited by guarantee without share capital, cooperative societies, associations, and trusts or foundations. The major organizational forms that nonprofit organizations may legally assume in Tanzania Mainland are: non-governmental organizations, voluntary charitable organizations, religious organizations and congregations, social and sports clubs, professional associations, research foundations, relief organizations, etc. According to the new NGO Act No.24 of 2002, a trade union, a social club, or a sports club, a political party, a religious organization or a community-based organizations (CBOs) do not qualify as NGOs as defined under the new law.

Basic Nonprofit Organizations Law in Tanzania

The bulk of the law concerning nonprofit organizations in Tanzania Mainland is founded on statutory provisions. A small part of the nonprofit organizations law however, is founded on common law and equity principles. The main statutes that govern nonprofit organizations in the country include the following:

- The recently enacted *Non-Governmental Organizations Act* (Act No.24 of 2002);
- The *Societies Ordinance, Cap.337* (now the Societies Act, Cap.337, R.E. 2002), which governs “societies”;
- The *Trustees' Incorporation Ordinance, Cap.375* (now the Trustees' Incorporation Act, Cap. 318, R.E. 2002), which governs trusts;
- The Companies Act (Act No.12 of 2002) which repealed the colonial *Companies Ordinance, Cap.212*, which governs companies limited by guarantee;
- The *Law of Contract Ordinance, Cap.433* (now the Law of Contract Act; Cap.345, R.E. 2002), which governs “partnerships”;
- The *Building Societies Ordinance* (now the Building Societies Act, Cap.87, R.E. 2002);
- The *Tanganyika Law Society Ordinance, Cap. 341* (the Tanganyika Law Society Act, Cap.307, R.E. 2002), which governs the Tanganyika Law Society, a professional association for advocates;
- The *Wakf Commissioners Ordinance, Cap.326*, which governs Islamic waqfs (trusts) - this law apparently does not appear in the Revised Edition of the Laws of Tanzania;
- The *National Sports Council of Tanzania Act of 1976*, (now Cap.49, R.E. 2002) which governs sports organizations and clubs; and
- The *Copyright and Neighbouring Rights Act of 1999, Cap.218, R.E. 2002*) which governs copyright societies.

A good number of the above pieces of legislation are of colonial origins, but were inherited by the independent state of Tanzania "lock, stock and barrel" with only some very minor modifications. Since 2002, the Government of Tanzania issued a Revised Edition (R.E.) of its various laws, with re-named titles and a new numbering system, which is organized in Chapters (Caps) of the Revised Edition of the Laws of Tanzania for all the legislations which were enacted before 2002.

Apart from legislation, equitable principles of trusts that have been developed in England, and were applied in the territory during the colonial period, also apply to nonprofit organizations. The traditional Islamic law principles on *waqf* matters and the *Wakf Commissioners Ordinance* govern Islamic *waqfs*. These are Islamic endowments, which only a Moslem can create by

surrendering his property to God as the trustee, for the benefit of the poor and the rich alike, who are intended beneficiaries of such endowments. The most common examples of *waqf* property are graveyards, mosques and Qu'ranic schools (*madrassa*). NGOs in Zanzibar are regulated under the *Societies Act* No.6 of 1995. Zanzibar does not yet have a policy on NGOs although steps have been undertaken to have such policy in place.

Common legal requirements for nonprofit organizations

There are certain common legal requirements that feature in the various statutes that govern the operation of nonprofit organizations in Tanzania Mainland. These requirements emanate from the specific characteristics, which distinguish NPOs from government organizations or other registered private groupings.

(a) Registration/Organization

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 nonprofit organizations in the country and especially those, which fall under the broad category of "societies" must be registered in order to be lawful and must also fulfill certain legally stipulated conditions. Although according to their own internal procedures for governance NPOs are self-governing entities, but nonetheless they have to operate within the laws of the land. The new NGO Act imposes levels of registration for NGOs beginning at the national, regional and district levels respectively.

(b) Incorporation

The registration of an NPO or NGO does not necessarily confer on it the status of a "juristic person", that is, granting it separate existence from its members. A number of nonprofit organizations particularly those incorporated by legislation, such as the Tanganyika Law Society acquires corporate status by virtue of the legislation establishing them. Others get it by having in place a Board of Trustees incorporated under the *Trustees' Incorporation Act* thus acquiring a legal personality in that it can sue or be sued in its own corporate name and hold and dispose off property.

(c) Function according to mission

NPOs are not supposed to be self-servicing but aim at improving the circumstances and prospects of a particular group or act on concerns and issues, which are detrimental to the well being, circumstances or prospects of people or society as a whole. Nonprofit organizations must therefore operate according to the mission for which they are established in line with their objectives as set out in their respective constitutions and rules or by-laws and regulations.

(d) Non-political

NPOs are organizations that do not seek political power or campaign for any political party. Non-profit organizations therefore have to desist from political activities as a condition for continued existence, otherwise they may run the risk of de-registration. They should not be used as a branch of, affiliated to or connected with any organization or group of a political nature whether internally or externally. The new NGO Act requires NGOs to be non-partisan, that is, not to take any sides politically.

(e) Not for Profit Sharing

Nonprofit organizations are not supposed to function in a manner, which suggests that they are geared towards profit sharing. Profits and/or benefits accrued are not for personal or private gain by members or leaders. The new NGO Act requires NGOs to be “not-for-profit making” which in effect seems to suggest that NGOs are restricted by the legislation to engage in any form of economic or business investments or commercial initiative for income generation and fund raising purposes. In effect, such restrictive provisions perpetuate reliance on members’ subscriptions and annual fees and contributions from local and external grants as NGOs only main sources of fund raising

(f) Accountability to members

Nonprofit organizations must be accountable to its members and particularly by holding regular meetings according to their rules and/or constitutions. The new NGO Act establishes the National Council for Non Governmental Organizations (NACONGO) for purposes of coordination and networking of all Non Governmental Organizations operating in Mainland Tanzania. The Council is mandated to develop a code of conduct to facilitate self-regulation of

NGOs. Breach of the code of conduct constitutes an offence punishable by a fine not exceeding five hundred thousands shillings or imprisonment for a term not exceeding one year or both. Furthermore, a person convicted for an offence is disqualified from holding office in any NGO operating in Mainland Tanzania for a period not exceeding five years.

(g) Financial accountability

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. The new NGO Act mandates NGOs to prepare an annual audited report and submit copies to the Council and the Non Governmental Organizations Coordination Board (NGOCB) every calendar year. The law does not state clearly the consequences for non-compliance with this requirement or the liability of office bearers who happen to mismanage NGO funds. It only stipulates that a person who contravenes the NGO Act may be proceeded against under the relevant provisions of the Penal Code.

Characteristics of nonprofit organizations

According to the National Policy on Non-Governmental Organizations which was approved by Cabinet in November 2001, the term NGOs applies to organizations possessing the following characteristics among others: organization/institutional permanency; voluntariness; self-governance; not-for-profit sharing and non-political. As discussed earlier on, NGOs are a subset of NPOs. These characteristics are considered in analyzing the general characteristics of NPOs.

(i) Membership

Every nonprofit organization must have a specified minimum number of members in order for it to be registered. In the case of "societies" registered under the *Societies Act*, the minimum number of members is supposed to be ten. The new NGO Act does not put any membership number limitation requirement.

(ii) Voluntariness

NPOs are bodies that are formed freely, willingly, spontaneously by individuals, groups or people or organizations with an element of voluntary participation. Membership in a nonprofit

organization is therefore largely free and voluntary and no person can be compelled to form or join such organizations save for professional associations whose membership is predicated on affiliation to a particular profession such as medicine, law or accountants and auditors.

(iii) Management by trustees or directors

Nonprofit organizations are formed, managed and controlled by members through boards of trustees registered under the *Trustees' Incorporation Act*, Cap.318 or directors in the case of a company limited by guarantee registered under the *Companies Act*, No.12 of 2002.

(iv) Autonomy

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.

Defining Nonprofit Organizations

The term nonprofit organization is distinguished with 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 nonprofit and for-profit organizations are an integral part of civil society.

The National Policy on NGOs

The National Policy on Non-Governmental Organizations (NGOs), which was adopted by the Government of Tanzania in 2001, was a culmination of efforts, which begun in February 1998. A number of civil society organizations in the country working under the auspices of the NGO umbrella organization, the Tanzania Non-Governmental Organization (TANGO), had in that year, managed to produce a Draft Policy for National Non-Governmental Organizations in Tanzania. The approved Policy takes on board some of the recommendations. It also provides an operational definition of NGOs and a broad framework for legal and institutional arrangements to facilitate the operations of NGOs in Tanzania.

The approved National Policy on NGOs, which was supposed to have provided a functional definition of an NGO to guide the law, has a much narrower definition of NGO than the one stated in the new NGO Act. The Policy defines an NGO as:

“a voluntary grouping of individuals or organizations which is autonomous and no-for-profit sharing; organized locally at the grassroots level, nationally or internationally for the purpose of enhancing the legitimate economic, social and/or cultural development or lobbying or advocating on issues of public interest or interest of a group of individuals or organizations” (para 5.1).

The Policy advocates for the streamlining of the registration of NGOs by removing current deficiencies in the existing laws. The Policy notes that currently there are more than five registrars for NGOs in the country. The Policy therefore seeks to harmonize all existing laws dealing with NGO matters by enacting a new single NGO law for the whole Union. The Policy has been criticized for amounting to an attempt by the Government to “un-package authoritarianism”, by seeking to create an avenue for more control by the State of NGOs (Lissu, 2000). The Policy formed the basis for the enactment of the NGO Act, itself a subject of heavy criticism by the NGO community in the country for being top-down, non-participatory and an affront to freedom of association that is enshrined in the Union Constitution.

The New NGO Act

There is no law in Tanzania, which defines the term “non-profit organization” (NPO) as such. The only guidance there is therefore is section 2 of the *Non-Governmental Organizations Act* (Act No.24 of 2002). Under the said section, a Non-Governmental Organisations 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 grassroot, 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.”⁸

This definition clearly narrows down the definition of non-profit organizations by making “non-profit making” among the characteristics of NGOs. This would, accordingly, mean that not all NPOs are NGOs and therefore NGOs are only a subset of NPOs. This comes out very clearly from the exclusion in the above definition of trade union, sports club, political party, religious organization and community based organization from the definition of NGO. Defining NGOs as “non-profit making” organizations, creates a problem. This might tempt one to think of the differences between “non-profit making” as stated in the new NGO law and “not-for-profit-sharing” as mentioned in the NGO Policy. The discrepancy between the policy and the law goes to point out the problem one might face in trying to define a term of art such as “non-profit”, which escapes any concrete legal definition. This means that a non-profit sharing or making organization can only be defined by looking at its main features and characteristics and how it is treated in the various laws that govern its relation in contrast with for-profits.

According to the NGO Act, it seems that in Tanzania non-governmental organizations [NGOs] are treated as being synonymous with NPOs. Both the National Policy on NGOs and the NGO Act treat them as such albeit by placing more emphasis on NGOs and not NPOs. 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

⁸ It should be noted that due to pressure from civil society organizations and some donors the NGO Act was amended in 2005 under the Written Laws (Miscellaneous Amendment) (No.2) Act, 2005. The word “non-partisan” was defined to mean “not seeking political power or campaigning for any political party and the word “non-profit making” was replaced by “non-profit sharing.”

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).

NGOs form a part of not-for-profit organizations (NPOs). The confusion, which still exists in Tanzania in the way the two terms are treated, has the blessings of both policy and law. The definition in the policy and the new law in so far as not-for-profits are concerned is not exhaustive. It singles out only one category of nonprofit organizations - NGOs, for definition, and excludes other forms of associational life in civil society, which could also qualify as not for profits. Although such other forms for example community-based organizations resource management associations (RMAs) may not be formal in the legal sense, they qualify as nonprofit organizations. Both the Policy and the new NGO law exclude from the definition of NGO trade unions, social clubs, and entertainment sports clubs, political parties, religious or faith propagating organizations and community-based organizations.

The confusion in the terminology, which has permeated at the level of both policy and law, is a recipe for disaster. It has cut down the reach of not-for profit and has eliminated certain associations from the associational life of civil society. In Tanzania it is still possible for NGOs to register under other written laws in force. This is according to section 11(2) of the new NGO Act. What is particularly curious about the new NGO Act is that it does not repeal the other existing laws in the country dealing with the registration of civil society organizations. However, according to section 11(3) of the new NGO Act, NGOs registered or established under any other written law, must apply to the Registrar for and be granted with a “certificate of compliance.” Such certificate will only be issued after the applying NGO has satisfied the terms and conditions for registration under the new law.

The implication of the above provisions is that “societies” registered under the *Societies Act*, “companies limited by guarantee” registered under the *Companies Act* and trustees registered under the *Trustees’ Incorporation Act* have to fulfill the requirements for registration under the new NGO Act before they can qualify for a certificate of compliance. It is a legal novelty that provides the possibility for two legal regimes under different authorities to deal with the same management and control of a single subject matter. The “societies” are registered in the Ministry of Home Affairs, “companies limited by guarantee” are registered by BRELA and “trustees” are registered by RITA. The Registrar of NGOs is also the Director of Non Government Organizations Coordination which was based in the Vice President’s Office until recently when it was moved to the Ministry of Community Development, Gender and Children. This kind of arrangement clearly creates confusion among NGOs particularly with regard to registration, coordination and accountability.

According to the new NGO Act, operating an NGO without obtaining registration amounts to an offence liable upon conviction to a fine not exceeding five hundred thousands shillings (500,000/- Tshs.) or imprisonment for a period not exceeding one year or both. Conviction under the new Act is a ground for disqualifying a person from holding any office in any NGO operating in Mainland Tanzania for a period not exceeding five years.

Excluded organizations

The new NGO Act seems to have carried over the concept of excluded organizations that was enshrined in the colonial legislations regulating civil society organizations in the country which were inherited by the independent Government. The definition of "societies" under the colonial Societies Ordinance (now the Societies Act) is more exclusionary than inclusive. Although societies are treated generally as being synonymous with non-governmental organizations, a closer look at section 2(1) of the *Societies Act*, under which a "society" is defined to include "any club, company, partnership or association of ten or more persons whatever its nature or object", would indicate that the definition is broad enough to incorporate both nonprofits as well as for-profits.

Although under the *Societies Act*, the term "society" appears to encompass a wide range of non-profits and for-profits, certain types of organizations have been excluded from the definition. They include the following:

- a company registered under the *Companies Ordinance*, Cap 212 (now the Companies Act);
- any company, council, authority, association, board or committee lawfully constituted or established under Royal Charter, or Royal Letters Patent, or any applied Act, or any law in force in Tanganyika;
- any Lodge of Freemasons regularly constituted under any of the registered governing bodies of Freemasons in the United Kingdom of Great Britain and Northern Ireland;
- any trade union registered under the trade union laws;
- any company, association or partnership consisting of not more than twenty persons, formed and maintained for the sole purpose of carrying on any lawful business;
- any cooperative society registered under the *Cooperative Societies Act*;
- any society which the President may declare by order not to be a society for the purpose of the *Societies Ordinance* (now the *Societies Act*).

Societies by conversion

The law dealing with civil society organizations in Tanzania Mainland creates the possibility of converting "societies" into some other form of associational life, as indicated by section 6A(1) of the *Societies Act*. According to this section, a for-profit organization can be "converted" into a

not-for profit organization and be registered under the Act by a ministerial (executive) order. The section empowers the Minister responsible for societies (in this case the Minister for Home Affairs), to require a **company, partnership, association**, or other organization formed for the purpose of conducting any lawful trade or business to apply to be registered as a society under the Act. The conversion can however, happen only if the Minister is satisfied that such a company, partnership, association or other organization is carrying on its activities predominantly for a purpose other than the conduct of lawful trade or business (emphasis mine). Similarly, section 6C of the Act also empowers the Minister to convert a **company** or a **cooperative society** "formed or maintained for the purpose of carrying on a club or other association of persons for social, recreational, cultural, political, educational or philanthropic purposes" into a society (emphasis supplied).

The implication of the conversion process under the *Societies Act* is that for-profits such as a company or a partnership or a cooperative society can, by an executive sanction, be turned into nonprofits, their objects notwithstanding, which may not necessarily be similar to those of nonprofits in the first place. Let us examine very briefly what the laws that govern such converted for-profits provide.

The Law on Partnerships

Part X of *the Law of Contract Act* is the principal legislation governing partnerships in Tanzania. In principle, partnerships are created to carry on business for profit. A partnership is defined under section 190(1) of the Act as "***the relation, which subsists between persons carrying business in common with a view of profit.***" Under section 190(2) of the Act, persons who have entered into partnership with one another are called individually **partners** and collectively as a **firm**. According to section 191(1) of the Act, the relation of partnership arises from contract and not from status and it is not mandatory, to register a partnership. The relation of nonprofit organizations on the other hand, arises by status after registration.

Company Law

In Tanzania, the incorporation of a company is effected under the Companies Act (Act No.12 of 2002), which repealed the *Companies Ordinance*, Cap.212. Under the Act, company promoters

are required to submit Articles and Memorandum of Association to the Registrar of Companies, when applying for the registration of a company. A company however, comes into existence only when it has been registered and a certificate of incorporation issued to it by the Registrar of Companies. The powers of such company are derived from the Companies Act and the memorandum of association. The relation of company therefore arises by incorporation and not by registration.

Registered companies are classified as either being private or public. A private company is that company which: (a) by its articles of association restricts the right to transfer its shares; (b) limits the number of its members to fifty excluding members who are or were in the employment of the company; and (d) prohibits any invitation to the public to subscribe for any shares or debentures of the company. The minimum number of members required to form a private company is two and membership is mostly based on personal relationships, for example, relatives, friends, family members etc.

A public company on the other hand is that which is not private. There is however, no legal definition of a public company in the Companies Act. By analogy and necessary implication, a public company is that which: (i) can invite the general public to subscribe for its shares; (ii) does not have any restrictions on the transfer of shares; and (iii) does not limit the maximum number of members. The minimum number of members required to form a public company is seven.

Registered companies are categorized generally as a company:

- having the liability of its members limited to the value of shares held by them which is called a company limited by shares.
- limited by guarantee and not having a share capital, which means a company having the liability of its members limited to such amounts as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up.
- having no limit in the liability of its members which is called an unlimited company.

For persons wishing to organize themselves into a nonprofit organization, a company limited by guarantee and not having share capital is a better option. The main reason being that, such companies may or may not have a share capital. They are generally formed without share capital for non-trading purposes such as the promotion of art, science, culture, sports etc. The articles of association of such company may state the number of members with which the company is to be registered. The advantage in Tanzania of registering an NGO under the Companies Act is to avoid the politics accompanying the registration of societies under the Societies Act, which allows politicians to interfere with the functioning of societies.

The Law on Cooperative Societies

The essence of a cooperative society, according to the *Cooperative Societies Act* No.15 of 1991, is in its voluntary, autonomous self-help and democratic nature and intended purpose. Basically cooperative societies are established for the purpose of doing business for profit and providing services to its members who contribute equitably to, and democratically control its capital.

Differences among Nonprofit organizations

The main differences among nonprofit organizations in Tanzania arise from the following factors:

(1) Nature and establishment

What is meant by the nature of nonprofit organizations is basically how they come into existence. In Tanzania, nonprofit organizations differ in the way they are established. Most of the existing nonprofit organizations in the country were established by registration. Others such as the Tanganyika Law Society have come into existence by virtue of statutory incorporation and yet others by status or contract or by incorporation in the case of companies limited by guarantee without share capital under the Companies Act.

(2) Membership

In principle membership to nonprofit organization is voluntary. Nonprofit organizations differ in the minimum and maximum number of members required for its establishment. Generally in the

case of “societies” and associations the governing laws do not provide for the minimum or maximum number of required members. In the case of building societies however, the minimum number of members required is seven and for partnership it is twenty. Membership for a company depends on whether it is a private or a public company. As for the former, the minimum number of members required is two and the maximum is fifty and as for the latter, it is seven without a maximum. Membership to professional association such as for lawyers, architects, engineers, accountants and medical doctors is somehow compulsory because membership is by way of professional affiliation for the protection of professional interests.

(3) Operational objects and purposes

In principle the main beneficiaries of nonprofit organizations are its members. There a number of nonprofit organizations however, which provide a public service such as conservational, philanthropic, recreational, educational, scientific, charitable ones.

Requirements for Formal Legal Personality

In Tanzania the majority of nonprofit organizations in the form of non-governmental organizations are not required to seek formal legal personality. With the exception of companies limited by guarantee; building societies; the *Tanganyika Law Society*, and the *Copyright Society of Tanzania* (COSOTA), the majority of the local nonprofit organizations in the form of non-governmental organizations operating in the country have been established by registration under the *Societies Act* and have their Boards of Trustees incorporated under the *Trustees' Incorporation Act* in the RITA (previously the Office of the Administrator-General).

UNINCORPORATED SOCIETIES

(a) Societies

In Tanzania, "societies" are registered with the Registrar of Societies in the Ministry of Home Affairs according to a procedure provided for in the *Societies Act*, Cap.337. Sports Associations on the other hand are registered with the Registrar of Sports Associations in the Ministry of Education and Culture, by virtue of the *National Sports Council Act*.

All societies, which fall within the broad definition of "societies" under the *Societies Act*, have to apply for registration to the Registrar of Societies upon fulfilling certain application procedures and conditions. Upon being registered a society is granted a "Certificate of Registration." Otherwise according to section 2(1) of the Ordinance an unregistered society is an "unlawful society."

The implication the requirement for registration has for all other unregistered civil society groups such as community-based organizations (CBOs) is that they may be "unlawful societies" within the meaning of the Ordinance, in the sense that they are unregistered. However, the newly approved natural resource policies such as the Wildlife Policy and the Forest Policy encourage community-based resource management (CBRM) through the establishment of resource management areas and sharing of profits from these areas by surrounding local communities. There is a need therefore for existing laws to be reviewed to take this factor into account.

(b) Sports Associations

Sports associations have to apply for registration according to the procedure provided for in the *National Sports Council Act* No.12 of 1967 as amended by Act No.6 of 1971 (now Cap.49 of the Laws). The Act regulates all types of sports associations in the country, voluntary amateur and professional ones. Upon being registered they are granted "Certificate of Registration" by the Registrar of Sports Associations under section 11(4) of Act No.6 of 1971 and are entered in a register kept for that purpose. The Registrar of Sports Associations is an appointee of the Minister responsible for sports.

The Minister responsible for sports and the Registrar of Sports Associations, both exercise some degree of control over sports association. These powers however, are checked by the requirement to get advice from the National Sports Council, established under Act No.12 of 1967. According to section 4(1) of the Act the main functions of the National Sports Council are to develop, promote and control all forms of sports on a national basis in conjunction with sports associations, and to plan a general policy of sports promotion.

