

# Federation within Federation

The Tanzania Union Experience  
and the East African Integration Process

A Report of the Kituo cha Katiba  
Fact-Finding Mission to Tanzania

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## Abbreviations and Acronyms

AD	<i>Anno Domini</i>
AfDB	African Development Bank
ANGOZA	Association of NGOs in Zanzibar
ASP	Afro Shirazi Party
AU	African Union
BC	Before Christ
CAF	Confederation of African Football
CCM	Chama Cha Mapinduzi
CHADEMA	Chama Cha Demokrasia Maedeleo
CHRAGG	Commission for Human Rights and Good Governance
CIA	Criminal Investigation Agency
CSOs	Civil Society Organisations
CUF	Civic United Front
DENIVA	Development Network of Indigenous Voluntary Associations
DPP	Director of Public Prosecutions
EA	East Africa
EABC	East Africa Business Council
EAC	East African Community
EACSO	East African Common Services Organisation
EADB	East African Development Bank
EALA	East African Legislative Assembly
EALS	East Africa Law Society
EEZ	Exclusive Economic Zone
EPA	European Partnership Agreement
FIFA	<i>Fédération Internationale Football Association</i> (International Federation of Football Associations)
JFC	Joint Finance Commission
IUCEA	Inter-University Council of East Africa

IMO	International Maritime Organisation
KCK	<i>Kituo Cha Katiba</i>
<i>Kero za muungano</i>	Union problems
<i>Maridhiano</i>	Reconciliation
<i>Miafaka</i>	These refer to peace accords entered into following post-election violence in Zanzibar.
MPs	Members of Parliament
<i>Muafaka</i>	(Singular. See <i>Miafaka</i> )
NEC	National Electoral Commission National Executive Council
NGOs	Non Governmental Organisations
OIC	Organisation of the Islamic Conference
SADC	Southern Africa Development Community
<i>Shehas</i>	These are local leaders in Zanzibar in charge of the sub-district administration. They are appointed by the Regional Commissioner and report to the District Commissioner.
SMZ	<i>Serikali ya Mapinduzi ya Zanzibar</i> (Zanzibar Government Special Forces)
TACOSODE	Tanzania Council for Social Development
TANGO	Tanzania Association of NGOs
TANU	Tanganyika African National Union
TRA	Tanzania Revenue Authority
UAE	United Arab Emirates
UK	United Kingdom
UN	United Nations
URT	United Republic of Tanzania
USA	United States of America
ZEC	Zanzibar Electoral Commission
ZNP	Zanzibar National Party
ZPP	Zanzibar People's Party

## Background and Introduction

Established in 1997, Kituo Cha Katiba (KCK) is an East African organisation whose remit is the promotion of constitutionalism and democratic governance within the sub-region of East Africa. KCK provides a neutral forum for activists, academicians and politicians, and is instrumental in getting them into dialogue, self-reflection and critical debate over a range of issues germane to the current East African situation. The organisation ultimately aims to promote active participation of civil society in governance and to cultivate and instil a culture and ethic of constitutionalism and to turn the respective constitutional instruments within the East African states into veritable living documents that reflect the aspirations and needs of the common people as well as the instruments through which the people exercise their sovereignty. KCK is governed by a board whose members are drawn from Burundi, Kenya, Rwanda, Tanzania, Uganda and Zanzibar.

### **The Problem**

In April 1964, the then two independent states of Tanganyika and Zanzibar came together to form the United Republic of Tanzania (URT). This happened in the wake of a coup d'état that had earlier taken place in Zanzibar which had shortly received its independence. An amount of obscurity surrounds the inception of the Union. In the course of developments the Union became a one party state (at first with two parties). The two parties then merged. Years later, Tanzania reverted to multiparty politics in 1992 and held its first multiparty elections in 1995.

In the life of the Union there have been a number of problems. There are issues of Zanzibar nationalism, the loss of sovereignty and ability to treat internationally by Zanzibar, the eroding of its autonomy through the increase in Union matters and therefore a reduction in matters over which the Zanzibar government has competence, which

Zanzibar claimed was done unilaterally. Issues have also arisen in respect of sharing the benefits and costs of the Union government including the sharing of revenue, foreign aid etc.

