
District Security Committees: Powers, Functions and Accountability Potential



Democratic policing series

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HAKI NA USALAMA

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ABOUT HAKI NA USALAMA FORUM

Haki na Usalama (Justice and Security) Forum was established in December 2012. The Forum promotes criminal justice reform and, in particular, democratic model of policing. The forum now includes a variety of stakeholders, and provides vital space where the stakeholders can have conversation about police reform.

Current members of the Forum include: Tanganyika Law Society (TLS); Commonwealth Human Rights Initiative (CHRI); Children Dignity Forum (CDF); Tanzania Human Rights Defenders Coalition (THRDC); National Organisation of Legal Assistance (NOLA); Legal and Human Rights Centre (LHRC); Women’s Legal Aid Centre (WLAC); Tanzania Youth Vision Association (TYVA); Tanzania Media Women’s Association (TAMWA); Women Action Towards Economic Development (WATED); Women in Law and Development in Africa (WiLDAF); African Network for the Prevention and Protection Against Child Abuse and Neglect (ANPPCAN).

Partners of the Forum are Tanzania Police Force (TPF); Commission for Human Rights and Good Governance (CHRAGG); Open Society Initiative for East Africa (OSIEA); and Hanns Seidel Foundation (HSF).

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INTRODUCTION

“The actions of law enforcement officials should be responsive to public scrutiny, whether exercised by a review board, a ministry, a procuracy, the judiciary, an ombudsman, a citizens’ committee or any combination thereof, or any other reviewing agency” – UN Code of Conduct for Law Enforcement Officials, preamble.

Tanzania has established the mechanism, through which security and defence issues can be discussed at the District, Regional and National levels respectively. Thus, the Committees have been established to undertake such role. Taking into account on the changes in development in the aspect of economic, social, politics and the growth of criminality behaviour and justice systems (to cite a few) in the world, different efforts are underway for reform in handling committees of this nature. Therefore, Tanzania, like in other Commonwealth countries, efforts are needed reforming its security laws to align with international and democratic standards of security and defence. This will open the door for public participation in security processes and broaden the mechanism of protection of human rights.

More and more countries, particularly those making political transitions to democracy and those engaged in genuinely deepening democracy, are adopting a democratic model of security. Engaging the public in security processes is founded on principles of equity and equality, accountability, transparency, participation, respect for diversity, the accommodation of dissent, protection of individual and group rights, and encouragement of human potential.¹

¹ “Police Accountability: Too Important to Neglect, too Urgent to Delay”. Commonwealth Human Rights Initiative, 2005, p.12;

Willing to contribute to ongoing reform initiatives, members of Haki na Usalama Forum have conceptualised what would be needed to implement democratic policing in Tanzania. This is the third paper by the Forum that looks at District Security Committees (DSCs, also known as District Security and Defence Committees – DSDCs), their capacity to be a police accountability mechanism, and what changes are necessary for it to happen.

Our findings and recommendations rely on legal and policy analysis of the National Security Council Act (NSC Act), 2010, and interviews with eight DSCs, conducted with the help of questionnaires (attached as Annex I). The interviewed DSCs belong to the following districts: Kibiti; Lindi; Nyamagana; Rufiji (Utete); Uyui; Tabora; Nzega; and Kaliua. Brief profiles of the districts are attached as Annex II. The questionnaires were administered by the Commission for Human Rights and Good Governance on behalf of the Forum. The Commission contacted 20 District Commissioners (DCs) with an interview request, out of which 11 responded positively. After a follow-up with these DCs, the Commission was able to secure eight filled in questionnaires. The Commission believes that the reason for this response rate lies in the belief held by many officials that security is a confidential and exclusive matter, not to be shared or discuss with those outside of their immediate reporting lines

The paper proceeds in three steps. Firstly, it discusses the NSC Act, 2010 to analyse DSCs' role and responsibilities in provision of security, and to establish if their mandate allows for oversight and accountability role. Secondly, it takes a closer look at how the DSCs' legislative mandates translates into practice, covering both procedural issues (how DSCs' workflow is organised) and substantive issues (what issues DSCs are dealing with). Finally, building upon these two sections, the paper argues that DSCs have capacity to become accountability mechanisms to the public as well as government service providers and recommend policy changes to consolidate and formalise this oversight role.

1. DSCS LEGAL FRAMEWORK: AN OVERVIEW OF THE NATIONAL SECURITY COUNCIL ACT, 2010

District Security Committees (DSCs) are established under the National Security Council Act, 2010 (NSC Act) as the lowest level of a three-tier system of addressing security issues. The other two levels are Regional Security Committees (RSCs) and the National Security Council (NSC). DSCs, RSCs and the NSC operate at district, regional and national levels respectively. Notably, the Act does not create security committees at the ward and village levels.

The preamble to the Act states that, the NSC, RSCs and DSCs are established “with a view to regulating and co-ordinating national security matters”, and, more importantly, “to establish machinery for individual persons, public and private institutions to cooperate and participate effectively in matters of defence and national security”.² The aim of including various stakeholders in “cooperation” and “participation” in security policy matters broadly corresponds to the values of democratic governance and democratic policing. However, as will be shown below, there is a discrepancy between declared participatory aims and actual provisions of the Act.

1.1. Organisational structure and membership

Section 4 of the Act establishes the NSC comprised of the President of the United Republic (the Chairman of the Council), the Vice-President, the President of the Revolutionary Government of Zanzibar, the Prime Minister, and the Chief Minister of the Revolutionary Government of Zanzibar.³ The Chief Secretary serves

² National Security Council Act, 2010, preamble;

³ *Id.*, s. 4(1);

as the NSC Secretary.⁴ The NSC may invite other persons to take part in its meetings in consultative or expert role.⁵

The NSC is supported by the Secretariat to the Council, consisting of

- Chief Secretary (Secretariat's Head and Coordinator);
- Two Assistant Co-ordinators from the Tanzania Peoples' Defence Forces (TPDF);
- Two Assistant Co-ordinators from the Tanzania Intelligence and Security Service;
- One Assistant Co-ordinator from the Police Force;
- One Assistant Co-ordinator from the Immigration Department;
- One Assistant Co-ordinator from the Tanzania Prisons Service; and
- One Assistant Co-ordinator from the Rehabilitation College.⁶

The membership of the Secretariat provides a strong guidance as to what the issues are brought before the NSC, based on the members' areas of responsibility. They include: military (defence), intelligence, police, immigration, law enforcement, and penitentiary system. This reflects the narrow understanding of security, since other security areas (such as food security, human security, or security's gender dimension) remain unrepresented.

