

THE DISTRIBUTION OF LAW LIBRARIES IN TANZANIA AND AVAILABILITY OF PRIMARY SOURCES OF LEGAL INFORMATION

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ABSTRACT

²The paper presents the distribution of law libraries in Tanzania. The discussion focuses on the availability of primary sources of legal information, namely the legislation and law reports, followed by a review of the structure of the Tanzanian legal system in relation to the distribution of the law libraries in the country. The paper concludes with a set of recommendations, which can be applied to improve the provision of primary sources of legal information.

INTRODUCTION

The term *Law libraries* is used to refer to all libraries in which a substantial part of materials are of a legal nature. These libraries serve clients with legal information needs. Larger law collections of university libraries fall within this category. Most law libraries are departments in much larger organisations (Logan, 1989). In fact, law libraries are the main providers of legal information services apart from other sources such as the mass media and interpersonal consultations.

This paper focuses on different categories of law libraries in Tanzania. These include the High Court library system, Academic and Specialised law libraries. It examines the distribution and availability as primary sources of legal information, that is, legislation and law reports.

Data Collection Method

Data for this paper is based on a survey conducted by the author in 1998, covering law libraries in Tanzania. In that survey, a total of 11 law libraries in Tanzania were visited. Data collection techniques used were questionnaire, interview, observation and documentary sources. All heads of the 11 libraries completed the questionnaire. A few of them were also interviewed.

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² This paper is based on a research conducted for *Ph.D.* study, but has been extensively revised.

THE DISTRIBUTION OF LAW LIBRARIES IN TANZANIA

The High Court Library System

The High Court library system comprises all libraries in the High Court centres. In Tanzania, there are eight High Court centres with well-established law libraries. These are in the cities of Dar es Salaam, Zanzibar, Arusha, Dodoma, Mwanza, Mbeya, Mtwara and Tanga. There are no libraries in the High Court centres of Bukoba, Moshi and Songea (Newton and Mluki, 1994).

Judges, magistrates, advocates and prosecutors are the main library users in these centres. Substantial variations exist between these libraries in meeting legal information needs of their users. For example, while the High Court library in Dar es Salaam is well funded with the financial support from the United States Information Services (USIS), those in Dodoma and Zanzibar are poorly funded and depend on government funding. According to Msuya (1999), lack of trained staff and out-dated materials are common features of these libraries.

Academic Law Libraries

Academic Law libraries are found in institutions which teach law courses and other related subjects. The libraries in these institutions provide legal information to support teaching, research and consultancy activities. In Tanzania, libraries under this category include the Law Collection of the University of Dar es Salaam library which is the largest law library in East Africa and the Institute of Development Management (IDM) library at Morogoro which trains primary court magistrates. Others are the Police College library at Kurasini in Dar es Salaam that provides reference materials for senior police officers and for the certificate course in law, and also the Police Training School library at Moshi which trains junior police officers. The newly established Legal Institute at Lushoto has a library, which also falls under this category.

The Faculty of Law of the University of Dar es Salaam has also a library which is mainly used by academic members of the staff in the faculty and postgraduate students. The library catalogue is connected to the University-wide Union catalogue which is currently being developed.

The Open University of Tanzania (OUT) does not have its own law library. Faculty members and students based in Dar es Salaam use the University of Dar es Salaam law library under an informal agreement after paying a modest library user fee.

Specialised Law Libraries

Another category is Specialised law libraries, which are established in government departments and parastatal corporations. These include the: Attorney General's Chambers libraries in Dar es Salaam and Zanzibar cities; Tanzania Legal Corporation library in Dar es Salaam and its small branch libraries in Arusha and Mwanza towns. Others are the National Assembly library in Dodoma and its branch in Dar es Salaam; Tanzania Legal Reform Commission library in Dar es Salaam and small libraries of Human rights based in Non-Governmental Organisations.

These libraries serve users with specialised legal information needs. For example, Attorney General’s Chambers (AGC) libraries serve state attorneys, while the National Assembly library provides legal research services for Members of Parliament. The library also serves senior government officials based in Dodoma. Table 1 summarises the distribution of law libraries in Tanzania.