There are certain similarities between the laws that regulate societies and sports associations, namely, the powers of the Registrar, the conditions for registration cancellation of registration and limitations on their operations.

The main difference between the *Societies Act* and *the National Sports Council Act* is that, whereas the Registrar of Societies has total discretion in the exercise of his statutory powers, the Registrar of Sports Association acts on the advice of the National Sports Council. According to section 3(c) of Act No.6 of 1971, the Minister and the Registrar of Sports Association are required to refer any matter relating to the registration of any sports association, cancellation of registration, exemption from registration or rescission of exemption to the National Sports Council for advice. The Minister though obliged under section 13(3) of Act No.6 of 1971 to take into consideration the advice tendered to him by the National Sports Council such advice however, is not binding on him.

Both in the case of societies and sports associations, a certificate of registration does not confer any legal personality upon such registered society or sports association independent from that of its members. A registered society or sports association basically remains a body of persons un-incorporate with no perpetual existence. If all of its members die, the society or association will also cease to exist. Each member of a registered society or sports association remains individually liable for her or his deeds, that is, has personal/several liability and not joint or limited liability as is the case with for example, a registered company limited by guarantee with no share capital. This has implication for nonprofit organizations especially when it comes to the liability of boards of directors and trustees.

The main legal consequence that arises from the unincorporated nature of nonprofit organizations is that a registered society or sports association cannot sue or be sued in its own name; or borrow money, acquire, hold and dispose of property.⁹ If certain legally binding things

⁹ It should be noted that due to pressure from civil society organizations and some donors the NGO Act was amended in 2005 under the Written Laws (Miscellaneous Amendment) (No.2) Act, 2005 and all organizations registered under the NGO Act are legal personality.

need to be done in respect of a registered society or sports association such as holding title to real estate or concluding contracts, this has to be done by the registered board of trustees of such registered society or sports association.

(c) Board of Trustees

In Tanzania, Boards of Trustees are registered with the RITA [formerly it was by the Administrator-General by virtue of the *Registrar-General (Transfer of Duties and Powers) Act* No. 29 of 1967.] The *Trustees' Incorporation Act*, Cap.318 as amended by the Section 2(1) of the Act allows a trustee or trustees appointed by a body or association of persons bound together by custom, religion, kinship or nationality, or established for any religious, educational, literary, scientific, social or charitable purpose, any person or persons holding any property in trust for any religious, educational, literary, scientific, social or charitable purpose to apply to the Administrator-General (now RITA) for incorporation.

Prior to making an application for trustees' incorporation there must be already in existence a trustee or trustees appointed by a body or association of persons - which could be a non-governmental organization or any civic association or group. The act of incorporation does not therefore create the board of trustees. It merely confers a corporate status on the trustees.

Upon registration a body or association of persons is granted a "Certificate of Incorporation" and become bodies incorporate. Its name now must include the words "Registered Trustees." The effect of incorporation is to make the trustee or trustees, a body corporate with all the attendant legal incidences of incorporation, rights, duties, powers and authority. Section 16 of the Act provides for the liability of trustees in that they remain answerable and accountable for their acts, receipts, neglects and defaults as if they had not been incorporated.

The assets and funds of a body or association of persons with a Registered Board of Trustees vests in and are held on trust for the members, by the Board, as well as all the liabilities incurred by such a body or association of persons. According to the *Trustee Investment Act* No.33 of 1967, trustees are legally empowered to invest the trust funds.

(d) Ranging and Agricultural Associations

Other nonprofit organizations such as ranching associations are registered under the *Range Development and Management Act*, 1964, Cap.569, since repealed by the *Land Act* No.4 of 1999 without being replaced, which has already come into force since May, 2000. Agricultural associations are registered under the *Agricultural Associations Act*, 1964.

(e) Non-Governmental Organizations

As stated earlier, all non-governmental organizations in the country now have to apply for registration or a certificate of compliance to the Registrar of Non Governmental Organization under the Non Governmental Organizations Act (Act No.24 of 2002). Only a narrow range of civil society organizations qualify as non-governmental under the new Act. A whole range of other not for profit organizations such trade unions, social or sports clubs, political parties, religious organizations or community based organizations have been left out of the definition of NGO. 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 however, qualifies for registration under the new Act provided it is voluntary, autonomous, non-partisans, and non profit making.

INCORPORATED SOCIETIES

In Tanzania there are some nonprofit organizations in the form of non-governmental organizations, which are creatures of statutes. They include the Tanganyika Law Society (TLS), established by the *Tanganyika Law Society Act*, Cap.307; building societies registered under the *Building Societies Act*, Cap.87 and the Copyright Society of Tanganyika, which is established under section 46 of the *Copyright and Neighbouring Rights Act* of 1999, Cap.218. Within this category also fall other professional bodies such as associations of Engineers, Architects and Quantity Surveyors, Accountants and Auditors and Medical Practitioners.

(a) The Copyright Society of Tanzania

The Copyright Society of Tanzania (COSOTA) is a bit peculiar from other types of registered nonprofit organizations in the form of non-governmental organizations or "societies." COSOTA

is by virtue of statute, a body corporate with perpetual succession and a common seal, capable of suing and being sued in its own name. COSOTA can perform all such acts and things, which bodies corporate may by law, do or perform. Its main function is to promote and protect the interests of authors, performers, translators, producers of sound recordings, broadcasters and publishers. In Tanzania already there exist a number of voluntary associations for artists and performers. These have to be members of COSOTA in order to benefit from its services.

(b) Trusts

English trusts

English trusts (foundations) form another type of nonprofit organizations recognized under the laws of Tanzania. Originally English trusts were developed by the Lord Chancellor and are governed by common law principles, and were made applicable to the country by *the Land Law of Property and Conveyancing Ordinance*, Cap. 114 (this Ordinance has been repealed by the new Land Act of 1999, without being replaced). Despite its long history, however, no one has succeeded in producing a wholly satisfactory definition of a trust. The general idea of a trust with some modifications, is expressed by Underhill as follows:

"an equitable obligation, binding a person (who is called a trustee) to deal with property over which he has control (which is called trust property) either for the benefit of persons (who are called the beneficiaries or *cestui que trust*) of whom he may himself be one, and any one of whom may enforce the obligation, *or for a charitable purpose, which may be enforced at the instance of the Attorney-General, or for some other purpose permitted by law though unenforceable*" [Pettit, P.H., 1979:17 quoting Underhill, 1899:3).

The trust form of nonprofit organization represents the highest form of voluntariness because a beneficiary under a trust is commonly a volunteer, and the trustee usually obtains no benefit from the trust at all. A trustee holds a fiduciary position, with certain obligations. A trustee is under a duty not to delegate responsibilities, not to let personal interests conflict with trust duties, not to make any unauthorized profits and to keep proper accounts. The relationship of trustee and beneficiary is not created by agreement and the trustee does not represent his *cestui que trust* into any contractual relationship with third parties. Furthermore, the concept of

trust necessarily involves the concept of trust property over which the trustee has at least nominal control.

Islamic waqfs

Islamic waqfs are governed by the traditional Islamic law and are governed under the *Wakf Commission Ordinance*, Cap.326. This Ordinance defines a waqf to mean "*an endowment or dedication in accordance with Muslim law of any property within the Territory for religious, charitable or benevolent purposes of for the maintenance and support of any member of the family of the person endowing or dedicating such property.*" A trustee of waqf property is supposed to register with the Wakf Commission of Tanganyika, which is charged with the administration of registered waqf property.

2.1.B Types of Purposes

The new NGOs Act tries to circumscribe the areas in which NGOs may operate. In the definition part, the new law mentions particular areas such as enhancing or promoting economic, environmental, social or cultural development or protecting environment, lobbying or advocating on issues of public interest. The law does not identify a set of permissible purposes that nonprofit organizations must serve. The *Societies Act* indicates by necessary implication that nonprofit organizations are not allowed to conduct lawful trade or business. It is therefore left upon the nonprofit organizations themselves to make sure that they do not engage in trade or business activities. It means therefore that nonprofit organizations have to carry on non-commercial activities and other mutually beneficial purposes for the 'public.'¹⁰

In Tanzania nonprofit status is not restricted to organizations that serve some special public benefit only. The concept of "public benefit" does not apply to the legal treatment of nonprofit organizations in Tanzania. Some critics in Tanzania Zanzibar circumscribe to the idea of having "public benefit organizations" (PBOs) as originating from British law instead of NGOs. The

¹⁰ It should be noted that due to pressure from civil society organizations and some donors the NGO Act was amended in 2005 under the Written Laws (Miscellaneous Amendment) (No.2) Act, 2005. The word "non-partisan" was defined to mean "not seeking political power or campaigning for any political party and the word "non-profit making" was replaced by "non-profit sharing"

debate is still ongoing there. The amended Local Government Laws of 1982 in Tanzania Mainland however, appear to indicate that civic groups may cooperate with local government authorities in the provision of “services to the public.” This could be interpreted to mean “services which benefit the public.” The law however, does not attempt to define the term "services to the public."

It seems that the concept "services to the public" is applied to nonprofit organizations in relation to public utilities and the government is the one, which makes the 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, 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. It immediately disappeared from the eyes of the public!

In Tanzania the law does not make explicit prohibitions on purposes related to armed uprisings, para-military or other activities that might endanger or undermine the public order. A close reading and interpretation of some of the provisions in the *Societies Act* however, will point towards a prohibition of nonprofit organizations from engaging in activities that might endanger or undermine the “public order or security”, which could include engaging in warlike activities or of military nature.

Section 9(a) of the *Societies Act* makes it a ground for either the Registrar of Societies to refuse to register a society or cancel its registration under section 12(ii) of the Act, and the President to declare a registered society unlawful under section 16(1)(a) of the Act, if "it appears" that the society "*is being or is likely to be used for any purpose prejudicial to, or incompatible with the maintenance of peace, order and good government.*" Equally, a society declared to be a society

dangerous to the good government of Tanganyika under section 67(2) of the *Penal Code*, Cap.16, "will be deemed to have been declared unlawful" under the *Societies Act*.

2.1.C Other Requirements

In Tanzania the law put in place some conditions for the kind of membership of societies but not their capital requirement. Under section 2(1) of the *Societies Act* the minimum number of members required for a society to be registered is prescribed, which must be ten or more persons.

The law in Tanzania does not explicitly state that nonprofit organizations may only operate in fields where there is a governmentally "recognized need." Most registered non-governmental organizations provide 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.

2.1.D Registration Procedures

Nonprofit organizations achieve and maintain nonprofit status by abiding with their objectives as stipulated in their constitutions submitted during making application for registration. Submission of a copy of the constitution is one of the statutory conditions for grant of registration and for ensuring that the objects of a society seeking registration is not going to be used for "*any purpose prejudicial to, or incompatible with the maintenance of peace, order and good government.*" Even after being registered the Registrar of Societies still has powers at any time, to order any registered society to furnish him with among other things, "*a true and complete copy of the constitution and rules of the society.*"

There is an obligation to re-pay exempted tax if a nonprofit organization engages in business as well as the threat to be de-registered if it is has altered its objects or pursues objects other than its declared objects. These are some of the administrative and control mechanisms in place to ensure compliance with nonprofit status. Furthermore, failure to comply with an order of the Registrar of Societies requiring a society to furnish him with duly audited accounts of the society within one month under section 16(1) of the *Societies Act* constitutes a ground for the Registrar

to cancel the registration of that society. The new NGO Act seems even stricter on this aspect. A non-governmental organization is required for every calendar year to prepare a report of its activities and an annual audited report and submit copies to the National Council for Non Governmental Organizations and the Non Governmental Organizations Coordination Board. One of the functions of the Board is to direct suspension or cancellation of any Non Governmental Organization.

1. Internal Governance

As to legal prescriptions relating to internal governance and management issues of nonprofit organizations, the law in Tanzania merely specifies that organizations must prepare a constitution and draw up a set of rules. The constitution and rules are supposed to address issues such as: (i) election procedures in the selection of directors in the case of associations, or succession rules for trustees of foundations; and (ii) the locus of ultimate control in organizations (members or board). Serve for nonprofit organizations established as a company limited by guarantee without share capital, there are no specific regulations concerning the size, the terms of office and the role of the governing board or the number and role of officers.

Apart from the *Companies Act*, the *Tanganyika Law Society Act* and the *Building Societies Act*, the law in Tanzania does not specify the frequency of holding meetings or on the notice and quorum requirements or voting procedures, or other matters. Section 15(1)(c) of the Societies Act only mentions that a society may be required to furnish the Registrar of Societies with a true and complete return of meetings held by such society in Tanganyika. The implication here is that the Registrar would be able to tell whether such registered society has abided by its constitution and democratic principles by looking at the frequency at which the society has held members' meetings.

As far as sports associations are concerned the frequency of holding meetings, on the notice and quorum requirements and voting procedures are provided in detail in their respective constitutions and rules. According to section 19(1)(a) of the *National Sports Council Act*, the Registrar of Sports Association may also order any sports association to furnish him with a true and complete copy of the constitution and rules in force.

The Articles of Association contain the rules, regulations and by-laws for the internal management of the affairs of a company. The Articles of Association regulate the manner in which the company's affairs are managed. In framing the regulations care should be exercised to ensure that they do not go beyond the powers of the company itself as contemplated in the Memorandum of Association. They should not violate any of the provisions of the Companies Ordinance.

2.2 Tax Treatment

In Tanzania various laws deal with various types of taxes such as:

- The *Income Tax Act*;
- The *Value Added Tax Act* No.24 of 1997;
- The *Customs Tariff Act*, the *Sales Tax Act* of 1976;
- The *Business Licensing Act* No.25 of 1972;
- The *Stamp Duty Act* of 1972;
- The *Tanzania Revenue Authority Act* No.3 of 1995; and
- The *Residence Tax Act* of 1990.

Tax provisions generally are administered by the Tanzania Revenue Authority (TRA), which is established by the *Tanzania Revenue Authority Act*. Among the major functions of the TRA is to advise the Minister of Finance on all matters pertaining to revenue collection and administration.

The TRA and the other government tax administration departments are different from the entity that extends nonprofit status in the first place. As we saw earlier, nonprofit organizations are controlled under legislation different from revenue laws and administered by sectoral Ministries:

- The Vice President's Office (VPO) (NGOs);¹¹
- The Ministry of Home Affairs (societies);
- The Ministry of Constitutional Affairs and Justice (trusts);
- The Ministry of Education and Culture (sports association);

¹¹ Now under the Ministry of Community Development, Gender and Children

- The Ministry of Agriculture and Livestock Development (agricultural associations);
- The Ministry of Trade and Commerce (companies limited by guarantee and copyright society) etc.

In Tanzania however, there is a close relationship between nonprofit status and tax treatment. The various provisions in revenue laws in force in the country, empowers the Minister of Finance to exempt tax if he is satisfied that it is in "public interest" to do so. The Minister may do so by an order published in the Government Gazette. For example, by virtue of G.N No. 176 published on 3/8/73 titled "*The Customs Tariff (Remission of Customs Duties)(Bona Fide Gifts) Order, 1973*", the Minister exempted certain taxes to nonprofit organizations falling under the category of "religious and charitable organizations." These included all fiscal entries, suspended fiscal entries and import duties payable in respect of goods imported or acquired prior to clearance through customs by or on behalf of such organizations.

The Union President in early 2002 had circumscribed the blanket powers of the Minister of Finance to grant tax exemptions to nonprofit organizations allegedly for flagrant abuse of the privilege by the organizations. However, the powers were restored in 2003 following complaints particularly from charitable church organizations. NGOs now have to 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 through the Principal Secretary to the Treasury. The Minister would then consider the application for eligibility for tax exemption and is to be advised by the Commissioner General of the Tanzania Revenue Authority in this regard.

Two types of tax provision frequently apply to nonprofit organizations. The first type applies to the taxation of the organization itself and the second to contributions made to these organizations by individuals or businesses. The latter, in turn, may differ depending on whether the donor or the recipient organizations is domestic or foreign.

2.3.A Tax Treatment of Organizations

As stated earlier on, the various tax laws in force in Tanzania have provisions that give the Minister of Finance powers of exempting tax if he is satisfied that it is in the "public interest" to

do so, and he may by order publish such exemptions in the *Government Gazette*. Besides this, some tax laws provide exemptions in the Schedules, for example, the *Value Added Tax Act*, the *Customs Tariff Act*, the *Income Tax Act* and the *Sales Act*.

Currently the following exemptions, which are relevant to nonprofit organizations, have been issued and are being implemented:

1. Exemptions provided for in the schedules of some Tax Laws.

These exemptions are administered by the respective Tax Departments. Besides general tax exemption, some revenue laws in force in the country provide some exemptions in their Schedules. For example, the Second Schedule to the *Value Added Tax Act* No. 24 of 1997 contains a list of exempt supplies and imports which includes articles designed for use by the blind or disabled and educational supplies for educational services by an establishment registered by the Government. A nonprofit organization applying for tax exemption under the Schedule has first to satisfy the Minister of Finance that the supplies are for the intended purpose as stipulated in that Schedule.

2. Customs and Sales Tax for bonafide gifts imported by religious and charitable organizations.

These exemptions are covered under Government Notices No.175 and 176 of 1973. The exemptions cover only bonafide gifts to religious and charitable organizations. The goods covered by the exemptions are for the use by the organizations and their projects, and for free distribution. Personal effects and foodstuffs are not covered. Religious organizations have also been exempt tax on direct purchase for use in the water, health and education projects. Also stamp duty has been exempt.

3. Exemption of import duty to specific international nonprofit organizations.

For example by virtue of GN No. 181 published on 17/3/95 titled "*The Customs Tariff (Remission) (Foster Parents Plan International Incorporation) Expatriate Personnel) Order*, 1995, the Minister granted remission in respect of import duty payable on goods imported or purchased prior to clearance through customs by or on behalf of Foster Parents Plan

International Incorporation and its expatriate personnel. The exempted goods were specified in the Schedule to the Order. Foster Parents Plan International Incorporation is an international nonprofit organization operating in Tanzania and it funds community development projects in the country.

Exemptions are normally granted subject to certain conditions, which have to be fulfilled by the grantee and focus mainly on the activities that serve the nonprofit aim of the organization. For example, under GN 176 of 1973 the exemption was not applicable to any goods for which the organization is required to pay any consideration. There is however, no major difference between nonprofit and for-profit organizations in terms of tax exemption.

In Tanzania there is no difference in the tax treatment of nonprofit organizations as between national and local authorities either. In certain instances however, tax exemptions applicable to nonprofit organizations depend on whether the nonprofit organization is local or international. For example, expatriate personnel working with international nonprofit organizations (INPOs) get more favourable terms under tax laws than their counterpart local personnel.

In Tanzania there are other non-tax privileges attached to nonprofit status. For example, a company that has been converted into a society will no longer be required to pay corporate tax. The effect of the conversion process from a company to a society is to turn a for-profit organization (a registered company) into a nonprofit organization (a registered society). Otherwise all for-profit organizations (FPOs) are required to pay corporate tax as per revenue laws in force in the country.

Although nonprofit organizations are not eligible for government subsidies, they are able to receive tax-deductible donations.

2.3.B Tax Treatment of Contributions - Domestic Organizations

The tax law in Tanzania treats charitable contributions to nonprofit organizations dealing with poverty alleviation, advancement of religion or education more preferentially than other types of contributions made to other organizations. In particular contributions to nonprofit organizations

are exempt from income or other taxation for donors. This however, applies only to organizations falling under the First Schedule to the *Income Tax Act, 2004*, which deals with "income accrued in, derived from or received in United Republic" which is exempt from tax. Section 5 of the Schedule exempt the "income of any institution, body of person, or irrevocable trust, of a public character established solely for the purposes of the relief of poverty or distress of the public, or for the advancement of religion or education" from tax.

The Commissioner of Income Tax however, has to be satisfied that the income of such income is to be expended either within the United Republic or for the "benefit of the residents" of the United Republic. Income, which consists of "gains or profits from a business", is not eligible for tax exemption unless such gains or profits are applied solely to the purposes stipulated in the Schedule. Moreover either (a) such business is carried on "in the course of the actual execution" of such purpose; or (b) the work in connection with such business is mainly carried on by beneficiaries under such purposes.

The exemptions are not therefore available to all donors but only to those who make their donations to organizations of "public character" established solely for purposes of poverty relief or advancement of religion or education. Corporations will only claim tax advantages if they fall under this category.

From the provisions of revenue laws in force in Tanzania, it seems that there are various types of donations, which are eligible for tax exemptions. For example, exemptions can be claimed for "in-kind" contributions of products as well as for cash contributions. The former may be claimed under the *Value Added Tax Act No.24 of 1997* and the latter exemptions under the *Income Tax Act of 2004*.

Section 3(1) of the *Value Added Tax Act* charges a tax known as Value Added Tax (VAT) on the importation of goods or services from any place outside Mainland Tanzania. Goods and services from Tanzania Zanzibar on entering the Mainland are also subjected to VAT and likewise, goods and services from the Mainland on entering Zanzibar. The VAT is charged on any supply of goods or services in Mainland Tanzania where it is a "taxable supply" made by a

"taxable person" "in the course of or in furtherance of any business" carried on by him. Section 8(1) of the Act provides that the VAT is charged at the rate of 20% of the taxable value. Taxable supplies include the making of gifts or loans of goods.

Under section 10 of the Value Added Tax, a supply of goods or services is an "exempt supply" if it is of a description specified in the Second Schedule to the Act. According to Section 10(2) of the Act, the VAT is not chargeable on an exempt supply, and deduction or credit of input tax is not allowable on purchases made in respect of the exempt supply. Section 11 of the Act provides that persons and organizations listed in the Third Schedule to the Act are entitled to relief from VAT within the limits and conditions prescribed in that schedule.

According to the Third Schedule to the Value Added Tax Act the following items, which are relevant to the activities of nonprofit organizations, are exempt from VAT:

- (1) The importation or supply to a registered religious organization of goods or services to be used solely for (a) relieving persons from the effects of natural calamities, hazards or disasters; or (b) the development of projects relating to health, education, water supply and infrastructure; and (c) advancement of religion.
- (2) The importation or supply to a charitable organization holding special Agreement with the Government of the United Republic, of goods or services specified in that Agreement providing for a relief from taxation.
- (3) The importation by or supply to any nonprofit driven community based, charitable, educational or other organization or institution of goods or services in respect of which the Permanent Secretary to the Treasury certifies that they are to be used solely for the purpose of the advancement of community, educational or similar project related to that organization or institution.
- (4) The importation by or supply to the Red Cross Society of Tanganyika of goods or services which are solely to be used in the performance of its statutory functions.