In their turn, RSCs and DSCs mirror each other in terms of functions performed by their members. These functions are entirely in line with those performed by the NSC Secretariat. Unlike the NSC, neither RSCs nor DSCs are supported by a secretariat. This denotes a lesser

⁴ *Id*, s. 4(2);

⁵ *Id*, s. 4(4);

⁶ Zanzibari analogue of Tanzania Prisons Service; National Security Council Act, 2010, s. 6;

degree of institutionalisation the Act assigns to the Committees, rendering them more ad hoc rather than permanent bodies.

RSCs composition ⁷	DSCs composition ⁸
<ul style="list-style-type: none"> • Regional Commissioner • Regional Administrative Secretary • Regional Police Commander • Commanding Officer of the TPDF Unit • Regional Security Officer • Regional Immigration Officer • Regional Militia Advisor • Regional Prisons Officer 	<ul style="list-style-type: none"> • District Commissioner • District Administrative Secretary • District Police Commander • Commanding Officer of the TPDF units in the District • District Security Officer • District Immigration Officer • District Militia Advisor • District Prisons Officer

As seen from the table above, none of the RSCs and DSCs members are democratically elected. The statutory membership in RSCs and DSCs is reserved exclusively for the members of the Executive or the representatives of the offices appointed and/or controlled by the Executive. This is reflective of the top-down approach to security. This kind of modality creates challenges for the members of the public to cooperate and interact with RSCs and DSCs. Accountability to local communities and not their superiors should be prioritised by the Committees to better resolve the said challenges.

This democratic deficit is somewhat ameliorated by the fact that the NSC, RSCs and DSCs may invite any person to their meetings “for the purpose of giving advice on any matter which is the subject of consideration”.⁹ This power is used widely, at least at the DSC level, as Section 2 of the Act reveals. Public participation is further

⁷ *Id*, s. 8(2);

⁸ *Id*, s. 10(1);

⁹ *Id*, ss. 4(4), 8(3) and 10(2);

enhanced by the obligation, conferred on RSCs and DSCs, to “work on a system which shall enable individual persons, public and private institutions to submit information and reports relating to matters of concern to defence and national security”.¹⁰ Despite omitting any mention of characteristics or parameters such a system should have, this section is of particular importance to the ends of accountability, since it establishes, albeit in broad terms, an obligation to receive and address grievances from the members of the public. This, in turn, creates legal conditions for RSCs and DSCs to perform the role of oversight vis-à-vis security actors, such as police, militias or private security companies.

1.2. Mandate and functions

Statutory functions, performed by the NSC, RSCs and DSCs, follow an hierarchical design, seen before with their organisational structure and membership.

Defence and security are Union Matters,¹¹ and pursuant to the article 34(3) of the Constitution of the United Republic of Tanzania, 1977, “all the authority of the Government of the United Republic over all Union Matters in the United Republic <...> shall vest in the President of the United Republic”. It is therefore not surprising that the NSC is established as “the principal advisory organ to the President on all matters relating to national security”.¹² The NSC has five broad functions:¹³

- To formulate, establish and oversee core values of the national security for purposes of protecting and defending national interests;

¹⁰ *Id.*, s. 14(3);

¹¹ The Constitution of the United Republic of Tanzania, CAP. 2, 1977, 1st Schedule, s. 3;

¹² National Security Council Act, 2010, s. 5(1);

¹³ *Id.*, s. 5(2);

- To review policies of defence, security, foreign affairs and other policies which relate to national security in view of prevailing national and international circumstances;
- To evaluate the state of national security on short and long terms and recommend the proper course of action;
- Receive and analyse reports relating to the state of defence and security organs, Government departments and institutions, and RSCs, and give directions as appropriate; and;
- Perform any other function as may be assigned by the President.

The NSC's statutory functions indicate that the Council is mostly pre-occupied with policy oversight work at the national level. Interventions into specific security matters are limited to "giving directions as appropriate", and can be presumed to be based on the information fed to the NSC by the bodies at lower levels (including RSCs). However, since the President of the United Republic of Tanzania is given power to assign functions to the NSC, the Council may have greater intervening powers that are not elaborated in the Act.

As with their membership, functions of RSCs and DSCs mirror each other.

RSCs functions ¹⁴	DSCs functions ¹⁵
<ul style="list-style-type: none"> • Receive and analyse security reports from the DSCs, and defence and security organs, and take appropriate action; • Prepare evaluation reports on defence and security situation 	<ul style="list-style-type: none"> • Prepare plans and strategies for defence and security, and follow up on their implementation; • Prepare evaluation reports on defence and security situation

¹⁴ *Id.*, s. 9;

¹⁵ *Id.*, s. 11;

<p>in the Region for submission to the relevant authorities within the Region;</p> <ul style="list-style-type: none"> • Plan, coordinate and give directions on the manner of dealing with emergencies, serious crimes, and other occurrences which are likely to endanger peace and tranquillity in the Region; • Specify and identify social and administrative problems within the Region which may endanger security and advise the relevant authority on appropriate course of action; • Consider applications for citizenship and advise the responsible Minister; • Consider applications for ownership of arms and explosives, and make decision according to existing laws; • Evaluate and follow up on the status of strategic reserve levels of food, medicine and fuel, and alert the relevant authorities for their action; • Perform any other function as may be assigned by the relevant authority. 	<p>in the District for submission to the RSC Secretary;</p> <ul style="list-style-type: none"> • Plan, coordinate and give directions on the manner of dealing with emergencies, serious crimes, and other occurrences which are likely to endanger peace and tranquillity in the District; • Specify and identify social and administrative problems within the District which may endanger security and advise the relevant authority on appropriate course of action; • Consider applications for citizenship and submit recommendations to the RSC; • Consider applications for ownership of arms and explosives, and make decision according to existing laws or advise the RSC; • Evaluate and follow up on the status of strategic reserve levels of food, medicine and fuel, and inform the RSC for its action; • Perform any other function as may be assigned by the relevant authority.
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As can be seen from the table above, RSCs and DSCs are more problem-solving oriented, tasked with monitoring security situation in their respective jurisdictions, developing strategies to address

problems, and reporting to the relevant authorities. As the lowest statutory level of security coordination system, DSCs are particularly well-placed to have a hand-on understanding of the issues on the ground, provide first response to security exigencies, and address communities' grievances.

