

THE MAGISTRATES' COURT ACT, 1985

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Section

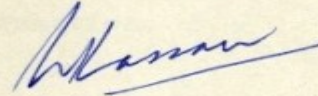
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SCHEDULE

The Criminal Case to be heard in Primary Court.

ACT NO. 6 OF 1985.

I ASSENT,



ALI HASSAN MWINYI
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY
COUNCIL.

..... 11 May, 1985.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT,
SET UP, JURISDICTION AND POWERS OF A
PRIMARY, DISTRICT AND RESIDENT MAGISTRATES'
COURTS AND TO PROVIDE FOR OTHER PURPOSES
CONNECTED THEREWITH AND INCIDENTAL THERETO.

ENACTED BY THE HOUSE OF REPRESENTATIVES OF ZANZIBAR.

PART I
PRELIMINARY

Short title and commencement. 1. This Act may be cited as the Magistrates' Court Act, 1985, and shall come into force on such a date as the Minister may by notice in the Gazette appoint.

Interpretation. 2. In this Act, unless the context otherwise requires :-

"decision" includes a judgment, finding, acquittal, conviction, sentence or ruling;

"district court" means a district court established under section 9;

"district magistrate" means a district magistrate as appointed under section 10 of this Act;

"honorary magistrate" means any person appointed under section 30 to be, or to perform the functions of a magistrate;

"local government authority" means a city, municipal, town or district council;

"magistrate" includes a primary court magistrate, district court magistrate, resident magistrate, a civil magistrate and a honorary magistrate;

"Minister" means the Minister for the time being responsible for legal affairs;

"order" includes a writ, warrant, summons or other process, and a decree, revisional or confirmatory order and any other formal expression of the decision of a court;

"primary court" means a court established under section 3;

"proceedings" includes any application, reference, cause, matter, suit, trial, appeal or revision, whether final or interlocutory, and whether or not between parties;

"registrar" means the Registrar of the Court of Appeal or of the High Court and includes any deputy or district registrar;

"resident magistrate" means a Resident Magistrate as appointed under section 19 to this Act.

PART II

ESTABLISHMENT, SETUP, JURISDICTION
AND POWERS OF A PRIMARY COURT.

Establishment
of primary
courts.

3.(1) There is hereby established in every district a primary court which shall, subject to the provisions of any law for the time being in force, exercise jurisdiction within the district in which it is established.

(2) The designation of a primary court shall be the primary court of the district in which it is established.

(3) The Chief Justice may, if he thinks fit so to do, establish another primary court in any district so that the number of primary courts in that region may be more than one.

Powers of
the court.

4.(1) Subject to the provisions of any other law, the primary court may, in the exercise of its criminal jurisdiction have power :-

- (a) to impose a sentence of imprisonment not exceeding one year; or
- (b) to impose a fine not exceeding two thousand shillings; or
- (c) to impose ~~corporal punishment~~ ~~not more~~ exceeding six strokes; or
- (d) to impose a combination of two or more sentences provided in (a), (b) or (c) above; or
- (e) to impose a restriction order for a convict to be at his home area and to engage himself in development projects and other agricultural activities for a period not exceeding sixty days failure of which shall be liable for imprisonment for a period not exceeding 60 days; or

(f) in all proceedings in respect of which jurisdiction is conferred on primary court by the First Schedule to this Act.

(2) In civil proceedings the subject matter shall be of any amount not exceeding Shs.10,000/- and subject to this amount, the primary court may -

- (a) award any amount claimed;
- (b) award compensation;
- (c) order the restitution of any property;
- (d) make order in the nature of an injunction, both mandatory and prohibitive;
- (e) order the specific performance of any contract; and
- (f) make any other order which the justice of the case may require.

(3) The Chief Justice may, by an order published in the Gazette make rules for criminal and civil procedure for the primary courts.

Primary
court
magistrate.

5.(1) There shall be a primary court magistrate who shall be appointed by the Judicial Service Commission.

(2) A person shall be qualified to be appointed as a primary court magistrate if, and shall not be so qualified unless :-

- (a) he holds a certificate in law; or
- (b) any other equivalent certificate recognised as such.

Proceedings to
be conducted
with
assessors.

6.(1) In every proceeding in the primary court, including a finding, the court shall sit with two assessors.

(2) All matters in the primary court including a finding in any issue, the question of adjourning the hearing, an application for bail, a question of guilt or innocence of any accused person, the determination of sentence, the assessment of any monetary award and all questions and issues whatsoever shall be decided by the votes of the majority.

Language of primary court. 7. The language of primary courts shall be Kiswahili.

Advocates and State Attorneys not to appear. 8.(1) No advocate or State Attorney may appear or act for any party before a primary court magistrate.

(2) Wakyls may appear for or on behalf of any party before the primary court.

PART III
ESTABLISHMENT, SETUP, JURISDICTION
AND POWERS OF A DISTRICT COURT

Establishment of District Court. 9.(1) There is hereby established in every district a district court which shall, subject to the provisions of any law for the time being in force, exercise jurisdiction within the district in which it is established.

(2) Subject to subsection (1), the designation of a district court shall be the district court of the district in which it is established.

(3) The Chief Justice may, by order published in the Gazette, vary the designation of any district court.

(4) The variation of the designation of a district court or of the area within which such court may exercise jurisdiction, shall not affect the jurisdiction of such court to continue the hearing of, or to determine, any proceeding commenced before it prior to such variation.

(5) The Chief Justice may, if in his opinion it is in the public interest published so to do by order in the Gazette, confer upon a district court established for any district, jurisdiction over any other contiguous district or districts and where such order is made, such district court shall have concurrent jurisdiction in relation to the district for which it is established and also in relation to such other district or districts as may be specified in such order.

Appointment
of
District
Magistrates.

10.(1) There shall be a District Magistrate for every District Magistrate's Court who shall be appointed by the Judicial Service Commission.

(2) A person shall be qualified to be appointed as District Magistrate if, and shall not be so qualified unless he holds a diploma or a degree in law or its equivalent from any recognised University or Institution.

Original
jurisdiction
of
district
courts.

11.(1) A district court shall have and exercise original jurisdiction :-

- (a) in all proceedings of a criminal nature in respect of which jurisdiction is conferred on a district court by any law for the time being in force;
- (b) in all such other proceedings under any written law for the time being in force (other than subsection (2) of this section) in respect of which jurisdiction is conferred on a district court by any such law.

(2) A district court when hearing a civil case shall, in addition to the jurisdiction set out in subsection (1) have and exercise original jurisdiction in proceedings of civil nature, other than any such proceedings in respect of which jurisdiction is conferred by written law

exclusively on some other court or courts, but (subject to any express exception in any other law) such jurisdiction shall be limited :-

- (a) in proceedings for the recovery of possession of immovable property, to proceedings in which the value of the property does not exceed three hundred thousand shillings; and
- (b) in other proceedings where the subject matter is capable of being estimated at a money value, to proceedings in which the value of the subject matter does not exceed two hundred thousand shillings.

Powers of district court as appellate court.

12.(1) In the exercise of its appellate jurisdiction, a district court shall have power :-

- (a) to direct the primary court to take additional evidence and to certify the same to the district court, or, for reasons to be recorded in writing, itself hear additional evidence;
- (b) whether additional evidence is heard, taken or not, to confirm, reverse, amend or vary in any manner the decision or order appealed against (including power to substitute a conviction or a conviction and sentence for an acquittal), so however that the decision or order as altered shall not be in excess of the jurisdiction of the primary court and no conviction or conviction and sentence shall be substituted for an acquittal, and no sentence shall be enhanced, unless the accused or convicted person, as the case may be, shall have first been given an opportunity of being heard;

- (c) to quash any proceedings (including proceedings which terminated in an acquittal) and, where it is considered desirable, to order the case to be heard de novo either before the court of first instance or some other primary court, or any district court, having jurisdiction; and
- (d) the provisions of paragraph (b) of subsection (1), and subsection (2) of section 33 shall be applicable to such rehearing as if the case had been transferred.

(2) Where an order that any proceedings be quashed and the case be reheard is made as aforesaid, no plea of res judicata or autrefois acquit or of autrefois convict shall be entertained in respect of any order or decision in the proceedings so quashed.

(3) Nothing in this section shall be read as prohibiting any aggrieved party in a criminal proceeding to appeal against the decision of a primary court to the district court.

Revisional jurisdiction.

13(1) A district court may call for and examine the record of any proceedings in the primary court established for which it is itself established, and may examine the records and registers thereof, for the purposes of satisfying itself as to the correctness, legality or propriety of any decision or order of the primary court, and as to the regularity of any proceedings therein, and may revise any such proceedings.

(2) In the exercise of its revisional jurisdiction, a district court shall have all the powers conferred upon a district court in the exercise of its appellate jurisdiction including the power to substitute a conviction, or a

conviction and sentence, for an acquittal; and the provisions of paragraph (b) of subsection (1) of section 21 shall apply in relation to an order quashing proceedings and ordering a rehearing which is made in the exercise of a district court's revisional jurisdiction as they apply in relation to any such order made in the exercise of its appellate jurisdiction.

(3) In addition to the provisions of subsection (2) of this section, no order shall be made in the exercise of the court's revisional jurisdiction in any proceeding of a civil nature increasing any sum awarded, or altering the rights of any party to his detriment (other than an order quashing proceedings in a lower court or an order reducing any award in excess of the jurisdiction or powers of the lower court to the extent necessary to make it conform thereto) unless such party shall have first been given an opportunity of being heard.

(4) No proceedings shall be revised under this section after the expiration of twelve months from the termination of such proceedings in the primary court and no proceedings shall be further revised under this section in respect of any matter arising thereon which has previously been the subject of a revisional order under this section.

(5) Without prejudice to the provisions of subsection (1) of this section, a district court may exercise its powers of revision in any case where an offender is committed for sentence, or a sentence is submitted for confirmation, under the Primary Court Criminal Procedure Code.

Maximum
penalty for
district
court.

14.(1) In criminal cases the district court can impose a sentence of up to five years imprisonment and not more or a fine not exceeding Shs.25,000/- or both such fine and imprisonment.

(2) In civil cases, the subject matter can be of any amount not exceeding Shs.50,000/-.

Language
of the
court.