There are no limits on the charitable deductions available and they do not vary among the type of donors but among the type of recipients.

Recipients of tax-deductible gifts incur certain responsibilities. For example, they must refrain from certain types of activity such as using the gifts for purposes other than those for which they were intended.

2.3.C Tax Treatment of Contributions - Foreign Organizations

The general principle as far as donations to foreign organizations working in Tanzania are concerned is that they are not deductible. These organizations fall under the category of organizations mentioned in the First Schedule to the Income Tax Act.

Donations to organizations based in Tanzania, which operate in foreign countries (e.g international relief agencies), and foreign organizations working abroad (across the border philanthropy) are subject to the same law as foreign organizations working in Tanzania.

Personal Benefit Restrictions

In Tanzania laws and regulations restrict the personal benefits of founders, members, or officers and directors of nonprofit organizations may receive, beyond the prohibition on receipt of profits. The Income Tax Act does not impose restrictions on such things as executive salaries; and compensation of board members, as they are treated as income thus subject tax. However, honoraria given to persons offering professional services through nonprofit organizations such as educational establishments is exempt from tax. Insider trading and self-dealing are normally treated as being illegal in the laws of Tanzania as they come very close to "corrupt practices."

Obligations to the Public

In Tanzania the law imposes reporting and disclosure requirements for nonprofit organizations. However, the requirement 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 nonprofit 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 in the country.

The directors or trustees of nonprofit organizations are subject to certain fiduciary responsibilities under the *Companies Act* and the *Trustees Incorporation Act* respectively. Although directors are not properly speaking trustees, yet they have always been considered and treated as trustees of money which comes to their hands or which is actually under their control. They can therefore be held liable to make good moneys, which they have misapplied upon the same footing as if they were trustees. However, directors are trustees of the company and not individual shareholders (*Percival v. Wright* [1920] 2 Ch.421).

In most case the obligations of directors or trustees can be enforced through donors or courts of law. The majority of donors impose their own accounting systems on organizations they fund, which must be adhered to strictly. What a donor would normally do in case where funds have been squandered is to threaten a nonprofit organization with withdrawal of further funding unless previous expenditure has been accounted for.

Trustees have legal obligations to act prudently and to abide by trusts under the general law of trusts applicable to Tanzania by virtue of the special reception clause contained in the *Land Law of Property and Conveyancing Ordinance*, Cap.114, which has now been repealed by the Land Act of 1999.

Business Activity

The law of Tanzania imposes certain restrictions on the business activities of nonprofit organizations. These include the obligation to take a business license and to pay the necessary taxes if they qualify as a "taxable person" unless exempted from paying tax by the Minister of Finance.

In Tanzania nonprofit organizations can own and operate businesses. There are however, restrictions on the type of businesses they may own or on the use of profits from these businesses. Nonprofit organizations have to engage in business, which are in line with their

mission and the profits accruing therefrom have to be ploughed back to improving the services. The Aga Khan Foundation for example, which is a charitable foundation, has extensive businesses in Tanzania including private hospitals and schools where people get services at a fee. Because the Foundation is exempted from paying taxes, the money it gets from "selling" its services to the public has to be ploughed back into improving the hospitals and schools.

There are differences so far as tax law or laws governing permissible activities between earning profits from activities related to the mission of the organization as opposed to earning profits from unrelated activities is concerned. The various revenue laws and orders issued by the Minister of Finance under the various revenue laws outlined above indicate that nonprofit organizations earning profits from activities unrelated to their mission have to pay the necessary taxes.

Other Funding Restrictions

In Tanzania 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 Tanzania the roots of civil society remain shallow and the Governments has been paying little heed to NGO work and does not support them either in cash or in kind but only control them.

Apart from revenue laws there are other funding restrictions affecting nonprofit organizations in Tanzania. For example, a nonprofit organization intending to raise funds for its activities will be forced to ask for permission from the local police for it to be able to conduct its fundraising drives. There are however, no legal restrictions pertaining to accountability issues, such as disclosure of funds collected to donors, etc.

Aside from fundraising there are other restrictions that affect the financial operations of nonprofit organizations. For instance, although the law does not require adherence to financial accounting principles, section 15(1)(d) of the Societies Act empowers the Registrar of Societies to order any registered society to furnish him with such accounts, returns and other information.

Political Activity

The law in Tanzania imposes certain restrictions on political activities by nonprofit organizations. Under section 12(i) of the Societies Act, the Registrar of Societies may, in his discretion, cancel at any time the registration of any local society. These powers are to be exercised if the Registrar "is satisfied" that it is expedient so to do on the ground that the society concerned "is a branch of or is affiliated to or connected with any organization or group of political nature established outside Tanganyika."

According to section 2 of the *Political Parties Act* of 1992, **a political party is not a society**. The implication here is that political activities such as the conduct of political campaigns or raising money for political campaigns are not supposed to be part of the legitimate objects declared in the constitutions and rules of registered societies. If a registered society engages in such political activities, this would constitute "being used for any purpose at variance with its declared objects", a sufficient ground for the President to declare such society "unlawful" and consequently it's de-registration by the Registrar of Societies.

It seems that there is no place for nonprofit organizations to engage in political activity in Tanzania as the law severely limits them on this activity. However, it would appear that the law in Tanzania is not very strict on nonprofit organizations lobbying for legislative reforms. Testimony to this is the intense lobbying action, which was taken by the Tanzania Media Women Association (TAMWA) in 1998. TAMWA, a nonprofit organization of media women, in that year mobilized other nonprofit organizations including the Tanzania Women Lawyers Association (TAWLA) and the Tanzania Gender Networking Programme (TGNP) to lobby and successfully managed to persuade the National Assembly to pass a special sexual offences law. The law, now in force, among other things, outlaws female genital mutilation and sexual harassment, and imposes a life sentence for the offence of rape.

3.0 KEY TRENDS AND OUTSTANDING ISSUES

This part identifies and discusses what are considered to be the major legal developments or issues facing the nonprofit sector in Tanzania today, in the near future, or in recent years.

In Tanzania there have been some efforts to have in place a new policy for nonprofit organizations. These efforts, which were initiated by the non-governmental organizations, began in 1996 have now bore fruits as there is now in place a National Policy on NGO, which was approved by Cabinet in November 2001. A new NGO was passed by Parliament in the year 2002.

Some of the issues discussed below were considered in a national summit of Non-Governmental Organizations, held in February 1998 to deliberate on the said policy, following a research by a committee of 16 members under the auspices of the Tanzania Non-Governmental Organization (TANGO).

TANGO, an official umbrella organization for a number of NGOs in the country, was established in 1988 and has since registered about 600 members. Its membership is countrywide. The Tanzania Council for Social Development (TACOSODE] is another official umbrella organization for a number of non-governmental organizations in the country. The very existence of umbrella organization for NGOs is not necessarily an indication of coordination and networking, but the opposite. That is why the government has been using it as an excuse to intervene and exercise more control over NGOs, thus eroding their autonomy. The need for NGOs to come together and constitute an apex body so that they can speak with one voice and have collective action cannot therefore be overemphasized.

At the February NGO summit, it was agreed that the new draft NGO policy was to be discussed at regional and district level and that NGOs views on the following issues should be sought, namely:

- (i) Tax exemptions;

- (ii) Government support from and to NGOs
- (iii) NGOs coordination;
- (iv) National relations between local and international non-governmental organizations; (v) Information exchange;
- (v) New law for registration of non-governmental organizations;
- (vi) NGOs' apex body or council; and
- (vii) NGO capacity building.

Most of these issues although they were reflected in the Draft National NGO Policy, do not appear in the final version of the Policy that was approved by Cabinet. The Policy for example is curiously silent on the need to broaden the VAT relief for NGOs. The present narrow exemptions discriminate unjustifiably against equally important NGO activities such as health, social and economic development and protection of environment. The categories of exempted NGOs therefore need to be broadened to meet the contemporary needs and activities of NGOs in Tanzania.

Even with the National Policy on NGOs in place, there is still a need however, for its review in order to incorporate other excluded nonprofit organizations and not confining to NGOs only as defined. Such policy will provide guidelines for the whole non-profit sector and how non-profit organizations should be organized, coordinated and network. It will also chart out a strategy for its implementation and plan of action for achieving its objective. It will also be a basis for the promulgation of a new law on nonprofit organization, currently lacking in the country.

Although now there is in place a national policy and law on non-governmental organizations, Tanzania still lacks a national sector wide policy and law on non-profit or informal life. The existing NGO law narrow as it is does cater as a uniform law to guide the activities of all nonprofit organizations or to make them more accountable to the general public. It is envisaged that if such policy is in place it will probably enhance networking of non-profit organisations, not only nationally but internationally as well. Furthermore, such a policy will enhance collaboration between nonprofit organizations and the government thus facilitating the flow of resources into their activities and thus contribute more meaningfully to national development.

Looking at what has happened within the nonprofit sector and NGO Act in particular in recent years it seems clearly that there have been significant issues raised concerning certain matters as analyzed below.

(i) **The treatment of charitable donations in tax laws**

In Tanzania although charitable donations have been treated favourably in tax laws, there are complains the law as to tax exemptions such donations is discriminatory. The law singles out only certain types of organizations only as being eligible for tax exemptions and the conditions for eligibility are narrow and restrictive. These issues arose simply because existing statutory provisions on tax exemptions are couched in a discriminatory way. Nonprofit organizations, particularly those which are not of a "public character" but which are doing work, which is similar to those of a "public character" are being discriminated against when it comes to tax exemption. This comes out very clearly in the First Schedule to the Income Tax Act of 2004.

The First Schedule to the Income Tax talks of the income of "*any institution, body of person, or irrevocable trust, of a public character established solely for the purposes of relief of the poverty or distress of the public, or for the advancement of religion or education.*" The Schedule also talks of the Commissioner of Income Tax being satisfied that the income is "*to be expended either within the United Republic or in circumstances in which its expenditure is for benefiting the residents of the United Republic.*" There is no attempt in the law to define what is meant by "public character", nor are there regulations to elaborate on how income can be expended in circumstances which are "beneficial to the people."

Furthermore, in terms of tax exemptions, religious and charitable organization seem to be more favoured under tax laws than other types of nonprofit organizations. This has also been a recipe for complains by the discriminated nonprofit organizations. The *Value Added Tax Act* No.24 of 1999, for example, exempt Value Added Tax (VAT) to goods and services to be used solely for the advancement of religion imported by or supply to a registered religious organizations. Similarly the law exempts VAT on the importation or supply to charitable organization holding special Agreement providing for a relief from taxation. And the importation by or supply to any

nonprofit driven charitable organization or institution of goods or services if they will be used solely for the purpose of the advancement of project related to that organization or institution.

(ii) **The provisions for chartering or incorporating nonprofit organizations**

The other issue raised by non-governmental organizations relates to the provisions for chartering or incorporating nonprofit organizations. The main concern is the procedure for registering nonprofit organization, which is too tedious, cumbersome, and shrouded in bureaucratic red tape. This issue is connected to the nature of the existing laws that govern the operation of nonprofit organizations in the country. These laws are archaic and outdated and give the state too much control over nonprofit organizations.

For example, the President, the Minister and the Registrar of Societies, both have enormous powers under the *Societies Act* over "societies", ranging from declaring a society unlawful, refusing to register and de-registering and even with canceling the registration of any society without the intermediary of court of law.

The implication for nonprofit organizations is that they have been operating under the whims of the state and with fear as their fate lies in the hands of a few state officials upon whom they have no check. The powers of state official are in a large measure exercised with absolute discretion.

For example, section 6(1) of the *Societies Act* gives the President "absolute discretion" if he considers it to be essential in the "public interest" to declare any society unlawful. These are enormous powers entrusted in the hands of a single person without any kind of check and balance. It certainly interfere with the autonomy of and the democratic nature of nonprofit organizations thus hindering their performance and hence the need for a new law for nonprofit organizations in the country.

In view of the wide powers conferred on the Registrar by the previous law, the new NGO Act establishes a Non Governmental Organizations Board, which among other things will deal with the approval and coordination of NGOs as well as approve application for registration,

suspension or cancellation of registration. The Board is composed of a Chairman who is to be appointed by the President upon recommendation of the Minister; four members appointed by the Minister on the recommendation of the Council representing the diversified areas of NGOs' interest in the Board; and five members, appointed by the Minister virtue of their knowledge or experience in development and welfare management representing the Government. One may question of having a big number of government appointees but this is somewhat more rational than having only one person determining the fate of a group of persons as was the case previously.

Connected to the issue of inadequacy of the existing law on nonprofit organizations, is the approval by the Government of a new NGO Policy and law without wide consultation and amidst resistance from the NGO community over the enactment of that law. Both the Policy and the new law are wanting as they are narrowly dealing with NGO and not broadly with nonprofit organizations. Consequently, there are no principles to guide the promulgation of a new law on nonprofit organizations. The Government in its wisdom to deal with increasing incidences of internal conflicts between and among nongovernmental organizations, lack of coordination mechanism between them and lack of collaboration between the government and nongovernmental organizations, has established an umbrella organization for NGOs known as the National Council for Non Governmental Organizations (NACONGOs). The NGO community sees this move by the Government as yet another of its long-targeted manouvres to impose its will on NGOs and a clear indication of the intention of the Government to flex its muscles and tighten its grip over the activities of NGOs in the country. According to the NGO Act, the NACONGOs will be a collective forum of NGOs for coordinating and networking of all NGOs operating in Mainland Tanzania. This provision has dealt a severe blow on the exercise by NGOs of their freedom of association.

Currently, there is a lot of duplication of nonprofit organization work, because most of them perform similar tasks without any form of coordination. Consequently, there have been, among non-governmental organizations, "fights over mission" and scarce resources, thus leading to failure to met the expectation of their members and needs of the people.

While the new NGO law has attempted to resolve the burning issue of lack of a uniform law for the administration and management of NGOs and the sectoral nature of the administration, it has fallen short of that intention and in the same vein it has created the problem of increased Government presence in the management of the not for profit sector. With the non-repeal of other existing laws dealing with other forms of civil societies, the new NGO law has added on the number of legislation dealing with the registration of such societies currently numbering five separate laws. In Tanzania Zanzibar there is only one law dealing with societies. Each one of these laws is under the domain of a separate ministry.

For example, the new NGO Act is under the Vice President's Office¹², the law dealing with the registration of societies is under the Ministry of Home Affairs; that dealing with the registration of trustees is under RITA, which is an autonomous Agency in the Ministry of Constitutional Affairs and Justice; and that dealing with the registration of companies limited by guarantee without share capital, under BRELA, also an autonomous Agency in the Ministry of Trade and Commerce. The law dealing with the registration of sports associations is administered by the Ministry of Education and Culture. The new law has therefore not brought about the much needed streamlining in the administration of nonprofit organizations in the country and has instead added on another bureaucratic ladder in the management of the no-for-profit sector in the country.

(iii) Restrictions or regulations associated with receipt of government 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. There are however, some few non-profit organizations in the country that are self-financing with membership income as the most important source of financing. They include organizations such as the Tanganyika Law Society and other professional associations and AGENDA for Environment and Development. However, even these NGOs sometimes are forced to resource foreign donor agencies to finance some of their activities such as the conduct of seminars and workshops. Lack of financial independence severely restricts the ability of nonprofit organizations to define their own agenda and thus

¹² Recently has been moved to the Ministry of Community Development, Gender and Children

failing to be sustainable. For most NGOs the moment donor support ends or withdrawn they are also forced to wind-up their businesses!

At the February 1998 NGO summit, it was proposed that the Government of Tanzania should consider subsidizing the work of NGOs as the Government gets support from NGOs working in areas the Government has failed due to its narrow social budget, particularly in the social services and rural development. This has yet to happen and it is not likely that it will in the near future.

(iv) **Lobbying or political activity by nonprofit organizations**

NGOs link the complex, unfamiliar world of state to the familiar terrain of existing or nascent social and economic groups. They are not primarily interest or pressure groups, however, these groups lobby bureaucrats or elected representatives for favourable actions. They prepare legislative proposals, organize public opinion around specific issues, inform broader public about various concerns and seek favourable actions for their members (Welch, Jr., 1955:44).

A functioning democratic state rests upon a vibrant civil society, as the two are two sides of the same coin. However, the concept of NGO if literary taken which implies "that which is not governmental", may create some circumspection on the part of Government bureaucrats over NGOs' work. In most of the developing countries NGOs are commonly perceived as being in opposition to the Government. Furthermore, due to their donor-dependency, most NGOs are viewed as mere receptacles for externally defined "development projects." However, NGOs and government are complimentary: fulfilling different functions, both presumably dedicated to improving society (Welch, Jr., 1995:44).

The misconception of the Government on the real agenda of nonprofit organizations is largely due to lack of knowledge on the part of some Government officials on the operation of independent non-governmental organizations. Consequently, NGOs may be seen by the Government of the day as being yet another site of power competing for a share in "state power." Particularly at the local government level, officials view nonprofit organization as rivals in politics. Because most non-governmental organizations do the work the Government has

failed to get done especially in rural areas due to its limited social service budget, local government officials would therefore try to block them to prevent them from "winning the masses over to their side" in the next election.

Despite some misgivings on the part of the government on the operation of NGOs, in the arena of civil society in Tanzania, NGOs have had a greater impact on state politics especially on lobbying for legislative changes.

In Tanzania the law does not allow nonprofit organization to participate in political activities. In the immediate past, the Women Council of Tanzania (*Baraza la Wanawake Tanzania* - BAWATA) was threatened with de-registration. The only sin, which BAWATA had committed, was to have an organizational structure resembling that of the ruling political party in Tanzania, *Chama Cha Mapinduzi* (C.C.M)! BAWATA was also condemned further for conducting political campaigns on behalf of the opposition during the first multi-party general elections of 1995 in Tanzania. BAWATA protested vehemently against the threat and filed a case in court. It was granted a temporary injunction to bar the Government from de-registering it pending the determination of the basic dispute in which BAWATA was challenging the constitutionality of the law granting the Minister such powers. The case is still pending in court and BAWATA has technically disappeared from the NGO circles in the country!

The above episode goes only to show how serious it can be when the law confers discretionary powers over a single person without any form of checks and balances. Often those powers get to be abused by those in authority thus leading to manifest injustice. The need for a clear and unambiguous law to guide and protect nonprofit organizations against arbitrary actions of the State cannot therefore be overstated or treated lightly by non-governmental organizations or any democratic and peace loving individuals or institutions for that matter.

The law in Tanzania however, does not expressly bar persons holding positions in nonprofit organizations for political office. The only condition is that an aspirant for a political office must be a member of a political party and must be sponsored a political party in order to be able to contest for such office.

(v) **Nonprofit/for-profit competition**

In Tanzania there is no competition between nonprofit and for-profit, as each has its own sphere of operation. Nonprofit organizations monopolize the "non-market" sphere of civil society whereas for-profits operate in the market sphere. However, there cannot be a clear-cut distinction of what is in the non-market sphere and which is in the market place. Furthermore, as there is no fine distinction line between the arena of civil society and the state, it makes it difficult for any one trying to delienate between the two. State laws that control and regulate the operation of nonprofit organizations and those for the for-profits are both promulgated by the state.

In a free market economy, market forces are said to control the operation of for-profits. However, the state may make laws to prevent nonprofit organizations from engaging in profit-making businesses by imposing certain conditions and restrictions in their operation, which deny them certain privileges if they engage in business and make profit. Furthermore, financial dependence makes nonprofit organizations focus mainly on securing funds for their activities from for-profits. This removes the environment for competition, as for-profits would see non-profits as potential "beggars" and not business rivals. Severe lack of administrative skills and vision among NGOs, probably could be another major factor thwarting any fear of competition on the part of for-profits.

(vi) **The legal liability of nonprofit board**

Since the government of Tanzania "opened its doors" for NGOs in the early 1980s, there has been an "explosion" of NGOs in the country. Most of these NGOs are of the "brief-case" type and are supply-driven - they have been "created" only with the primary purpose of attracting funding and not to fulfill a specific purpose - that is they are not demand-driven.

Furthermore, NGOs tend to be based on projects rather than programmes and operate with very high overhead costs thus threatening their own sustainability. Although the proliferation of NGOs in the country is a clear indication of the Government positive attitude towards civic associations, it has its negative side as well. It seems that in Tanzania everybody is starting his

or her "own" NGO rather than joining existing ones, thus raising fears of the Government that these "brief-case" type NGOs are only for attracting funds and not for serving the needs of the people.

Although the both the new NGO Act and the Societies Act require registered NGOs and societies to submit audited accounts it does not impose any legal liability on the boards of directors for NGOs. Consequently, the Government or the members cannot take any legal action against the mismanagement or financial embezzlement. Such money is not of the Tanzanian public in the sense that the Government does not subsidize NGOs by using taxpayers' money or members' money because very few NGOs are self-financing through membership fees and contributions. If anything therefore it is only taxpayers in potential donor countries who can mount pressure on their governments against further funding of "corrupt" NGOs.

NGOs in Tanzania have shown indifference to the issue of legal liability of nonprofit boards as no NGO has yet to come out openly and criticize or condemn nonprofit boards for mismanaging donor funds or lack of financial accountability on the part of such boards. Understandably so, NGOs themselves are not yet prepared "to wash their dirty linen in public" by exposing dirty financial dealings and corrupt practices which seem to afflict some NGOs in the country. Consequently, there are no concrete recommendations from the NGO community on this issue.

(vii) **Relations between local or national nonprofits and international or regional bodies**
Severe budget constraints affect all local NGOs, making them heavily dependent on grants (primarily) Western and Northern Europe and North America governments and foundations. The relations between local or national and international bodies, is that of acute dependence pure and simple which threatens the sustainability of local or national nonprofits.

4.0 NATIONAL POLICIES AND NON PROFIT SECTOR

In this part, the legal treatment of nonprofit organizations historically is examined. The nonprofit sector in Tanzania has for a long time been neglected from the mainstream economic and development planning. This attitude is a continuation of the legacy of economic centralism, which started with the Arusha Declaration in 1967. During the more than thirty years the country has been practicing the policy of "*Ujamaa*" (neighbourhood) and Self-Reliance, mistaken for Socialism, the state became the owner in trust and controller of all major means of production. It was characterized with the nationalization of major sectors of the economy and the creation of Ujamaa villages where people lived and worked collectively.

The ideology of *Ujamaa* and Self-Reliance permeated in all spheres of life, private and public. Consequently the economy of Tanzania became centrally planned, thus killing private initiative to accumulate wealth and disallowing private ownership of property. Consequently, institutions of civil society were seen as a threat to the state and not partners in development. Civil society institutions such as youth and women associations, trade unions, cooperatives etc. henceforth became party affiliates - then under the auspices of Tanganyika African National Union (T.A.N.U) and thereafter under *Chama Cha Mapinduzi* (C.C.M) after the merger of TANU (Tanganyika) and Afro-Shirazi Party (Zanzibar) in 1977.