The functions listed above already mention substantial reporting obligations for DSCs (and RSCs, to a slightly lesser extent), which are further complemented by an obligation to submit quarterly reports on defence and security matters "on the basis of geographical administrative hierarchical arrangements".¹⁶ The NSC, RSCs and DSCs may ask public and private institutions to submit similar reports, which they consider necessary "for defence and security, group of persons, the community, or the general public".¹⁷

The RSCs' and DSCs' mandates are reasonably broad and include issues that do not easily confirm to the abovementioned "narrow understanding of security" that their composition suggests. Therefore, there is a discrepancy between the mandate and the composition of the Committees, as the RSCs and DSCs statutory members do not have capacity or expertise to address all of the issues on their mandate on their own. As the next section will show, this results in the DSCs having to resort to inviting relevant experts and, in some cases, arguing for the said experts to have a permanent seat on the Committee.

Anticipating a large amount of workload, which DSCs and RSCs are facing and which flows from their broad mandates, the Act allows for the establishment of sub-committees, "where the circumstances require <...> for the purpose of performing or undertaking a specific

¹⁶ *Id.*, s. 14(1);

¹⁷ *Id.*, s. 14(2);

function or task”.¹⁸ Similarly, the NSC can form a Committee under the same conditions.¹⁹

1.3. Other relevant provisions

Another feature of the NSC Act is secrecy, which partly explains the limitation of the Committees’ membership. The Act does not provide for disclosure of any information to the Parliament or the public, be it reports, strategies or administrative measures undertaken by the NSC, RSCs or DSCs. To the contrary, the Act prescribes a penalty for any Committee member, who “divulges any information obtained by virtue of his membership to such committee”.²⁰ While a confidentiality regime is important for the bodies dealing with security and defence issues, this section is too broad and, consequently, creates risks for its arbitrary application. Furthermore, this provision comes into conflict with recently adopted Access to Information Act, 2015 (ATI Act) that allows disclose of any information except information prohibited under section 6(2). Exempt information under the ATI Act is well defined and, therefore, provides better guidance to the authorities than NSC Act’s blanket ban on disclosure of “any information”.

Information relating to national security under the ATI Act, 2015²¹

“Information relating to national security includes

- a) Military strategy, doctrine, capability, capacity or deployment;
- b) Foreign government information with implications on national security;
- c) Intelligence operations or activities, sources or information capabilities, methods or cryptology;
- d) Foreign relations or foreign activities;

¹⁸ *Id.*, ss. 8(4) and 10(3);

¹⁹ *Id.*, s. 4(5);

²⁰ *Id.*, s. 12;

²¹ Access to Information Act, 2015, s. 6(3);

- e) Scientific, technology or economic matters relating to national security; or
- f) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans or protection services relating to national security.”

Furthermore, the NSC Act does not provide for the regulations to be made to operationalise the provisions of the Act. This creates a great deal of legal uncertainty for the stakeholders involved in implementation of the Act. Consequently, no regulations under the Act have been issued. Additionally, interviewed DSCs’ members pointed out the lack of regulations as one of major challenges (see Section 2). Such regulations could have made clearer finer points about Committees’ work, such as protocols for meetings, keeping of records, complaint procedures, as well as clarified confidentiality regime.

2. DSCS' OPERATIONS: A CLOSER LOOK

This section takes a closer look at how NSC Act is implemented at the DSC level. Since the NSC Act leaves out important details about DSCs operations, the Committees' members were interviewed to find out more about their actual or potential role in the accountability and oversight system.

2.1. Fulfilling statutory mandate

Our study revealed that DSCs are fulfilling their statutory mandates meticulously and in good faith. However, there are certain variations between the different Committees in terms of how they go about performing their functions.

All interviewed DSCs regularly prepare plans and strategies as well as evaluation reports on defence and security situation in their respective districts, as required by the NSC Act. These plans, strategies and evaluation reports are invariably submitted to the Regional Commissioner (RC), who is the Chairman of the respective RSC. It should also be noted that these reports are shared with many district offices by their virtue of being DSC members. However, sometimes other agencies also receive implementations directives. Among those mentioned are: Tanzania Intelligence Service (TIS), Prevention and Combating of Corruption Bureau (PCCB), Ethics Secretariat at the Regional level, as well as TAMISEMI.²²

Plans, strategies and evaluation reports are formed on the basis of intelligence DSC members receive from ward and village level authorities, as well as through community policing initiatives and public meetings. Most of the plans and strategies require RC's approval. Once granted approval, DSC assigns different offices in the district with specific implementation tasks. One example given is that of an Officer Commanding District (OCD) who was given a task of

²² TAMISEMI is an executive oversight body over local government authority under the Prime Minister's Office;

strategising on how to curb crime during celebration of Christmas and New Year.

DSCs are also tasked with planning, coordinating and issuing directives on dealing with disasters and serious crime in the district. Regarding the latter, all interviewed DSCs but one confirmed that they have serious crimes in their districts. The most commonly named crimes are murders (including of elderly women suspected of witchcraft), rape, and, in some incidences, land conflicts.²³ To address these crimes directions and guidelines are issued by the DSCs and follow-up actions are taken on their basis. These include: forming sub-committees; adopting administrative measures and raising awareness about them via public meetings and the media, especially community radio; conducting inspections, including of police stations and prisons; monitoring and evaluation (official reports are produced); and others.

Regarding social and administrative problems that DSCs are required to identify, all interviewed DSCs have done so. While the corruption is most regularly mentioned, other social and administrative problems are diverse and vary from district to district. For example, one DSC identified the following areas of concern: health (patients are not happy with the service they receive from hospitals); education (students are getting impregnated, truancy, conflicts between school staff); land disputes (individuals are not happy with compensation received from municipal authorities); and abuse of power and corruption among public officials. Other DSCs named shortage of working facilities (such as transport and fuel), inadequate service

²³ In some of the responses, it was also indicated that the NSC takes cognisance of serious crimes prevalent in the District. This suggests that the NSC has substantial data on serious crimes across the country and, therefore, is in a favourable position to develop national crime control and prevention strategies.

provision by RITA,²⁴ insufficient adherence to labour laws and regulations, and power cuts and distribution among other problems.

