



REVIEW OF LEGAL & POLICY FRAMEWORK ON SAFETY AND SECURITY FOR ZANZIBAR

Summary Briefing Paper

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Zanzibar Tourism And The Security Situation.

One of the principal challenges to the development and expansion of tourism in Zanzibar is perceptions of insecurity. Security is a key consideration while selecting a holiday or travel destination, and the security and safety of tourists should be a principal concern of the Revolutionary Government of Zanzibar.

More than any other influencing factor, the success or failure of a tourism destination depends on being able to provide a safe and secure environment for visitors. The income from tourism is the Zanzibar Government's main foreign exchange earner, with the island's long-term economic and social health heavily reliant upon the success of the islands' tourism industry.

However, in recent years, there has been a steady and publicised rise in crime against tourists, reported across the global media, slowly tarnishing the name and reputation of Zanzibar as a high-end tourism destination.

It is with this in mind that the Zanzibar Association of Tourism Investors have taken the proactive step of commissioning this study to outline the challenges posed by questions over security and to make practical proposals on how best security organs and Government can deal with the problems arising from the current less-than-ideal security preparations. ZATI also requested a consultative review of the respective legal and regulatory frameworks to make suggestions on reforming those laws and regulations that might address security and safety issues within the tourism industry.

Benchmarking Zanzibar Against Other Tourism Destinations.

Zanzibar is not alone in seeking to protect its visitors and provide a secure environment for the growth of tourism, with many similar destinations adopting proven and sustainable measures for the security of tourists.

Principal amongst these is the establishment of a dedicated and trained tourism police force to deal with issues related to the security of their visitors, working with the state Police Force and the Government. Kenya, Seychelles and Mauritius are all similar destinations to Zanzibar, with such forces actively working in conjunction with the State Police.

South Africa and Mauritius have also developed appropriate and speedy legal procedures that facilitate speedy and effective prosecution of cases where tourists were involved to expedite speedy justice dispensation whilst the victim is present in the country.

Each of these Destinations have defined security agreements between Public and Private Sectors to share the burden of responsibility for ensuring safety of visitors. Their respective governments have also conducted extensive sensitization campaigns to make their indigenous population aware of the importance of tourism to the economy and the long-term social and economic health of their countries.

Constraints and impediments to the process.

Zanzibar forms part of the United Republic of Tanzania, and finds itself in the unusual position of being regulated by both Union Laws - shared between the judiciaries of Tanzania mainland and Zanzibar - as well as non-Union laws specific to Zanzibar only. This creates a great challenge in terms of formulating, administering and enforcing these laws.

Similarly, the Tanzanian Police Force is a Union entity, under the governance of the Ministry of Home Affairs in Dar es Salaam, and Zanzibar is one of 28 regions requiring resources. The Government of Zanzibar has no direct influence on the funding and resource allocation of the Police Force in Zanzibar, and cannot therefore control Police strategy on the islands.

There is no specific legal framework that specifically provides security and safety for tourists, rather that security issues is generalized as part of crimes and criminal offences to any person or property on the islands, as defined by general criminal law. Thus, Security and safety issues are addressed using non-specific legal, policy and institutional sectoral approaches rather than a fully integrated approach.

A dedicated Tourism Police unit currently exists but is not in operation as a result of lack of funding, inadequate training and questions over jurisdiction and the local government agency responsible for their deployment.

Reviews of relevant laws on safety and security

An extensive appraisal of the Zanzibar legislation reveals the following laws to be relevant for analysis and reform. In brief, the suggestions are as follows:

1) THE PENAL ACT, NO.6 OF 2004

This is an Act to establish a code of criminal law which extensively provides for crimes, offences and penalties for perpetrators of criminal activity.

Recommendations are to review the sentencing currently handed out and make sentences stronger for crimes against tourism to act as a deterrent.

2) THE POLICE FORCE AND AUXILIARY SERVICES ACT, CAP 322 [R.E, 2002]

This law can be invoked to make provision for the application of the existing dedicated Tourism Police force with suitable allocation of funding and resources for the necessary deployment of officers and resources across the islands

3) THE CRIMINAL PROCEDURE ACT, NO.7 OF 2004

The Act that provides for the procedures to be followed in the investigation and prosecution of crimes and the conduct of criminal trials and for other related matters.

It needs to be amended to allow for the swift and efficient trials of cases involving tourists, before tourist leaves the island.

4) THE EVIDENCE ACT, CAP. 5 OF 2004

This is an Act that deals with issues related to evidence in criminal and civil courts. It is a colonial law, and needs updating and a legally-defined time-frame for closing evidence to speed up trials.

5) THE ZANZIBAR TOURISM ACT, NO.6 OF 2009

This is an Act that mainly deals with the institutional framework, administration, regulations, registrations and licensing of tourism activities and other related matters.

It needs to be amended and updated to cross-reference other criminal laws and establish a legal framework against which crimes against tourists are measures.