These issues were compounded by the unique structure of the Union. This consists of a two-government structure with a Union government and government of Zanzibar, but without a Tanganyika government. On the one hand it was claimed over time that Zanzibar could not negotiate with the partner with whom they had executed the Union treaty with a view to modifying it as need arose. On the other, there were voices from the mainland that demanded the revival of a Tanganyika government. The dual mandate of the Union government i.e. jurisdiction over Union matters, and over non-Union matters of the mainland created its own problems and suspicions.

An attempt was made to design mechanisms to deal with the problems but these, including the Constitutional Court, a permanent Commission and many ad hoc ones appear to have been largely ineffectual. Instead, they always had to resort to the one-party structure to deal with the issues.

The transition to multiparty politics has made the latter approach to Union problems impractical. The transition has also brought in its wake, problems of electoral and post-electoral violence and claims of electoral fraud in Zanzibar. This has in turn highlighted the problems of the Union, and in particular the place of Zanzibar within the Union. KCK has conducted a mission in Zanzibar on the electoral issues, in keeping with its mandate which it has executed through missions in all the other East African states.

The current process of integration in East Africa offers a unique opportunity. The integration process, that is meant to culminate in an East African Federation offers the occasion to rethink and reform the Tanzanian Union and resolve those issues that have been raised, especially by Zanzibar. Negotiating what are federal matters within East Africa should give Tanzanians the opportunity to address once

again their own perennial problems of Union matters. East Africans can contribute to this process generally and through addressing what should be the place of Zanzibar in both the process of negotiations and, ultimately, in the East African Federation. Moreover, the East Africa integration process can learn invaluable lessons from the integration process that the Tanzanians have undertaken with a considerable degree of success for almost half a century.

This is what prompted KCK to launch the mission consisting of East Africans outside Tanzania, to examine the Union objectively, to identify its problems; its interface with the East African integration process, in order to initiate and encourage a process that it is hoped would eventually bear immense benefits for both Tanzania and East Africa.

### **The Mission**

KCK organised the fact-finding mission in two legs; the first to Unguja Zanzibar, which was undertaken from 13 to 16 July 2009. The second was undertaken in Tanzania Mainland from 23 to 28 August 2009. The mission also subsequently visited Pemba from 19 to 20 April 2010.

The mission team comprised the following:

- Hon. Augustine Ruzindana (Uganda), former Inspector General of Government, former Member of Parliament and immediate former Chairperson of the African Parliamentarians Network Against Corruption (Head of Mission);
- Mr Vincent Ndikumasabo (Burundi), Lecturer, Constitutional and Judicial law, University of Lac Tanganyika, former Judge of the Supreme Court and former Member of Parliament;
- Prof. Godfrey Muriuki (Kenya), Professor of History, University of Nairobi;
- Ms Justine Mirembe (Rwanda), Consultant, lawyer practising in Kigali;
- Ms Florence Batoni (Rwanda), Communications and Peace

Building Expert;

- Prof. Frederick Jjuuko (Uganda), Professor of Law, Makerere University, Kampala, Uganda (Secretary to the mission);
- Ms Edith Kibalama, Executive Director, KCK provided logistical support.

### **Objectives of the Fact-Finding Mission**

The main objective was to examine areas of tension relating to the Union between Tanzania Mainland and Zanzibar with respect to enhancing Zanzibar's role in the East African Community (EAC) processes and to devise ways and means of resolving them.

### **Persons Interviewed**

The mission met and discussed with various people both in Zanzibar and on the mainland. These included government ministers, members of parliament (MPs) and members of the House of Representatives, retired national leaders, leaders in state corporations, and leaders of political parties such as Chama Cha Mapinduzi (CCM), Civic United Front (CUF) and Chama Cha Demokrasia Maedeleo (CHADEMA). The mission also held fruitful discussions with the civil society people including those in women organisations, the media, youth and chambers of commerce. The mission also benefited from discussions with the law societies on the mainland and Zanzibar, as well seasoned academics. The list of the persons interviewed is appended at the end of this report.