DSCs' de facto mandate and their statutory membership

Social and administrative problems listed above exemplify just how broad the DSCs' mandate is in practice. An implicit recognition of broad understanding of security, this again exposes discrepancy between the DSCs statutory membership and the issues they are responsible for. It also betrays a conflict between an outdated conception of security as a secretive domain of the selected few and the reality of having to deal with variety of social issues and security challenges.

The interviewed DSCs also confirmed that they have plans to tackle these problems and they coordinate with variety of government offices and agencies for this purpose. They include not only RSCs and government ministries and departments, but also such agencies as PCCB, TANESCO,²⁵ MWAUWASA,²⁶ TASAF,²⁷ TAMISEMI, TPF, as well as District Executive Director (DED). The diversity of stakeholders the DSCs consult reflects the diversity of social and administrative problems the DSCs face. DSC members then follow up on the tasks they gave to these agencies. Inspections of prisons, hospitals and police stations, institution of criminal proceedings in corruption cases, and adoption of administrative measures were cited as examples of follow-up measures. Requiring these institutions to submit an implementation report on the tasks given was also mentioned by one DSC.

Compliance with DSC directives under the NSC Act, 2010

²⁴ RITA is the authority responsible for registering births and deaths;

²⁵ Tanzania Electric Supply Company;

²⁶ Mwanza Urban Water Supply Authority;

²⁷ Tanzania Social Action Fund;

It should be noted that nothing in the NSC Act obliges these agencies to comply with DSCs' requests and directions. However, we have received no information to suggest that compliance is an issue in the Committees' work. On the one hand, de facto compliance by the abovementioned institutions allows DSCs to carry out their statutory functions effectively. On the other hand, however, the lack of defined compliance regime in the Act creates avenues for the potential abuse of power by the DSCs members, who are Executive functionaries. This is even more important when the directives are issued to the agencies responsible for upholding rights and freedoms of citizens, which concerns, first and foremost, the police. The topic of the relationship between the police and the Executive is a sensitive one, but it is undisputable that this relationship should be well-defined, regulated and overseen at all levels. Haki na Usalama Forum produced a paper, discussing how this relationship should be defined at the national level.²⁸ At the district level, the NSC Act should include a compliance clause complemented by checks and balances in order to ensure compliance with DSCs' directives while safeguarding agencies' autonomy and capacity to fulfil their mandates impartially.²⁹

Finally, we asked DSCs to comment on their statutory function of evaluating and following up on the status of strategic reserve levels of food, medicines and fuel. All DSCs perform this function either "always" or "frequently". At the time of the interviews (December 2016), all DSCs confirmed that they followed up on the strategic reserve levels of food, medicines and fuel within the past one-to-three months, with further follow ups planned for early 2017. This denotes

²⁸ "The Police and the Executive: Roles and Responsibilities", *Haki na Usalama*, 2016, available at <http://bit.ly/2jb3vpO>;

²⁹ In case of the police, autonomy and professionalism of the Force are defined by the notion of *operational responsibility*. See footnote above for more information;

the importance food security (and human security more broadly) play in the work of the DSCs.

2.2. Day-to-day operations

To evaluate the processes that guide DSCs in their day-to-day operations, we dedicated a significant part of the DSCs questionnaire to this issue. All interviewed DSCs have shown significant similarities in this respect, which is surprising since in the NSC Act does not provide any guidance on this and no regulations under the Act have been issued.

In general, a DSC meets at least once a month, but further meetings can be convened whenever there is a matter of concern. One DSC indicated that there can be as many as three meetings per month. The meetings usually take place at the DC's office, but could be convened anywhere depending on the issue at hand, including in the District area where the issue of concern has arisen. One DSC has a system of rotating meeting place among institutions to which Committee's individual members belong. At the end of each meeting minutes are drafted by the District Administrative Secretary and distributed to the DSC members. Sometimes they are also distributed to other agencies which are not statutory members, such as PCCB and District Executive Director, depending on the discussed issues.

The Committees also regularly invite to its meetings for the purpose of giving advice. It can be an independent expert, a representative of an independent agency, a government functionary or a representative of a state company. For example, PCCB, TANESCO, Tanzania Forest Service, Ward Executive Officer, and District Executive Director (DED) were named among persons and entities regularly invited to the DSCs meetings. In fact, when asked about their satisfaction with statutory DSC composition, all except one DSC indicated their dissatisfaction and universally suggested to legally recognise PCCB and DED as permanent members of the Committee. Three DSCs also suggested that District Security Officer, who is the custodian of all

DSC documents, should be Secretary to the Committee, instead of District Administrative Secretary.

In order to successfully carry out their functions, all interviewed DSCs established subcommittees. Subcommittees are formed and assigned tasks following Committee's decision. After the tasks are accomplished, subcommittees report to the DSC. Subcommittees do not have independent mandate; they derive their specialised mandate and power from DSCs they are formed under in accordance with the NSC Act. Their membership may be exclusive may include external experts, especially for issues concerning healthcare, education or agriculture. The examples given show great variety of issues subcommittees can be given to address. These examples concern land conflicts between farmers and pastoralists; high number of school student dropping out; cashew buying and selling processes; water and electricity supply and distribution; community policing, and establishment of police posts and patrols; and homicide rates. This again exemplifies both the scope and depth of DSCs' de facto mandate.

The interviews also revealed that, although unknown in the NSC Act, village and ward security committees are operational in at least six out of eight studied districts. While their mandate is not known, they are feeding DSCs information and helping them to form agenda for DSCs meetings. Regarding the necessity of Ward/Village Security Committees existence, security and confidentiality were listed as two primary reasons to oppose it, while local participation and enhanced capacity to resolve conflicts at the local level were cited as reasons to support their existence. Given the legal ambiguity and the need to have a coherent local governance hierarchy, the NSC Act has to incorporate Village and Ward Security Committees, define their membership and mandate in relation to the DSCs.

Finally, DSCs fully comply with their reporting obligations, submitting monthly and quarterly reports to their respective RSCs.