6) THE TERRORISM ACT, NO. 21 OF 2002

This is an Act that provides for comprehensive measures when dealing with terrorism. The act specifically refers to attacks upon a person's life which may cause death, involves serious bodily harm to a person, involves serious damage to property and use of noxious chemicals.

It could be invoked for crimes against tourists, effectively making them crimes against the state, with serious sentences mandatory.

Policy Review

To assist the government in effectively achieving its reform objectives on specific laws and policies, this report also suggests general policy guidelines and principles that need to be considered when preparing and adopting policies on security and safety. These following guidelines and principles, which have already been successfully applied in other destinations, are proposed for consideration by Government:

- Changing the legislation as it pertains to crimes against tourists.
- Enhance greater collaboration between the stakeholder and law enforcement agencies.
- Need for mandatory regulated security measures at tourist establishments and areas.
- Address the issues of youth marginalization and drug use.
- Prioritize tourism-related crimes in police investigations and prosecution.
- Educating the public about the importance of the tourism industry to the economy.
- Establish tourist offender register.
- Capacity building for law enforcement and security officials on issues relating to crime against tourists.

ZATI Key Recommendations.

A detailed review of the legal processes and judiciary framework in place has led ZATI to the following conclusions:-

- a) Training on tourism's needs to be given to the police officers; this must include how they can put their training into practice and how they can speed up their processes. .
- b) Being a service industry, tourism is a vulnerable industry if it is not well addressed under the laws and policies of the host destination.
- c) The law must be able to ensure that criminals are being punished accordingly so as to protect the safety of the visitor and the community alike.
- d) Zanzibar needs to have a specific legal provision to address issues related to security and safety in the tourism sector. Alternatively, the current laws could be amended to include the specific provisions that address issues related to security and safety in the tourism sector
- e) Legal system needs to be reformed to improve investigation processes and expedite criminal proceedings. Clear systems and transparency will assist this and also dissuade bribery.
- f) Judicial proceedings are overly complicated leading to delay of cases. For instance one case that involved tourists took more than four years to be decided and claimant died while the case was still pending. The system need to be reformed urgently.
- g) Harmonization of the security laws such as criminal laws and evidence laws in Tanzania mainland and Zanzibar must be done so as to ensure legal and procedural simplification in dealing with tourists issues.
- h) the law should not require the presence of the victim during hearing of the entire case, when cases are likely to be prolonged.
- i) Need for reforming judicial system and establishing 24 hours court with enough magistrates and judges to be available, so as to deal with those cases promptly.
- j) Reform and amend criminal Procedure laws and Evidence laws to speed up cases involving tourists and their properties. For instance the law can provide for a time frame within which cases can be completed.

- k) Some of the stakeholders argued that the idea of creating a police Unit to deal with tourists issues is good but need to be introduced with care e.g it should not take out the general police responsibilities and the public should be educated about the idea and its justification.
- l) Harmonize laws and policies to advocate for institutional coordination in combatting crimes against tourists
- m) Conduct capacity building for police officers on investigation and detecting crimes

ZATI further recommends as follows:

- a) The laws and judicial system should be reformed to provide for a '24 hours court' so that tourism-related cases regarding acts of theft, rape and robbery can be dealt with in a short time frame, ideally within 24 hours of the crime being committed. An example on how 24 hours court operate can be drawn from South Africa during the 2010 World Cup, where cases were seen within 24 hours, including weekends.
- b) Alternatively, a special court/unit that deals solely with tourists cases should be provided by the law, as it is for commercial cases. A similar Judicial system is in place in Brazil where special courts and Magistrates deal with criminal cases at football grounds, dispensing justice immediately after an offence is committed.
- c) Legally recognize and deploy "Polisi Jamii" to support security and safety by providing them with resources and capacity building. Establish the legality of "police Jamii" and urge the Government to support its development and implement suitable training to bring tourism and community stakeholders together.
- d) The Judiciary needs to be reformed to allow for circuit judges in 24 hours courts.
- e) Reform the judicial system to introduce simplified and categorized court systems e.g petty crimes to be dealt by different courts., as seen in the Commercial Court Division under the High Court.
- f) Reform judicial system (Judiciary and DPP) to address loopholes as to why offenders are easily released, cases are withdrawn or dismissed, and adjourned regularly. Police should not be involved in dispute settlement or making any decisions on the outcome of cases.
- g) Bail levels be increased for petty crimes against tourists to at least TZS 500,000 rather than the current TZS100,000 which is easily accessible, often paid for from the proceeds of the crime committed. A longer stay in detention before bail will be a powerful deterrent.

ZATI sincerely hopes that these recommendations will be considered by the Government of Zanzibar in the hope that through Public Private Partnership, we might be able to create a safer tourism environment, and thereby strengthen Brand Zanzibar for the benefit of private and public sector alike, so that together we might build a stronger business environment and achieve Tourism for All.