Table 1: *The Distribution of Law Libraries in Tanzania*

<i>CATEGORY</i>	<i>Located in Dar es Salaam</i>	<i>Located in other cities/ towns</i>	<i>Total</i>
High Court Libraries	1	7	8
Academic law Libraries	2	3	5
Specialised law libraries	4	5	9
Total	7	15	22

Source: *The 1998 Survey. Also updated in 2000.*

Table 1 shows that there is a total of 22 law libraries in Tanzania. About 32 percent of these are located in Dar es Salaam.

Private advocates and resident magistrate courts also own a few collections of legal reference materials. These libraries however, are too small, poorly stocked and not well enough organised. Nevertheless, they play a major role in the provision of legal information services for the legal community.

Primary Sources of Legal Information

In order to qualify as a law library, a library must have a comprehensive collection of primary sources of legal information its country, consisting of legislation and law reports. According to Saunders, (1990): 219 Legislation refers to:

“Written laws formally ordained or passed by the legislative power of the state (the parliament) to declare or change the law. The terms ‘legislation,’ ‘Acts of parliament’ and ‘statutes’ are sometimes used interchangeably to refer to the laws of a country:

Jowitt and Clifford, (1977):107 state that law reports are:

“Reports of judgements in decided cases deemed to be of legal interest. They are published for use as precedents. They are sometimes referred to as Case laws or Court judgements.”

The legislation and law reports are very important legal reference sources for the functioning of any law library or legal information centre. The availability of these sources is very crucial in determining the extent to which user information needs are met.

Tanzania Legislation

According to Dorsten (1995) the earliest printed laws of Tanzania were the German Imperial laws which were in use during the German colonial period. When the British took over from the Germans after the First World War, certain laws inherited from the United Kingdom were directly applied to the then Tanganyika Territory. From then on, the Tanganyika Legislative Council published ordinances, some of which are still in force. After independence (1961), acts of parliament of Tanganyika were published until 1964 when Acts of parliament of the United Republic of Tanzania superseded them.

After a law has been passed, the Attorney General requests the Government Printer to produce six initial copies of the law to be sent to the President for his "Assent." Thereafter, the Ministry responsible for implementation of that particular legislation requests the Government Printer to produce more copies. The Government Printer is the sole printer of all government publications in the country. After the printing, they are reproduced and distributed to the Government Bookshop. This is where libraries purchase their copies. Most law libraries purchase single copies of the statutes from the Government Printer or from agents. At the end of the year, loose statutes are compiled chronologically and bound. In this manner the libraries get a complete set of statutes published each year.

Since independence, the Government has passed new laws and amended out-dated ones. However, there are major delays from the time the laws are passed by Parliament to the time they are printed by the Government Printer, due to the relatively out-dated technology used and frequent machine breakdowns. As a result, the Government Printer does not have the ability to produce sufficient copies to meet the demand.

Lack of funds to purchase legislation is a problem which is experienced by many law libraries in Tanzania. Acquisition budgets are very small to the extent that some law libraries cannot manage to buy legislation. In fact, some libraries do not have acquisition budgets at all. They survive on donations only. The acquisition status of legislation as indicated in the survey is shown in Table 2.

Table 2: *The Mode of Acquisition of Legislation in Law Libraries in Tanzania*

<i>Acquisition Method</i>	<i>Number of Libraries</i>	<i>Percentage</i>
Purchase the legislation	6	54.5
Get legal deposit copy	1	9.1
Do not get legislation	4	36.4
Total	11	100

Table 2 shows that only 6 (54.5%) libraries out of 11 in the survey purchase legislation. One (9.1%) acquires legislation through legal deposit and the

remaining four (36.4%) do not subscribe to legislation due to lack of funding. This is a serious matter considering the importance of laws as primary sources of legal information in any law library.

The Tanzania Law Reports

Dorsten (1995) points out that publication of the Tanzania Law Reports started in 1921 and continued up to 1957 under the name Tanganyika Law Reports. Between 1934 and 1956, cases originating from Tanganyika were also reported in East African Law Reports. Between 1957 and 1975 some High Courts and Court of Appeal cases were reported in the East African Court of Appeal reports and were published by Butterworths. From 1967 to 1972, law reports appeared in the Tanzania High Court Digest. From 1973 to 1982 the reports were published under the name Tanzania Law Reports by Dar es Salaam University Press under the auspices of the Tanzania Law Reports Editorial Board formed by the Office of the Registrar, High Court of Tanzania. The board evaluated court judgements and selected appropriate ones for publication.