However, the DSCs do not always have the capacity to fulfil their mandate. Two biggest challenges in the work of the interviewed Committees concern the lack of funds and working tools/facilities. These include vehicles and fuel that would allow DSC members to visit areas of concern, better funding to the Districts to improve security situation, as well as provision of sitting allowances for the DSC members. Committees also indicated the need for capacity building at Ward Security Committee level and for public education on issues of human rights and good governance.

2.3. Transparency and openness to the public

All interviewed DSCs showed significant similarities in terms of their transparency and openness to the public, in spite of the absence of the information disclosure regime in the NSC Act. However, because of the prevailing understanding of security as exceptionally secretive and confidential area, this is less surprising than similarities displayed by the DSCs in how they organise their day-to-day operations.

The cornerstone of the DSCs work is their regular meetings to formulate and coordinate joint response to security threats in their respective districts. However, public involvement in these meetings is rather limited. Only one DSC makes agenda and the results on the meetings available to the public, provided that the DSC members consider the subject of the meeting to allow for a public disclosure. The rest of the DSCs do not make agenda available to the public and the results become known to the public only if they translate into administrative measures. In this case, the results are disseminated through a variety of means: letters, directives, public rallies and announcements, community radio, as well as through government bureaus (e.g. Ward Executive Officer). As one DSC pointed out, this strikes a balance between confidentiality and transparency.

When asked about public availability of directions/guidelines to tackle serious crimes and plans to tackle social and administrative

problems, the interviewed DSCs either answered 'no' or a qualified 'yes'. Just like with the results of the meetings, the nature of issue at hand determines if the public is informed about how a given DSC is planning to deal with it. However, there appears to be no consistency across the districts about criteria that determine what information can or cannot be released. Some DSCs maintain that no information on plans or directions ever released, while several DSCs specifically mention this information on defence and security as the kind of information they make public. This lack of consistency flows from the absence of proactive disclosure regime in the NSC Act.

Finally, regarding the monthly and quarterly reports that DSCs submit to the RSCs, only one interviewed DSC confirmed that some of these reports are available to the public, while the rest maintained that no such reports are publicised. However, the public may learn about the content of these reports indirectly, if any administrative measures are adopted on their basis.

Importance of establishing proactive disclosure regime in the NSC Act, 2010

Section 1.3 of this paper has addressed the importance of clarifying confidentiality regime in the NSC Act that would resolve a likely conflict between provisions of NSC and ATI Acts. Confidentiality regime should clarify what information can and cannot be released by the DSCs. At the same time, it should be complemented by the proactive disclosure regime that would cover procedural side of releasing information to the public. In particular, it should clarify how, how often and in what form information is released by the Committees.

2.4. Dealing with reports and complaints from the public

Under the NSC Act, DSCs are supposed to “work on a system which shall enable individual persons, public and private institutions to

submit information and reports relating to matters of concern to defence and national security".³⁰ The interviews revealed that DSCs receive information frequently in form of both reports and complaints. However, there are no formal channels for submission of such information to the DSCs, which can be largely explained by the absence of the dedicated secretariat to the Committees.

Reports that make their way to the DSCs' meetings are submitted to the DC of a given district through communication channels personally established by him or her. Most DSCs feature the same communication channels, including telephone, letters, questions and answers during public meetings, visits of the DC office, as well as a suggestion box. Two DCs also accept reports on their mobiles and claim that DC's mobile number is widely known in their Districts. In the interviewed Districts, all other channels have also been widely publicised, usually through public meetings, media, notice boards, and government bureaus and public officers, such as Ward Development Committees, District Consultative Committees, Ward Executive Officers, and village leaders.

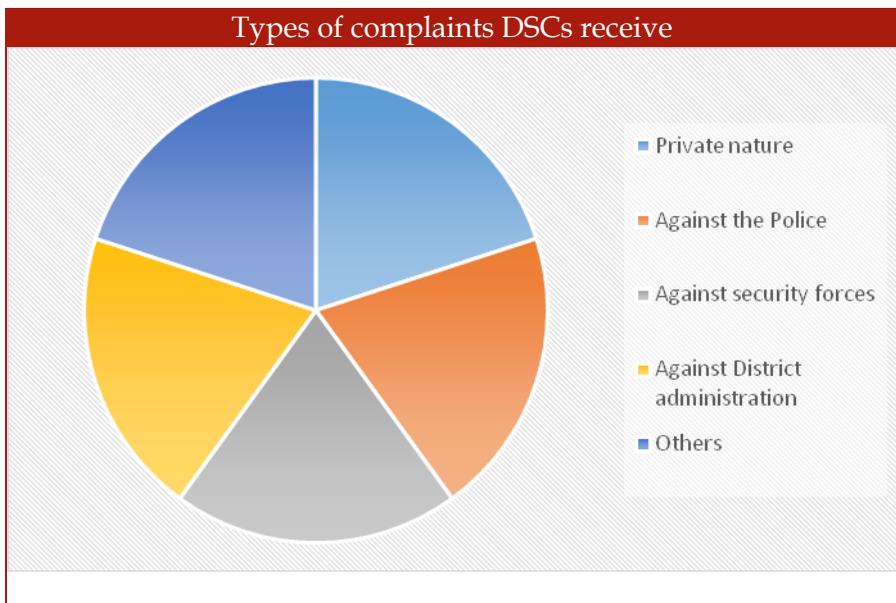
Upon receiving the report, DC decides how to proceed. The response to the report depends on the nature of the report, but some of the responses received suggest that the first step taken by the DC is evaluation and registration of the report. The reports DSCs receive form both a constitutive part of their meetings' agenda and a basis for administrative action. Thus, reports received are discussed during the Committee's meetings and the measures taken in response follow a similar pattern in all interviewed districts. The DSCs may direct a Committee's member (e.g. the police) or a non-member (e.g. PCCB) to take action. Usually, the agency made responsible for resolving the issue is required to submit a follow-up report to the DSC within a specified period of time. When inquiry or investigation is required, an official or an agency is assigned a task of carrying it out. When the

³⁰ NSC Act, 2010, s. 14(3);

investigation is complete, a report submitted to the DSC or to other appropriate authority. Finally, administrative action is taken on the basis of the report.