There was no comprehensive interview guide as such and the mission engaged individuals in such a way as to let them express fully their views on the Union question and to avail as much information as they had. The single week it took to cover each of the two areas proved to be a short time given the number of people that had to be interviewed. Consequently the method used as well as the report is of a qualitative nature.

## Appreciation

The fact-finding mission would like to register its appreciation and indebtedness to all the respondents interacted with. They most readily and unstintingly gave us their time and attention; they allowed us to intrude into their routines. In a number of cases they agreed to meet us at sunrise and others long after sunset. We appreciate the candour and frankness with which they shared their views, hopes and fears with us, and the information they provided. We appreciate the generosity of those who had been actors in many of the momentous developments regarding the Union who relived with us these experiences and in many cases provided anecdotes that captured these moments and enabled us to appreciate the situation better.

# 1

## Historical Background

The URT consists of Zanzibar and Mainland Tanzania, formerly known as Tanganyika. Mainland Tanzania can rightfully claim to be the *Cradle of Mankind*. According to archaeological evidence, remains of early man were found at the Olduvai Gorge and dated to 1.75 million years ago. Also footprints of a hominid were found at Laoteli, dating back to 3.6 million years.

### **Tanganyika**

These early hunter/gatherers, often called the Khoisan, were followed by the Cushitic speakers from Ethiopia in the 1<sup>st</sup> century BC. Thereafter, the Bantu from Cameroon and Nigeria, as well as the Nilotes from the Sudan, appeared on the scene from the 1<sup>st</sup> century AD. The Bantu, in particular, developed complex social and political systems, which culminated in the rise of a variety of chiefdoms and kingdoms. The vitality and resources of these political entities attracted outsiders. For example, in the 7<sup>th</sup> century AD Arabian merchants began to settle on the East African shores in order to better exploit these readily available resources. They were then followed by Indian and Chinese traders in the 10<sup>th</sup> century. Thus, East Africa became part and parcel of the Indian Ocean trade network.

The Arabs intermarried with the local Bantu people. This gave rise to the Swahili community and civilization, which thrived along the East African coast and Zanzibar. However, Arab dominance was interrupted by the Portuguese between the 16<sup>th</sup> century and late 17<sup>th</sup> century, when they were ousted by the Omanis, who made Zanzibar their main commercial and administrative base. The Omanis dreamt of expanding their dominance from Zanzibar to the hinterland of

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East Africa (EA). To that end, they expanded ivory and slave trade as far West as the Congo. Indeed, the caravan trade remained the main economic activity until the end of the 19<sup>th</sup> century, when European intervention led to the abolition of slave trade and, ultimately, slavery as a social institution.

At the same time, European intervention culminated in the colonisation of Tanganyika by the Germans, following the partition of Africa as agreed in the Berlin Conference of 1884 to 1885. But after the defeat of Germany in the First World War, the League of Nations handed over Tanganyika to the British as a trusteeship. This trusteeship status was confirmed by the United Nations (UN) after, once again, Germany was defeated in the Second World War. Thereafter, Tanganyika then remained under British colonial rule until the 1960s, which witnessed a political wind of change in Africa. In that era, most colonies regained their freedom in the 1960s. Tanganyika did so in 1961.<sup>1</sup>

### **Zanzibar**

Like the rest of East Africa, Zanzibar was settled by the Bantu from the 2<sup>nd</sup> century AD. They came from different mainland communities and lived in small settlements. But unlike their mainland compatriots, they did not form centralised political units. This failure made them an easy prey of the better organised outsiders or invaders.

Unguja, the main island, attracted foreigners because it offered a safe haven that could be easily defended. In particular, it attracted Persian seafarers, who made it a base in their trade between the

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1 See Coupland R., *East Africa and Its Invaders*, Oxford, Clarendon Press, 1938, chapters X and XI; Coupland R., *The Exploitation of East Africa*, Faber, London, 1939; Oliver, R., and Mathew, G. (eds.), *History of East Africa*, Vol.1, Oxford University Press, 1964, pp. 352-453; Iliffe, J., *A Modern History of Tanganyika*, Cambridge University Press, Cambridge, 1979, pp. 485-576.; Kimambo, I. N. and Temu, A. J., *A History of Tanzania*, East African Publishing House, Nairobi, 1969.