15. The language of the court shall either be in Kiswahili or English and the records shall be kept in Kiswahili or English as the Chief Justice may direct.

Jurisdiction
over
offenders
committed
for sentence
by primary
courts.

16.(1) Where an offender is committed to a district court for sentence under the provisions of the Primary Courts Criminal Procedure Code, the district court shall have jurisdiction to inquire into the circumstances of the case and to deal with the offender in any manner in which he could have been dealt with by the district court if he had been convicted by the district court of the offence in question.

(2) If the district court imposes a sentence on the offender :-

(a) the provisions of the Primary Courts Criminal Procedure Code and of this Part shall apply only with regard to an appeal against conviction as for any other case tried by a primary court; and

(b) the offender may appeal against such sentence to the Resident Magistrate's Court in the same manner and in the same circumstances as if he had been convicted by the district court, and the provisions of the Criminal Procedure Code relating to appeals against sentence from the district court to the High Court shall apply accordingly.

(3) The district court may in its discretion postpone its inquiry under the provisions of subsection (1) of this section until the expiration of the time for filing an appeal against conviction, and, if such appeal has been filed before the district court commences such inquiry, the district court may in its discretion postpone such inquiry until final determination of such appeal or for such lesser period as the court may deem fit.

General provisions on appeals to revision by and committal for sentence to, district courts.

17.(1) Where :-

- (a) an appeal has been filed by a person entitled to appeal to a district court; or
- (b) a district court calls for the record of any proceedings under section 16,

the district court, may, for reasons to be recorded in writing :-

- (1) in the case of a person sentenced to imprisonment or committed in custody to the district court for sentence, order :-
 - (A) that the person be released on bail with or without sureties pending the hearing of his appeal or the termination of the revisional proceedings; or
 - (B) that the execution of the sentence be suspended pending the hearing of his appeal or the termination of the revisional proceedings, in which case such person shall be treated as a remand prisoner pending the hearing of his appeal:

Provided that if the appeal is ultimately dismissed or the original sentence (being a sentence of imprisonment) is confirmed, or some other sentence of imprisonment substituted therefor, the time during which the appellant has been suspended, shall be excluded in computing the term of imprisonment and

(ii) in any other case, order that the execution of the decision or order appealed against shall be suspended pending the hearing of his appeal, or the termination of the revisional proceedings.

(2) Where a district court determines any appeal, revises any proceedings or passes sentence upon any person committed to it for sentence, it shall certify its decision or order to the primary court in which the proceedings originated, and the primary court shall thereupon make such orders as are conformable to the decision or order of the district court and, if necessary, the records shall be amended in accordance therewith.

PART IV

ESTABLISHMENT, SETUP, JURISDICTION AND POWERS OF A RESIDENT MAGISTRATE'S COURT

Establishment
of Resident
Magistrate's
Courts.

18.(1) There is hereby established in every region a Resident Magistrate's Court.

(2) The designation of a court of a resident magistrate shall be that specified in the order

(3) The Chief Justice may, by order published in the Gazette, vary the designation of a court of a resident magistrate or of the area within which that court may exercise jurisdiction.

(4) The variation of the designation of a court of a resident magistrate, or of the area within which that court may exercise jurisdiction, shall not affect the jurisdiction of that court to continue the hearing of, or to determine, any proceeding commenced before it prior to the variation.

Appointment of a resident magistrate in-charge and appropriate judicial functions.

19.(1) The Chief Justice shall appoint for each region a resident magistrate in-charge to perform the supervisory, administrative and judicial functions of a resident magistrate in-charge in the region.

(2) The Chief Justice may, generally or in respect of specified provisions courts or areas only, appoint any judge, registrar or magistrate to be, or to perform the functions of an appropriate judicial function.

(3) A person shall be qualified to be appointed as Resident Magistrate if, and shall not be so qualified unless he holds a degree in law and has an experience of not less than three years of service.

Powers of resident magistrate's court.

20. A court of a resident magistrate shall have and exercise jurisdiction in all proceedings in respect of which jurisdiction is conferred on it by a notice in the Gazette.

Powers, practice and procedure in original jurisdiction.

21. Subject to the provisions of any law for the time being in force, the powers of courts of a resident magistrate shall be limited, and their practice and procedure regulated :-

(a) in the exercise of their original criminal jurisdiction, by the Penal Code and the Criminal Procedure Code;

(b) in the exercise of their original civil jurisdiction, in accordance with the principles and provisions of the Civil Procedure Code, so far as the same shall be applicable and suitable:

Provided that in Criminal matters all matters listed in Schedule I of the Criminal Procedure Decree and as may be amended from time to time which were then heard by a subordinate court of First Class shall be heard by the resident magistrate:

Provided Further that in civil cases the subject matter shall be of any amount not exceeding Shs.100,000/-.

Resident
magistrate
to be
chairman of
juvenile
courts.

22. The resident magistrate shall, by virtue of his post be a Chairman of the Juvenile Court.

Language of
the court.

23. The language of the court shall be both Kiswahili and English and the proceedings shall be either in Kiswahili or English as the Chief Justice may direct.

Supervision

24.(1) A resident magistrate in-charge may call for and inspect the record of any proceedings of district court or a primary court and may examine the records or registers thereof for the purpose of satisfying himself as to the correctness legality or propriety of any decision or order and as to the regularity of any proceedings therein; and may, in any case in which he considers that any decision or order is illegal or improper or any proceedings are irregular :-

- (a) in the case of district court, forward the record with a report to the High Court in order that it may consider whether or not to exercise its powers of revision; and
- (b) in the case of a primary court, consider the proceedings and if he considers it appropriate so to do, revise the same:

Provided that nothing in this subsection shall confer on a resident magistrate in-charge any power to call for, inspect, forward or report on any proceedings before a resident magistrate.

(2) Where a Resident Magistrate in-charge forwards any record to the High Court under this section, and pending the decision of such court, he may, for reasons to be recorded by him in writing on the record, order that the execution of the decision or order of the district court or primary court, as the case may be, be suspended and also in criminal proceedings, if the convicted person is in confinement, that he be released on bail with or without sureties:

Provided that where any sentence of imprisonment dealt with under this subsection is confirmed by the High Court or a district court or some other sentence of imprisonment substituted therefor, the time during which the convicted person has been released on bail, or the sentence was suspended and the convicted person treated as a remand prisoner, shall be excluded in computing the term for which he is sentenced.

Appeals.

25. The Resident Magistrate Court shall have appellate power for all cases from the district magistrates' court.

PART V

MISCELLANEOUS

Regulations.

26. The Minister may make Regulations for the better carrying out of the purposes of the provisions of section 6 prescribing :-

- (a) the constitution and composition of panels of assessors;

- (b) forms for the purposes of summoning assessors;
- (c) the procedure for the appointment of members of panels of assessors;
- (d) the remuneration of assessors;
- (e) conditions and other matters in respect of the service of the assessors.

Places and
times of
sitting and
distribution
of business.

27.(1) A magistrates' court may be held at any place within its local limits of its jurisdiction.

(2) Notwithstanding the provisions of subsection (1) a magistrates' court shall not be held at a place that is not regularly or customarily used for such a purpose unless public notice has previously been given of an intention to use the same for such a purpose, and the Chief Justice may, by order published in the Gazette, authorise a district court to sit outside the district for which it is established when exercising its appellate, confirmatory or revisional jurisdiction.

(3) Subject to the other provisions of this section, a magistrates' court shall sit at such times and places as may be necessary for the convenient and speedy dispatch of the business of the court, and the distribution of business as between magistrates assigned to a court shall be arranged as may be convenient.

(4) the resident magistrate in-charge or appropriate judicial authority, may give general or specific directions relating to any of such matters.

(5) Notwithstanding the provisions of any other written law, a magistrates' court may sit for the dispatch of any proceeding of a criminal nature on Sunday or a public holiday or after normal working hours.

Seals and stamps.

28. Magistrates' courts shall use seals or stamps of such nature and pattern as the Chief Justice may direct.

Magistrates to sit in open court.

29.(1) Subject to the provisions of subsection (2), a magistrate shall not inquire into or try any offence, preside over any civil proceeding or hear any appeal unless he is sitting in open court.

(2) This section shall have effect subject to any law conferring power on a court of resident magistrate to sit in camera or otherwise to exclude persons or categories of persons for any proceeding or part of it, and to any law relating to domestic proceedings or juvenile courts.

Honorary magistrates.

30.(1) Subject to subsection (2), the Minister may, if in his opinion it is in the public interest so to do, after consultation with the Chief Justice, appoint any suitable person as a honorary magistrate who may from time to time be called upon to try specific cases or perform any judicial function.

(2) Unless circumstances require otherwise, a honorary magistrate shall be appointed from amongst persons who have had experience of, and have shown capacity in the practice of any branch of the legal profession.

(3) The Minister shall by order published in the Gazette, confer upon such honorary magistrate the jurisdiction to enforce any law or perform any judicial function.

Powers of
Registrars.

31. Where an appeal against any decision or order of a district court in the exercise of its appellate or revisional jurisdiction is received in the High Court, a registrar of that court may :-

- (a) give directions as to the time within which any further step in the proceedings shall be taken by the appellant or any other party (and may extend any such period) and where the appellant fails to complete any such step within such time, may dismiss the appeal for want of prosecution;
- (b) order fresh evidence to be recorded before the court of first instance or the district court, and to be certified to the High Court.

Lawyers and
State
Attorneys
to appear
before
District and
Resident
Magistrates'
Courts.

32. Lawyers and State Attorneys may appear for and on behalf of any party in the District or Resident Magistrates' Court.

Transfer
from
primary
courts.