In tandem with state command of the economy, the legal context for nonprofit activity also became part of the command and control type legal system - a system of laws without rights. In the eyes of the state, duties came first. Rights, particularly human rights were mere luxuries, unaffordable in a young and developing nation. The people needed to develop first then claim and enjoy their human rights afterwards.

The legacy of centrally planned economy began to wane in the 80's when the Government adopted free market economy principles. It is also within this particular period Tanzania became caught up in the NGO "revolution" which was sweeping across the world at that time. Within Tanzania, NGOs have multiplied because of urgent development and social needs. The trend became obvious in early 1990s. With the diminished efficiency of the government in providing

social services, external governments and private aid-givers sought to bypass or supplement patently weak regimes by turning to NGOs (Welch., Jr. 1995:45). It seems therefore that local and international NGOs started to play increasingly prominent roles as governments, national economies, and political parties collapsed.

The move towards a market economy in Tanzania which began in earnest in early 1990s has led to the creation of a system of laws that treat the tax aspect of nonprofit activity distinctively. As we observed earlier most of the laws that regulate nonprofit activity remained largely of the command-control type while those that deal with tax aspect have evolved on the basis of free market principles which allows for more transparency and democratic participation in decision-making processes.

From our discussion it seems that there is a significant separate body of law governing the tax aspect of nonprofit activity. The body of rules that govern the taxation of nonprofit differs from that governing other types of nonprofit activity in the following ways:

- (1) charitable and religious nonprofits are treated more favourable in revenue laws;
- (2) nonprofit organizations that address community development issues such as provision of social services and poverty alleviation programmes also get favourable tax terms.

In Tanzania, nonprofit organizations in the field of taxation do not have special obligations but enjoy special privileges compared to other fields such as tax exemptions. The most important legal issue that has been raised with respect to nonprofit organizations in the field of taxation over the past ten years is on tax exemption and government subsidy to nonprofit organizations.

5. CONCLUSION AND RECOMMENDATIONS

The discussion above shows that there a lot efforts which have been made to improve the legal environment of the NPOs, however, there are still some major weaknesses which have made the current policy and legislative initiatives not to bear the intended fruits. These weaknesses include the existence of considerable mistrust among the

major stakeholders in the policy formulation processes. Mistrust between the state and the donor community, the state and civil society organizations and among civil society organizations themselves particularly between umbrella civil society organizations accusing each other of not being genuine or transparent or betraying the intended cause. State authoritarianism in the legislative process and its inclination towards controlling rather than facilitating the operation of civil society organizations led to the restrictions that are embedded in the NGO Act. It is restrictive operation and coverage of NGOs. It is restrictive in coverage because it leaves out most of the not for profit actors. It also does not create conducive tax exemption regime for NPO, the case to case model for tax exemption is a potential for discrimination and corruption as it more or less discretionary.

Some of the restrictions imposed by the Act encourage dependence on external grants. For example, the prohibition of 'profit making' initiatives instead of 'profit sharing' tenets means that these organisations cannot invest in profit making ventures even with intention of ploughing back the profit. This restriction in the context where the state does not support NPOs financially is likely to encourage external dependence which is dangerous for sustainability.

There is a need for improvements especially the enactment of framework and broad based legislation which promote freedom of association and assembly as enshrined in the Constitution of the United Republic of Tanzania and international treaties, conventions and protocols. There is also a need to mobilize citizens to actively participate in the not for profit initiatives as an instrument for realizing their social, economic, cultural and political development.

It is important debate and research in several issues such as the state of the NPOs sector, legal, governance, tax, fund raising and financial management, documentation and information sharing, networking, coordinating, state and NPOs engagements and

accountability regimes, be encourage. This will create a critical inputs for revision and amendments of the NGO Act for the mutual benefit of all the actors and stakeholders so that trust and harmony is enhanced.

**Revenue Structure
of the Not-for-Profit Sector in Tanzania:**

**Survey of Non-Profit Organizations in
Dar es Salaam and Zanzibar**

Longinus Rutasitara and Bonaventure Ngowi

I. INTRODUCTION

Not-for-profit organizations (NPOs), more popularly referred to as non-governmental organizations (NGOs) or “the third sector” deal mainly with delivery of social services, ideally at *no charge* or a minimum charge to cover operating costs compared to other private sector providers of the same services who do it for profit. NPOs are supposedly more philanthropic, not profit-seeking. If so, how do the NPOs finance their activities? This is the basic question of this paper.

Basically NPOs rely on donations to a large extent and may possibly generate their own revenues through provision of services only to the extent that these allow them to cover operating costs. The term “revenue” is rather limiting since the NPOs are not primarily intended to generate profits that can be distributed to shareholders as dividends, for instance. They may charge and so receive some money from the services they provide, which they *should* then plough back to further the objectives of the organization; but this source is usually a small proportion of the running costs and for some activities - such as disaster relief - recipients of the service cannot be asked to pay.

The growing volume of activities of the NPOs has generated an active debate regarding the financing and financial accountability of the NPOs. Whether it is because of a view (perhaps misconceived) that their directors are making an unjustifiable financial “kill” under cover or just a passionate desire to see the NPOs keep on improving delivery of services, a study of financing of the NPOs has been found to be important in the analysis and practice of public policy. A study of the major patterns of revenue sources of these organizations has shed more light on

the ability of these organizations to muster the necessary financial and material resources to sustain their activities and mission.

This article presents an attempt, using primary data, to examine and put together a profile of revenues sources of Tanzania's NPOs into appropriate comparative context in terms of types and scale of key sources of revenue. First, types of domestic sources of non-profit sector finance by major source (public and private) and by sub-components of the major sources for the 1997 data are analyzed. Second, international cash revenue received by the non-profit organizations is analyzed by type of source. Third, there are observations for 1995 that show the value of *in-kind* support received by the responding non-profit organizations. These are also analyzed by major source.

A survey of 87 non-profit organizations (69 in Dar es Salaam and 18 from Zanzibar) generated the information and data on three main classes of sources of NPOs revenue for the year 1997 as a basis for the analysis. The survey was conducted in the course of December 1999 – June 2000, further extended in May/June 2001.¹³ The data for 1995 in-kind support was less detailed - they cover the in-kind sources of resources by major categories. It is worth mentioning up front, however, that eliciting information about finances (sources and outlays) was probably one of the most formidable parts of the fieldwork. Efforts to clarify the intended good use of the information yielded the data which this input sets to present. Data gaps due to incomplete information and inconsistencies of reported finances led to a decision to drop some of the organizations from the analysis.

It is found that private-based sources of cash revenue dominate while the public sector contributes a small share in Tanzania. Private sources (*Private Giving* and *Private Fees & Payments*) dominate although their importance varies from organization to organization. This result contrasts with findings by Salamon and Anheir (1997) for developed countries where the public sector in those countries contribute a significant share. Although the findings provide only an initial insight into the structure of the not-for-profit finance sources, they invoke issues of

¹³ The list of the organizations surveyed is attached as Appendix 2. The main survey instrument was a questionnaire under Johns Hopkins University study on the non-profit sector. All monetary data are in Tanzanian shillings (TShs). For 1997 the mean exchange rate was TShs 624.57 per US\$1, 1999 TShs 797.33 per US\$1 and 2001, TShs 916.30.

openness and accountability as factors that ensure credibility and justification for the NPOs to receive and use the finances.

Part II presents the conceptual framework, citing the place of NPOs in community development. Part III presents an analytical framework for identifying major sources of cash revenue. Part IV presents the analyses and results using the survey data for nine major categories within the International Classification of Non-Profit Organizations (ICNPOs) – see Appendix 2. Part V presents international sources of cash revenues. Part VI analyses the 1995 data on the value of in-kind sources, both domestic and international. Part VII presents concluding remarks and policy implications.

II. CONCEPTUAL FRAMEWORK

How the NPOs raise funds and other resources is of interest for public policy to the extent that the NPOs contribute to the provision of public services. The services aim at improving social development including economic growth, peaceful coexistence, space for self-actualization, human rights etc. that traditionally were regarded as the responsibility of the state. The delivery of services by the NPOs is largely complementary to Government efforts even though the working relationship between the state and NPOs may not necessarily always be harmonious. To the extent that the sector's activities add to the stock of public services available to society, the state may regard this "third" sector as complementing its efforts although certain activities may (understandably) make the state feel its role as champion of development and peace and security threatened or unjustifiably challenged. In some quarters and times, "third sector" activities have been wrongly or correctly taken for proxies of "opposition", supporters of rebellious ideas or activities.

In terms of financing and other operating resources, one of the distinguishing features of the NPOs is their reliance on private charitable giving and on contributions by founder members and beneficiaries of services on self-help basis and volunteering. Contributions can be in monetary terms or in-kind, including volunteer labor services (e.g. expertise) and working space such as office space, furniture and equipment. The UN system defines a non-profit entity as one that receives more than 50% of financing from private philanthropic sources as distinct from government support and (own) market sales. Certainly, the proportion differs from country to country as available evidence suggests (e.g. Anheir 2001). Philanthropic considerations have,

among other reasons, featured in most of the foreign donor assistance channeled through NPOs such as charities on the understanding that such local and international organizations were “safer”, less prone to corruption and faster conduits of such assistance targeting poor beneficiaries.

The conceptual basis for the sources of funding of the NPO sector may thus be traced in the evolution of the discourse on development. In the discourse both the state and the NPO sector are seen as supporting development though there is a strain of tension between at least two contrasting perspectives regarding their major roles as players in socio-economic development. The first perspective advocates the central role of the state, while the second brandishes the primacy of “the market”. The “third sector” is then viewed as exploiting the weakness of the two perspectives, that is, stepping in to fill in gaps or to address the “wrongs” of either the state (government failure) or the market (market failure) as far as social development is concerned.

Historically, the first perspective emphasized the role of government in the provision of public services, security, protection of human and property rights etc. The second view emphasized the potency of the “invisible hand” of the market *a la* Adam Smith in the allocation of resources and goods in ways that maximize social welfare supposedly with minimum administrative interventions and costs to society. This view lauded the role of the private sector and exercise of human freedoms (votes) for the way society and political affairs should be organized.

Over time, however, it became clear that neither of the two perspectives was flawless. First, there have been cases of failures of the state to provide all social services with economic efficiency. Due to financial, technical, managerial capacity limitations etc. governments cannot *efficiently* deliver all public services. Not all governments can guarantee a society without inequalities and resultant social or political tensions. On the other hand, the *market*, with its emphasis on private sector acting in their own interest – for-profit - fails to provide all goods and services that the state would be expected to provide (e.g. security, law and order, protection of human and property rights, basic human needs such as health services, basic infrastructure etc.) The private sector (the market) is least able and least interested in the provision of social services if there are no profits to be made. Often too, the private sector may pursue its interests in ways that impose adverse externality effects on society (especially if unrestrained by the state) – for example, wanton exploitation of natural resources resulting in environmental and/or

health hazards. It is due to the limitations of the state and the market that the *third sector* - that is both *non-state and not-for profit* - has become increasingly visible as an agent of development that would rectify the weaknesses left by both the state and the market in the delivery of social services.

For developing countries the 1980s were dominated by trends towards (structural) adjustment and liberalization to replace dominant state control over economic and political freedoms. NPOs gained increasing significance around this time in these countries. A lot of foreign development assistance and relief has been channeled through both international and local NGOs in support of their contribution to social development (Fowler 1997).

At the same time, the contemporary thinking, rooted in the “new institutionalism” school has tended to emphasize the role of institutions that are neither fully centralized, as is the state, nor fully decentralized, as is, conceptually seen, the market (Bates 1997:36ff.). By highlighting the role of agents and policy interventions other than just the state and or the market, new institutionalism thus accommodates development agents in the third sector. According to Bates (ibid) such insights have not only enhanced the claim by the NPOs for a major role in development but also a claim by these organizations for a share of development assistance budgets extended by advanced countries to developing countries. The third sector has thus attracted resources and therefore policy and research interests on its nature and size and resources (financial and manpower) necessary to for it to carry out its mission (Thomas 1992). Therefore, to the extent that the not-for profit sector contributes to welfare by providing social services where the state and private sector fail, the sector may claim a share in the national development budget and a share of external donor funding intended for development of society.

Where governments acknowledge limited technical capacity they can and have demonstrably extended financial and policy support to such NPO activities that directly provide services on their behalf. Many governments extend different levels of financial and in-kind support to NPOs. The level of government support depends also on the level of development of the country. Governments in developed countries offer more support to NPOs, whereas fiscal constraint in less developed countries limits the ability of government to extend similar levels of support to NPOs.

International NGOs have established modalities to give financial assistance to NGO based in developing countries. They define conditions or specific areas that recipient NGOs in developing countries should be working in. These mainly fall under poverty alleviation (specifics differ), promotion of the rule of law, and adherence to fundamental freedoms. To qualify, prospective recipient NGOs must have the capacity to mobilize private financial resources among other things. Strict contracting rules apply to ensure accountability.

The space for the civil society (NPOs in general) arises from state failure – due possibly to bad ideological orientation, mismanagement, preoccupation with civil strife, dictatorial excesses, wrong choices of strategies etc. which lead to weak delivery of social services. In a number of poor countries civil society has been increasingly involved with education, health, relief and even income-generation activities. Civil society has also stepped into advocacy activities aimed at promoting human freedoms, equal opportunities, anti-discrimination, etc. NPOs have been operating in an increasingly competitive environment, almost competing with the for-profit ventures – the private sector – in such services as education and health. The difference is that, as noted above, NPOs have increasingly received support from foreign donors – governments and international NGOs (Fowler 1997, Brett 1997). In face of apparent competition amongst private for-profit operators and NPOs for operating territory, continued operations of the NPOs depend on the sustainability of the sources of their resources. However, the primary responsibility of directors and officers managing the NPO becomes therefore to ensure that the organization is accountable for its activities and finances to its contributors, members, and the public and government regulators (Spitzer 2005).

A study of the sources of these resources is therefore important. The relative contributions of the various sources are an empirical question. To analyze them, a framework is deduced below basing on previous studies and taking into consideration the objective of the *project* of comparing the relative contributions of different major sources across countries.

III. ANALYTICAL FRAMEWORK

In a synthesis of studies of NPOs in developed and developing countries, Salamon and Anheir (1997), deduce a classification of sources of finance for the not-for-profit sector into three major

groups. To maintain a level of comparability of studies across countries, this study adopts the same framework:

- i. Government support or (*Public Sector Payments*) from the public sector sources in form of outright grants, contracts for services and payment to non-profit organizations that provide public or social services: specifically:
 - Grants and contracts – direct government contributions to NPOs in support of specific activities or programs;
 - Statutory transfers, including contributions by government as mandated by law, to NPOs that carry out public programs;
 - Third party payments that include indirect government payments to reimburse NPOs for services rendered in place of government e.g. day care, treatment of chronic diseases etc.
- ii. *Private Giving*, under which contributions by individuals, corporations, charitable foundations in form of direct giving of money or gifts and fund raising activities are included. Specifically the sub-component sources under this heading are:
 - Foundation donations
 - Business or corporate donations
 - Direct individuals' donations
 - Federated campaigns (money raised for an NPO through campaigns to aid the organization – such as *Telefood* or special lotteries).
- iii. *Private Fees and Payments*, being (mainly financial) resources received by the non-profit organizations as proceeds from sales of their output (e.g. services), membership dues and income from the organization's investments. The major sub-components in this category include:
 - Fees for services rendered: these include fees that clients served by the organization pay. It is important to note, however, that these fees included here are not reimbursable in Tanzania as in the most developed countries.
 - Sales of the products / services of the NPO generate revenue (distinct from fee income).

- Membership dues, being charges levied on members of the organization as a condition for membership.
- Investment income, being money earned on the organization's capital or its investment – for instance, income from interest on invested funds.

There are variations at the level of details, in the relative importance or share of each source at a given point in time, over time and across countries. But the relative shares of the three major components (public sector support, private giving and private fees and payments) usually are explained by the underlying role and policy stance of government towards the non-profit sector.

For instance, in some countries, like Germany and France, government support to the non-profit sector dominates, whereas, in other countries, for instance, United States of America, proportionately very small revenue is reported to come from private giving (Salamon and Anheier op.cit). For instance, large government support signifies the extent of collaboration or partnership between the government and the “third sector”, even though this need not be the case in all countries.

The private-based sources (the second and third sources) are important as far as the assessment of financial sustainability is concerned. In part, where the revenues are generated through sales of the NGO's products, it should be the case that the NGO is already facing the competition from other not-for-profit producers. When exposed to “market forces” on an equal footing as the for-profit sector, the competitiveness prowess of the NGOs vis-à-vis the for-profit sector becomes vital.

It is also useful to identify the sources of finance by ICNPO classification to show what types of not-for-profit activities attract revenue from what types of sources – e.g. domestic and international. In addition, for a developing country like Tanzania, it is important to show, as far as data can allow, the role of external financial assistance that the not-for-profit sector is getting from bilateral and multilateral sources. This is not a surprising premise in view even of the emerging tendency for donors (multilateral, bilateral, international non-profit organizations, individuals etc.) to incline to channeling development assistance through non-governmental organizations which are sometimes considered to be closer to the intended beneficiaries at the grassroots than the central government.

Although the primary focus is on cash revenue, it is useful to analyze information available on “in-kind revenue”. “In-kind revenue” takes a variety of forms including:

- provision of food assistance (to NGOs that distribute this assistance),
- buildings, office space, facilities and equipment given to the NGO to help it carry out its activities,
- technical assistance (on part-time basis for instance) and secondment of executives or experts to carry out specified activities of the organizations and even volunteering, which is equivalent to donation of labor services and time.

To maintain comparability with other countries in the project, three major types of in-kind resources have been identified:

- Public sector contributions – rent-free use of government buildings, seconded staff, office machines, contributions of relief food and amenities such as materials for temporary shelter, soap, etc. to the NGOs involved in relief action.
- Private in-kind contributions – such as food, furniture, use of equipment and private buildings and estates, transportation etc.
- Volunteering as volunteer labor time and imputed cost of labor services.

As a point of departure, therefore, it can be suggested that the relative shares of the major sources of finance for the not-for-profit sector in Tanzania are influenced by the changing policy environment, which encourages not only the expansion of the for-profit private sector but also the growth of non-governmental organizations. The relative shares may be related to the simultaneous government withdrawal from direct provision of some social services, and the apparent movement towards partnership between government and for-profit private and not-for-profit organizations in the delivery of other services – under what are generally termed as “public-private partnerships” (PPP).

The main questions can be put thus: What do the available survey data show are the major types of sources of finance and their relative shares? What are the major explanations of this pattern in general and in specific groups of NPOs? To answer the first question, this input explores the pattern of the sources from the survey data. More in-depth policy explanations are complemented in other sections of the project. It is argued that to reinforce confidence in the

organizations' stated 'missions' amongst the community, the financiers (sources of finance) and government, transparency in financial accounting and reporting is important.

IV. PATTERN OF DOMESTIC SOURCES OF NON-PROFIT SECTOR FINANCES

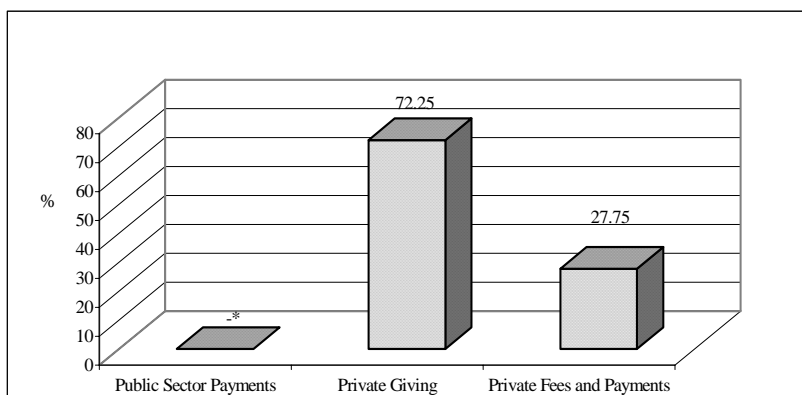
4.1 Domestic sources of cash revenue by major ICNPO category, 1997 data

The relative importance of the three major types of sources and their sub-component sources are given in this sub-section. This is done for all the fields of ICNPO of which, in this input, there are: Culture & Recreation, Education & Research, Health, Social Services, Environment, Development & Housing, Civic & Advocacy, Religion and Professional Associations.

4.1.1 Culture and Recreation

In this group there are 4 sub-groups in the project working sheets: Culture and Arts, Sports and Other Recreation, Service Clubs (1 300), and others not elsewhere classified. Data came from four not-for-profit organizations in the Sports and Culture and Arts sub-groups. No data were collected on the rest of the sub-groups. Figure 1 shows the relative shares of the three major classes of revenue in the total of all the cash revenues of all the organizations in this sub-group.

Figure 1: Shares of the three major sources of cash revenue in Culture & Recreation (%)



Source: Survey data

Some respondents (with * in Figure 1) did not indicate any amounts received from the public sector. However, this should not be generalized since it is known that government supports several other cultural and sports activities. Similar cases are encountered. The source is left in

the table to keep the analytical frame in the picture, especially for these three major sources of finance for the NPO sector.

The one additional NPO in the Culture and Arts sub-group does not change the profile of sources. In particular, that NPO reported that it relies mainly on fees and membership dues. *Private Giving* dominates (72.25%), followed by private fees and payments, which contribute above 27% of the total. Public sector payments do not feature at all. It may be noted also that within *Private Giving* business donations account for above 99%. Direct donations by individuals account for less than 1%. Within Private Fees and Payments, the organizations draw about 96% of the revenue from Other Income. Table 1 shows these contributions.

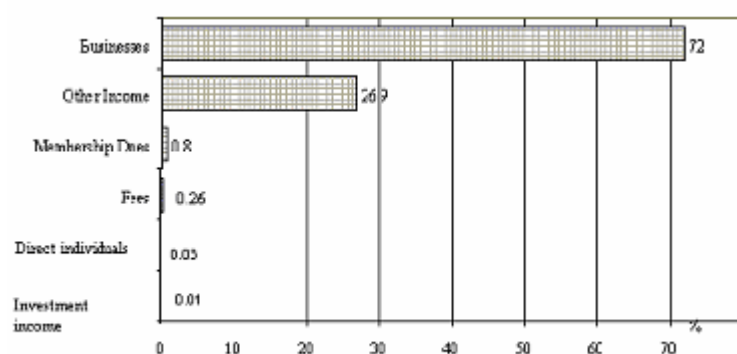
Table 1: Shares of sub-components (Culture & Recreation – Sports) in TShs and percentage

Private Giving	Amount TShs	%	Private Fees/Payments	Amount TShs	%
Businesses	38,000,000	99.95	Fees	150,000	1.02
Direct Individuals	20,000	0.05	Membership Dues	434,800	2.95
			Investment Income	5,000	0.03
			Other Income	14,165,000	96.00
<i>Total</i>	<i>38,020,000</i>	<i>100</i>	<i>Total</i>	<i>14,754,800</i>	<i>100</i>

Source: Survey data

Figure 2 ranks the relative share of each sub-component in the total revenue for the entire ICNPO field (sports and arts and culture NPOs that were surveyed).