Middle East, India and Africa. They also settled in what is called Zanzibar City or Stone Town. And eventually, Zanzibar became a valuable base for anyone interested in forging contact with the mainland.

Understandably, these traders began to intermarry with the local people in the 11<sup>th</sup> and 12<sup>th</sup> centuries AD. And to regulate their lives a hereditary ruler, *Jumbe* or *Sheha*, emerged. This remained the situation until the arrival of the Portuguese towards the end of the 15<sup>th</sup> century, the dawn of the “Age of Discovery”. Thereafter, the East African coast remained under their nominal control until they were ousted by the Omanis in 1698.

In their turn, the Omanis built garrisons in Zanzibar itself, Pemba and Kilwa. Attracted by the potentialities of East Africa and prospects of a more peaceful life, in comparison to the political intrigues of Muscat, Seyyid Said, their ruler, decamped from Muscat to Zanzibar in 1832. This resulted in the establishment of an Arab aristocracy in Zanzibar that depended on African slave labour.

Seyyid Said developed a thriving spice industry, particularly cloves, thereby earning the island the nickname, *Spice Islands*. Furthermore and as seen above, he encouraged the expansion of the caravan trade in search of ivory, minerals and slaves. Slaves were exported to Arabia and India. And to carry out these projects, he relied on Indians for financial support. For example, in 1835 there were about 300 to 400 of them. But by 1860 their population had jumped to between 5,000 and 6,000. Ultimately, Zanzibar became an entrepôt which attracted various European countries that established diplomatic relations. Indeed, he signed treaties of amity with United States of America (USA) in 1836, Britain in 1840, and France in 1844.

However, throughout the 19<sup>th</sup> century, Omani rulers were clients of the British. The British assisted them to deal with troublesome subjects, besides training their armed forces, especially the navy. But this came at a price. From 1820s, Britain insisted that Zanzibaris

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must gradually restrict their slave trading activities, which were increasingly coming under international criticism and demands for the abolition of the trade and the institution of slavery itself. For this reason, in Zanzibar the trade was finally legally abolished in 1876, while manumission of slaves only took effect in 1897. Though they were paid compensation for the loss of slaves, this was a nasty pill to swallow because slave trade and slavery were the main pillars of their economy.

Moreover, when the scramble for Africa gained momentum, the Sultan of Zanzibar was forced to prove the extent of his Zanj sultanate. To his dismay, his sultanate was carved into British and German spheres of influence in 1886 and 1890. Indeed, in the final analysis Zanzibar lost all its claimed possessions in the mainland only retaining a ten-mile strip on the Kenyan coast. But this coastal strip, as well as Zanzibar, was declared a British protectorate in 1890.

Ostensibly, Zanzibar was ruled by the Sultan under the tutelage of British officials. But in reality, the final word lay with the British officials. Up to 1913, the Sultan wielded some measure of authority over his subjects. But from 1913 to 1963, Britain appointed a representative, called the resident. His role was virtually similar to that of a governor as was the case in the other East African countries then under British control.

Zanzibar gained independence as a constitutional monarchy on 10 December 1963. But this arrangement was short-lived. On 12 January 1964 Africans revolted against the Arab dominated government, which was accused of having rigged the elections. But there was more to it. It was an epitome of a much larger struggle that pitted an African majority against an Arab minority, or a landless peasantry against a landed aristocracy and political oligarchy.<sup>2</sup>

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2 Sheriff, Abdul, *Slaves, Spices and Ivory in Zanzibar: Integration of an East African Commercial Empire into the World Economy, 1770-1873*, James Currey, Oxford, 1987, pp. 48-60, 77-110, 202-238; Ogot, B. A., *Zamani: A Survey of East African History*, Longman, Nairobi, 1974, 210-227,