33.(1) Where any proceeding has been instituted in a primary court, it shall be lawful, at any time before judgment, for :-

- (a) the primary court, with the consent of the district court or a court of a resident magistrate having jurisdiction, to transfer the proceeding to such district court or court of a resident magistrate or to some other primary court; or
- (b) the district court or a court of a resident magistrate within any part of the local jurisdiction of which the primary court is established, to order the transfer of the proceeding to itself or to some other magistrate's court;

(c) the High Court to order the transfer of the proceeding to itself or to some magistrate's court,
in any case where :-

- (i) it appears that the circumstances or gravity of the proceeding make it desirable that the same should be transferred; or
 - (ii) there is reasonable cause to believe that there would be a failure of justice were the proceeding to be heard in the primary court; or
 - (iii) the subject matter of the proceeding arose outside the local limits of the primary court's jurisdiction or is not within its jurisdiction, or in any case in which the law applicable is a customary law which is not a customary law prevailing within such first mentioned primary court's local jurisdiction,
- and shall record its reasons for making or ordering such transfer:

Provided that nothing in this subsection shall authorise :-

- (a) the transfer by a magistrate's court of any proceeding which is required by law to be commenced in a primary court except to some other primary court; or
- (b) the transfer of any proceeding to a court which, however constituted, has no jurisdiction in respect of the subject matter thereof.

(2) A primary court :-

- (a) shall transfer to the district court of the district for which it is established any proceeding of a criminal nature if the accused person appears to be of unsound mind;
- (b) if the accused person so elects, shall transfer to the district court of the district for which it is established any proceeding of a criminal nature in which the accused is charged with an offence punishable in the primary court by imprisonment for more than twelve months or, in the case of an adult, by corporal punishment. An election under this section shall be exercised before the accused pleads to the charge.

(3) Where any proceeding of a civil nature referred to in subparagraph (iii) of paragraph (c) of subsection (1) has been instituted in a primary court, the primary court shall, on the application of either party to such proceeding and on being satisfied that the proceeding involves a question of law at issue between the parties, transfer the proceeding to the district court of the district for which the primary court is established:

Provided that no decision, judgment or order of the primary court in any proceeding of civil nature to which this subsection applies shall be reversed or altered on appeal or revision on the ground only of failure by such primary court to transfer the proceeding in accordance with the provisions of this subsection unless such failure has in fact occasioned failure of justice.

(4) Where any proceeding has been instituted in a primary court established for any district, the primary court may, if it is satisfied that it is reasonable

in the circumstances so to do, and shall, if directed by the district court of that district, transfer the proceeding to another primary court established for the same district,

(5) The provisions of subsection (4) shall be construed without prejudice to the provisions of subsection (1).

(6) Where any proceeding of a criminal nature has been instituted in primary court, it shall be lawful at any time before the accused person gives evidence therein, for the Director of Public Prosecution to order the primary court to transfer the proceeding to the district court of the district for which it is established.

(7) A primary court shall comply with all orders of the Director of Public Prosecutions, the district court, a court of a resident magistrate or the High Court under this section.

Concurrent
jurisdiction.

34. Subject to the provisions of any law for the time being in force where jurisdiction in respect of the same proceedings is conferred on different courts, each court shall have a concurrent jurisdiction therein.

Magistrates
not to act
if having
an interest.

35.(1) Subject to the provisions of subsection (2) of this section, no magistrate shall act in his judicial office in any proceeding in which he has any pecuniary or personal interest.

(2) A magistrate shall not be incapable of acting in his judicial office in any proceeding by reason of his being of several rate payers or as one of any other class of persons liable, in common with others, to any rate, tax or duty, or to contribute to or to be benefited by any rate, tax or duty which may be increased, diminished or in any way affected by that proceeding.

Non-liability
to suit of
magistrates
justices etc.,
acting in
good faith.

36.(1) No magistrate holding a magistrate's court shall be liable to be sued in any court for any act done or ordered to be done by him in the exercise of his judicial duty whether or not such act is within the limits of his or the court's jurisdiction, if at the time of doing such act or making such order he believed in good faith that he had jurisdiction to do such act or make such order.

(2) No officer or a magistrate's court or other person required to execute the lawful order of a magistrate or justice shall be liable to be sued in any court for the execution of any order issued or made by a magistrate or justice if he believed in good faith that the order was within the jurisdiction of the magistrate or justice by whom it was issued.

Rules and
directions.

37.(1) The Chief Justice may make rules of court, and give directions not inconsistent therewith, regulating and prescribing the practice and procedure of magistrates' courts, the execution of the decisions and orders thereof and the functions and duties of members and officers of such courts, and regulating and prescribing the practice and procedure in hearing and determining the appeals including the power to strike out appeals in proceedings of a civil nature in the absence of the parties, the exercise of revisional jurisdiction and the manner of presenting appeals, and otherwise for the purposes of this Act and the administration of magistrates' courts.

(2) Without prejudice to the generality of subsection (1) of this section, rules of court may :-

- (a) regulate and prescribe costs, fees and allowances of witnesses;
- (b) prescribe forms;

- (c) authorise and make provisions for the service of process issued by courts outside or within the country, and authorise and make provision for the service of process issued by Magistrates' courts outside or within the country;
- (d) authorise a primary court to exclude members of the public generally or any particular person from any open court in particular cases or particular categories of cases;
- (e) make provisions for the limitation of claims under customary law;
- (f) confer powers, functions or duties on any judge, registrar or magistrate;
- (g) make different provision for any category, of whatever description, of courts.

Repeal of
Decree
11/69.

38.(1) Subject to the provision of this section the Peoples' Courts Decree, No.11 of 1969 is hereby repealed.

(2) Notwithstanding the repeal of the Peoples' Courts Decree, all matters and proceedings pending before the Peoples' Courts shall be continued, concluded and decision and order made thereon accordingly.

(3) Every decision or order of any magistrates' court which shall not have been fully executed or enforced before the appointed day, may be executed and enforced after that day as if it were a decision or order of such court established by this Act.

(4) Proceedings of every appeal in any magistrates' court which shall not have been fully heard in the appropriate higher court before the appointed day may be heard after that day as if it were an appeal from such court established by this Act.

S C H E D U L E

THE CRIMINAL CASE TO BE HEARD
IN PRIMARY COURT

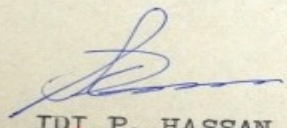
<u>SECTION</u>		<u>OFFENCE</u>
72	...	... Going armed in public.
73	...	... Forcible entry.
74	...	... Forcible detainer.
75	...	... Affray.
76	...	... Challenge to fight a duel.
77	...	... Threatening violence.
90	...	... Threat of injury to person employed in the public service.
98	...	... Destroying evidence.
103-(1)	...	... Offence relating to judicial proceedings.
105	...	... Escape from lawful custody.
106	...	... Aiding prisoners to escape.
107	...	... Removal etc. of property under lawful seizure.
113	...	... Disobedience of lawful orders.
123	...	... Abduction of girls under sixteen.
124-(1)	...	... Indecent assaults on and insulting females.
154	...	... Desertion of children.
155	...	... Neglecting to provide food, etc. for children.
164-(b)(c)(d)	...	... Idle and disorderly persons.
165	...	... Rogues and vagabonds.
168	...	... Fouling water.
216-(a)	...	... Rash and negligent acts.
223	...	... Common assault
224	...	... Assaults causing actual bodily harm.
280	...	... Punishment for kidnapping.
236	...	... Punishment for wrongful confinement.
248	...	... General punishment for theft.
252	...	... Killing animals with intent to steal.
253	...	... Severing with intent to steal.

<u>SECTION</u>		<u>OFFENCE</u>
261	...	... Attempted robbery.
265	...	... Demanding property with menaces with intent to steal.
268	...	... Entering dwelling house with intent to commit felony.
272	...	... Criminal trespass.
277	...	... Cheating.
294(a)	...	... Setting fire to crops and growing plants.
298	...	... Injuring animals.
299-(1)	...	... Punishment for malicious injuries
340	...	... Personation in general.
352(1)	...	... Attempts to commit offences.

UNDER OTHER LAWS

<u>CAP.</u>	<u>LAW</u>	<u>SECTION, REGULATION</u>
78	Food and Drug Decree	Section 11, 16 and 25
164	Local Liquor Decree	Section 3(a) and (b) 5(a) and (b) 6(a) and (b) 8, 9, 10 and 11.
135	Road Traffic Regulations	Regulation 26(8), 36, 50(1) and (2), 56, 63, 87.
73	Public Health Decree Milk Regulations Hotel Regulations	Regulation 15(c) Regulation 8(c) section 117 of the Decree.
76	Dangerous Drugs Decree	Sections 15 and 28.
126	Pound Decree	Sections 3 and 4.
128	Wild Animal Protection Decree	Section 4(1)(a), 8 and 11.

Passed in the House of Representatives on the
2nd day of April, 1985.


IDI P. HASSAN
CLERK TO THE HOUSE OF
REPRESENTATIVES
ZANZIBAR.

SHERIA YA KUANZISHA, MFUMO, MUUNDO,
MAMLAKA NA UWEZO WA MAHAKAMA ZA MWANZO,
WILAYA NA MAHAKIMU WAKAAZI NA KUWEKA
MAMBO MENGINEYO YANAYOHUSIANA NAYO

SEHEMU YA I

UTANGULIZI

KIFUUGU

1. Jina na tarehe ya kuanza kutumika.
2. Ufafanuzi.

SEHEMU YA II

KUANZISHA MFUMO, MUUNDO, MAMLAKA NA
UWEZO WA MAHAKAMA YA MWANZO

3. Kuanzishwa kwa Mahakama ya Mwanzo.
4. Uwezo wa Mahakama.
5. Hakimu wa Mahakama ya Mwanzo.
6. Kesi kusikilizwa pamoja na Wazee wa Baraza.
7. Lugha ya Mahakama ya Mwanzo.
8. Wanasheria hawaruhusiwi kuhudhuria Mahakamani.

SEHEMU YA III

KUANZISHA, MFUMO, MUUNDO, MAMLAKA
NA UWEZO WA MAHAKAMA YA WILAYA

9. Kuanzishwa kwa Mahakama ya Wilaya.
10. Kuteuliwa kwa Mahakimu wa Wilaya.
11. Uwezo wa kawaida wa Mahakama za Wilaya katika kusikiliza kesi.
12. Uwezo wa mahakama ya wilaya kama mahakama ya rufaa.
13. Uwezo wa kuzipitia kesi.
14. Adhabu ya juu kwa mahakama za wilaya.
15. Lugha ya mahakama.
16. Mamlaka juu ya wakosaji waliopelekwa kuhukumiwa na mahakama za mwanzo.
17. Masharti ya jumla juu ya rufaa kwa mapitio kwa na kupeleka kwa hukumu katika mahakama za wilaya.