Figure 2: Shares by sub-component in total cash revenue: Culture and Recreation (%)



Source: Survey data

Overall, it is private-based sources that are prominent, led by donations by businesses (72%), followed by “Other Income” (26.9%). The contribution of other sources to the total that amount to less than 1% each, i.e. membership dues, fees, direct individual contribution and direct income are also shown. Completely not in the picture are public sources and federated campaigns and foundations.

4.1.2. Education & Research

Four NPOs responded during the survey of which only one could be classified as related to secondary education. The other two were trust fund NPOs that were operative in Dar es Salaam on behalf of/for upcountry areas (regions or districts). Residents who originally come from those areas spearhead the initiatives, with the aim of promoting education in their areas. Even the one NPO that refers to a secondary school in Dar es Salaam works along the same lines, targeting mainly residents in the district. The four were conveniently considered together as the ICNPOs category “Other Education”. The information supplied is nevertheless limited. In the first place they indicated that they do not receive any financial resources from public sector sources. Private Giving accounts for 7% of the total finances, while Private Fees and Payments account for 93% of the total Tshs 75,600,000. Only one organization indicated that it received an international transfer (to be featured in the appropriate section later).

4.1.3 Health

Three organization in the health group responded. One caters for an association of traditional medical practitioners, followed by a child and family centre and coalition of women fighting against malaria in Dar es Salaam. They were grouped under the ICNPO as “Other Health Services”. Also they do not get cash transfers from any of the Public Sector Payment sources. Overall private giving is dominant (99.9%) and little amounts come from membership dues (0.01%). Table 2 shows the actual amounts and the relative shares of the three major sources.

Table 2: Shares of major sources of domestic finances: Health (Tshs and %)

Major source	Tshs	%
Public Sector Payments	-	-
Private Giving	57,085,000	99.9
Private Fees and Payments	50,000	0.1
<i>Total</i>	<i>57,135,000</i>	<i>100</i>

Source: Survey data

Within Private Giving, the largest contribution comes from direct individual contributions (91.2%), followed by donations from businesses (8.8%). Other domestic sources are not identified. Information about international assistance was not supplied, but it is most likely that there are organizations in Tanzania that receive international support.

4.1.4 Social Services

Responses were obtained from four organizations under this group. One can be placed under ICNPO category Emergency & Relief, while three others can be placed under General Social Services. The pattern of their sources of finance does not remarkably differ from other organizations. However, in absolute amounts in monetary terms these seem to be on the lower side even when all their resources are considered. Table 3 shows both the relative shares and absolute amounts of domestic sources of finance. Again, payments from the public sector are missing. Within Private Giving 98.9% comes from direct individual contributions and a further 1.1% from foundations. In the Private Fees and Payment category, 84.8% of the finances come from membership dues and 15.2% from Other Income.

Table 3: Major sources of domestic finances: social services (Tshs and %)

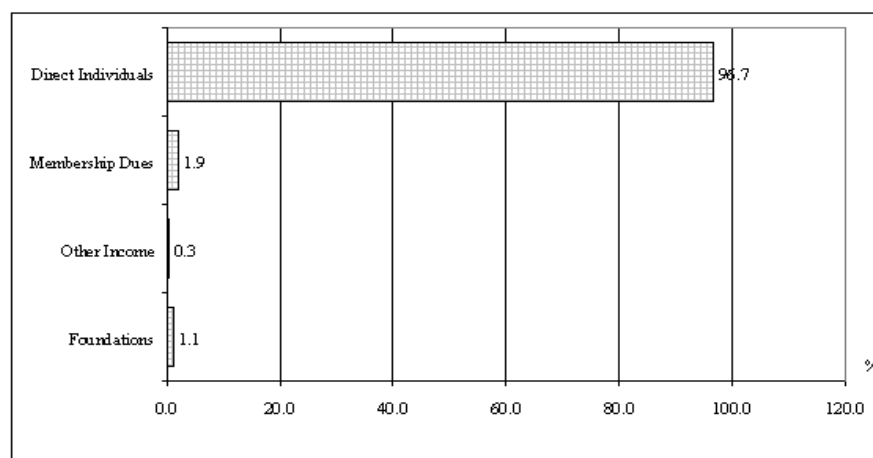
Major source	Tshs	%
Public Sector Payments	-	-
Private Giving	42,971,760	97.75
Private Fees and Payments	990,000	2.25
Total	43,961,760	100

Source: Survey data.

Figure 3 ranks the sub-component sources without regard to the major source. Individual contributions dominate followed by a wide margin, the contributions by members, at close to 2%. "Other income" and foundations provide small amounts.

Figure 3: Shares of 4 sub-components of the cash revenue: Social Services

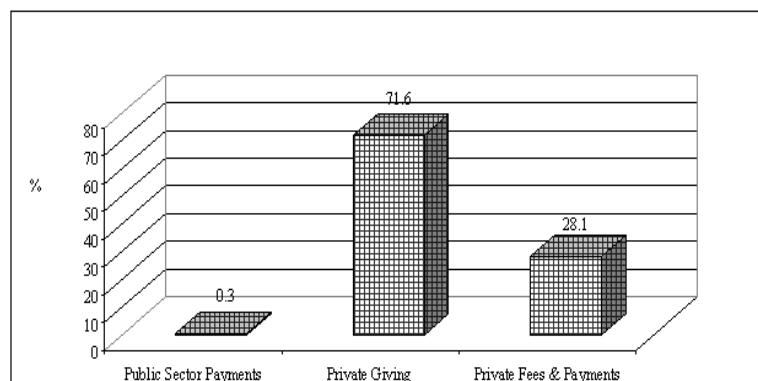
Source: Survey data



4.1.5 Environment

Data were obtained from four non-profit organizations under Environment. Figure 4 shows the relative shares of the three major sources in the total revenue. *Private Giving* takes the lead, contributing more than 71% of the total revenue to NPOs in this group. *Private Fees & Payments* follow with 28.1%, and only 0.3% received finances from the public sector sources.

Figure 4: Shares of major source of cash revenue: Environment (%)



Source: Survey data

The contributions from public sector make 0.3% of the total sources and all come as Grants and Contracts (totaling Tshs 1,000,000). The contribution of the sub-components of Private Giving and Private Fees and Payments are shown in Table 4. Donations by foundations contribute 71.6% of the total within *Private Giving*. This is followed by business donations (27%) and direct individual contributions.

Table 4: Contributions of sub-components of major sources (Environment)

Private Giving	Amount TShs	%	Private Fees and Payments	Amount TShs	%
Foundations	156,356,940	71.6	Fees	25,000,000	29.7
Businesses	59,360,938	27.2	Sales	3,288,800	3.9
Direct Individuals	2,690,000	1.2	Membership Dues	6,511,000	7.7
			Investment Income	456,000	0.5
			Other Income	49,000,000	58.2
Total	218,407,878	100	Total	84,255,800	100

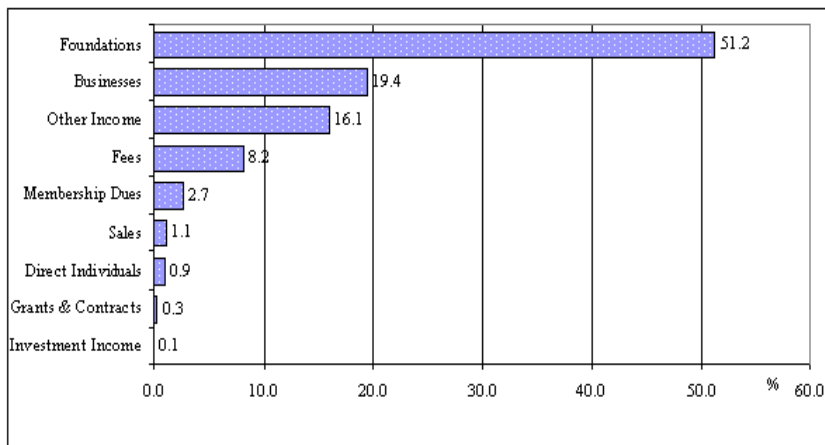
Source: Survey data

Within *Private Fees and Payments*, “Other Income” contributes 58.2%, followed by fees (29%) and membership dues (7.7%). Figure 4 shows the contributions of all the sub-components to the total cash revenue in the Environment group and the part played by the public sector (Grants and Contracts) is small, but significant in that not many organizations have listed public sector payments as one of the sources of finance.

Figure 5 shows the relative contributions of the sub-components ranking them from the largest to the lowest contributor. Foundations and businesses take the first two positions with 51.2% and 19.4% respectively. “Other Income” takes a significant third position, while membership dues and fees contribute just above 10%.

Figure 5: Environment: contribution by sub-components to total cash revenue (%)

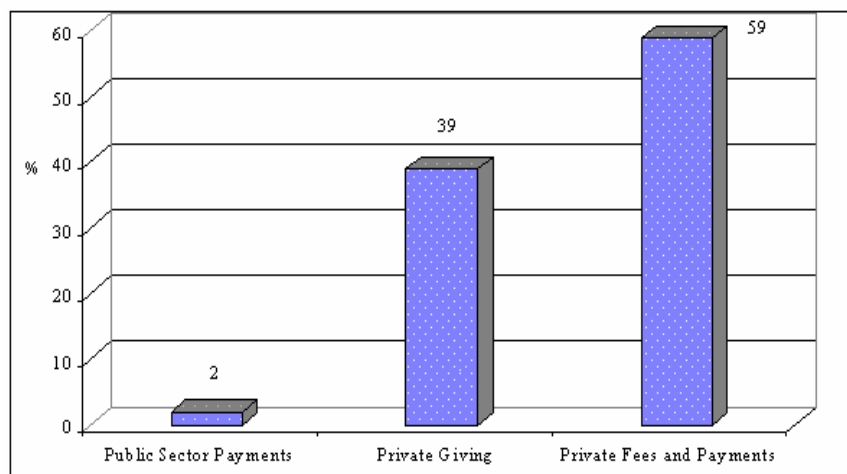
Source: Survey data



4.1.6. Development & Housing

Twelve organizations that responded from this group engage in diverse activities all of which can be categorized as community development-oriented. Many were local community-based and their services targeted to members of the community in the neighborhood – small groups e.g. women, small business etc. None was specific about housing. The following figure for the major sources depicts the pattern of the sources of their finances.

Figure 6: Shares of major sources of domestic finances: Development and Housing (%)



Source: Survey data

Table 5: Sub-components of sources of finance in Tshs and %: Development and Housing

Major source/	sub-components	Tshs	% of major component	% of total revenue
Public Sector Payments				
	Grants & Contracts	1,160,371.8	100	
	Total Public Sector	1,160,371.8	100	2
Private Giving				
	Foundations	4,760,371.8	20.9	8
	Businesses	5,000,000.0	22.0	9
	Direct Individuals	12,975,186.0	57.1	22
	Total Private Giving	22,735,557.8	100.0	39
Private Fees & Payments				
	Fees	19,392,000.0	56.1	33
	Sales	6,570,929.0	19.0	11
	Membership Dues	5,812,000.0	16.8	10
	Other Income	2,820,000.0	8.2	5
	Total Private Fees	34,594,929	100	59
Total Cash Revenues		58,490,858.6		100

Source: Survey data

In Table 5, third column, all the cash from the public sector comes in form of grants and contracts. For private giving, 57% is from individual contributions, followed by contributions from

business and foundations. Within private fees and payments, fees constitute the major source (56.1%), followed by sales and membership dues. Other incomes contribute 8.2%. All sources are expressed as percentage of the global total cash received (last column). Fees contribute 33%, followed by direct individual contributions (22%).

4.1.7 Civic & Advocacy

In this group there are two categories of NPOs for which data were available: Civic and Advocacy (ten organizations) and Law and Legal Organizations (seven organizations). Political Organizations were not included in the survey. The relative shares of the sources of each major source are presented in Table 6. Although public sector payments are not large, it is important to know where this small contribution comes from within this source. For Civic and Advocacy organizations, for example, (col.3) 83% comes as statutory transfers and 16% as grants and/or contracts. There are no third party payments. Within private giving, businesses provide 42.8%, followed by federated campaigns. Within private fees and payments, sales fetch 47%, followed by “other income” and investment income.

Table 6: Shares of sub-components in total major sources – Civic & Advocacy (%)

Revenue Source	Civic & Advocacy	C&A% of each source	Law & Legal Services	L&L% of each source	Total	Sub-source as % of global total cash
Public Sector Payments						
Grants & Contracts	200,000	16.7	-	-	200,000	0.1
Statutory Transfers	1,000,000	83.3	-	-	1,000,000	0.6
Third Party Payments	-	-	-	-	-	-
Total Public Sector	1,200,000	100	-	-	1,200,000	-
% of total cash rev. (column)	0.7	-	-	-	0.72	-
Private Giving						
Foundations	2,840,000	2.8	-	-	2,840,000	1.7
Businesses	43,642,100	42.8	200,000	16.0	43,842,100	26.2
Direct Individuals	15,950,000	15.6	1,050,000	84.0	17,000,000	10.2
Federated Campaigns	39,545,000	38.8	-	-	39,545,000	23.7
Total Private Giving	101,977,100	100	1,250,000	100	103,227,100	-
% of total cash revenue	62.3	-	36.6	-	61.8	-
Private Fees & Payments						

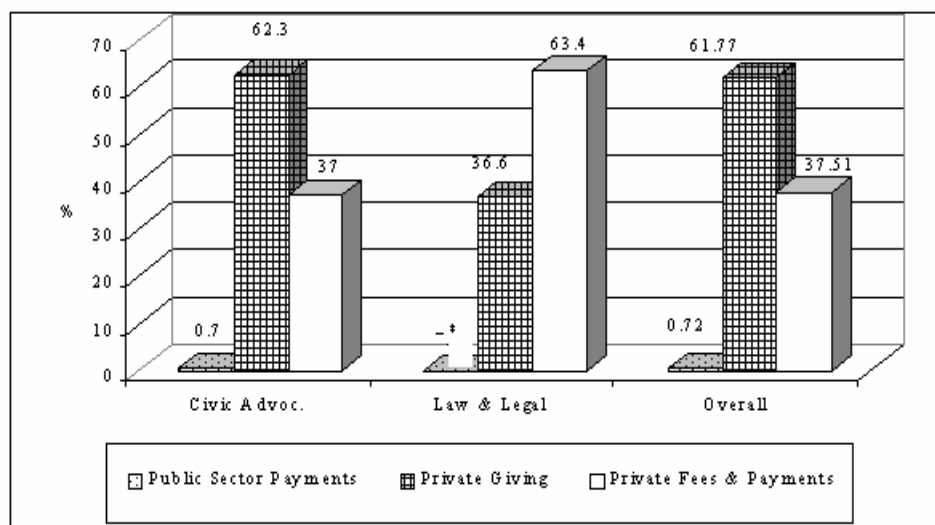
Fees	5,127,475	8.5	-	5,127,475	3.1
Sales	28,900,000	47.7	700,000	29,600,000	17.7
Membership Dues	6,124,350	10.1	1,375,000	7,499,350	4.5
Investment Income	8,654,847	14.3	90,000	8,744,847	5.2
Other Income	11,718,799	19.4	-	11,718,799	7.0
Total Private Fees	60,525,471	100	2,165,000	62,690,471	-
% of total cash revenue	37.0		63.4	37.5	
Total Cash Revenues	163,702,571		3,415,000	167,117,571	
	100		100	100	

Source: Survey data

Columns 4 and 5 show the same information for the law and legal organizations group. There are no public sector payments. Direct individual donations provide 84% and business donation 16% of private giving. Membership dues provide 64% of private fees and payments and sales (32%) as major contributors. Little (4.2%) is generated as investment income.

The last two columns show overall cash received by all organization in this major ICNPO category. It is possible to see from the last column that it is the business donations (under private giving) that dominate (26%), federated campaigns (23.7%) and sales under private fees and payments.

Figure 7: Major sources in total cash revenue: Civic & advocacy (%)



Note: -* not applicable

Source: Survey data

Within the two surveyed sub-groups of Civic and Advocacy and Law and Legal Services organizations, the relative shares of the major sources of finance stand out as shown in Figure 7. For instance, within the Civic and Advocacy category, private giving dominates with over 62.3% of the total revenue in that category. Private Fees and Payments contribute 37%. Public sector payments contribute below 1%. The picture is slightly different within the Law and Legal Organizations. Private Fees and Payments dominate (63.4%) while Private Giving takes a second position (with 36.6%) and no public sector payments are recorded. In total, private-based sources dominate.

4.1.8 Religious organizations

Four (4) religious organizations were surveyed. Only Private Giving was recorded, while the other two major classes of sources of revenue, that is, public sector payments and private fees and payments did not contribute anything. Two principal sources of Private Giving were business donations (91.7%) and foundations account for the rest. Table 5 shows the relative percentage shares.

Table 7: Structure of cash revenues for the ICNPO: Religion (Tshs and %)

Major source/ component	Amount in TShs	%
Private Giving		
Foundations	58,105,308	8.3
Business	641,758,800	91.7
Total Private Giving	699,864,108	100

Source: Survey data

Public Sector Payments and Private Fees and Payments are not shown in the table because there was no indication that these are major sources of revenue for the religious organizations that were surveyed. Also direct individuals and federated campaigns are not contributors within private giving.

4.1.9 Professional associations and unions

There were 13 NGOs in this group that had data. Of the three major sources, the public sector payments do not feature. Private Payments and Fees contribute 98.3% and private giving contributes 1.7%. The details are shown in Table 8

Table 8: Cash revenue by sub-components (TShs) and shares of major sources (%)

Private Giving	TShs	%
Foundations	29,271,707	
Federated Campaigns	70,000	
Total Private Giving	29,341,707	1.7
Private Payments and Fees		
Fees	78,900,000	
Sales	446,213,000	
Membership Dues	1,156,915,600	
Investment Income	48,857,000	
Other Income	8,085,000	
Total Private Fees	1,738,970,600	98.3
Total	1,768,312,307	100

Source: Survey data

On the other hand, Table 9 shows the details of the relative contribution of the sub-components of the two major sources in this ICNPO category. Within private giving only two sub-components appear to be important: donations from foundations and from federated campaigns. Even then, however, donations from foundations dominate, accounting for 99.8% of the revenue from total private giving.

Table 9: Shares of sub-components in total major sources (Professional associations etc) (%)

Private Giving	%	Private Fees and Payments	%
Foundations	99.8	Fees	4.5
Federated campaigns	0.2	Sales	25.7
		Membership dues	66.5
		Investment Income	2.8
		Other income	0.5
Total	100	Total	100

Source: Survey data

The breakdown of the private fees and payments indicates that membership fees generate over 66.5% of the revenue within this major source, followed by sales (25.7%). “Other Income” generates 0.5% – within this sub-component). Here “Other Income” was reported to include revenue from sales of publications and vests by the organization (s). It should be noted, also, that the estimated membership dues in the table represent an underestimation: at least two organizations gave the value of the membership fee required of an individual member, but supplied no information on the total membership fees collected or total number of members. It was thus difficult to impute the value of these membership fees. This leaves an impression that membership dues can easily be well higher than 67%. It can be noted in general that professional associations and unions rely very much on the members’ contributions, followed by sales of their services and fees. They do not receive any form of public sector cash revenue.

4.2 Consolidation of domestic financing by major sources and by ICNPO Category

To wind up this section, a consolidation of the major sources compared across the ICNPO categories covered so far is in order. To do this, use is made of Table 10 that pulls together the major profiles. So far five ICNPO categories have been covered.

Table 10: Shares of the major sources of finance by major ICNPO Group (%)

	Major ICNP Group	Public Sector Payments	Private Giving	Private Fees and Payments
1	Culture & Recreation	-	72.25	27.75
2	Education & Research	-	7.0	93.0
3	Health	-	99.9	0.1
4	Social Services	-	97.75	2.25
5	Environment	0.3	71.6	28.1
6	Development & Housing	2.0	39.0	59.0
7	Civic & Advocacy	0.72	61.77	37.51
10	Religion	-	100	-
11	Professional Associations and Unions	-	1.7	98.3

Source: Survey data.

The structure shows the dominance of the private-based sources, led by private giving, followed by private fees and payments, except for Religion that record “nil” for private fees and payments. The public sector provides very little to the Civic & Advocacy field (0.92%) and otherwise ‘nil’ to other four ICNPO groups. One general observation, therefore, is that private-based sources are dominant, while the public sector-based sources are not significant. The UN-definition would seem to hold. But, tentatively, a sharp contrast may be noted between these findings and those reported for the countries in Salamon and Anheier’s study cited earlier. In those countries it was found that the public sector plays a significant role in many ICNPO fields (on average 43%), while the private giving provides an average of 10% (countries included were France, Germany, Hungary, Italy, Japan, UK and US). This would suggest that there is a marked collaboration between government and the non-profit sector in those countries. In these cases, third party payments feature, particularly in such services as health and life insurance and relief.

On the other hand, it is a healthy sign if private-based sources are significant and sustainable, as this would be a sign that the non-profit sector would maintain some level of independence. However, reliance on private-based sources would require the non-profit sector to keep abreast with the twists and turns of “market” competition in order to carve a place for itself. It has to be understood that these differences may have to do with the differences in the underlying economic structures and policies and probably levels of development between the advanced countries and Tanzania. In Tanzania, third party payments are not a widespread phenomenon. Further, one observes a brisk competition between the private sector and the non-profit sector and, not surprisingly, within the non-profit sector itself; e.g. where NGOs compete amongst themselves over areas of activity. This follows in the heels of the economic liberalization policies adopted since the mid-1980s that allowed other liberties. It is natural that the question of sources of finances should be paramount, followed by a legitimate question about the use of the funds and accountability to the providers of these funds.