From 1983 to 1998, no law reports were published due to lack of funds to facilitate the meetings of the Law Reports Editorial Board to process relevant court judgements for publication. Funds for printing and publishing were also not available. In such a situation, some law librarians requested loose copies of High Court and Court of Appeal judgements from the Registrar of the High Court in Dar es Salaam and photocopied them for their libraries. This was the most difficult period for many law libraries with regards the acquisition of law reports as indicated in Table 3.

Table 3: *Acquisition Trends of Law Reports in Tanzania Law Libraries*

<i>Acquisition Status</i>	<i>Number of Libraries</i>	<i>Percentage</i>
Acquire law reports	5	45.5
Do not acquire law reports	6	54.5
Total	11	100

As shown in Table 3 only 5 (45.5%) libraries acquire law reports. The remaining 6 (54.5%) in the survey indicated that they had no funds to purchase the reports, nor did not know where to get them.

Major developments occurred in 1998 when the Tanzania Law Reports Board, with support from the Financial and Legal Management Upgrading Project (FILMUP), received funding to publish the Tanzania Law Reports in both CD ROM and print-out formats, covering years from 1983 to 1992. Another CD ROM edition produced covered the period 1993 to 1997. A comprehensive one comprising Tanzania Law reports covering 1983 to 1997 was released in 2000.

The CD ROM diskettes were produced by a South African Law Publishing firm known as Jutastat and marketed in Tanzania by “*Mkuki na Nyota*” Publishers.

The storage and dissemination of Tanzania Law Reports using electronic media is a major break-through in the history of Information Technology application in Tanzania. The production of Tanzania Law Reports on CD-ROM has opened up new doors for libraries and for publishers to become viable publishing media. The current price (in US Dollars) of Tanzania Law Reports is shown in Table 4.

Table: 4 *Prices of Tanzania Law Reports (In US Dollars)*

<i>MEDIA</i>	<i>1983-1992</i>	<i>1993-1997</i>	<i>1983-1997</i>
CD ROM	250.00	200.00	400.00
Printed Version	-	200.00	400.00
		5 Vols.	15 Vols.
CD ROM and Printed Version	-	360.00	720.00

Source: *Mkuki na Nyota* Price list 2000.

1 US \$ is equivalent to approximately T.Shs.850.00 (October, 2001).

The prices shown are modest compared to the average cost of a CD ROM which is about US \$ 500.00. However, for law libraries with small budgets this is a huge financial burden. In addition, they need to invest in computers and training to be able to access the reports.

The Tanzania Legal System and Legal Information Services:

A Comparison

The current legal system of Tanzania is organised under the Primary, District, Resident Magistrate and High Courts and the Court of Appeal. The number of courts at each level forms a pyramid structure, with a broad base and a sharp apex.

According to Rutinwa (1995), Tanzania has a total of 1,200 primary courts. Given that there are 126 districts in the country, this makes an average of nearly 10 primary courts in each district. Studies show that there are no law libraries in the country which cater for primary court magistrates (Msuya: 1999). Because of this, the magistrates access legal information through purchasing personal copies of legislation, lecture notes from law schools they attended and from the mass media, particularly the radio. Other information sources are through interpersonal consultation with colleagues and, above all, through experience and common sense when making court judgements.

District courts are found in every district. Just like in primary courts, there are no law libraries at district court level because of lack of resources. Lack of

awareness of the importance of law libraries by those who allocate resources is also a factor. Therefore, district court magistrates use similar sources of legal information as primary court magistrates.

Resident Magistrate courts cover the geographical areas of the regions within which they are established. Currently, there are 20 regions in Tanzania. Apart from collections of a few law books and legislation, Resident Magistrate courts do not have libraries. However, in cities where High Courts are situated, Resident Magistrates make full use of High Court library services. In places where there are no law libraries, the magistrates use the same techniques used by primary and district magistrates.