SEHEMU YA IV

KUANZISHWA, MFUMO, MUUNDO, MAMIKA NA
UWEZO WA MAHKAMA YA HAKIMU MKAAZI

KIPUNGU

18. Kuanzishwa kwa mahkama za hakimumu mkaazi.
19. Kuchaguliwa kwa hakimumu mkaazi mdhamini na kazi maalum za utekelezaji wa sheria.
20. Uwezo wa mahkama ya hakimumu mkaazi.
21. Uwezo, desturi na utaratibu katika usikilizaji wa asili wa kesi.
22. Hakimumu mkaazi kwa mwenyekiti wa mahkama za watoto.
23. Lugha ya mahkama.
24. Usimamizi.
25. Rufaa.

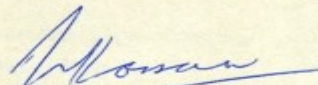
SEHEMU YA V

MCHANGANYIKO

26. Maagizo.
27. Mvuhali na nyakati za vikao na mgawanyo wa kazi.
28. Mhuri na alama.
29. Hakimumu kuka katika mahkama za wazi.
30. Mahakimu wa heshima tu (sio wa kulipwa).
31. Uwezo wa Warajis.
32. Kusimamia (kesi) kwa niaba ya upande wote katika mahkama ya hakimumu.
33. Uhamisho kutoka mahkama ya mwanzo.
34. Uwezo wa kusikiliza kesi za pamoja.
35. Mahakimu wasishughulike iwapo watakuwa wanahusika.
36. Hapana madaraka ya kuwashitaki mahakimu, majaji n.k. wanaotimiza wajibu wa nia njema.
37. Kamuni na maelekezo.
38. Kufutwa kwa Sheria 11/69.

SHERIA NAMBA .6.. YA 1985

NAKUBALI



ALI HASSAN MWINYI

RAIS WA ZANZIBAR NA

MWENYEKITI WA BARAZA LA

MAPINDUZI

11 MAY, 1985

SHERIA YA KUANZISHA MFUMO, MUUNDO, MAMLAKA
NA UWEZO WA MAHAKAMA ZA MWANZO, WILAYA NA
MAHAKIMU WAKAAZI NA KUWEKA MAMBO MENGINEYO
YANAYOHUSIANA NAYO

IMETUNGWA NA BARAZA LA WAWAKILIISHI LA ZANZIBAR.

SEHEMU YA I

UTANGULIZI

Jina na
tarehe ya
kuanza
kutumika.

1. Sheria hii itajulikana kama Sheria ya Mahakimu
wa Mahakama za Wilaya ya mwaka 1985, na itaanza kutumika
katika tarehe ambayo Waziri ataitangaza katika Gazeti Rasmi
la Serikali.

Ufafanuzi.

2. Katika Sheria hii isipokuwa ikiwa inahitajika
vyenginevyo :-

"Uamuzi" unajumuisha hukumu kuondoshewa hatia,
kutiwa hatiani, kifungo au amri;

"Mahakama ya Wilaya" maana yake Mahakama
iliyoanzishwa chini ya kifungu cha 9;

"Hakimu wa Wilaya" maana yake ni Hakimu wa Wilaya
kama alivyochaguliwa chini ya kifungu cha 10;

"Hakimu asiokuwa wa mshahara" maana yake mtu ye yote
aliyeteuliwa chini ya kifungu cha 30 kuwa au
afanye shughuli za hakimu;

2/....

"Baraza la Mji la Serikali" maana yake ni Jiji,
Manispaa, mji au Baraza la Wilaya;

"Hakimu" maana yake hakimu wa Mahakama ya Mwanzo,
hakimu au hakimu Mkaazi na inawajumuisha
hakimu hukukiya na hakimu si wa mshahara;

"Waziri" maana yake Waziri ambaye kwa wakati huu
ni dhamana wa Mambo ya Sheria;

"Amri" inajumuisha hati, hati ya amri ya kufanya
jambo, Wito au na mengineyo yanayohusu Mahakama
na amri, au amri ya kusahihisha au ya uthibitisho
na maelezo mengine yote yaliyotolewa rasmi
kuhusu uamuzi wa Mahakama;

"Mahakama ya Mwanzo" maana yake Mahakama iliyoanzishwa
chini ya kifungu cha 3;

"Madai ya Kesi" inajumuisha ombi lo lote, jambo
linalohusu kesi, madai, hoja, shtaka, uendeshaaji
wa mashtaka, rufaani, au masahihisho, ikiwa ya
mwisho au bado kumalizika, na ama baina ya
wanaoshitakiana au la;

"Mrajis" maana yake Mrajis wa Mahakama ya rufaani
au wa Mahakama Kuu na inajumuisha Mrajis
Mwandamizi au Mrajis wa Wilaya yote.

Hakimu Mkaazi" maana yake ni Hakimu Mkaazi kama
alivyoelezwa chini ya kifungu 19 cha Sheria hii.

SEHEMU YA II

KUANZISHA, MFUMO, MUUNDO, MAMLAKA NA UWEZO WA MAHAKAMA YA MWANZO

Kuanzishwa
kwa Mahakama
ya mwanzo.

3. (1) Inaanzishwa kwa kila Wilaya Mahakama ya Mwanzo
ambayo kwa kufuatana na masharti ya Sheria yote inayotumika
kwa wakati huu inaweza kuwa na mamlaka katika Wilaya
iliyoanzishwa.

(2) Wadhifa wa Mahakama ya Mwanzo itakuwa Mahakama
ya Mwanzo ya Wilaya ilipoanzishwa.

(3) Jaji Mkuu anaweza akiona inafaa kuanzisha Mahkama nyengine ya mwanzo katika Wilaya yoyote na kufanya Mahkama hizo kuwa zaidi ya moja kwa Wilaya hiyo.

Uwezo wa
Mahakama.

4. (1) Kufuatana na masharti yoyote mengine ya sheria, Mahakama ya Mwanzo inaweza kutumia mamlaka yake ya jinsi na kuwa na uwezo wa :-

- (a) kutoa adhabu ya kifungo kiziohozidi mwaka mmoja; au
- (b) kutoa faini isiyoziidi shilingi elfu mbili; au
- (c) kutoa adhabu ya kupigwa fimbo zisozidi sita;
- (d) kutoa adhabu zote mbili au zaidi zilizopo juu katika (a), (b) au (c); au
- (e) kutoa amri ya kizuwizi kwa mhalifu kuwa katika eneo la kwao na ajishughulishe na kazi ya kilimo na ya maendeleo kwa muda usiyoziidi siku sitini, ambaye akikosa kufanya hivyo atapewa adhabu ya kupelekwa Chuoni kwa muda usiyoziidi siku sitini; na
- (f) katika kesi zote ambazo Mahakama ya Mwanzo inapewa uwezo kutokana na jadwali ya kwanza ya Sheria hii.

(2) Katika kesi za hukukiya, madai ya kesi yatakuwa ya idadi yoyote yasiyoziidi shilingi 10,000 na kufuatana na idadi hii, Mahakama ya Mwanzo inaweza :-

- (a) Kutoa idadi yoyote iliodaiwa;
- (b) kutoa fidia;
- (c) kutoa amri ya kurejeshwa kwa mali yoyote;
- (d) kutoa amri ya utekelezaji iwe ya lazima au ya kukataza;
- (e) kutoa amri ya kutekeleza mkataba wote; na
- (f) kutoa amri yoyote ambayo kwa mujibu wa kesi haki itatendeka.

(3) Jaji Mkuu anaweza kufuatana na amri iliyotangazwa katika Gazeti Rasmi kufanya kanuni kwa sababu ya utaratibu wa kuendesha kesi za jinai na hukukiya katika Mahakama za Mwanzo.

Hakimu wa Mahakama ya Mwanzo.

5. (1) Kutakuwa na Hakimu wa Mahakama ya Mwanzo ambaye atateuliwa na Tume ya Mahakama.

(2) Mtu atakuwa na sifa za kuteuliwa kuwa hakimu wa Mahakama ya Mwanzo ikiwa, na hatoweza kuteuliwa mpaka awe:-

(a) anayo hati (certificate) ya Sheria; au

(b) hati yoyote nyengine inayotambuliwa hivyo.

Kesi kusiki-
lizwa pamoja
na Wazee wa
Baraza.

6. (1) Katika kila kesi ya Mahakama ya Mwanzo ikijumuisha na amri, mahakama itakuwa na itasikiliza kesi kwa kusaidiwa na washauri wawili.

(2) Kesi zote katika Mahakama ya Mwanzo inajumuisha na amri katika jambo lolote, suala la kuakhirishwa, kusikilizwa, ombi la kupata dhamana ya kukaa nje, suala la mkosa au kutokuwa mkosa kwa mtuhumiwa yoyote, uamuzi wa adhabu, makadirio ya fedha zitakazotolewa kwa kufuata wingi wa kura.

Lugha ya Mahakama ya Mwanzo.

7. Lugha ya Mahakama ya Mwanzo itakuwa Kiswahili.

Wanasheria hawaruhusiwi kuhudhuria Mahakamani.

8. (1) Hakuna Mwanasheria wa Serikali au Mwanasheria Mtetezi atakaeweza kuruhusiwa au kufanya kazi kwa upande wowote wa wanaoshitakiana mbele ya hakimu wa Mahakama ya Mwanzo.

(2) Mwakili wanaweza kuruhusiwa kuendesha kesi katika Mahakama hizi.

SEHEMU YA III

KUANZISHA, MFUMO, MUUNDO, MAMLAKA NA UWEZO WA MAHAKAMA YA WILAYA

Kuanzishwa kwa Mahakama ya Wilaya.

9. (1) Kuanzishwa kwa kila Wilaya Mahakama ya Wilaya ambayo kwa kufuatana na masharti ya sheria yoyote inayotumika kwa wakati huu inaweza kuwa na mamlaka katika Wilaya iliyoanzishwa.

(2) Kufuatana na kifungu kidogo cha 9(1) jina la Mahakama ya Wilaya litakuwa Mahakama ya Wilaya ilipoanzishwa.

(3) Jaji Mkuu anaweza kwa amri iliyotangazwa katika Gazeti Rasmi kubadilisha jina la Mahakama yote ya Wilaya.