Two points need to be made here. Firstly, DSCs are under no obligation to inform a complainant about the status of their complaint/report. It appears that the only way for the complainant to learn about the result of his or her complaint is through the adoption or non-adoption of administrative measures dealing with her or his particular complaint/report. Secondly, it is likely that the process described above does not always involve DSCs and can be followed through by the DC alone. For example, the DC can direct the police to take action without convening a DSC meeting.

Complaints DSCs receive can be divided into five categories: those of private nature, against the police, against security forces, against the District administration, and others.



Complaints of private nature primarily concern conflicts between individuals and land disputes. Further research is required to answer why individuals prefer to settle their legal disputes through DC and DSC, and not through courts, and whether DSCs could be considered appropriate avenues for alternative dispute resolution. All DSCs indicated they receive complaints against the police, with one DSC specifying that majority of the complaints are lodged against rank and file police officers. All but one DSCs indicated that they also receive complaints against other security forces, militias (*Mgambo*), auxiliary police (e.g. Forest Department), and community security groups (*Sungusungu*). Complaints against officials in the District administration have also been filed in all interviewed Districts. It has also been established that DSCs deal with a lot of complaints against a variety of public and private institutions, such as AMCOS³¹, Judiciary (backlog of cases), hospitals (inadequate services), RITA, and Ward Executive Officers, as well as complaints of general nature, such as grievances about the lack of employment or poor infrastructure in the District.

³¹ Agriculture and Marketing Cooperative Societies;

3. DSCS' CAPACITY FOR ACCOUNTABILITY AND OVERSIGHT

It is evident that the DSCs are exercising substantial oversight functions over a range of public institutions, including police and quasi-policing agencies. However, the accountability role of the Committees is not to take complaints, conduct investigations and grant remedies, but rather to direct and coordinate other agencies' response to complaints, and follow up on their status. This arrangement, however, remains informal, with no legal instrument providing for essential procedures pertaining to receiving and dealing with complaints and reports from the members of public.

Taking into account scarce resources available to the DSCs, their capacity for holding public offices (including the police) to account is impressive. To maximise their potential the NSC Act should be amended to formalise DSCs' oversight role. Regulations under the Act should also be issued to lay out the functioning of the Committees in finer detail.

The following elements are fundamental to be addressed in law and/or regulations:

- Capacity to receive complaints independently (as a Committee, not DC);
- Mechanism for registration of complaints;
- Mechanism for evaluation of complaints;
- Procedures for considering complaints during regular DSCs' meetings;
- Procedures for assigning tasks and responsibilities to DSC members for investigating and/or resolving the complaint;
- Procedures for following up on the investigation and/or resolving of the complaint by a responsible DSC member;
- Mechanism for keeping the complainant informed about the status of his or her complaint;

- Guarantee of anonymity for complainants in some cases (e.g. complaints against the police);
- Mechanism for keeping records about the complaints (number of complaints received, evaluated, investigated, resolved, action taken); and
- DSCs' reporting obligations to respective RSCs and the NSC to help improve provision of public services as well as security situation at regional and national levels.

Organisationally, it is necessary for DSCs to have a separate secretariat to strengthen Committees' distinct legal personality and to decrease their reliance on the DC and other Committee members for receiving complaints/reports and bringing them to the DSC attention. It also seems appropriate for a permanent subcommittee to be established to keep track of the complaints and coordinate DSCs' follow-up measures.

Functionally, it is also recommended to develop different procedures for complaints against different state agencies to meet unique risks and challenges they may pose. In particular, complaints against the police deserve special attention to detail. For example, DSCs must be able to process the complaint against a police officer without necessarily revealing the complainant's identity. Also, DSCs are well placed to serve as a liaison between the police internal accountability mechanisms and the Commission for Human Rights and Good Governance (CHRAGG). Thus, the particulars of this relationship should be spelled out. For example, it is advised that the complaint be sent to Internal Police Complaints Unit for investigation, and, at the same time, a copy of the complaint forwarded to CHRAGG for additional oversight.

Policy makers are therefore encouraged to conduct further studies on how DSCs operate in practice and formalise their oversight role with

the above suggestions and the recommendations in the Section below in mind.

RECOMMENDATIONS

In order to improve DSCs' workflow and enhance their oversight capacity, the following recommendations should be considered by policy makers.

Legal framework

1. The regulations are important to be drafted and adopted under the NSC Act, 2010 to operationalise its provision and give guidance to DSCs for the Act's uniform implementation.
2. Recommendations listed below are incorporated either in the Act, or the regulations issued under the Act.

Organisational structure

1. The Act has to be amended to provide for a separate DSC Secretariat. The Secretariat has to include the District Administrative Secretary, District Security Officer and at least one permanent member employed full time solely for the DSC Secretariat service.
2. The Secretariat should have a fixed physical address and be tasked, inter alia, to receive and record complaints.
3. The membership of the DSC has to be extended to include a local elected representative (e.g. an elected member of the District Council), PCCB and DED.
4. Village and Ward Security Committees have to be recognised by the Act, with their mandate, composition and powers laid out in the Act and operationalised in the regulations issued under the Act.
5. Sitting allowance for DSC members should be considered.

Enhanced capacity

1. Districts should be provided separate funding to be spent by DSCs on improving security and acquiring required working tools (such as fuel or transport).
2. Regulations under the Act should lay out a cooperation regime between DSCs and civil society with a purpose of building capacity and raising awareness about human rights and good governance.
3. It is important to add a compliance clause be added into the Act, with a reservation stating that a government agency or an office, directed by the DSC to perform a task or an action, is relieved from its duty to comply with the direction, if compliance would prejudice agency's autonomy and/or impartiality.

Transparency and public accountability

1. The Act should be amended to replace existing confidentiality clause with a new clause referring to the confidentiality regime as per the ATI Act, 2015. This should resolve any ambiguity regarding what information can and cannot be revealed by the DSCs.
2. Confidentiality regime has to be complemented by the proactive disclosure regime defining how, how often and in what form information is released by the Committees.

Oversight role

1. The Act and the regulations issued under the Act should formalise and enhance DSCs' oversight role by providing for:
 - a) Capacity to receive complaints independently (as a Committee, not DC);
 - b) Mechanism for registration of complaints;
 - i. Complainant should be defined to specifically include the members of the public.