In the event, the Afro-Shirazi Party (ASP) took over the reins of government under its leader, Abeid Karume, who became president of Zanzibar and chairman of the Revolutionary Council. Tellingly, the western powers feared that the ASP was under communist influence, if not thumb. In support of their fears, they pointed out that some of the revolutionary cadres had military training in Cuba and espoused a revolutionary Marxist ideology, which they hoped to install in Zanzibar. In this regard, the prime actors were Abdulrahman Mohamed Babu, Abdul Kassim Hanga and Abdul Aziz Twala. Matters were not made any easier by the arrival of Communist diplomatic corps, particularly from China and East Germany. These came armed with promises of their readiness to dole out dollops of financial aid, which the western world could not, or were unwilling to, match. Even worse Karume, angered by the procrastination of western powers to recognise his regime, insisted on America dismantling its satellite tracking station in Zanzibar. The revolt sent the western world into a spin.<sup>3</sup>

It is estimated that in the initial stages of the revolution, between 5,000 and 15,000 Arabs and Asians were murdered; their women were raped and their homes burned. This resulted in about 20 per cent of the population being either murdered or fleeing the country.<sup>4</sup> Other sources argue that the actual number of deaths during the revolution is until to date unknown.<sup>5</sup> As would be expected, the

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295-312; Coupland, *op. cit.*; Oliver and Mathew, *op. cit.*, pp.352-390 and 433-453.

3 Petterson, Don, *Revolution in Zanzibar: An American's Cold War Tale*, Westview Press, Boulder, Colorado, 2002, pp.121-210; Lofchie, Michael F., *Zanzibar: Background to Revolution*, Oxford University Press, 1965, Part 111, pp. 183-281.

4 James Minaham, *Encyclopedia of the Stateless Nations* as quoted in "History of Tanzania", *Wikipedia*, pp.2088-2089.

5 Bakari Mohammed Ali, *The Democratisation Process in Zanzibar: A Retarded Transition*, GIGA, Hamburg, p.105-106.

chaos attracted the attention of the international community and generated adverse publicity.

At the same time and in tandem, the armies of Kenya, Tanganyika and Uganda revolted. Presidents Jomo Kenyatta (Kenya), Julius Nyerere (Tanganyika) and Milton Obote (Uganda) suffered the ignominy of having to appeal to Britain, their former colonial master, to rescue them by sending British forces to quell these humiliating revolts. The unfolding drama led the western world to fear that Zanzibar would become another Cuba. Hence, Britain and the USA, in particular, were determined to nip the eventuality in the bud.

### **The Union**

Various options were considered and eventually Nyerere was prevailed upon to rescue the situation by uniting Tanganyika and Zanzibar. Hence, on 26 April 1964 the two countries became the United Republic of Tanganyika (URT) and Zanzibar for a brief period. Eventually, they became the URT on 29 October 1964.

The formation of the URT took most people by surprise. However, this should not have been the case. For example, Karume was a mainlander, who became a seaman and decided to settle in Zanzibar. Moreover, many Zanzibari leaders had migrated from the mainland to Zanzibar in the 1940s and 1950s, thereby forging close links between Zanzibar and the mainland. For instance, as far back as 1934 African Association of Tanganyika had a branch established in Zanzibar, albeit mainly supported by Zanzibaris of Mainland origin.

Furthermore, the Union came about when the hottest topic of discussion was either the formation of an East African Federation or United States of Africa as advocated by the likes of Kwame Nkrumah of Ghana. However, Nyerere was a frustrated man. As early as 1961 he had declared that he would be willing to postpone the independence of Tanganyika, if he was assured that Kenya and

Uganda would be granted independence at the same time so as to facilitate the formation of an East African Federation. But this did not work out as intended.

Secondly, in 1963 the three East African leaders had committed themselves to the formation of the proposed federation. Indeed, a working committee had been formed for that purpose. Once again, the idea faced serious political problems, particularly because Uganda seemed to have developed cold feet. Equally, Nkrumah would not hear of it. He reckoned that it would steal his thunder and threaten his dream of the formation of a continental body. Consequently, he vigorously campaigned against the idea of an East African Federation. No wonder, it became still born.<sup>6</sup>

Be that as it may, the revolution turned Zanzibar into a theatre of one-upmanship between the West and the Communist world. Britain and USA put a lot of pressure on Nyerere to come to their rescue. Kenya and Uganda also felt the cold breeze of the tussle. Nyerere was hesitant because he did not wish to be seen as a stooge of the West, nor to betray the principles of Pan-Africanism, of which he was a firm believer. Neither did he relish the possibility of being accused of having colonised Zanzibar.