(4) Mabadiliko ya jina la Mahakama ya Wilaya au eneo ambapo mahakama hiyo inafanya kazi, haitaathiri uwezo wake wa kusikiliza kesi kwa mahakama hiyo, kuendelea kusikiliza au kutoa uamuzi wa mashauri yote yaliyoanzia kabla ya mabadiliko hayo.

(5) Kama Jaji Mkuu atahisi itakuwa ni kwa manufaa ya taifa kuitangaza amri katika Gazeti Rasmi kuipa mahakama ya Wilaya iliyoundwa kwa ajili ya Wilaya yote uwezo wa kusikiliza kesi katika Wilaya moja au Wilaya nyingi zinazopakana na Wilaya hiyo, na pale amri hiyo itapotolewa mahakama hiyo ya Wilaya itakuwa na uwezo wa kusikiliza kesi kwa pamoja kwa Wilaya ile ambapo mahakama hiyo imeundwa na vile vile katika Wilaya moja au Wilaya nyingi kwama itavyoainishwa katika amri hiyo.

Kuteuliwa
kwa Mahakimu
wa Wilaya.

10. (1) Patakuwa na hakimu wa Wilaya kwa kila Mahakama ya Wilaya ambao atateuliwa na Tume ya Mahakama.

(2) Mtu atafaa kuteuliwa kuwa Jaji wa Mahakama ya Wilaya na hatafaa kuteuliwa isipokuwa awe na shahada ya Diploma au Digrii katika fani ya sheria au shahada inayolingana na hiyo kutoka Chuo Kikuu cho chote kinachotambulikana au Taasisi yote.

Uwezo wa
kawaida wa
mahakama za
wilaya katika
kusikiliza
kesi.

11. (1) Mahakama ya Wilaya itakuwa na uwezo na itasikiliza kesi katika mambo yafuatayo :-

- (a) katika mashauri yote ya kesi za jinai ambapo uwezo wa kusikiliza kesi umetolewa kwa mahakama ya wilaya kwa mujibu wa sheria yote inayotumika hivi sasa;

- (b) katika mashauri mengine yoyote chini ya sheria nyingine yoyote inayotumika sasa (mbali na kifungu kidogo cha (2) cha kifungu hiki) ambapo uwezo wa kusikiliza kesi umetolewa kwa Mahakama ya Wilaya na sheria yoyote nyengine.

(2) Mahakama ya Wilaya inapoongozwa na Hakimu wa hukukia pamoja na uwezo wa kusikiliza kesi iliyopewa chini ya kifungu kidogo (i) itakua na uwezo na itatekeleza uwezo wake wa kawaida wa kusikiliza kesi katika mashauri ya hukukia mbali na mashauri mengine yoyote ambapo uwezo wa kusikilizwa kwake umetolewa na sheria maalum kwa mahakama nyingine au nyenginezo, lakini (kufuatana na maelezo yoyote kinyume na sheria nyingine yoyote) uwezo huo utahusika na:-

- (a) na mashauri ya kupata umilikaji wa mali isiyohamishika, katika mashauri ambayo thamani ya mali haizidi shilingi laki tatu; na
- (b) katika mashauri mengine ambapo jambo linalosikilizwa linaweza kukisiwa kwa thamani ya fedha kwa mashauri ambayo jambo linasikilizwa halizidi shilingi laki mbili.

Uwezo wa
Mahakama
ya Wilaya
kama
Mahakama
ya Rufaa.

12. (1) Mahakama ya Wilaya katika uwezo wa kusikiliza kesi kama Mahakama ya rufaa itakua na uwezo:-

- (a) wa kuiagiza Mahakama ya Mwanzo kupata ushahidi zaidi na kuuthibitisha ushahidi huo katika Mahakama ya Wilaya, au kwa sababu ya kuhifadhiwa kwa maandishi, Mahakama hiyo itasikiliza ushahidi zaidi;

- (b) iwapo ushahidi zaidi umesikilizwa, umechukuliwa au la, kuthibitisha kutengua, kusahihisha au kubadilisha kwa namba ya yote uamuzi au amri iliyokatiwa rufaa (pamoja na uwezo wa kugeuza, **hatiya** ya kosa au hatiya ya kosa na kifungo kwa kumuona hana hatia na kumuachia huru), hata hivyo huo uamuzi au amri kama ilivyobadilishwa hautapindukia uwezo wa mahakama ya mwanzo na hapana hatiya ya kosa na hatiya ya kosa na kifungo itayobadilishwa kwa kumuona mshitakiwa hana hatia, na kifungo itayobadilishwa kwa kumuona mshitakiwa hana hatia, na kifungo hakitaongezwa isipokuwa mshitakiwa wa mtu aliyetiwa hatiani, kama itavyokua, kwanza atapewa fursa ya kusikilizwa;
- (c) kufuta mashauri ya yote (pamoja na mashauri yaliyomalizika wakati mshitakiwa alipoonekana hana hatia) na pale itapoonekana inahitajika, kuagiza kesi kusikilizwa tena ama katika mahakama ya mwanzo au mahakama nyengine ya mwanzo au mahakama ya yote ya wilaya, yenye uwezo wa kusikiliza kesi; na
- (d) masharti ya kifungu (b) cha kifungu kidogo (1) na kifungu kidogo (2) cha kifungu 33 yatatumika kila kesi itaposikilizwa tena kama kwamba kesi hiyo imehamishwa.

(2) Pale amri inapotlewa kwamba mashauri ya yote yafutwe na kesi isikilizwe tena hutekelezwa kama ilivyotajwa hapo juu, dai la kwamba mshitakiwa kesi yake ilisikilizwa hapo awali na sasa anashitakiwa tena kwa kosa hilo **hilo** (katika kesi za madai) au ameachiwa au ametiwa hatiani wakati aliposhitakiwa mara ya kwanza (katika kesi za jinai) halitakubaliwa kuhusu amri ya yote au uamuzi katika mashauri hayo yaliyofutwa.

(3) Hakuna maelezo ya yote katika kifungu hiki yatayomzuia mlalamikaji ya yote aliyedhulumiwa katika kesi ya jinai kukata rufaa dhidi ya uamuzi wa mahakama ya mwanzo katika mahakama ya wilaya.

Uwezo wa
kuzipitia
kesi.

13. (1) Mahakama ya Wilaya inaweza ikazitaka na kuzikagua kumbukumbu za mashauri yo yote ya mahakama ya mwanzo iliyowekwa ndani ya muundo wake, na inaweza kuzikagua kumbukumbu na madaftari, kwa ajili ya kujiridhisha juu ya usawa, uhalali au kufaa kwa uamuzi wa wote au amri ya mahakama ya mwanzo, na kwa upande wa utaratibu wa mashauri yo yote yatoakanayo, na inaweza kuyasahihisha mashauri hayo.

(2) Katika kazi hii ya kuzipitia kesi, mahakama ya wilaya itakuwa na madaraka yote yaliyopewa kwa mahakama ya wilaya inapofanya kazi ya kusikiliza kesi za rufaa, pamoja na uwezo wa kubatilisha hatia au hatia na adhabu kwa kutokua na hatia; na masharti ya kifungu (b) cha kifungu kidogo (1) cha kifungu 21 yatatunika kufuatana na amri ya kufuta mashauri na kuamuru kusikilizwa kesi upya inayotolewa kwa kutekelezwa uwezo wa mahakama ya Wilaya wa kusikiliza kesi za mapitio kama inavyofaa kuhudana na amri yo yote kama hiyo iliyotolewa kwa uwezo wake wa kusikiliza kesi za rufaa.

(3) Pamoja na masharti ya kifungu kidogo (2) cha kifungu hiki hapatatolewa amri katika uwezo wa mahakama wa kuzipitia kesi katika mashauri yo yote ya hukukia kuzidisha kiwango cha fedha kilichotowwa, au kubadili haki za upande wa wote ili upate dhara (isipokua amri ya kufuta mashauri katika mahakama ya chini au amri ya kupunguza hukumu yo yote iliyokua nje ya uwezo au mamlaka ya mahakama ya chini ili ilingane na uwezo wake) isipokuwa upande huo unachusika umepewa fursa kwanza ya kusikilizwa.

(4) Hapana mashauri yatayopitiwa chini ya kifungu hiki baada ya kupita muda wa miezi kumi na miwili kutoka pale mashauri hayo yalipomalizika katika mahakama ya mwanzo na hapana mashauri yatayopitiwa tena chini ya kifungu hiki kwa mnasaba wa jambo lo lote linalotokana nalo ambalo hapo kabla limekua ndio jambo lililopelekea kutolewa amri ya mapitio chini ya kifungu hiki.

(5) Bila ya kuathiri masharti ya kifungu kidogo (1) cha kifungu hiki, mahakama ya wilaya inaweza kutekeleza mamlaka yake ya kupitia kesi katika kesi yo yote ambapo mkosaji anangojea hukumu au hukumu imepelekwa kuthibitishwa, chini ya mwenendo wa kuendesha kesi za jinai Mahakama za Mwanzo.

Adhabu ya juu
kwa mahakama
za wilaya.

14. (1) Katika kesi za jinai mahakama ya wilaya inaweza kutoa adhabu mpaka na si zaidi ya kifungo cha miaka mitano au faini isiyozidi Sh. 25,000/= au vyote kwa pamoja.

(2) Katika kesi ya madai shauri linalopelekwa linaweza kuwa la thamani yote isiyopindukia Sh. 50,000/=.

Lugha ya
mahakama.

15. Lugha itayotumika mahakamani itakuwa ama Kiswahili au Kiingereza na kumbukumbu zitawekwa kwa Kiswahili au Kiingereza kama atavyoelekeza Jaji Mkuu.

Mamlaka juu
ya wakosaji
waliopolekwa
kuhukumiwa
na mahakama
za mwanzo.

16. (1) Pale mkosaji anapopelekwa mahakama ya wilaya kwa kuhukumiwa chini ya masharti ya uendeshaaji wa kesi za jinai katika mahakama za wilaya, mahakama ya wilaya itakuwa na mamlaka ya kuchunguza mazingira ya kesi na kumshughulikia mkosaji kwa namna yote ambayo angeweza akashughulikiwa na mahakama ya wilaya kama angekua ametiwa hatiani na mahakama ya wilaya kwa kosa linalohusika.