- ii. Registration procedure should be laid down (who's responsible for entering of information into a log, keeping the log, referring complaints for evaluation, etc.);
 - iii. Complainant should be issued with a complaint number corresponding to the number registered in the special government log book.
- c) Mechanism for evaluation of complaints;
- i. To establish a permanent subcommittee for the purpose of evaluation of complaints;
 - ii. Procedure for the subcommittee's operations should be laid down in regulations issued under the Act;
 - iii. If the complaint evaluation does not reveal a probable security threat or a breach of law, the complainant should be duly informed;
 - iv. If the complaint evaluation reveals a probable security threat or a breach of law, it should be included into DSCs' regular meeting agenda.
- d) Procedures for considering complaints during regular DSCs' meetings;
- i. Minutes of the meeting should be held;
 - ii. Decision making process should be outlined (e.g. voting, or the DC takes decision taking into account inputs of DSCs members).
- e) Procedures for assigning tasks and responsibilities to DSC members for investigating and/or resolving the complaint;
- f) Procedures for following up on the investigation and/or resolving of the complaint by a responsible DSC member;
- g) Mechanism for keeping the complainant informed about the status of his or her complaint;

- h) Mechanism for keeping records about the complaints (number of complaints received, evaluated, investigated, resolved, action taken); and
- i) DSCs' reporting obligations to respective RSCs and the NSC to help improve provision of public services as well as security situation at regional and national levels.
- j) Special procedure for handling complaints against the police:
 - i. A complainant should have an option to remain anonymous;
 - ii. Following the evaluation, the complaint should be forwarded to the Internal Police Complaints Unit;
 - iii. Copy of the complaint should be sent to the CHRAGG.

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ANNEX I: DSCs QUESTIONNAIRE

DISTRICT SECURITY COMMITTEES QUESTIONNAIRE

Name (optional): _____

Telephone number (optional): _____

Email address (optional): _____

Name of the District: _____

Gender: Male Female

1. How frequently does the Committee meet?

- 1-3 meetings a month
- Once a month
- Once every three months
- Once every six months
- Only when there is a need

2. Where do the Committee's meetings take place?

3. Are minutes of each meeting drafted and circulated to the Committee members?

- Always
- Frequently
- Sometimes
- Never

4. How frequently does the Committee invite other persons to its meetings for the purpose of giving advice?
- To every meeting
 - Frequently
 - Sometimes
 - Never
5. Are the agenda and results of each meeting made available to the public?
- Yes, both results and agenda
 - Only agenda
 - Only results
 - No
6. If yes, please describe the means by which the agenda and minutes are disseminated to the public (for instance through notice boards, newspapers, public announcements such as through radio, the internet or any other means)?
-
-
-
7. Have sub-committee(s) been formed for the purpose of performing a specific function or task?
- Yes
 - No
- a. If yes, how many sub-committees have been formed and what are each of their mandates?
-
-
-
8. Has the Committee prepared plans and strategies for defence and security?
- Yes

No

a. If yes, which authorities have these plans and strategies been submitted to?

9. Has the Committee prepared evaluation reports on defence and security situation in the District?

Yes

No

a. If yes, which authorities have these reports been submitted to?

10. Are there serious crimes in your District?

Yes

No

a. If yes, please list them

b. Has your Committee issued directions or guidelines to tackle these crimes? Yes

Yes

No

c. If yes, are these directions or guidelines available to the public?

Yes

No

- d. Please give a brief description of any significant follow-up action that has been taken on the basis of these directions or guidelines

11. Have the Committee identified social and administrative problems relating to security within the District?

- Yes
 No

- a. If yes, please list them

- b. Does the Committee have plans to tackle these problems?

- Yes
 No

- c. Has the Committee shared these plans or advice with the relevant authorities for the appropriate action?

- Yes
 No

- d. Which authorities have these been shared with?

- e. Please give a brief description of any significant follow-up action that has been taken by any of these authorities?

- f. Are these plans available to the public?
- Yes
 - No
12. Does the Committee evaluate and follow-up on the status of strategic reserve levels of food, medicines and fuel?
- Always
 - Frequently
 - Sometimes
 - Never
- a. When was the last follow-up?
- _____
13. Does the Committee submit quarterly reports to the National Security Council?
- Yes
 - No
- a. Are these quarterly reports available to the public?
- Yes
 - No
14. Does the Committee receive information and/or reports from individuals, public and/or private institutions relating to matters of concern to defence and national security?
- Frequently
 - Sometimes
 - Never
15. Are there formal channels for submission of such information?
- Yes
 - No
- a. If yes, please give a brief description of these channels:

b. Have these channels been publicised widely?

- Yes
- No

c. Please give a brief description of the ways in which these have been publicized :

16. What kinds of action does the Committee take in response to information and/or reports received from individuals, public and/or private institutions?

17. Does the Committee receive complaints from the public?

- Yes
- No

a. If yes, what is the nature of these complaints?

- Complaints of private nature (land disputes etc)
- Complaints against the police
- Complaints against security forces
- Complaints against the District administration
- Other complaints (please specify):

18. Are you satisfied by the composition of the Committee?

- Yes
- No

- a. If no, do you have any suggestions on the composition of the Committee?

19. In your opinion, would it be beneficial to the work of the District and Regional Security Committees if Village/Ward Security Committees were created?