Nevertheless, Nyerere was under no illusion. The revolution in Zanzibar was “chaotic and under the control of armed and semi-literate people, who posed grave danger to Zanzibar itself and Tanganyika”. Equally, there was a fierce struggle within the ASP and between it and the Umma Party. Indeed, it is claimed that Karume even feared for his own life and hence contacted Nyerere for assistance and protection. He is even said to have mooted the

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6 Opinion varies as to whether western pressure was the determining factor in the formation of the Union. For this see, for example, Othman, Haroub, “The Union with Zanzibar”, in Legum, C. and Mmari, G., *Mwalimu: The Influence of Nyerere*, James Currey Limited, London, 1995, pp. 170-75; and Petterson, *op.cit.*, p.207.

idea of Tanganyika absorbing Zanzibar, with Nyerere as president and himself as a second in command.

Given the fluid and shambolic circumstances in Zanzibar, as well as pressure from the western world, the available evidence points out that he reluctantly accepted to unite Tanganyika and Zanzibar after a procrastinated period of soul searching. And as usual, he was able to marshal his considerable oratory gifts to defend that decision.<sup>7</sup>

To further silence his critics, he argued that he saw the Union of Tanganyika and Zanzibar as a first step in the creation of an East African Federation and, by extension, that of the whole continent. Even more, he saw it as an important stabilising factor, given that a volatile Zanzibar would produce a ripple effect in the whole of the region. Besides, ASP and Tanganyika African National Union (TANU) had co-operated in the fight for independence. Co-operation between them would, therefore, be a mere extension of what had gone on before. Given that scenario, it was the best option, he concluded. In short, he was being a pragmatist.

Another area of interest to political scientists, constitutional lawyers and historians is the manner in which the exercise was carried out. There is no doubt that the exercise was shrouded in secrecy. For example, one school of thought argues that the then Attorney General of Zanzibar was never consulted. Indeed, it is evidently clear that the Articles of Union were drawn up in Dar-es-Salaam by two British civil servants, who happened to be trusted by Nyerere.

Even more, the legality of the Union Constitution is in question. Some argue that the Revolutionary Council of Zanzibar never ratified the Articles of Union because of political division in the Revolutionary Council. Hence, the legality of the Union solely relies on the ratification by the mainland government and its subsequent

<sup>7</sup> Hughes, A. J., *East Africa: The Search for Unity: Kenya, Tanganyika, Uganda and Zanzibar*, Harmondsworth, 1963, pp.227-264; Rothchild, D., *Politics of Integration: An East African Documentary*, Nairobi, 1968.

appearance in the mainland gazette. The explanation offered for this predicament is that Karume had no time for legal niceties. Also, because of his limited education such an attempt would have been a futile exercise. Critics therefore contend that the Union lacked a legal basis right from the beginning because, while the Articles of Union were signed by Karume, they were never ratified by the Revolutionary Council. Consequently, it is argued, that the Union exists *de facto*, but not as a matter of law. In short, it was a gentlemen's agreement.<sup>8</sup>

Above all, opinion is divided as to the eventual intention of the two principals, Nyerere and Karume. Some scholars see the interim arrangement as a stop gap measure that was intended to eventually lead to the integration of the two entities. To others, there were no such intentions. They argue that their view is consistent with Karume's subsequent behaviour. All along, he exhibited reluctance and, some would even say, resistance to the implementation of the Union agreement.

Even more contentious is the list of matters reserved for the Union government. The original 11 articles were, over time, increased to 22 by 1990. To Zanzibaris, this is intended to undermine the autonomy and identity of Zanzibar. Above all, Zanzibar is under a big disadvantage because their voice in the Union parliament is drowned by the majority from Tanzania Mainland. This development is a matter that Zanzibaris attach great importance to irrespective of their political persuasion.