(2) Kama mahakama ya wilaya imetoa hukumu kwa mkosaji :-

- (a) Masharti ya uendeshaaji kesi katika mahakama za mwanzo na ya sehemu hii yatatumika tu pale rufaa itapokatwa dhidi ya hatia juu ya kesi yote inayohukumiwa na mahakama ya mwanzo; na
- (b) mkosaji anaweza kukata rufaa dhidi ya hukumu hiyo katika mahakama ya Hakimu Mkaazi kwa mujibu wa utaratibu ule ule na katika hali ile kama kwamba ametiwa hatiani mahakama ya wilaya, na masharti ya uendeshaaji wa kesi za jinai kuhusana na rufaa dhidi ya hukumu toka mahakama ya wilaya kwenda Mahakama Kuu yatatumika ipasavyo.

(3) Mahakama ya Wilaya inaweza kwa kutumia uwezo wake kuahirisha uchunguzi wake chini ya masharti ya kifungu kidogo (1) cha kifungu hiki mpaka kumalizika kwa muda wa kukata rufaa dhidi ya hatia, na ikiwa rufaa kama hiyo imekatwa kabla ya mahakama ya wilaya kuanza uchunguzi kama huo, mahakama ya wilaya inaweza kwa kutumia uwezo wake kuahirisha uchunguzi huo mpaka usumizi wa mwisho wa rufaa hiyo au kwa kipindi cha muda mfupi zaidi kama mahakama itavyoona inafaa.

Masharti ya
jumla juu
ya rufaa kwa
mapitio kwa
na kupeleka
kwa hukumu
katika
mahakama za
wilaya.

17. (1) Pale :-

- (a) rufaa inapokatwa na mtu anaewajibika
kukata rufaa katika mahakama ya wilaya; au
- (b) mahakama ya wilaya inapotaka kuziona
kumbukumbu za mashauri yo yote chini
ya kifungu 16,

mahakama ya wilaya, inaweza kwa sababu ya kumbukumbu kuwekwa
kwa maandishi :-

- (i) katika kesi ya mtu aliyehukumiwa kifungo
au aliyepeleka katika ulinzi wa mahakama
ya wilaya kuhukumiwa, kuamuru :-
- (A) kwambantu aachiliwe kwa dhamana pamoja au
pasi na mdhamini akingojea kusikilizwa kwa
rufaa yake au kumalizwa kwa mapitio ya
mashauri; au
- (B) kwamba utekelezaji wa hukumu uahirishwe
mpaka rufaa yake isikilizwe kwanza au
kumalizika kwa mapitio ya mashauri, moja
wapo katika hayo ambapo mtu huyo atatendewa
kama kwamba ni mfungwa aliyewekwa rumande
(mahabusu) akingojea kusikilizwa kwa rufaa
yake:

Ikiwa hiyo rufaa hatimae imekatajiwa au hukumu ya
mwanzo (ambayo ni hukumu ya kifungo) imethibitishwa, au
imebadilishwa kwa hukumu nyengine ya kifungo, muda ambao
mkata rufaa alisubiri kungoja uamuzi hautajumlishwa katika
kuhesabu muda wa kifungo; na

- (ii) katika kesi yo yote, kuamuru utekelezaji
wa uamuzi wa amri iliyokatiwa rufaa ita-
simamishwa kungojea kusikilizwa kwa rufaa
yake, au kumalizwa mapitio ya mashauri.

(2) Pale mahakama ya wilaya inapoamua rufaa yo yote
kusahihisha mashauri yo yote au kutoa hukumu kwa mtu ye yote
iliyoletwa mbele yake kwa kuitolea hukumu, itathibitisha
uamuzi wake au kuamuru kwa mahakama ya mwanzo ambayo mashauri
hayo yalianzia, na mahakama ya mwanzo hapo tena itazidhukulia
amri hizo kwa ni tuhibitisho wa uamuzi au amri ya mahakama
ya wilaya na, ikiwa lazima, kumbukumbu zitarekebishwa kwa
majibu inavyostahiki.

SEHEMU YA IV

KUANZISHWA, MFUMO, MUUNDO, MAMLAKA
NA UWEZO WA MAHAKAMA YA HAKIMU MKAAZI

Kuanzishwa
kwa mahkama
za hakim
mkaazi.

18. (1) kutakuwa na Mahakama ya Hakim Mkaazi
katika kila Mkoa.

(2) Muundo wa mahakama ya hakim mkaazi utakuwa
mahakama ya hakim mkaazi ya Mkoa huo.

(3) Jaji Mkuu anaweza kwa amri iliyochapishwa katika
Gazeti Rasmi la Serikali, kubadili muundo wa Mahakama ya
Hakim Mkaazi au wa eneo ambapo mahakama itafanya kazi ya
kusikiliza kesi.

(4) Mabadiliko ya muundo wa mahakama ya wilaya, au
eneo ambapo mahakama hiyo inafanya kazi haitaathiri mamlaka
ya mahakama hiyo ya kuendelea kusikiliza, au kuamua mashauri
yo yote yaliyoanza katika mahakama hiyo kabla ya mabadiliko
hayo.

Kuchaguliwa
kwa hakim
mkaazi
mdhamini na
kazi maalum
za utekeleza-
ji wa sheria.

19. (1) Jaji Mkuu atamchagua katika kila Mkoa hakim
mkaazi mdhamini kutekeleza kazi za usimamizi, za kiutawala na
za utekelezaji wa kazi za Sheria za hakim mkaazi mdhamini
katika Mkoa.

(2) Jaji Mkuu anaweza kwa ujumla au kwa mnasaba wa
masharti maalum kwa mahakama au kwa maeneo tu kumchagua jaji
ye yote, mraji au hakim awe, au atekeleze kazi maalum za
utekelezaji wa sheria.

(3) Mtu atafaa kuchaguliwa kuwa hakim mkaazi iwapo
na hatafaa kuchaguliwa huko isipokuwa awe na shahada ya sheria
na amepata maarifa ya kazi hiyo yasiyopungua muda wa miaka
mitatu.

Uwezo wa
mahakama ya
hakim
mkaazi.

20. Mahakama ya hakim mkaazi itakuwa na uwezo na
mamlaka ya kusikiliza mashauri yote ambayo uwezo wake wa
kusikilizwa umetolewa kwayo katika ilani iliyotangazwa katika
Gazeti Rasmi.

Uwezo,
desturi na
utaratibu
katika
usikilizaji
wa asili
wa kesi.

21. Chini ya masharti ya sheria yo yote inayotumika kwa sasa, uwezo wa mahakama ya hakimu mkaazi utakuwa una mpaka, na desturi na utaratibu wake kusimamiwa :-

- (a) katika utekelezaji wake asili wa usikilizaji kesi za jinai katika taratibu za utoaji adhabu na nyendo za uendeshaaji kesi za jinai;
- (b) katika utekelezaji wake wa asili wa usikilizaji wa kesi za hukukia, kwa mujibu wa misingi na masharti ya taratibu za uendeshaaji wa kesi za hukukia kama masharti hayo yatavyotumika na kufaa.

Mlango wa 14.

Iwapo mashauri ya jinai, mashauri yote yaliyotajwa katika mlango wa 14 wa mwenendo wa uendeshaaji wa kesi za jinai na kama yatavyokuwa yanarekebishwa wakati baada ya wakati ambayo hapo awali yalikuwa yanasikilizwa na mahakama ya chini ya Ngazi ya mwanzo yatasikilizwa na hakimu mkaazi;

na kama katika kesi za hukukia hilo jambo linalo-shughulikiwa litakuwa la thamani yo yote isiyozidi Sh. 100,000/=.

Hakimu mkaazi
kua mwenyekiti
wa mahakama
ya watoto.

22. Hakimu mkaazi atakua, kwa nguvu ya wadhifa wake mwenyekiti wa Mahakama ya Watoto.

Lugha ya
mahakama.

23. Lugha ya mahakama itakuwa zote mbili Kiswahili na Kiingereza na mashauri yataendesha ama kwa Kiswahili au Kiingereza kama Jaji Mkuu atavyoelekeza.

Usimamizi.

24. (1) Hakimu mkaazi mwenye dhamana anaweza kuita na kuzikagua kumbukumbu za mashauri yo yote za mahakama ya wilaya au ya mwanzo na anaweza akaziangalia kumbukumbu au madaftari ya mahakama hizo kwa dhamira ya kujitosheleza nafsi yake juu ya usahihi, uhalali, utaratibu wa uamuzi wa wote au amri kuwa si ya halali au si sawa sawa au mashauri yo yote si ya kawaida.

- (a) ikiwa ni katika mahakama ya wilaya, atazipeleka kumbukumbu na taarifa katika Mahakama Kuu ili kuzingatia kama itatekeleza uwezo wake au la wa kuzipitia kesi; na

- (b) ikiwa ni katika mahakama ya mwanzo itayazingatia mashauri na kama ataona inafaa kufanya hivyo, atayapitia mashauri hayo.

Iwapo hakuna cho chote katika kifungu hiki kidogo kitachompa uwezo hakinu mkaazi mdhamini kuita, kukagua, kupeleka mbele au kuripoti juu ya mashauri mbele ya hakimumu mkaazi.

(2) Pale hakinu mkaazi mdhamini anapopeleka mbele kumbukumbu za zote katika Mahakama Kuu chini ya kifungu hiki na huku ukiongojewa uamuzi wa mahakama hiyo, anaweza, kwa sababu ambazo ataziandika kwa maandishi katika kumbukumbu kuamuru utekelezaji wa uamuzi au amri ya mahakama ya wilaya au mahakama ya mwanzo, kama hali itavyokuwa kuahirishwa na vile vile katika mashauri ya kesi za jinai, ikiwa mtu aliyetiwa hatiani amepolekwa kifungoni, basi aachiwe kwa dhamana pamoja na au pasi na wadhamini.

Kama hukumu yoyote ya kifungo imeshughulikiwa chini ya kifungu hiki kidogo imethibitishwa na Mahakama Kuu au mahakama ya Wilaya au hukumu nyengine ya kifungo itolewe badala yake, muda ambao mtu aliyetiwa hatiani ameachiwa kwa dhamana, au hukumu imeahirishwa na mtu aliyetiwa hatiani atahesabiwa kama mfungwa aliyewekwa rumande, hautajumuishwa katika kuhesabu muda aliyohukumiwa.