- Yes
 No

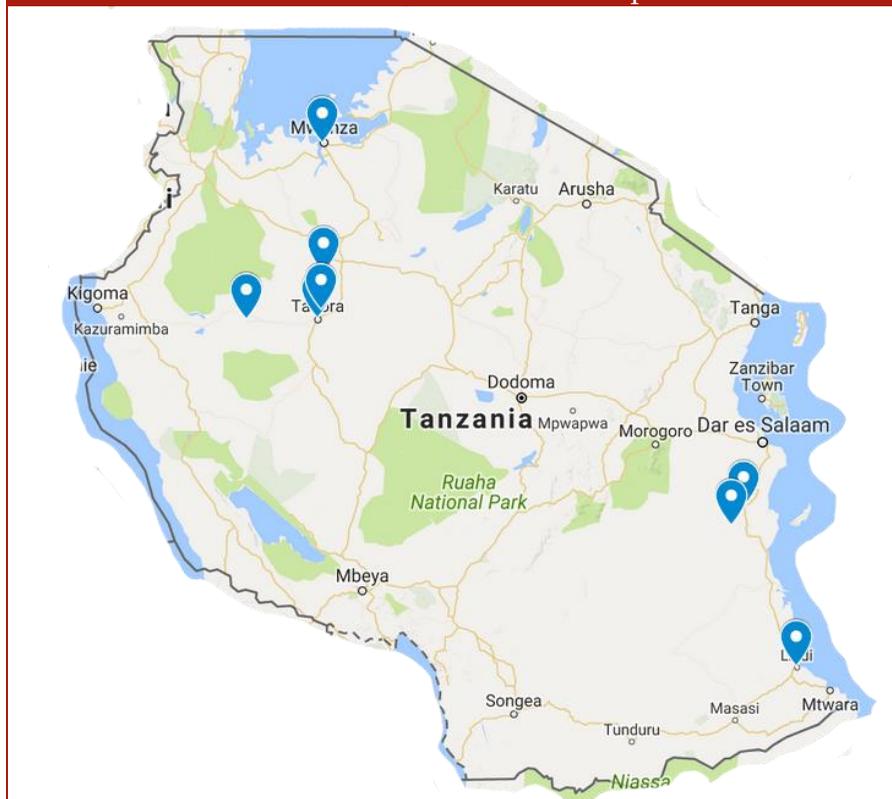
- a. Please explain why:

20. What are the challenges the Committee is facing?

21. Is there anything you would like to see improved in the work of the Committee? If yes, specify:

ANNEX II: PROFILES OF THE DISTRICTS³²

Interviewed DSCs on the map



KIBITI DISTRICT

Population: no data.³³

Geographical coverage: Kibiti District is bordered to the North by the Kisarawe and Mkuranga Districts, to the East by the Indian Ocean, to

³² Population and literacy data is provided in accordance with the 2012 Population and Housing Census (PHC);

³³ Kibiti District has been established only recently, census data is not available;

the South by the Rufiji district and to the West by the Morogoro Region.

Main economic activities: Agriculture, fishing, petty business and wage employment.

Adult literacy rate: no data.³⁴

Economic ranking: bottom twenty.

LINDI MUNICIPAL DISTRICT

Population: 78,841.

Geographical coverage: Land area of 7,846 km². Administratively Lindi Municipal District is divided into 18 Wards: Ngoro, Makonde, Mikumbi, Mitandi, Rahaleo, Mwenge, Matopeni, Wailes, Nachingwea, Rasbura, Mtanda, Jamhuri, Msanjihili, Mingoyo, Ng'apa, Tandangongoro, Chikonji, Mbanja. To the East, Lindi Municipal District is bordered by the Indian Ocean, while surrounded by Lindi Rural District to the North, West, and South.

Main economic activities: Fishing, farming, livestock, and salt pans/business.

Adult literacy rate: 72.7%

Economic ranking: bottom twenty.

NYAMAGANA DISTRICT

Population: 363,452.

Geographical coverage: Nyamagana is one of the seven districts of Mwanza region. Together with Ilemela district they form part of Mwanza City Council. Mwanza City has an area of 1327 km²; out of

³⁴ See above.

these 900 km² (68%) is covered by water and 427 km² (32%) is dry land. Nyamagana has 12 wards.

Main economic activities: Agriculture, fishing, food crops, small business, livestock keeping, trade and commerce, and formal employment.

Adult literacy rate: 93.1%

Economic ranking: bottom twenty.

RUFJI (UTETE) DISTRICT

Population: 217,274.

Geographical coverage: The District covers an area of approximately 14,500 km². Administratively it has six Divisions with 19 Wards divided into 94 registered villages with 385 hamlets.

Main economic activities: Agriculture, fishing, petty business, and wage employment.

Adult literacy rate: 63.3%

Economic ranking: bottom twenty.

UYUI DISTRICT

Population: 396,623.

Geographical coverage: Uyui District has a land area of 13,453 km². Most parts of the district are located in the central part of Tabora region, and surrounded by Tabora Urban/Municipal Council. The district shares borders with Igunga and Nzega Districts to the North, Sikonge District to the South, Urambo District to the West and Iramba District of Singida Region to the East.

Main economic activities: Agriculture, fishing, food crops, small business, livestock keeping, trade and commerce, and formal employment.

Adult literacy rate: 49.6%

Economic ranking: bottom twenty.

TABORA MUNICIPAL DISTRICT

Population: 226,999.

Geographical coverage: District's land area is 1,092 km². Tabora Municipal District is one of the seven districts in the Tabora Region of Tanzania. The District is situated within Tabora Municipality and its suburbs. It shares most of its border with the Uyui District, but has a small border with Nzega District to the North. Its administrative seat is the city of Tabora.

Main economic activities: Farming, small business, traditional/hand craft industry, livestock keeping, beekeeping, and home maintenance such as cooking, hygiene and caring.

Adult literacy rate: 84.7%

Economic ranking: bottom twenty.

NZEGA DISTRICT

Population: 502,252.

Geographical coverage: The District's land area is 6,961 km². Administratively, Nzega District is divided into 4 Divisions and 37 Wards with a total of 151 villages and 1,010 hamlets distributed unevenly. Nyasa Division covers about 33.0 percent of total land area of the district followed by Puge Division with about 22.9 percent. Mwakalundi Division has the smallest land area in the district constituting only 21.5 percent of the total land area. Bukene Division accounts for 22.6 percent of total land area.

Main economic activities: Farming, livestock keeping, small business, and beekeeping.

Adult literacy rate: 56.1%

Economic ranking: bottom twenty.

KALIUA DISTRICT

Population: 393,358

Geographical coverage: The District has a land area of 14,050 km², which is about 19% of the total area of Tabora region. The arable land is 1,966 km², out of which only 1,500 km² are actually cultivated annually. The remaining 12,084 km² (86%) is forest reserve, grassland and water areas. The district shares borders with Urambo and Uyui Districts to the East, Mpanda and Mlele Districts (Katavi Region) to the South, and Uvinza and Kibondo Districts (Kigoma Region) to the West. To the North the District borders Ushetu (Shinyanga Region) and Bukombe (Geita Region) Districts.

Main economic activities: Farming, livestock keeping, small business, and beekeeping.

Adult literacy rate: 52.1%

Economic ranking: bottom twenty.

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