

Question 1: Discuss the primary sources of law in Tanzania

In Tanzania, the legal system is shaped by several sources of law that guide the administration of justice and the behavior of individuals and institutions. These sources provide the foundation upon which legal decisions are based. The main sources of law in Tanzania include the Constitution, legislation, case law, customary law, Islamic law (in some cases), and international law.

First and foremost, the Constitution of the United Republic of Tanzania is the supreme law of the land. It outlines the basic principles, rights, and duties of both the government and the citizens. Any law or action that contradicts the Constitution is considered invalid. It provides a legal framework for all other laws to operate within, and it ensures the protection of fundamental human rights.

Secondly, legislation or statute law refers to laws made by Parliament. These are written laws passed through a legislative process, and they include Acts of Parliament and subsidiary legislation such as regulations and orders made under the authority of an Act. An example of such legislation is the Law of Contract Act, which governs the principles of contract law in Tanzania.

Another important source is case law, also known as judicial precedent. This refers to decisions made by higher courts that are used as a reference in future similar cases. Through this principle of stare decisis, the courts ensure consistency and predictability in the application of the law. Case law fills gaps where legislation might be silent or unclear.

Customary law also plays a role, particularly in matters related to marriage, inheritance, and land ownership, especially in rural communities. Customary laws are based on traditions and practices accepted by specific ethnic groups. However, they are only applicable if they do not conflict with statutory law or the Constitution.

In some cases, Islamic law (Sharia) is recognized, especially in matters of personal status for Muslims such as marriage, divorce, and inheritance. This is mainly practiced

in Zanzibar and in Islamic communities across the country, subject to the conditions set by Tanzanian law.

Lastly, international law, including treaties and conventions that Tanzania has ratified, can also form part of the legal system. Once these international agreements are incorporated into domestic law through legislation, they become binding and enforceable in Tanzanian courts.

In conclusion, the Tanzanian legal system is built on a combination of sources that work together to regulate society. Understanding these sources helps ensure that justice is administered fairly and consistently across the country.

Question 2: What are the essential elements required for the formation of a valid contract? Explain each element in detail.

A contract is a legally binding agreement between two or more parties. For a contract to be valid and enforceable under Tanzanian law, it must contain several essential elements. These include offer, acceptance, consideration, intention to create legal relations, and capacity to contract.

The first element is an offer. An offer is a clear proposal made by one party (the offeror) to another party (the offeree) expressing the willingness to enter into a contract on specific terms. The offer must be definite and communicated clearly. For instance, if a person offers to sell their phone for 200,000 TZS, that is an offer.

The second element is acceptance. Acceptance is the unqualified agreement to the terms of the offer. It must be communicated to the offeror and should match the offer exactly. Any attempt to change the terms of the offer is considered a counter-offer, not an acceptance. For example, if the other party agrees to buy the phone at 200,000 TZS without changing the terms, that is acceptance.

The third element is consideration. This refers to the value that each party agrees to exchange in the contract. It can be money, goods, services, or a promise to do or not do something. Consideration shows that the parties are entering the contract voluntarily and with mutual benefit. In the phone sale example, the money paid and the phone given are the consideration.

The fourth element is the intention to create legal relations. Both parties must intend for the agreement to have legal consequences. This is especially important in distinguishing social or family agreements from business contracts. In commercial agreements, it is usually assumed that the parties intend to create legal obligations.

The fifth and final element is capacity to contract. This means that the parties entering into the contract must have the legal ability to do so. They must be of sound mind, not under the influence of drugs or alcohol, and must be of the legal age, usually 18 years or older in Tanzania. Certain people, like minors or mentally ill individuals, may not be able to enter into binding contracts unless under special circumstances.

In summary, a valid contract must have all these five essential elements. If even one is missing, the contract may not be enforceable by law. Understanding these elements is crucial, especially for those entering into agreements in business or everyday life.