Rufaa.

25. Mahakama ya hakimumu mkaazi itakuwa na uwezo wa kusikiliza kesi za rufaa kwa kesi zote zinazotoka mahakama ya hakimumu wa wilaya.

SEHEMU YA V

MCHANGANYIKO

Maagizo.

26. Waziri anaweza kutoa maagizo kwa ajili ya utekelezaji mzuri wa dhamira ya masharti ya kifungu 6 akiagiza :-

- (a) mfumo wa orodha wa majina ya washauri;
- (b) hati kwa ajili ya kuwaita washauri;

- (c) taratibu kwa ajili ya kuwachagua wanachama miongoni kwa majina ya washauri;
- (d) malipo ya washauri;
- (e) masharti ya mambo mengine kuhusiana na kazi za washauri.

Mwahali na nyakati za vikao na mgawanyo wa kazi.

27. (1) Mahakama ya hakimu mkaazi inaweza ikafanya kazi mahala po pote ndani ya mipaka ya uwezo wake wa kusikiliza kesi.

(2) Ingawa yameelezwa masharti katika kifungu kidogo cha (1) mahakama ya hakimu mkaazi haitafanya kazi mahala po pote pale ambapo si kawaida au desturi kutumika kwa ajili hiyo isipokua ilani ya wazi kwanza imetolewa ikionyesha dhamira ya kutumia mahali hapo kwa ajili hiyo, na Jaji Mkuu anaweza kwa amri ilivyochapishwa katika Gazeti Rasmi, kuidhinishwa mahakama ya wilaya kukaa nje ya wilaya iliyo-pangiwa kufanya kazi inapofanya kazi yake chini ya uwezo wake wa rufaa, kuthibitisha au kuipitia kesi.

(3) Chini ya masharti mengine ya kifungu hiki mahakama ya hakimu itakaa nyakati kama hizo na mwahala kama itavyolazimika kwa sababu ya wasaa na wepesi wa utekelezaji wa kazi za mahakama na mgawanyo wa kazi imongoni mwa mahakimu waliyopangwa kama itavyoonekana inafaa.

(4) Hakimu mkaazi mdhamini au mwenye mamlaka sawa ya utekelezaji kisheria, anaweza kutoa maelekezo ya jumla au maalum kuhusiana na mambo yote kama hayo.

(5) Bila ya kujali masharti ya sheria nyengine yo yote, mahakama ya hakimu inaweza kukaa kumaliza mashauri yo yote ya jinai katika siku ya Jumapili au siku ya sikukuu au baada ya saa za kazi.

Mihuri na alama.

28. Mahakama za hakimu zitatumia mihuri na alama ya aina na umbo kama Jaji Mkuu atavyoelekeza.

Hakimu kukaa katika mahakama za wazi.

29. (1) Chini ya masharti ya kifungu kidogo (2), hakimu hatalichunguza au kuhukumu kosa lo lote au hataongeza katika uchunguzi wa mashauri ya hukukia au hata kusikiliza rufaa yo yote isipokua akae katika mahakama ya wazi.

(2) Kifungu hiki kitakua na nguvu ikiwa sheria yo yote inatowa uwezo kwa mahakama au hakimku kusikiliza kesi faragha au vyenginevvo kuwatenga watu au aina ya watu katika mashauri yo yote au inayohusiana na mashauri ya ndani au mahakama za watoto.

Mahakimu wa heshima tu (sio wa kulipwa).

30. (1) Chini ya kifungu kidogo (2), Waziri anaweza ikiwa katika mawazo yake ni kwa manufaa ya Taifa kufanya hivyo, baada ya mashauriano na Jaji Mkuu, kumchagua mtu ye yote anaefaa kuwa hakimku wa heshima tu (asie lipwa mshahara) ambae atakua anaitwa wakati baada ya wakati kuhukumu kesi au kufanya kazi yo yote ya kutekeleza uadilifu kwa mujibu wa Sheria.

(2) Isipokuwa hali ihitaji vyenginevvo hakimku wa heshima atachaguliwa kutoka miongoni mwa watu wenye uzoefu na ambao wameonyesha uwezo katika utekelezaji wa sehemu yo yote ya kazi za Sheria.

(3) Waziri kwa amri iliyotangazwa katika Gazeti Rasmi, atatoa kwa hakimku huyo wa heshima uwezo wa kisheria wa kusimamia utekelezaji wa sheria yo yote au kufanya kazi yo yote ya kutekeleza uadilifu.

Uwezo wa Warajis.

31. Pale rufaa dhidi ya uamuzi wo wote au amri ya mahakama ya wilaya katika uwezo wake wa kusikiliza kesi za rufaa au mapitio inapopokelewa na Mahakama Kuu, Mrajis wa mahakama hiyo anaweza :-

- (a) Kutoa maelekezo kuhusu wakati ambao hatua nyengine yo yote zaidi katika mashauri itachukuliwa na mkata rufaa au upande mwengine wo wote (na anaweza kuongeza muda kama huo) na pale muomba rufaa anaposhindwa kukamilisha hatua yo yote kama hiyo kusikilizwa mahakamani;
- (b) kuamuru ushahidi mpya kusikilizwa na mahakama ya mwanzo au mahakama ya wilaya na kuthibitishwa Mahakama Kuu.

Kusimamia
(kesi) kwa
niaba ya
upande wa
wote
katika
mahakama ya
hakimu.

32. Mwanasheria au mwendesha mashitaka anaweza
kusimamia au kuwakilisha kwa upande wa wote katika mahakama
ya hakimu wa wilaya au mahakama ya hakimu mkaazi.

Uhamisho
kutoka
mahakama
ya mwanzo.

33. (1) Pale mashauri ya yote yanapoanzishwa katika
mahakama ya mwanzo, itakuwa halali wakati wa wote kabla ya
kutolewa hukumu, kwa:-

- (a) mahakama ya mwanzo kwa idhini ya mahakama
ya wilaya au mahakama ya hakimu mkaazi
yenye mamlaka ya kuhamisha mashauri kwa
mahakama hiyo ya wilaya au mahakama ya
hakimu mkaazi au mahakama nyingine ya mwanzo; au
- (b) mahakama ya wilaya au mahakama ya hakimu
mkaazi ikiwemo sehemu ya yote ya mamlaka
ya kusikiliza kesi ambayo mahakama ya
mwanzo imeanzishwa kuamuru kuhamishwa kwa
mashauri kwake yenyewe au kwa mahakama
nyengine ya hakimu,

katika hali ya yote ambapo :-

- (i) imedhihirika kuwa hali au uzito wa mashauri
inapelekea kuwapa na haja ya mashauri hayo
kuhamishwa; au
- (ii) ipo sababu ya maana ya kuamini kuwa haki
haitapatikana kama mashauri hayo yatasiki-
lizwa mahakama ya mwanzo; au
- (iii) jambo linalohusika na mashauri linatoka
nje ya mipaka ya eneo ya mamlaka ya mahakama
ya wilaya au halimo ndani ya mamlaka yake
au katika hali ya yote ambapo sheria inayo-
tumika ni sheria ya mila inayotumika katika
mahakama iliyotajwa mwanzo ya mamlaka ya
eneo ya mahakama ya mwanzo;

na itaandika sababu zake kwa kufanya au kuamuru uhamisho huo.

Iwapo hakuna kitu katika kifungu hiki kidogo
kitachoruhusu :-

- (a) uhamisho unaofanywa na mahakama ya hakimu juu ya mashauri yo yote yanayotakiwa kwa mujibu wa sheria yaanza mahakama ya mwanzo isipokuwa kwa baadhi ya mahakama nyengine ya mwanzo;
- (b) uhamisho wa mashauri yo yote katika mahakama ambayo, haidhuru imeundwa vipi, haina mamlaka kuhusiana na jambo linaloshughulikiwa huko.

(2) Mahakama ya mwanzo :-

- (a) itahamishia katika mahakama ya Wilaya ambayo kwayo imegundua mashauri yo yote ya kesi ya jinai ikiwa mshitakiwa ni mtu anaeonekana kuwa hana akili;
- (b) ikiwa mshitakiwa kama huyo aliyechaguliwa atahamishwa katika mahakama ya wilaya ambayo imegundua mashauri yo yote ya kesi ya jinai ambayo mshitakiwa ameshitakiwa nalo kosa linalotiwa adabu katika mahakama ya mwanzo kwa kifungo kinachozidi miezi kumi na miwili, au kuhusana na mtu mzima, kwa kupewa adabu ya viboko. Uteuzi chini ya kifungu hiki utatekelezwa kabla ya mshitakiwa hajajibu shitaka.

(3) Pale mashauri yo yote ya hukukiya yaliyotajwa katika kijifungu (111) cha kifungu (c) cha kifungu kidogo (1) yameanzishwa katika mahakama ya mwanzo mahakama ya mwanzo kwa maombi ya upande mmoja wapo juu ya mashauri hayo na ikiwa itaridhika kuwa mashauri yanahusisha suala la sheria kati ya pande mbili itayahamisha mashauri hayo katika mahakama ya wilaya ambapo mahakama ya mwanzo imeundwa;

Ikiwa hapana uamuzi hukumu au amri ya mahakama ya mwanzo katika mashauri yo yote ya hukukia ambayo kifungu kidogo hiki kinahusika kitenguliwe au kibadilishwe katika rufaa au mapitio kwa sababu tu ya kushindwa kwa mahakama hiyo ya mwanzo kuyahamisha mashauri kwa mujibu wa masharti ya kifungu hiki kidogo isipokuwa kushindwa huko kwa hakika kumepelekea kukosekana kwa uadilifu.

(4) Pale mashauri yo yote yameanzishwa katika mahakama ya mwanzo iliyoundwa kwa wilaya yo yote, mahakama ya mwanzo inaweza kama itaridhika kuwa ni sawa katika hali hiyo kufanya, na itafanya ikiwa itaelekezwa na mahakama ya wilaya, kuyahamisha mashauri katika mahakama nyengine ya mwanzo iliyoundwa kwa ajili ya wilaya hiyo hiyo.