V. INTERNATIONAL SOURCES OF REVENUE

5.1 International cash revenue, 1997 data

Most of the surveyed organizations had some data on international sources of cash revenue for their operations. The most outstanding sources that were identified include multilateral and

bilateral sources, receipts from international non-profit organizations and international membership dues. This section presents these data in absolute amounts and relative shares (%) by major ICNPO category and type of international source. Table 11 summarizes this information. The data refer to the same ICNPO sub-categories as shown by the notes below the table, since not all types of international sources were available to every one of the surveyed organizations. Culture & Recreation gets the majority of its international sources from multilateral sources (82%) and the rest from bilateral sources. Environment gets more than 99% of international cash from bilateral sources. Religion draws solely from multilateral sources. Taking an overall picture, reading in the last row, there is a reasonably well-diversified pattern, led by bilateral sources (36%), international not-for profit organizations (32%) and multilateral sources (28%) as the top most three sources.

Table 11: International Sources of Cash Revenue by major ICNPO group (1997) (Tshs, %)

SNo.	Major ICNPO Group	Bilateral	Multilateral	International NPOs	Others (specified)	Other Transfers	Total (by row)
1	Culture & Recreation	6,000,000	27,000,000	-	-	-	33,000,000
	(%)	18.18	81.82	-	-	-	100
2	Education & Research	69,000,000	-	-	-	-	69,000,000
	(%)	100	-	-	-	-	
5	Environment	430,000,000	-	-	1,400,000	-	431,400,000
	%	99.7	-	-	0.3	-	100
6	Development & Housing	128,571,430	-	-	-	-	128,571,430
	%	100	-	-	-	-	100
7	Civic & Advocacy	116,012,153	89,250,132	633,944,025	18,362,000	-	857,568,310
	%	13.5	10.4	73.9	2.1	-	100
10	Religion	-	426,516,962	-	-	-	426,516,962
	%	-	100	-	-	-	100
11	Professional Associations	48,000,000	110,000,000	31,110,000	653,400	67,900,000	257,663,400
	%	18.63	42.69	12.07	0.25	26.35	100
12	Not elsewhere classified	60,000,000	-	100,000,000	-	-	160,000,000
	%	38	-	62	-	-	100
Total (by column)		857,583,583	652,767,094	765,054,025	20,415,400	67,900,000	2,363,720,102
	%	36	28	32	1	3	

Notes: a: refers to Sports sub-group; b: "Others" refers to International Membership Dues; c: refers to Housing sub-group; there are no data for domestic sources for this group; d: of which about 45% is for Civic and Advocacy sub-group and the rest for Law and Legal Services subgroup; e: of which 48% is for Civic and Advocacy sub-group and the rest for Law and Legal Services sub-group; g: International Individuals.

Professional associations have a more diversified pattern of international cash revenue sources. In this table, there are also sources for non-profit organizations not elsewhere classified that show they received a substantial amount (totaling Tshs 160,000,000) from International NPOs (62%) and bilateral sources (38%). No information was available for domestic sources for these organizations in major ICNPO Category 12) (that is, "not elsewhere classified").

5.2 Comparing international and domestic sources

The international sources are combined with the total domestic sources from the previous subsection for the purpose of showing the relative contribution of domestic and international sources. The comparison is done in Table 12.

Table 12: Domestic and International Cash Revenue by ICNPO (in Tshs)

Major ICNPO group	International sources		Domestic sources		Overall total amount in Tshs
	Total amount in Tshs	% of total cash revenue	Amount in Tshs	% of total cash revenue	
Culture & Recreation	33,000,000	38	52,754,800	62	85,754,800
Education & Research	69,000,000	48	75,600,000	52	144,600,000
Health	-	-	57,085,000	100	57,085,000
Social Services	-	-	43,961,760	100	43,961,760
Environment	431,400,000	59	303,363,678	41	734,763,678
Development & Housing	128,571,430	69	58,490,859	31	187,062,289
Civic & Advocacy	857,568,310	84	167,117,571	16	1,024,685,881
Religion	426,516,962	38	699,864,108	62	1,126,381,070
Professional assoc. and unions	257,663,400	13	1,768,312,307	87	2,025,975,707
Total	2,203,720,102	41	3,226,550,083	59	5,430,270,185

Source: Survey data

Culture & Recreation organizations draw 38% of their finances from international source compared to domestic sources (62%). Education and Research get 48% and 52% from international sources and domestic sources respectively. Civic and Advocacy draw relatively the largest proportion of their cash finances from international sources (84%), followed in this regard by Development and Housing (69%) and Environment (59%). On the other hand, professional associations seem to draw the largest relative proportion of their cash finances from domestic sources (87%). At this juncture, a special note needs to be made with regard to Health and Social Services. According to the data obtained, they indicate that they receive all their cash revenues from domestic sources. This may be doubted, since external support is known to be substantial in the social sectors, and some of this is channeled through local organizations: those surveyed for this study did not indicate that they receive external support. It is noted also that in absolute terms, professional associations and unions have the highest cash revenue, followed by religious organizations.

VI. IN-KIND REVENUE BY MAJOR SOURCE, 1995 DATA

This sub-section examines the pattern of the value of in-kind resources, both domestic and international, for the non-profit organizations that were surveyed. The working sheets for in-kind revenue provided for three basic sources: Public Sector, Private Giving and Volunteering. Unlike in the case of cash revenue, these sources are not broken further into sub-components. These are collected in Table 13 for the ICNPO categories that were surveyed except for the Professional Associations and Unions and Religious organizations for which data were not available. Most conspicuously absent in all of them is the value for volunteering and so the comparison is only between Public Sector and Private Giving sources. The total (last column) gives what can be regarded as total domestic value of in-kind sources of revenue.

Table 13: Domestic sources of in-kind revenue by major ICNPO group (Tshs)

Source	Public Sector	Private Giving	Volunteering	Total
Culture & Recreation	840,000	3,150,800	-	3,990,800
Environment	4,300,000	-	-	4,300,000
Civic & Advocacy	1,650,000	4,825,000	-	6,475,000

Source: *Survey data*

In the first instance, all the three groups get support from the public sector. Second, in terms of absolute amounts, the Civic & Advocacy gets the largest amount in total. Third, both Civic & Advocacy and Culture & Recreation draw most of their in-kind revenue from Private Giving and both get substantial support from the public sector. Interestingly also, Environment gets all of the in-kind resources from the public sector.

There are no data on cash revenue for 1995 to make possible cash versus in-kind revenue comparison. However, since there are some data on the value of international in-kind revenue for 1995, a comparison can be made between total domestic in-kind and total international in-kind revenue for the same ICNPO categories. The main sources include multilateral transfers, international non-profit organizations and international corporations. The magnitudes of these sources are shown in Table 14 by major ICNPO categories. The last row summarizes the relative contribution of the three major sources in the overall total.

Table 14: International In-kind Sources by major ICNPO group (Tshs)

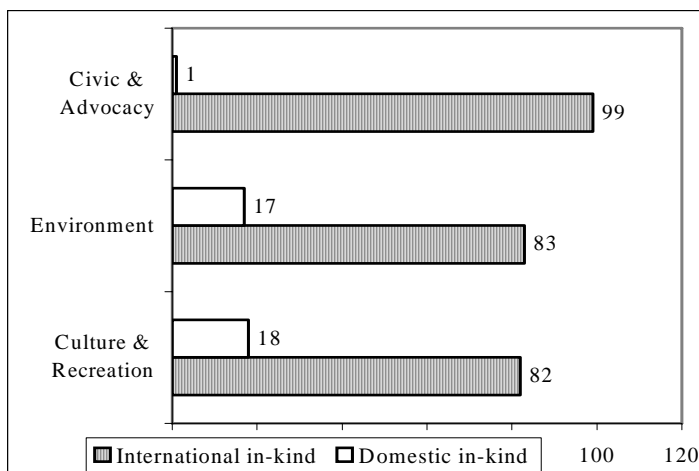
Major ICNPO Category and Sub category	Multilateral Transfers	International NPOs	International Corporations
CULTURE & RECREATION			
Culture and Arts	-	-	-
Sports	1,800,000	-	3,000,000
ENVIRONMENT	-		
Environment	-	15,000,000-	
CIVIC & ADVOCACY			
Civic & Advocacy Organizations	8,999,225	647,309,000-	
Law & Legal Services	-	8,750,000-	
Professional associations	32,046,000	3,486,652-	
TOTAL	42,845,225	674,545,652	3,000,000
<i>percent</i>	<i>6.0</i>	<i>93.6</i>	<i>0.4</i>

Source: Survey data

The emerging picture is that 93.6% of the in-kind revenue comes from international non-profit organizations, followed by a distant second position occupied by multilateral transfers and

international corporations. A comparison of the contribution of international and domestic in-kind sources is made in Figure 8.

Figure 8: Shares of international and domestic in-kind revenue by ICNPO (%) (1995)



Source: data from Tables 11 and 12.

Civic & Advocacy organizations have the largest proportion of total in-kind revenue (value) from international support that come entirely from international non-profit organizations. On the whole, the three ICNPO categories' international in-kind support is above 80%, and domestic in-kind makes just under 20% (except in the case of Civic & Advocacy where it is just close to 1%). The dominance of the international non-profit organizations indicates the strong links that there are between local and foreign international organizations.

VII. FINDINGS AND POLICY IMPLICATIONS

7.1 Summary of the findings

The data for 1997 cash-revenue and 1995 value of in-kind revenue reveal the following patterns for the NPOs that were surveyed in Dar es Salaam and Zanzibar in terms of major types of sources and major ICNPO categories:

- i. For the 1997 cash revenues, it is apparent that private-based sources of cash revenue dominate while the public sector lags behind. Only in the Environment, Development & Housing, and Civic & Advocacy group do the public sector payments become visible, but then only not more than 2%. Within the public sector payments "third party payments" do not feature at all.

- ii. *Private Giving* and *Private Fees & Payments* dominate, though their importance varies from organization to organization. Within *Private Giving*, donations by businesses and foundations dominate, taking either first or second position in most of the cases.
- iii. The first and second findings for Tanzania contrast with findings of the study by Salamon and Anheier (1997) for developed countries. It is noted that the public sector in those countries makes a significant contribution to domestic cash revenue of the NPOs (about 43%), private fees (47%) and private giving 10%, on average, while in Tanzania, the contribution of the public sector, that is, government is simply small. This may be explained by the facts that:
 - The revenue bases for the central and local governments low;
 - NPO-government partnership relations are not developed in terms of delivery of public services.
- iv. In terms of international sources of cash revenue (1997) data (relative to domestic sources), Civic and Advocacy and Environment get the most, 86% and 61% respectively from international sources. On the contrary, professional associations acquire 87% of their cash revenue from domestic sources (dominated by membership fees) compared to 13% from international sources.

There is no apparent explanation as to why some NPOs get more international support and others more domestic sources. It may be because some activities by and in themselves attract more attention or coincide with areas of (policy) interest of foreign donor governments or NGOs; the opposite would be the case for those local NGOs which attract the largest percentage of funds from domestic sources.

Perhaps one, albeit weak, argument from this relative contribution (of domestic vis-à-vis international sources) is the question of sustainability of sources. One may be tempted to think that reliance on domestic sources should be preferred to reliance on foreign finances since foreign sources can be withdrawn any time. However, this argument may not always hold always since domestic sources may also suffer the same problem. In either case, the contributions are usually voluntary and what matters is the fact that in both cases the NPOs are dependent.

The 1995 data on the value of in-kind revenue show that again a good part of domestic in-kind support comes from Private Giving although contrary to the situation with the cash-revenue (1997 data), the public sector in this case features prominently. This emphasizes the point that Government contribution may not be “that small” after all especially if monetary value can be assigned to those items that the government offers in-kind. In addition, the significant omission of volunteering adds to this emphasis and generally, domestic in-kind contribution would, in monetary terms be quite significant.

7.2 Implications: financial accountability

The analyses show that overall there is little government financing of the civil society in most of the activities undertaken by NPOs in Tanzania. This implies that the organizations have to brace up for fund-raising strategies in order to fend for themselves and serve their members and community at large. International support often comes handy, but it is known that for sustainability, self-reliance is a safer long-term strategy. It does not imply, however, that external/donor support has to be dropped from the NPO’s fund-raising strategy. Rather the NPOs need to have a strategy supported by forward planning to increase the share of domestic and own resources.

Second, the diversity of funding sources and growing volumes of activities of the NPOs has brought to the surface the question of tax treatment of the goods and services that are received by the NPOs, particularly imports. For NPOs, taxation of proceeds, sales, inputs or imports intended for use by the NPOs in the delivery of services is easily glossed over with little ado. Only when the NPO conducts itself suspiciously can there be anxieties about tax liability assessment. Tax on imported goods that are declared to be destined to NPOs – such as religious and relief organizations, and those dealing with education, health etc. has been topical. Taxing them obviously reduces the NPO’s financial base and, as NPOs would claim, such taxation increases their costs of operating and penalizes the intended beneficiaries by as much. In Tanzania this has been an issue over which decisions by government have been changing – simply because it is sometimes difficult to identify the genuineness of the intentions of *all* NPOs. Without stretching the argument, it may be noted that for tax purposes the NPOs need to be

clear in their objectives, candid about their true sources of finances and ultimately accurately account for the finances received.

Clarity and delivery on missions and objectives as well as accountability of the organizations to the providers of financial and other resources constitute the basis of their legitimacy. It is important that recipients or beneficiaries of the services have an opportunity to provide independent assessment of the work done by the organization. Maneuvers to “cover up” or to influence responses of the beneficiaries before an impending independent audit may signal foul play on the part of the organization.

In an address to the *Forward Together Conference* the President of the Caribbean Development Bank alluded to a number of criteria for eligibility to access to financial assistance for civil society organizations. These criteria refer to *evidence* of a constituency (members and community) that is satisfied with the delivery of the expected services. The criteria demand accountability for the resources (finances) poured into the NPOs by various sources. These criteria are listed in Box 1. They are self-explanatory and serve as points of reflection.

Box 1: Criteria for Eligibility to Financial Assistance for CSOs

- **Legal registration as a charitable trust**
- **Broad-based impact on socio-economic development**
- **Established network linkages outside of the civil society’s immediate community**
- **Audited accounts for a minimum of two years immediately preceding the request**
- **Evidence of financial sustainability objective including a willingness to establish an endowment fund**
- **Track record of sustained fund raising**
- **Track record of mobilizing volunteers**
- **Track record of good management which is reflected in adequate forward planning and achievement of objectives**
- **Services / administration expenses ratio must be greater than say 1:1**
- **Legitimate system of corporate governance based on democratic principles**

Source: extracted from the address on http://www.caribank.org/pres_statements...

Also, as Fowler (1997: 34) observes:

“NGOs created in response to easier accessibility of official funding seldom have a constituency at all. They are effectively owned by individuals, but choose non-profit legal status in order to gain easier access to funding. It is difficult to envisage what a partnership with these NGOs may entail beyond a mutual interest in gaining access to money”.

Few NPOs in Tanzania keep audited accounts of their finances. As the survey revealed, less sophisticated NPOs have little expertise even to keep accounts properly. The records usually do not completely reveal all the sources and amounts.

There have been a number of so-called ‘briefcase-NGOs’ that operate without proper physical address and deliver services in very unsatisfactory ways. Some NPOs have managed to dupe foreign donors into pouring funds and soon or later disappeared. Even some of the seemingly credible NPOs fail to give the correct information on the sources and magnitudes of finances received in order to cover-up misuse. They may, for instance, not fully disclose to stakeholders what is flowing in as contributions, proceeds, or fees etc. It is when and where delivery of intended services slackens and the immediate *stakeholders* raise alarm about the conduct of financial management that public authorities may try to intervene to “put things right”. Often it is too late and donors’ funds and contributions of members (intended beneficiaries) have been lost to dishonest NPO directors. As Spitzer 2005 points out, civil society organizations have to abide by all applicable laws, ethical standards and accounting policies. Management of the NPO might be required to prepare and file its annual financial report with the country’s revenue authority who for fiscal or monetary policy management are concerned with the flow of funds within the economy as well as in and outflows.

Contributors to (or sources of) finances of NPOs have the right to know that their contributions were properly used and the intended services were delivered to the targeted populations. It would seem that, in principle, NPOs need not be taxed. However, due to haziness about sources of finances or the type of activities the NGOs engage in, public authorities remain ever ready to impose taxation or such sanctions to those NGOs that conduct business in a dubious manner.

7.3 Concluding remarks

The demand for the activities of the NPOs seems to be ever present and justifiable. More civil society organizations are formed and partnerships between local and international NPOs

sealed. NPOs are even assuming a role of “development partners” through whom donor governments and NPOs feel comfortable channeling development assistance outside of the central budgetary system. What is proposed is that more of them need to be open about their sources and amounts of funds. They need have to be accountable to both providers of the funds (sources) and the intended beneficiaries. The survey showed the relative shares of these sources in Tanzania: that much more financing comes from private and foreign sources than from government. It was noted also how difficult it is to get data from the NPOs. This reflects possibilities a lack of complete transparency and, depending on the level of sophistication of a given NPO, inadequate bookkeeping knowledge of the staff.

The research did not go as far as inquiring about internal controls but these are systems and procedures that protect the assets of an organization, create reliable financial reporting and promote compliance with laws and regulations of the country. Capacity building in this area is critical. Most organizations are not capable of doing simple accounting; but this should not be an excuse for not having proper records of funds received and expended and preparing appropriate and timely financial reports and opening up the accounts for auditing. Only such openness can guarantee eligibility for further funding.

Government remains the provider and overseer of the social, economic and political environment in which the organizations are working. It has made contributions to the NPOs through tax expenditures on tax relief or exemptions on key inputs, mainly imports. Government should set or tighten regulations that govern social responsibility and accountability of the NPOs to the providers of their finances and to members of the community, specifically the targeted beneficiaries of the NPOs activities. At the same time, in the interest of protecting their image, the organizations themselves should explore ways of self-monitoring in matters relating to financial accountability. Lloyd (2005), for instance, notes of the recent rise in the use of voluntary codes of conduct, certification schemes and other such self-regulation initiatives by the NGO sector in response to calls for greater NGO accountability.

THE IMPACT OF THE NON- PROFIT SECTOR IN TANZANIA.

Amos Mhina

1. Introduction.

Initial estimates indicate that the civil society sector account for \$260 million in expenditure which is around 2.9% of Tanzania's gross domestic product (GDP). The workforce behind these expenditures is estimated at 331,100. It has also an impressive volunteer output as volunteers represent three quarters of the entire social sector workforce in Tanzania. (Kiondo and Ndumbaro, 2004:126) This is only a beginning in the quest to comprehend the non-profit sector. This paper is a start of an analysis of the impact of the non-profit sector in Tanzania.

The objective of this impact analysis of the non profit sector is to begin to answer the question of what difference the non-profit sector makes to the social, economic or political life of the societies in which it functions. It is recognized that this is an exceedingly difficult question to answer empirically. The strategy for getting a picture of impact is to pick cases in key fields. Three fields have been identified:

- The traditional human service field,
- the improvement of economic conditions and pursuit of economic opportunity field
- the protection of political and civil rights field.

In this chapter we examine impact in three sub-fields from the three fields namely health, micro-enterprise development and human rights advocacy.

Health has been chosen to represent traditional human services in which the non-profit sector has historically played a significant role. In the health sector the non-profit institutions have traditionally been referred to as Voluntary Agencies (VAs). Since the early years of colonialism at the end of 19th century, Voluntary Agencies, mostly religious institutions have provided health services to varied populations in the country. For many years long many Tanzanians, especially those in the rural areas depended on VA medical services for their health requirements.

Micro-enterprise development has been chosen because it offers increased opportunities for marginalized citizens, following the shrinking of public ownership and the increasing retrenchment of the labour force formerly employed by state owned corporations. At the same time in Tanzania where industrialization and big corporations are limited, micro-enterprises provides employment and livelihood opportunities for many Tanzanians. A lot of these micro-enterprises fall under the category of the informal sector. Some of the surveys carried in the 1990s have indicated that urban informal sector activities are profitable and the sector's contribution to the economy is quite substantial. - approximately 25% of the GDP (Mhina and Meena, 1999:75).

Human rights advocacy is an important domain concerning individual and collective rights. In Tanzania there are many cases of human rights abuses involving the police, a sluggish court system, as well as the marginalisation of certain groups, such as women, children and pastoralists. A number of human rights advocacy organizations have emerged and they are making some impact on the scene. A lot however still remains to be done to expand such organizations to more areas of the country where human rights abuses are frequent occurrences.

2. HEALTH

2.1. The non-profit sector and provision of health services in Tanzania.

Modern medical services were introduced by colonialism, first by the Germans after 1890 and followed by the British who took the country after the First World War. It was the latter who created a countrywide health network, although it was sparsely stretched. It covered mainly the urban areas and those of the white plantations. The target groups were mainly colonial government employees and plantation workers. There was some limited capacity to deal with epidemics such as smallpox.

Christian hospitals and dispensaries provided services in areas not reached by government services. Christian health services still dominate the non-profit services in the sector. Other organizations have emerged as health providers, including Muslim associations and other religious organizations mainly linked to Tanzanians of Asian origin, such as the Aga Khan Foundation and Hindu Mandal Trust.

The Christian organizations have had some of the most renowned hospitals in the country. Apart from the government owned national hospital at Muhimbili, Dar Es Salaam, the two most important referral hospitals are the Kilimanjaro Christian Medical Centre (KCMC) and the Bugando Medical Centre, in Mwanza, owned by the Lutheran and Catholic Churches respectively.

As it stands today non-profit organizations providing health services include Christian hospitals and services, hospitals working under the Muslim religious organizations and those under religious organizations linked to the Indian sub-continent where many Tanzanians of Asian descent originate.

The Christian non-profit health services are by far the most widespread in the country. The church network has 83 hospitals 30 health centers and 450 dispensaries. 19 of those hospitals designated as District hospitals. This compares favourably to the government hospital services which have 81 hospitals (CSSC 1999, Ministry of Health 1997).

With the 83 hospitals the Church hospitals dominate other non Christian voluntary agencies, who have only 2 hospitals to make the figure of 85 hospitals for all voluntary agencies. Table 1 shows that other voluntary agencies have mostly dispensaries, with 195 compared to 450 for Christian denomination dispensaries.

Most of church health services are now coordinated by the Christian Social Services Commission (CSSC) which is an ecumenical body made up of Catholic and Protestant churches to achieve sustained development of health and education services. It was established in 1992 after discussions between the Catholic Church with its body, the Tanzania Episcopal Churches (TEC) and that of different Protestant churches, the Christian Council of Tanzania (CCT), which include such denominations as the Lutheran Church, the Anglican, the Moravian and African Inland Churches. (Nangawe, 2000)

The major activities of CSSC include giving support to church health and education institutions so as to deliver their services effectively. Other activities are program development, facilitation,

management and monitoring of financial resources to support social services and advocacy of church interests in relation to the Tanzanian government and church partners abroad.