In Tanzania, there are 11 high court centres in different cities, with the headquarters in Dar es Salaam. The function of the High Court is to hear and determine appeals from the district and Resident Magistrate courts. The eight High Court libraries provide legal information needs of High Court judges.

The Court of Appeal is the highest appellate court in Tanzania (Fimbo, 1992). It does not have its own library but shares that of the High Court of Tanzania because both have similar information needs. As such, there has been no need for the Court of Appeal to establish its own separate library since that would mean a duplication of effort. The sharing of the library by the High Court and Court of Appeal makes a lot of sense given the existing resource constraints and in any case they are both housed in the same building.

When one compares the distribution of courts in Tanzania and the distribution of law libraries, two important observations can be made. First, legal information services are only available in a few courts at the apex of the legal system, that is, the High Courts and Court of Appeal. The majority of the courts at primary, district and Resident Magistrate levels have no access to such services. One wonders how magistrates can make fair judgements in courts of justice without access to relevant legal information.

Secondly, 31.8 percent of all law libraries in the country are concentrated in Dar es Salaam, the de facto capital city of Tanzania. These are the High Court and Court of Appeal, the University of Dar es Salaam, the Tanzania Legal Corporation, the Law Reform Commission, the Attorney General's Chambers and the Police College. This implies that lawyers who are based in Dar es Salaam have more access to relevant legal information compared with the majority who live up-country.

One can argue that geographical factors played a key role in the concentration of law libraries in Dar es Salaam. Being the capital city, all major legal institutions, government departments and academic institutions are based in Dar es Salaam. Since there is interaction among these institutions, it is cost-effective when they are located in one city. While this is a valid argument, the needs of those in other parts of the country should not be completely overlooked.

CONCLUSION

An analysis of the structures of the Tanzanian Legal System shows that it does not correspond with the distribution of law libraries. Whereas the apex of the legal system is relatively well-served with legal information services, the base does not have such vital services, as shown by the concentration of law libraries in Dar es Salaam.

Secondly, the monopoly of the Government Printer in publishing all Government publications, coupled with the use of old dilapidated printing machines, makes it difficult to produce enough copies of legislation to meet the demand on time. For many libraries the situation is made worse by lack of funding.

RECOMMENDATIONS

In a situation where resources are scarce, priority in establishing law libraries should definitely be accorded to the High Court and Court of Appeal due to the complexities of cases they handle. However, lower courts should not be forgotten. The Government should fund and provide at least one primary source of legal information in each district where legislation and law reports can be accessed. Such efforts are crucial in order to keep the magistrates abreast of new developments taking place in the field of law.

The need to provide magistrates with such vital sources of information is important since law is a very demanding field. It is in constant change as socio-economic and political factors change. If the magistrates at primary and district court levels do not have access to current information on the law, how can they make fair judgements? Is it not possible for them to acquit guilty persons and convict innocent ones? It is also likely that the number of appeal cases could fall drastically if magistrates were well-equipped with the information they needed rather than out-dated lecture notes with which to administer justice.

Publication of Tanzanian legislation on a CD ROM database and Tanzania Law Reports will also facilitate accessibility of legal information. This is very convenient especially for the judges and other senior legal experts who often move from one High Court centre to another to administer justice. When the legislation and law reports are searched for on the computer, accessibility is easier and faster, let alone the higher level of precision that is obtained in retrieving the information. Whenever possible, the application of Information Technology in Tanzanian law libraries should be introduced gradually. Users should also be trained in modern information access and retrieval techniques.

At the same time, the responsibility assigned to the Government Printer in the production and distribution of the legislation need to be re-examined. The Government Printer has a very important role to play in publishing legislation. It is true publishing government publications may not be economically viable for competitive private law publishers to invest in. For many countries in the world,

it is also the normal practice for the Government Printer to print and distribute all Government publications. As such, the Tanzania Government Printer has to be supported by the Government to do the job well. The support can be in terms of providing them with modern equipment to enhance performance and increase productivity. The Government must also make firm plans to subsidise the Government Printer since printing and publishing government publications is not a profitable and competitive business like private publications.

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