(5) Masharti ya kifungu kidogo (4) kitatafsiriwa bila kuathiri masharti ya kifungu kidogo (1).

(6) Pale mashauri yo yote ya jinaia yameanzishwa katika mahakama ya mwanzo itakuwa halali wakati wo wote kabla ya mtu anayeshitakiwa anapotoa ushahidi wake, kwa Mkurugenzi wa Kuendesha mashitaka kuamuru mahakama ya mwanzo kuhamisha mashauri katika mahakama ya wilaya ambayo imeundwa.

(7) Mahakama ya mwanzo itatekeleza amri zote za Mkurugenzi wa Kuendesha Mashitaka, mahakama ya wilaya, mahakama ya hakimu mkaazi au Mahakama Kuu chini ya kifungu hiki.

Uwezo wa kusikiliza kesi za pamoja.

34. Chini ya masharti ya sheria yo yote inayotumika hivi sasa ambapo uwezo wa kusikiliza kesi kuhusana na mashauri namna moja unetolewa kwa mahakama mbali mbali, kila mahakama itakuwa na uwezo wa kusikiliza kesi hiyo.

Mahakimu wasishughulike iwapo watakuwa wanahusika.

35. (1) Chini ya masharti ya kifungu kidogo (2) cha kifungu hiki, hapana hakimu ataetekeleza kazi zake za uadilifu katika mashauri yo yote ambayo yeye atakuwa amehusika kifedha au kibinaadamu.

(2) Hakimu hataonekana kwamba hafai kutekeleza kazi zake za uadilifu katika mashauri yo yote kwa sababu tu yeye ni miongoni mwa walipa kodi au ni mmoja wa kikundi cho chote cha watu wanaowajibika, kama wengineo na kodi yo yote, ada au ushuru au kuchangia au kufaidika kwa kodi yo yote, taksi au ushuru ambayo inaweza kupandishwa, kupunguzwa au kwa namna yo yote atavutwa na mashauri hayo.

Hapana madaraka ya kuwashitaki mahakimu, majaji n.k. wanaotimiza wajibu wa nia njema.

36. (1) Hapana :-

hakimu anaefanya kazi katika mahakama ya hakimu atakae shitakiwa katika mahakama yo yote kwa kitendo cho chote alichokifanya au ameagizwa kukifanya katika utekelezaji wa kazi zake za uadilifu;

kwa vyo vyote kitendo kama hicho kimo ndani ya mamlaka yake au uwezo wa mahakama, ikiwa wakati wa kufanya kitendo hicho au kutoa amri hiyo aliamini kwa dhati kuwa anao uwezo wa kufanya kitendo hicho au kutoa amri hiyo.

(2) Hapana Afisa au hakimumu wa mahakama au mtu mwengine anaetakiwa kutekeleza amri halali ya hakimumu au jaji atawajibika kushitakiwa katika mahakama yote kwa kutekeleza amri yote iliyotolewa au iliyoagizwa na hakimumu au jaji ikiwa anaamini kwa dhati kwamba amri ilikuwa ndani ya uwezo wa hakimumu au jaji aliyeitoa.

Kanuni na
maelekezo.

37. (1) Jaji Mkuu anaweza akatengeneza kanuni za mahakama na akatoa maelekezo yanayolingana nayo yanayoongoza na kueleza nyendo na taratibu za mahakama za hakimumu, utekelezaji wa masmuhi na amri zitokanazo na kazi na wajibu wa wanachama na maafisa wa mahakama hizo, na kuongoza na kueleza nyendo na taratibu katika kusikiliza na kuamua kesi za rufaa pamoja na uwezo wa kufuta rufaa katika mashauri ya hukukia iwapo wakisika hawapo, utekelezaji wa mamlaka ya kuzipitia kesi na namna ya kuwakilisha rufaa, na nyenginevyo kwa dhamira ya Sheria hii na utawala wa mahakama za hakimumu.

(2) Bila ya kuathiri yaliyoelezwa kwa ujumla katika kifungu kidogo (1) ya kifungu hiki, kanuni za mahakama zitakuwa:-

- (a) kupanga na kueleza gharama malipo na posho la mashahidi;
- (b) kueleza taratibu;
- (c) kuidhinisha na kuweka masharti kwa ajili ya huduma ya hukumu iliyotolewa na mahakama ya nje au ya ndani ya nchi, na kuidhinisha na kuweka masharti kwa ajili ya huduma ya hukumu iliyotolewa na mahakama za mahakimu nje au ndani ya nchi;
- (d) kuidhinisha mahakama ya mwanzo kuwacha kuwa-shirikisha wananchi kwa jumla au mtu maalum katika mahakama yote ya wazi katika mahakama yote ya wazi katika kesi maalum au aina maalum za kesi;

- (e) kuweka masharti ya muda wa madai chini ya sheria za mila;
- (f) kutoa uwezo, kazi au wajibu kwa jaji, mraji au hakim;
- (g) kutoa mashauri mbali mbali kwa aina ya yote ya maelezo ya yote, ya mahakama.

Kufutwa kwa sheria 11/69.

38. (1) Chini ya masharti ya kifungu hiki Sheria ya Mahakama za Wananchi namba 11/1969 sasa inafutwa.

(2) Pamoja na kufutwa kwa sheria ya Mahakama za Wananchi, mambo yote na mashuri yote yaliyobakiya yakishughulikia na mahakama za wananchi zitaendelea, zitamalizwa na maamuzi na amri zitatekelezwa ipasavyo.

(3) Kila uamuzi au amri ya Mahakama ya yote ya hakim ambayo haingepaswa kutekelezwa kikamilifu au kutimizwa kabla ya siku iliyoteuliwa inaweza kutekelezwa na kutimizwa baada ya siku hiyo kama kwamba ulikuwa uamuzi au amri ya Mahakama hiyo iliyoundwa na Sheria hii.

(4) Mashauri ya kila rufaa katika Mahakama ya yote ya hakim ambayo yasingesikilizwa kikamilifu katika mahakama inayostahiki ya juu kabla ya siku iliyoteuliwa inaweza ikasikilizwa katika mahakama inayostahiki ya juu kabla ya siku iliyoteuliwa inaweza ikasikilizwa baada ya siku hiyo kama kwamba ilikuwa ni rufaa kutoka mahakama hiyo iliyoanzisiwa na Sheria hii.

KESI ZA JINAIYA ZA KUSIKILIZWA NA
MAHKAMA ZA MWANZO

KIFUNGU

SHTAKA/KOSA

72	-	Kuwa na silaha hadharani.
73	-	Kuingia sehemu ya mtu kwa nguvu.
74	-	Kushikilia ardhi ya mtu kwa nguvu.
75	-	Kupigana.
76	-	Kutishia kutumia nguvu.
90	-	Kutishia kumwumiza mtu aliyeajiriwa katika kazi ya Serikali.
98	-	Kuharibu ushahidi.
103 (1)	-	Kudharau Mahakama.
105	-	Kutoroka toka ulinzi wa halali.
106	-	Kuwasaidia wafungwa kutoroka.
107	-	Kuondosha n.k. mali iliyokamatwa kihalali.
113	-	Kutotii amri za halali.
123	-	Kupora wasichana walio chini ya umri wa miaka 16.
124(3)	-	Kumkashifu mwanamke.
154	-	Kuwatupa watoto.
155	-	Kupuuza kuwapa chakula n.k. watoto.
164 (b) (c) (d)	-	Watu wazembe na wenye fujo.
165	-	Wahuni wasio mahala maalum pa kuishi (regues and vagabond).
168	-	Kuchafua maji.
216 (a)	-	Kujeruhi na vitendo kama hivyo.
216 (b)	-	Vitendo vya kupuuza au kutojali (rash and negligent acts).
223	-	Shambulio la kawaida.
224	-	Mashambulio ya kuumiza mwili.
230	-	Kunyakua mtu (kidnapping).
236	-	Kumfungia mtu visivyo halali (wrongful confinement).
248(1) (2) (4) (5)	-	Wizi (N.B. Kwa wizi wa mali ya SMZ au Umma au Chama thamani isiyozidi Sh. 500/=).
252	-	Kuuwa wanyama kwa dhamiri ya kuwaiba.
253	-	Kutenga kitu kwa nia ya kukiiba.
261	-	Kushambulia kwa nia ya kuiba.
265	-	Kutaka mali kwa vitisho kwa nia ya kuiba.
268	-	Kuingia nyumbani kwa nia ya kutenda kosa kubwa.

KIFUNGU

SHITAKA/KOSA

272	-	Kuingilia cha mtu kwa uhalifu (Criminal trespass).
275	-	Kupata kwa udanganyifu (obtaining by false pretences).
277	-	Udanganyifu.
294 (a) (b)	-	Kutia moto mazao na mimea.
298	-	Kujeruhi wanyama.
229 (1)	-	Kujeruhi kuovu (malicious injuries).
340	-	Kujifanya mtu mwengine (personation in general).
352 (1)	-	Kujaribu kufanya makosa.

CHINI YA SHERIA NYENGINE

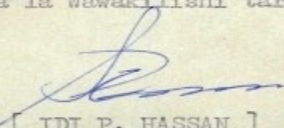
MLANGO

SHERIA

KIFUNGU, KANUNI

78	Sheria ya Chakula na Madawa	Vifungu 11, 16, 25
164	Sheria ya Pombe ya Kienyeji	Vifungu 3(a) na (b) 5(a) na (b) 6(a) na (b) 8, 9, 10, 11
135	Kanuni za matumizi ya Njia (Road Traffic Regulations)	Kanuni 26(8), 36, 50(1) na (2), 56, 63, 87
73	Sheria kuhusu Afya ya Umma Kanuni za Maziwa Mikahawa	Kanuni 15(c) Kanuni 9(c) kifungu 117 cha sheria
76	Sheria ya Madawa ya Hatari	Kifungu 15 na 28
126	Sheria ya Mazizi (Pound Decree)	Vifungu 3 na 4
128	Sheria ya kuhifadhi Wanyama wa Pori	Vifungu 4(1) (a), 8, 11

Imepitishwa na Baraza la Wawakilishi tarehe 2 Aprili, 1985.


[IDI P. HASSAN]
KATIBU WA BARAZA
LA WAWAKILISHI
ZANZIBAR.