Many church health hospitals, health centers and dispensaries have a long tradition of providing social services of quality. The serious decline of government hospitals during the times of economic crisis has led to significant increase in the burden of church health services. The church institutions have become more and more involved in providing social services, but without being able to secure adequate funds for the running cost and achieving sustainability. As a result new ways of cooperation between churches and the government had to be sought (CSSC 1998a:3).

When we look at the share of the non-profit sector we see it beats the government in number of hospitals, while the government beats VAs in the number of health centers and dispensaries.

Table I: Number of Health Facilities and Ownership in Tanzania.

	Government	Voluntary		Parastatal	Private	Total
		Church	Non-Church			
Hospitals	81	83	2	17	45	228
Health Centers	284	30	13	6	11	344
Dispensaries	2,512	450	274	260	780	4,276
Total Health Facilities	2,877	563	289	273	836	6,848

Source: Compiled from CSSC 1998 and 1999, MOH 1997).

It is evident that voluntary agencies make very significant contributions in terms of providing services in the health sector. When it comes to Health Centers (HC) the contribution of the government is higher than other providers. This is to be expected as the government has the responsibility of providing a network of health facilities covering the whole country. The voluntary agencies however makes significant contribution and the parastatal and private sectors are insignificant here.

At the level of dispensaries, the government network is by far bigger in numbers. The number of VA dispensaries and private dispensaries are almost equal in numbers with the private sector having a small edge. It should be noted however that most of the private sector health facilities are in urban areas, while those of VA are spread throughout the regions of the country, with many in remote rural areas where they serve very many people. In some parts of the country Christian Missions operate flying doctor services taking referral patients from these remote located dispensaries.

When we look at the number of hospital beds, government hospitals have 11,831 beds comparing to the voluntary agencies' 11,644. The difference is therefore only slight (MOH, 1997). It is evident therefore that the non-profit sector compares very well with the government network which has tax resources and donor funds for providing health services to the population of Tanzania.

2.2. The extent and quality of non-profit health services in Tanzania

When it comes to performance in terms of the quality of services, the concern for the disadvantaged and cost effectiveness VA services have a very good reputation. The question of quality has been ascertained over the years. Many church hospitals have made names, the country over, because of their high quality of their services. Such hospitals like Peramiho, Bugando and KCMC continue to excel. Generally however voluntary agency facilities have offered quality services because of good attention accorded to patients by health personnel, availability of drugs at reasonable costs and availability of proper health facilities. Often there had very competent and committed Doctors, some of whom have come from Europe and the United States.

Those voluntary agency health facilities, which could not offer quality services, have often been affected by declining resources, especially donor resources and the failure to retain competent health personnel. There have been instances where health care institutions have had too many auxiliaries (CSSC 1998b:10).

It is for this reason that when subsidies were offered to VA hospitals the government insisted on the availability fully qualified doctors. In terms of the physical state of VA health facilities, we see that these are in good shape. Most are adequately maintained and have adequate working space (CSSC 1998b:10).

When government health facilities were providing good services, VA health institution still generally provided better services, in terms of good and compassionate services. They gave better attention to patients. When government services declined during the crisis of the 1980s due to overworked and underpaid government health workers the pressure on voluntary agency facilities increased tremendously. Patients preferred voluntary agency services even when government services were supposed to be free of charge.

A study, which compared the quality of government and voluntary agency health facilities, showed that the latter facilities provided better quality. The aspects, which were compared, included, structural quality, quality of prescribers, availability of drugs, management of human relations, quality of interpersonal relations (patients and prescribers) and quality of nursing and receptions at units (Munishi 1996).

The study also showed that voluntary agency health facilities were more cost effective than those of the government because of better management. As for government health facilities it was observed that there were inadequate funds for inspection. Officials visited some units from the District or the Ministry headquarters only occasionally. These unscheduled and unpredictable visits were very brief (Munishi, 1996:128).

The management of voluntary agencies is quite different from the government system. The church hospitals and dispensaries are quite devolved from the national level denominational headquarters to the respective diocesan organizations at the sub-national level. The national headquarters usually deals with matters of policy and coordination, facilitation of contacts with government and international agencies in the struggle for material support and supplies. Operational matters are settled at the unit or the next immediate authority level (Munishi, 1996:130).

Voluntary agency health facilities do not have the inefficiency that is almost chronic in government hospitals with problems such as scarcity of drugs and medical instruments usually because of theft or misallocation by personnel, as well as misusing resources, including time.

On the question of concern for the disadvantaged, voluntary agency health facilities, especially church hospitals and dispensaries are exemplary compared to both government and private health services. During 1970s and 1980s the government offered free hospital and health services. The system was also supported by generous donor support, especially in providing essential drugs. Theoretically therefore the government was more concerned for the disadvantaged because the voluntary agency facilities always charged modest fees for their services. Although such concern by the government was well intentioned and Tanzania was an exception compared to other African nations which relied on the private sector for providing health services, free services had, however, a number of weaknesses.

- In the first place the system became easily congested and funds to sustain it became inadequate. Too many people were seeking services from limited facilities. Long lines and inadequate services became the order of the day.
- The second problem, which is related to the first, is that of corruption well-to-do people used bribes or peer connections to get those most sought after services at the expense of the disadvantaged. Since private practice had been proscribed for a decade, high-income people paid small sums to get free medical attention. These people with means were the ones getting subsidized health services from the government hospitals.
- Thirdly, free medical services created a dependent citizenry. Usually the fear of unexpected illness creates the need to save money for such eventuality, it makes people work hard and take responsibilities. When hospital services were free of charge just as it was the case with education for children, many parents became complacent not making savings for those services. In such a situation even people who would otherwise have been self-reliant behaved like indigents. The real indigent people became difficult to identify.

Voluntary agencies' services, especially those of church facilities, expected that people would be working and would be responsible for their families. Free services would then be provided to those in dire need. No one is refused services but only the indigent are exempt from payment.

In the current situation where cost sharing has been introduced in government hospitals and whereby the number of private facilities have increased, the pressure on VA hospitals has increased. This has been noted by the CSSC, which states that church health services are under pressure because the poor run to their facilities. The pressure is even higher because government subsidy has been remarkably reduced over the last 3 years and funding from abroad is no longer adequate. The increase of user fees is increasingly threatening affordability and equity (CSSC 1998a:4).

The concern for the disadvantaged applies to other voluntary agencies such as the Aga Khan Foundation has for-profit hospitals, like the Aga Khan Hospital in Dar Es Salaam, but they have also facilities, for example in Iringa, which targets the disadvantaged especially women and children. They pay modest sums for medical services dispensaries and health services, but immunization is free of charge.

The clients of voluntary agency medical and health services are therefore people from different walks of life who want efficient and compassionate services. The richest citizen living in an urban area would most likely go to the first class private hospitals or even abroad, to Europe, but most people living within the vicinity of voluntary agency hospitals find their services very adequate. Other people of modest means and those who are poor depend on them, because without such facilities their lives would become precarious.

These hospitals and dispensaries are sometimes able to mobilize resources from different stakeholders because of their services to people in remote areas and the under privileged. Such support comes from both domestic and international sources. Church facilities get some support from churchgoers who give alms and are often involved in fund raising. Fund raising activities sometimes involves high officials. Recently USD 500,000 were raised in a fund raising dinner for

the rehabilitation Mkomaindo Hospital, an old church hospital. The guest of honor was the Prime Minister of Tanzania.

In the case of the Aga Khan Foundation, H.H. The Aga Khan provides the foundation with regular funding for administration and new program initiatives. The local Ismaili Community contributes volunteer time, professional services and substantial financial resources (The Aga Khan Foundation, 2000).

3. MICRO-ENTERPRISE DEVELOPMENT.

3.1. Introduction: Non-Profit Organizations and Micro-Enterprise

From the mid 1970s through the 1980s Tanzania has experienced an economic crisis. This was attributed to many factors, among them, bad domestic policies, institutional failures and poor economic management. These factors arose from a system based on state control and public ownership. The economy was dominated by an over grown, parasitic, inefficient and corrupt public enterprise system.

Since such a system could not be maintained the 1990s saw macro-economic reforms, which brought in liberalization and the divestiture of public enterprises. The intention was to bring efficiency into the economy. The thrust of economic reforms aimed at achieving and sustaining macro-economic stability, freeing the trade regime for both external and domestic transactions and with it decontrolling the exchange regime, using market incentives for more effective resource mobilization and their efficient allocation and finally the reforms aimed at the redefinition of the operative environment of the financial system, opening it to the private sector (Shitundu, 1997:21).

Although there has been improvement in the economy, the gains have been modest. The industrial sector is a good example of "contradiction between a right macro-economic environment and a disappointing sectoral performance" because despite massive investments, the industrial sector has not recovered to the pre-crisis performance level (Mbelle and Shitundu 1997:180).

In that context the management of the Tanzanian economy is facing challenges in five areas.

- The first challenge is sustaining macro-economic stability in the face of declining availability of aid resources.
- The second is the need to promote widely shared growth so as to reduce poverty. This calls for expanding opportunities to earn a decent income to meet basic needs.
- The third challenge is that of reducing the cost of doing business in Tanzania so as to encourage private sector expansion and initiative.
- Fourthly there is need to change attitudes to move towards a more transparent and efficient approach to the conduct of both public and private sector business. To reward according to performance.
- Lastly there is need for Tanzania to develop capacity and knowledge to operate in a globalised economy (Wangwe and Ndulu, 1997:24).

While this trimmed economic sector is expected to create a dynamic economy, investments have been slow in coming and the growth rates are only modest. Meanwhile the phasing out of inefficient public enterprises has led to the retrenchment of many Tanzanians who had been employed in such corporations. This double movement, that of retrenchment and the collapse of state owned monopolies, has created opportunities for micro-enterprises, both as formal small enterprises but also a lot of the time, as the informal sector. Many retrenched workers have used their final benefits as capital for micro-enterprises.

Most micro-enterprises have belonged to the informal sector, elsewhere known as the "second economy". For a long time little was known about the informal sector, it was thought to be petty, disorganized and virtually illegal. Yet it has now been realized that it is important to the economy. The first comprehensive survey was the National Informal Sector Survey of 1991. It showed that urban informal sector activities are profitable and the sector's contribution to the economy was approximately 25% of the Gross Domestic Product (GDP) (Dar Es Salaam Informal Sector Survey -DISS (1995).

Another survey was carried in 1995 in Dar Es Salaam, the biggest city, It showed that the annual gross/output of the informal sector activities was Tshs. 33,210 billion (US\$ 60,342310) and the annual gross value added of the sector was the equivalent of 64.8% of the regional GDP (DISS 1995).

As the taxman encroaches, especially with value added tax, these informal enterprises are becoming more and more formal. The same trend is observed when these micro-enterprises become recipient of credit. What remains a characteristic of these micro-enterprises is the lack of formal collateral. It is in this context that the non-profit organizations come into the picture. They are significant both for advancing credit and for organizing groups for credit application in formal banking institutions that find advancing credit to individuals too risky to undertake.

3. 2 Non Profit Organizations involved in micro-finance in Tanzania

We can observe two types of non-profit organizations involved in this sector. The first category is made up of NGOs, most of them managing funds coming from external donors and to a limited extent, internal supporters. The second type are grassroots financial associations including savings and credit cooperative societies (SACCOs), Savings and Credit Associations (SACAs), Solidarity Groups (SG) and Rotating Savings and Credit Associations (ROSCAs). Questions can be asked as to whether the grassroots financial associations can be considered as non-profit when in fact they seek to make profit. Some would like to limit the boundary of the non-profit sector only to philanthropy. Such an understanding would reduce the size of the non-profit sector and limit its significance. In the definition of the non-profit sector in Tanzania the

Cooperative movement is part of it. Cooperatives seek profit but share owning is egalitarian preventing individual becoming majority share holders. Social funds, for example on education is embedded in the cooperative principles. SACCOs are part of the cooperative movement. In ROSCAs members contribute and get the same amount.

3.2.1 Financial NGOs and their impact.

These have been adapting, creating and applying innovative products in their micro-finance operations. Such NGOs include, Promotion of Rural Initiative and Development Enterprises (PRIDE), Mennonite Economic Development Associates (MEDA), Network of Small Farmers Groups in Tanzania (MVIWATA) and Traditional Irrigation Improvement Program (TIP). Others are Small Enterprises Development Agency (SEDA), Credit Scheme for Productive Activities (CREW), Tanzania Women finance Company (TWTC), Tanzania Promotion of self-employment (TAPSE), Tanzania Micro-entrepreneurs Association (TAMEA) and Poverty Africa.

There are also single project Credit Schemes such as the Southern Highlands Extension and Rural Financial Services (SHERFSD) financed by the International Fund for Agricultural Development (IFAD), The Heifer Credit Scheme operated by the Evangelical Lutheran Church and a Credit Scheme funded by the UNDP and managed by the African Inland Church in Mwanza. The prominent ones includes Pride Tanzania which was established in 1993 and started giving credit in 1994 with a pilot phase covering Arusha, Tanga and Dar Es Salaam regions. It was then extended nationally after the successful completion of the first phase. It started with a fund of US\$1.2 million from NORAD, the Norwegian Development Agency. A further US\$3.4 million was added for the 1995-2000 period. Management and technical assistance is provided by Pride Africa, a US registered Private Voluntary Organization based at Nairobi, Kenya.

Pride Tanzania uses a modified Grameen Bank lending model, which is based on solidarity groups of selected members. Group members apply peer pressure and a three tier loan guarantee system to ensure loan repayment. It also uses weekly meetings; a loan insurance system in the form of forced savings in small amounts, which are paid, weekly and refundable upon exit (ERB 2000, p.21. Pride uses a loan menu which has 7 loan cycles with small amounts

ranging from Tshs. 50,000 (\$91.00) to Tshs. 2 million (US\$3634.00) where by clients graduates from lower to higher levels. Pride Tanzania has 22 branches located in 16 major urban centers. Only Mtwara, Lindi, Rukwa and Kagera regions do not have a branch. Dar es Salaam has 4 branches, while Arusha, Mwanza and Mbeya each have two.

The non-profit history of Pride Tanzania is going to end as it is transforming itself to become a for profit financial organization after the end of donor funding.

Another notable financial NGO is MEDA. This Mennonite organization started operating in Tanzania in 1987 with a start up capital of USD 300,000 from Canada and is registered as a micro-finance NGO jointly owned and funded by CIDA in Canada and MEDA from the USA. It has two branches in Mbeya and Dar Es Salaam. Their main target groups are women groups and micro-entrepreneurs lacking access to commercial bank loans and who also lack collateral assets.

Poverty Africa is another financial NGO, which has gained some attention. It was licensed in 1992 and started credit facilities in February 1995. The initial funds amount to only Tshs. 200,000 (USD 364.00) raised from local businessmen. Later bigger local corporations joined in; including the local chapter of the Aga Khan Foundation led by Ismaili leaders. To deliver credit Poverty Africa has 37 staff who are largely volunteers and are subjected to short term training in micro-finance.

Another NGO in this domain, which is linked to production, is Traditional Irrigation Improvement Program (TIP). This was established in 1987/88 as a way of improving traditional irrigation systems. TIP started as a project under the SNV (a Netherlands Development Agency). TIP was transformed in June 1999 to a registered NGO still funded by SNV. TIP is engaged in four types of interventions. First supporting construction of irrigation structures through financial support and technical skills. Secondly, the support of soil and water conservation through agro-forestry seeds nurseries and soil conservation. Thirdly, capacity building of district officials through training and fourthly, organizational strengthening and gender relations in groups

formation and strengthening of water user groups. Financing which started as a grant is now in the form cost sharing.

The role of the non-profit sector in providing financial and non-financial services to these enterprises is very important. However the performance of the financial NGOs show some considerable variability. The capacities to provide loans are not the same. By June 1999 Pride Tanzania had disbursed 90,230 loans and the cumulative value of loans disbursed stood at Tshs. 8,023 billion or USD 10,062,333. During 1999 the number of clients totaled 34,394 and the number of loans totaled 58,844 with value of loans disbursed amounting to USD 7,781,149. The operational self sufficiency which indicates the extent to which operational costs are covered by revenue stood at 79% in June 1999 while the repayment rate stood at 100% during the same period, which indicated that available loanable funds can revolve in to new loans (ERB 2000:47).

On the other hand MEDA was not faring very well. In the Mbeya Branch, loan recovery for individual loans was 74.6%, 82% and 74% in 1997, 1998 and 1999 respectively. Loan recovery for solidarity groups were worse than for individuals. It stood at 56.7%, 51.3% and 42% for the same period. In November 1999 individual loans accounted for Tshs. 206 million (\$258,362) or 93.5% of all loans. Only Tshs. 152 million (\$190,636) was repaid and over 25% of the loans were unpaid. This threatened the financial sustainability of the program (ERB 2000:49).

It should also be pointed out that most Micro Finance Institutions (MFI) could not meet all the loan requests. The demand for loans is much higher than the capacity of the MFI to offer them. Thus for example, in the case of Poverty Africa, the loan applications in 1998 were 136 while the actual number of recipients was 121. The value of loans approved was Tshs. 61,760,000 (\$77,459) while the value of loans actually disbursed was Tshs. 57,760,000 (\$72,442) (ESRP 1999:20).

A lot of MFI's capacities to offer loans are influenced by donor funds and to some extent government funds. When it comes to comparing the quality of services with those offered by the government we see that the non-profit sector has made notable impact in providing services to

the vulnerable groups. Early government efforts in this domain after the liberalization of the economy in late 80s and early 1990s saw misuse of such funds. A number of government funded programs intended for vulnerable groups (women, youths) ended up in the hands of well to do individuals connected to important politicians and highly placed government officials.

The National Economic Development Fund (NEDF) program managed by the Small Industries Development Organization (SIDO) a government organization is considered an exception. (Mgonja 1999). Considering that this is national program covering 20 Regions then its coverage can be considered to be quite small. In 1999 it disbursed loans worth Tshs.2, 191,628,000 (\$2,748,709) which was only 18.3% of all applications, compared to the Tshs 5,621,000,000 (7,049.779) disbursed by Pride Tanzania for the same year. While Pride's recovery stood at 100% that of NEDF stood at 81.1% in 1998/99. (SIDO 1999:6). We can say that we have compared the flagships of the two sectors, non-profit and government and we can say that the government falls behind in terms of effectiveness of services.

3.2.2 Grassroots Financial Associations

It should be pointed out that formalized grassroots financial institutions have limited capacity. We are referring here to Savings and Credit Associations (SACAs) and Savings and Credit Cooperative Societies (SACCOS) and others. SACAs are both urban and rural grassroots financial institutions. Women are more active in SACAs. Women in these organizations use the small funds offered for crop production, livestock keeping and petty trading. The most important function of SACAs is financial intermediation, which entails mainly mobilization of the loanable financial facilities and the lending process. To be able to achieve these objectives SACAs are involved in such income generating transactions such as sale of shares and loan disbursement. It should be pointed out however that SACAS are not evenly distributed in the country and that the amount of funds is small and savings are not mobilized adequately.

SACAs however seem to have great potential for mobilization of resources and funding economic activities especially in the rural areas because they are locally based, and relies on local financing.

SACCOs, on the other hand, are in most cases linked to the cooperative movements, although members have an important say and do not simply receive the dictates of Cooperative bosses. Shareholding members own SACCOs. They use the Cooperative Unions for facilitation of their activities and training of members. The SACCOs of Moshi in Kilimanjaro are some of the most advanced in Tanzania. The amount they mobilize is by far superior to others in the country. This April 1993 Kilimanjaro had 88 of the country's 432 SACCOs and 40,000 of its 60,000 members. Kilimanjaro organizations had Tshs. 260,000,000 (\$541,813) as capital compared to the Tshs. 360,000,000 (\$750,202) for the whole country. One SACCO in Kindi Village alone had Tshs. 45,000,000 (\$93775) (Mhina 1997, p.47). The picture has changed as SACCOs have been popularized but the trend remains similar.

By June 1998 Kilimanjaro had 64,865 members followed by Iringa region with 11,583 and third was Mbeya with 2,186. The same data of 1998 indicated that there were 500 urban SACCOs and 228 SACCOs in the rural areas. There were also about 328 credit schemes, which for various reasons had not converted themselves into SACCOs, and most of these were in the rural areas (ERB 2000:25).

Although SACCOs, especially those outside Kilimanjaro have limited capital, they have great potential for filling in a void left by the National Bank of Commerce, which had abandoned rural bank branches.

Other grassroots financial organizations include Solidarity Groups (SGs). In Tanzania, the solidarity group's concept was encouraged by NGOs, international organizations and the government to facilitate the micro-credit delivery process. Generally groups have three to six persons, because there is need to have trust among the members as the group has to be the guarantor of its loans. There are a few SGs with many members, sometimes more than a hundred. They apply to schemes such as those dealing with irrigation, where you need a large number of members to pay for the infrastructure.

The other form of grassroots financial organization is the Rotating Savings and Credit Associations (ROSCAs). These groups, which are popularly known as "Upatu", involve mostly

women. These are usually informal and based on mutual trust. Members make equal periodic, (weekly, fortnightly or monthly) contributions to a common fund and the total contribution of each period is paid to one of the members in turn.

Since the ROSCAs are usually informal and based on mutual trust, they do not have written rules which makes it difficult to take legal action when a member default. Usually “Upatu” is a problem when it involves big groups not small groups of friends. Indeed recently confidence tricksters have established large national pyramid schemes, which usually end in collapse with many people losing their money, has misused the term “upatu”. For the original “upatu” involving small groups, their success is usually impressive. An example is a group, which started with 25 members each contributing Tshs. 15,000 (\$40). They raised Tshs. 375,000/= (\$1,050) which was given to one group of 5 members at a time which then invested, drew their profit and the principal was given to the second group and the rotation took a month. Since 1991 the repayment rate has been 100% (ERB 2000:40).

As a general observation we can say the amount of capital mobilized by these grassroots financial organizations is quite limited. The possible exception here is Kilimanjaro whose SACCOs are very active and effective. There is however great potential for these organizations to join more formal financial organizations especially in both the urban and rural areas.

3.2.3 Non-Financial Business Services for Micro and Small Enterprises

Non-financial business services include marketing, technology information, training and the like, as opposed to financial services (savings and credit).

Marketing services here include market research and consultancy. Some actors here are private, in the sense that they provide services at commercial prices. Such services are usually very expensive and out of reach of micro-enterprises.

The other actor here is the government. Its affiliated organizations here are the above mentioned SIDO and the Board of External Trade (BET). In addition to non-financial business, SIDO is involved in the delivery of Micro-Finance Services as shown above. Its non-finance

activities include training. Its most common mode of intermediation however are services related to trade fairs. The same applies to BET, which organize national and international trade fairs. Assistance to small enterprises has involved sponsoring some of them to participate free of charge in their pavilions and organizing seminars to incite them to participate.

The non-profit sector in marketing services is represented by the different NGOs also involved in financial services. The drawbacks here include the existence of very few service providers and inadequate connections with complementary technical services (Keddie 1999:5).

Business opportunity development is another area of non-financial business assistance. This allows entrepreneurs to diversify or change their business into new and profitable lines. The main drawback here is lack of information and services to do so.

The area of technology development and commercialization involves services to allow appropriate replacing or upgrading of technology. The problems seem to be information on the appropriate technology and getting access to it, especially for those living outside Dar Es Salaam. On the question of training, churches, NGOs, municipal administrations and government agencies do most of it. We see that most of it is long term "starting training" for school leavers which is usually not appropriate for those already in business (Keddie 1999:8).

One such actor in the field is FAIDA, which is involved in micro and small enterprise promotion. FAIDA-SEP is a micro and small enterprise promotion project funded and executed under SNV the Dutch development agency. It started in 1994 and in its initial five years it focused on Arusha Region.

It concentrates on two main types of entrepreneurs. The first group involves micro and small entrepreneurs; the second category is that of small-scale farmers. FAIDA also targets female owned enterprises and environmentally sound production processes.

FAIDA's strategy is to promote entrepreneurship through training and economic mapping. Economic mapping studies identify promising sectors and opportunities to help small entrepreneurs to gain access to the market, to identify companies interested in intermediating

with small farmers, and which could provide agricultural credit for financing agricultural inputs and assisting in the formation of market access groups. In this situation farmers undertake to sell their produce to companies that loaned them inputs (ERB 2000, p.23).

FAIDA-SEP also facilitates the formation of market access groups. These are informal groups of 15 members, who are interested in solving the problem of market outlet. With collective savings, which are deposited in a bank and which cannot be withdrawn until all crop-input loans are repaid, the collective savings provide collective guarantee.

FAIDA has also developed a sustainable credit delivery model with CRDB, known as JUHUDI Credit Scheme, which provide small loans for on going enterprise activities and start-ups. Loans range from USD1, 500 to USD35, 000, at market interest rates and collateral of 7% of loan amount (ERB, 2000:23).

At the same time FAIDA has an exchange - visit program. In this situation people in business or wishing to set up business may, upon paying direct expenses, visit already operating and flowering enterprises, to observe their operations and ask questions (Keddie, 1999:6).

4. HUMAN RIGHTS ADVOCACY IN TANZANIA.

4.1 The Human Rights concept.

Human rights are those rights that one has simply as a human being irrespective of one's membership or place in society. They are inalienable (Donnelly, 1990:35). These rights are supposed to be protected by all laws. Any law that goes against human rights is indefensible. Human rights follows from natural rights, which are based on the premise that men are born, free and equal.

The liberal western approach was very instrumental in espousing the universality of human rights. The approach is notably reflected in Lockes' Two Treatises on Government published in 1689. It asserts that all human beings are born with natural or human rights for freedom and equality. Society and the state are devised to guarantee a more secure enjoyment of human

rights and government is legitimate only to the extent it protects human rights through impartial law and practice.

Locke's three fold commitment to equality, autonomy and natural rights is different from another liberalism based on the emphasis on radical individualism, private property and negative civil and political rights (Donnelly, 1990:34). The latter view has contributed to criticisms of western liberal conception of human rights. The standard charge is that it cannot adequately encompass the communal aspect of human existence. It is argued that liberalism's individualism is a radical, competitive, atomizing individualism that is morally indefensible. The only reality liberalism perceives, it is argued, is the reality of individualism. Indeed besides being an individual, one is a member of a family, a society and other communities and associations, as well as a citizen of a state. There are many situations when collective rights need to be asserted. We however recognize that there are many situations when the rights of certain groups (women, children) have been undermined in the name of collective rights. Powerful and influential individuals have often presented their rights as the rights of the whole collectivity.

It is important therefore to understand that one's right cannot fundamentally be defined by one's place in society whether birth, age or occupation defines that place. The idea of human rights implies that there is a certain irreducible moral value in each individual being.

The human rights establish special and particularly strong obligations owed specifically and directly to each individual by every other person or group and in particular by the state.

Human rights in Tanzania are supposed to be enshrined in the Bill of Rights and Duties (TBR&D), which was introduced to the 1977 constitution of Tanzania in 1984 via the Fifth Amendment. Earlier efforts to introduce the Bill of Rights to Tanzanian Constitution had fallen on deaf ears. The adoption of the African Charter on Human and People's rights at the Organization of African Unity (OAU) Head of State meeting in 1981 paved the way for Tanzania to introduce the Bill of Rights (Peter, 1990:7).

TBR&D restricts itself to the basic rights/freedoms and duties - the rights to life, equality, movement, expression, association, participation in decision making and work as well as other freedoms. It also includes duties and obligations. The citizen has the obligation to work, to obey

the constitution and laws, to protect public property and finally to protect, preserve and maintain freedom, authority and national unity.

4.2. Human Rights Advocacy Groups in Tanzania

The advocacy/social change function concern pushing for changes in government policy or societal conditions. It involves mechanisms to rally people who share a particular concern and bringing it to broader public attention.

There are a number of human rights organizations that are in operation in Tanzania. This follows from the realization that the majority of Tanzanian citizens remain unaware of their basic, constitutional and human rights due to legal illiteracy and lack of human rights awareness. Most citizens also cannot afford to hire the services of advocates or legal advisers. The human rights advocacy groups are striving to facilitate the creation of legal rights, through legal literacy, human rights awareness and through court representation. We now discuss the main human rights groups.

One human rights advocacy group is The Legal and Human Rights Centre (LHRC) which describes itself as a private, voluntary, non-governmental, non-partisan and non-profit making organization. It was formally established in 1995, before that time it was a human rights project of the Tanzania Legal Education Trust (TANLET) based in Dar Es Salaam and had a sub office in Arusha. At that time its activities were with pastoralists, hunters and gatherers of Arusha and Kilimanjaro regions, whose communal rights were being marginalized by sedentary groups as well as big corporations owning plantations.

The primary task of the center is to create legal and human rights awareness among the general public and in particular the underprivileged sections of society through legal and human rights training. It also provides legal aid to indigents or those cases with public interest or can advance law reform (LHRC 1999:1).

When we look at the activities of LHRC we see that legal aid is given through their clinics at Magomeni and Buguruni in Dar Es Salaam which are open every Mondays and Fridays from 3.00 p.m. to 6.00 p.m. There are plans to open clinics in the Temeke District of Dar Es Salaam and another in Arusha.

Services that are offered to those who cannot afford legal fees include counseling, arbitration, drafting of legal documents and court representation.

Priority for taking legal aid cases is influenced by four criteria:

- the first is that the case should be representative in character and/or in form.
- Secondly, the case should have public interest content or raises public interest.
- Thirdly, priority is given when a case is likely to cause the repeal of some bad laws or if it can raise the need for a legislation to accommodate the society's interests.
- Fourthly, client's income should be equal or less than the prescribed minimum wage. Lastly the matter should be preferably civil in nature (LHRC 1998).

Tanzania Women Lawyers Association (TAWLA) is another advocacy group. This is a society of women lawyers, which is non-profit and not affiliated to any political party or religion groups. It was established in 1990. The main aim is to provide and promote an environment guaranteeing equal rights and justice for women. It is observed that although women are considered custodians of culture, most customary traditions and religious practices are defined on the basis of patriarchal norms that violate and deny women legal and human rights. TAWLA therefore saw the need to educate women on their fundamental and basic rights and play the advocacy role to make the public not to tolerate abuses against women. It also works to make the state to be accountable for the human rights of women.

The Tanganyika Law Society (TLS) is the bar association of Tanzania. It is a statutory body which itself is a non-profit and a non-government organization established since 1955. Its membership is open to all members of the legal profession and is compulsory for every advocate with a practicing certificate. Its membership by June 2000 was 385 active members. TLS has a legal council, which has a committee on legal aid, which of has recently increased its activities.

The Tanganyika Law Society is slowly shedding its image of a conservative body responsible for the very slow law reform in Tanzania. Since 1996 TLS has come with some workshops on Constitutional and legal reforms and reviewing democratic changes in Tanzania. It has also organized zonal seminars on the same topics.

Environmental, Human Rights Care and Gender Organization (Environcare) is another human advocacy organization. Environcare is involved with empowerment of women, environmental protection and human rights. Environcare believes that there is a close link between human rights abuse, environmental degradation and poverty. It also believes that cultural norms, values and practices in many communities in the country do place gender specific constraints, which limit the capacity of women to effectively participate in development processes.

The Legal Aid Committee of the Faculty of Law of the University of Dar Es Salaam (LAC) is a committee of the Faculty of Law Board of the University of Dar Es Salaam. It was established in 1967. Normally it is composed of a committee of five members of staff who then co-opt others who are interested in legal and activities. It became prominent after a few professors took up the cases for low-income people and won at court. Those cases caught the glare of the media and the imagination of the public (Peter 2000)

LAC concentrates on legal literacy, which is done in two ways. The first is through legal aid camps, which are conducted in various parts of the country, and through its legal bulletin HAKI. Secondly LAC runs a legal clinic in the Faculty of Law, at the University of Dar Es Salaam. This clinic serves members of the public who seek legal advice and counsel. Some of those who are eligible have their cases taken up and they are represented in the courts of law. Students in the Faculty of Law are also involved in legal aid clinics and research work under the auspices of their organization (LAC 2000).

The women's Legal Aid Centre (WLAC) describes itself as a voluntary, private, non-governmental, non-partisan and non-profit making organization. It was established in 1994 as a company limited by guarantee. WLAC is both a legal and community based organization. Its mission is to educate and assist women and children through legal and human rights awareness, legal aid, research and publication. It seeks to agitate for women and children with a long-term goal of improving their legal status.

Tanzania Media Women's Association - TAMWA is one of the most effective human rights advocacy groups in Tanzania. Through the media and various seminars it has been able to bring to the fore human right abuses especially concerning women and children. Through lobbying and advocacy it was able to achieve a radical legislation in the National Assembly against sexual harassment on women and children. Women journalists formed TAMWA

While its membership has expanded to include people from different professions sympathetic to the cause of TAMWA, the latter group remain co-opted members. Full membership is conferred to Tanzania professional women journalists with a minimum of two years training.

From 1990 TAMWA has run a crisis Centre in Dar Es Salaam. This Centre has provided legal aid and counseling services to women and children who are victims of gender based violence and providing legal literacy. At the same time there are 17 community based centers opened in different parts of the country which give support to victims of gender based violence, such as rape, defilement, sexual harassment and domestic violence.

TAMWA has also initiated training workshops for police officers on gender sensitization, counseling and human rights so as to enable them to give assistance to victims of the gender based violence. Legal literacy is also provided through outreach programs and popular education materials (Mtambalike 2000)

Tanzania Gender Networking Program (TGNP) has been operating since 1993, and has been very active and very effective in advocacy issues. Its members are very competent in advocacy and have acted as an effective pressure group, which promotes gender activism from the grassroots level to the national level, involving both the government and the legislative. The development objective of TGNP is to facilitate the process of gender equality/equity, women's empowerment and social transformation with a gender perspective at all levels (TGNP 2000).

TGNP is running programs that are mutually supportive. The first is information generation and dissemination. The second is training, capacity building and outreach. The third is activism, coalition building, lobbying and advocacy. The fourth is program support and management. The implementation of these programs is facilitated through linking and collaborating with other activist individuals and organizations. Committees and a secretariat run these programs. Below the secretariat there are intermediate gender networks at the district level and informal networks. The network consists of individuals and organizations, NGOs and Community Based Organizations (CBOs).

More than 200 NGO/CBOs have contacts with TGNP through its activities. The main activities of TGNP include a program of civic education. This program started in 1995 and is strengthened by a program aimed at building skills in gender analysis, networking, activism, lobbying and advocacy. TGNP achieves this through training sessions in animation and social

gender analysis for women at the district and community levels. Training on gender issues has been carried on policy makers, the media and other national level organizations. Such training workshops have often been eye openers for people who had earlier misunderstood gender issues.

4.3. The impact of non-profit human rights advocacy groups.

The organizations discussed above provide services in an important area in society - that of ensuring justice and fairness to marginalized groups in the society. Ignorance is one reason for people to fail to know their rights and to fight for them. Ignorance is also one of the reason why certain people and groups perpetrate abuse on others or maintain gender inequalities through prejudices carried from one generation to another by patriarchal systems.

Human rights advocacy organizations are trying to provide services that would reduce cases of human rights abuse. These organizations provide a number of services. They include counseling, arbitration, drafting of legal documents and court representation. These are followed by different forms of dissemination of information, human right literacy and advocacy through lobbying and public activism.

Issues, which need legal aid usually, involve matrimonial relations, inheritance, violence and abuse and land questions especially for marginalised ethnic groups versus big investors.

Legal literacy and representation is carried by most of the NGOs discussed above. It seems some are more qualified than others in providing those services, especially court representation. Unfortunately while courts are expected to be providers of justice, the process is usually slow, cumbersome and very expensive. As a result only a few cases can be taken. A lot can be done to reform the system.

It should also be pointed out that in light of human rights illiteracy of Tanzanian citizens, especially those in the rural areas, the services provided by these NGOs are very inadequate. Certainly their activities are useful in educating some of the victims and potential victims, but also of people in those agencies likely to abuse the rights of citizens, like the police and prison wardens and officers. Their major concentration, however, is found in the urban areas. Human rights advocacy groups are trying hard to make an impact, but the task nation wide remains enormous.

5. CONCLUSION

In this paper we have sought to gauge the contribution of the non-profit sector in Tanzania. The objective of the impact analysis was to begin to answer the crucial question of what difference the non-profit sector makes. The three areas chosen are very important to the lives of Tanzanians. The contribution of the non-profit sector in these areas has shown the significance of these organizations in the Tanzanian society.

Health provision is a very critical part of the life of Tanzanians. In the absence of a comprehensive social security system and the pervading poverty of Tanzanians, the provision of this service is crucial and many people especially infants and women, die of easily treatable diseases. We have seen that the non-profit sector in this field makes very significant contribution. With 85 hospitals voluntary agencies have 4 more hospitals than the government and 40 more hospitals than the private sector. We have shown that Christian hospitals, which make up the bulk of the voluntary agency health facilities are critical in many rural areas of Tanzania hitherto not reached by government hospitals. VA hospitals also edge government and private health facilities in the quality of services and in innovations. They could do more in the area of advocacy, especially in light of the new pandemic diseases.

Support of micro-enterprises is another important area in the lives of Tanzanians. Following the exit of the Tanzanian government in the ownership and control of economic enterprises, many people lost their jobs. At the same time globalization is marginalizing local medium range enterprises which can not compete with cheap foreign imports. Micro-enterprises, which are localized, and the informal sector is providing commercial avenues to average Tanzanians. The non-profit sector in this area is again significant as Banks are generally ineffective in micro-finance. Revamping of SACCOs and SACAs would also be crucial for the provision of financial services in the rural areas of Tanzania.

Human and legal rights defense for the marginalized is also very crucial in light of human rights abuses. Tanzania as a third world nation is facing many challenges and tensions which often lead to human rights abuses. Among such challenges poverty, ignorance and corruption are major ones. Poverty places excessive expectations on the government, which can not deliver adequately. Political participation is characterized by the high demands on the government and the defensive mechanisms by inadequately performing governments which often lead to the extensive use of coercion. Corruption often leads to collaboration between people with financial means and government officials to deny poor individual or communities their rights. Some of the

human rights abuses are perpetrated by the powerful who consider themselves as being above the law. Poverty and ignorance also creates tensions in families which often creates abuses on spouses and children. The human right advocacy groups therefore are providing important services in legal representation, training and human rights campaigns. Their impact is however limited by the magnitude of the problems, the inefficiency of the court system and limited resources.

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APPENDIX 1

Table 1: Distribution of NPOs by Sampled Regions in Tanzania.

Size / Level	Region	Total No of NPOs	Sampled Regions
High concentration of NPOs	Dar es Salaam	808	Yes
	Arusha*	158	Yes
	Kilimanjaro	141	Yes
	Morogoro	113	Yes
	Kagera	87	No
Medium concentration of NPOs	Mbeya	56	Yes
	Mwanza	54	Yes
	Dodoma	53	No
	Ruvuma	52	Yes
	Tanga	51	Yes
	Iringa	48	No
Low concentration of NPOs	Mtwara	32	Yes
	Mara	32	Yes
	Pwani	32	No
	Kigoma	29	No
	Rukwa	26	Yes
	Shinyanga	17	No
	Singida	15	No
	Lindi	10	No
	Tabora	10	Yes
	Zanzibar	168	Yes

*Includes the new Region of Manyara

Source: Calculated from the Directory of Tanzania's NGOs 2000

APPENDIX 2: List of NGOs Surveyed for the Revenue Structure

List of NGOs Surveyed In Dar Es Salaam

1	AFREDA	35	Maarifa Tandika Secondary School
2	African Society for Children Health and Environment	36	Makete Development Association
3	Agenda for Development and Responsible Development	37	Mbutu Agriculture Society
4	Association of Small Business Operator	38	Nurul Yakin education Trust Fund
5	Association of Traditional Medicine-men (ATME)	39	Research Planning and Project Write-up Association
6	Boxing Union of Tanzania	40	Saidia Wazee Tanzania
7	CARITAS Tanzania	41	TALGWU
8	Chama cha Akina Mama Washonaji Makete	43	Tanzania Amateur Athletic Association
9	Chama cha Ma-Albino Tanzania	44	Tanzania Association of the Deaf (TAD)
10	Chama cha Maendeleo Tarafa ya Ruhuhumbinga	45	Tanzania Federation of Trade Union (OTTU/TFTU)
11	Chama cha Viziwi Tanzania	46	Tanzania Gender Networking Program (TGNP)
12	Chama cha Wafanyabiashara wa Nazi Kariakoo	47	Tanzania Home Economics Association (TAHEA)
13	Chama cha Walemavu Tanzania	48	Tanzania League of the Blind (TLB)
14	Community Care Foundation Trust	49	Tanzania Mangrove Protection Association
15	Conservation, Hotels, Domestic and Allied Workers Union (CHODAWU)	50	Tanzania Media Women's Association (TAMWA)
16	COOPIBO Tanzania	51	Tanzania Mines and Construction Workers Union
17	Dar es Salaam Chamber of Commerce	52	Tanzania Netball Association (Chama cha Netiboli Tanzania)
18	Dar es Salaam Women Fight Malaria	53	Tanzania Non-Governmental Organizations (TANGO)
19	Environment, Human Rights Care and Gender Association (ENVIROCARE)	54	Tanzania Plantation and Agricultural Workers Union (TPAWU)
20	Environmental Association of Tanzania	55	Tanzania Teachers' Union (TTU)
21	Equal Opportunity for All Trust Fund (EOTF)	56	Tanzania Union of Government and Health Employees (TUGHE)
22	Equity Tanzania	57	Tanzania Women Lawyers' Association (TAWLA)
23	Federation of Association of Women Entrepreneur	58	Tanzania Women Volunteers Association (TAWOVA)
24	Football Association of Tanzania	59	Tanzania Chamber of Commerce, Industry and Agriculture (TCCIA) - Dar es Salaam Region
25	Forever Evergreen Environment and Waste Management	60	Temeke Aged Trust Fund
26	Friends of the Island Environment	61	Temeke Arts Group
27	Housing Development Society of Tanzania	62	Temeke Development Organization (TEDEO)
28	Idara ya Wanawake na Shule ya Jumapili (KKKT)	63	Temeke Muslim Seminary
29	Institute of Engineers Tanzania (IET)	64	Tuamoyo Children and Family Center
30	International Islamic Relief Organization (IIRO)	65	Umoja wa Akina Mama Mbagala Kizuiani
31	Journalists for Environment Tanzania -JET	66	Wanawake wa Kikristo (WWK)
32	<i>Kanisa la Kiinjili la Kilutheri Tanzania – Dayosisi ya Mashariki na Pwani</i>	67	Wildlife Conservation Society of Tanzania
33	Kilimanjaro Women Development Association	68	Women in Progress
34	Kilosa Education Foundation	69	Women's Legal Aid Centre

List of NGOs Surveyed In Zanzibar

70	Association of Non Governmental Organizations of Zanzibar	79	Umoja wa Walemavu Zanzibar
71	Fund for Self-Reliance Zanzibar	80	UWAZI

72	Jumuia ya Maendeleo ya Wananchi wa Kijiji cha Pete [Pete Development Association]	81	Women Development for All
		82	Women Entrepreneurship Development Trust Fund
73	Jumuia ya Utafiti na Tiba Asili za Zanzibar	83	Zanzibar Association Farmers and Fishermen Development
74	Lions Club Zanzibar	84	Zanzibar Association of Information Agents for Drug Abuse and Alcohol
75	Mlandege Constituency Development Fund	85	Zanzibar International Film Festival
76	Mudhamat Al-dawa al-islam	86	Zanzibar National Association of the Blind
77	Opportunities Industrialization Centre Zanzibar	87	Zanzibar NGO Cluster for HIV/AIDS Prevention
78	TAMOKA		

**APPENDIX 3: International Classification of Non-Profit Organizations
(ICNPO)**

Major ICNPO category and Sub-category

1	CULTURE & RECREATION	5	ENVIRONMENT
1 100	Culture and Arts	5 100	Environment
1 200	Sports	5 200	Animals
1 300	Other Recreation & Service Clubs		Environment n.e.c.
	Culture & Recreation n.e.c.	6	DEVELOPMENT & HOUSING
2	EDUCATION & RESEARCH	6 100	Community Development
2 100	Primary & Secondary Education	6 200	Housing
2 200	Higher Education	6 300	Employment & Training
2 300	Other Education		Development n.e.c.
2 400	Research	7	CIVIC & ADVOCACY
	Education & Research n.e.c.	7 100	Civic & Advocacy Organizations
3	HEALTH	7 200	Law & Legal Services
3 100	Hospitals & Rehabilitation	7 300	Political Organizations
3 200	Nursing Homes		Civic & Advocacy n.e.c.
3 300	Mental Health	8	PHILANTHROPY
3 400	Other Health Service	9	INTERN'ATIONAL ACTIVITIES
	Health n.e.c.	10	RELIGION
4	SOCIAL SERVICES	11	PROFESSIONAL ASSOCIATIONS
4 100	Social Services	12	NOT ELSEWHERE CLASSIFIED
4 200	Emergency & Relief		
4 300	Income Support & Maintenance		
	Social Services n.e.c.		

n.e.c. = not elsewhere classified