The structure of government has also been put under a microscope. The bone of contention is the fact that the Union deals with Union and non-Union matters lumped together. Hence, Zanzibaris feel that when a minister of the Union deals with issues affecting both entities,

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8 Shivji, Issa G., *Pan-Africanism or Pragmatism?: Lessons of Tanganyika-Zanzibar Union*, Mkuki na Nyota Publishers, Dar-es-Salaam, 2008 pp.76-99. Also see *Tanzania: The Legal Foundations of the Union*, Dar-es-Salaam University Press, 2009.

he is more likely than not, to favour the mainland. In short, there is a conflict of interest. At the same time, budgetary allocations are bundled together for the Union government and Tanzania Mainland without a clear distinction. It is for this reason that there has been a clamour for the establishment of a three-tier government consisting of the Union, Zanzibar and Tanzania Mainland. This problem dramatically took centre stage in 1984 and led to the then president of Zanzibar, Jumbe, being forced to resign.

The incremental erosion of the powers of the Government of Zanzibar is best illustrated by the 1977 merger of TANU and ASP. This meant that matters that were entirely within the jurisdiction of Zanzibar were henceforth to be decided by a pan-territorial political party- CCM. For example, Hassan Mwinyi was chosen interim president of Zanzibar by CCM's National Executive Council (NEC) and later nominated as a candidate for the presidency. Also with the arrival of multi-parties in 1992 there was fear that CCM might not win the 1995 elections in Zanzibar and that victory was likely to go to CUF. Consequently, constitutional changes were made to remove the clause guaranteeing that the president of Zanzibar should automatically become the vice president of the Union. Since the Political Parties Act requires parties to register on both sides of the Union, the mainland appears set to dominate Zanzibar beyond CCM and even under multipartism.

Indeed, the holding of free and fair elections has become problematic in Zanzibar. These have been marred by irregularities as shown in 1995, 2000 and 2005. The compilation of the voters register has become a major issue. The question of who is a Zanzibari has sparked violence particularly because there has been a deliberate attempt by the *shehas* to refuse to register those who are perceived to be sympathetic to the opposition. A five-year residency requirement has disenfranchised many, while the same does not apply to members of the special departments or armed forces, such as the *Kikosi Cha*

*Valantia*. These are accused of being an instrument for furthering CCM interests. In the past, they have interfered with the electoral process. They have done so by undermining the role of the Zanzibar Electoral Commission (ZEC) in its mandate of controlling and supervising the process. Increasingly, the management of the elections was compromised by the *shehas* and special departments, who took their instructions from the regional and district commissioners. To cap it all, in Pemba constituencies were reduced to 18, while in Unguja they were increased to 32. Needless to say, Pemba is the stronghold of CUF.

Even more telling, in the 2000 elections, is the fact that five names were submitted for the presidency instead of the usual two. In the preferential votes, Amani Karume came fourth. But CCM's NEC chose Karume and left out the most popular candidate, Dr. Mohamed Gharib Bilal, Chief Minister under Salmin Amour. This could only happen because in the NEC Zanzibar has only a third of the seats and, therefore, its representation is not decisive.

Zanzibar has a whole catalogue of complaints. With regard to the economy, it argues that there are unfair fiscal and monetary agreements that kill its economy. For example, it points out that there is double taxation of goods imported in Tanzania Mainland from Zanzibar. Petroleum and natural gas, which are likely to be discovered in the islands, have been included in the list of Union matters. And yet, gold, diamonds and tanzanite that are found in Tanzania Mainland are not classified as such.

In the political arena, two court cases were filed asking the High Court of Zanzibar to declare the Union null and void. Other players have mooted the renegotiation of the Articles of Union to create a fully fledged federation.

Finally, the 2000 elections ended in shambles. The Commonwealth Observer Group described them as a sham and travesty of democracy. And as in 1995, CUF refused to recognise them and boycotted not

only the House of Representatives, but also the Union Parliament. The ensuing demonstrations and protests by the opposition in January 2001 ended in the unleashing of police brutality. An estimated 2,300 people took refuge in Kenya and 30 died. There were also mass arrests and beatings aimed at cowing the restless people. This turn of events forced CCM and CUF to seek a solution to the political stalemate. Thus, the two protagonists agreed to sign *Muafaka 2*, which recommended the implementation of the dormant *Muafaka Accord 1*.<sup>9</sup>

The *Muafaka 1* was brokered by the Commonwealth and signed on 9 June 1999, following political problems that arose from the disputed 1995 elections. Basically, the two warring parties agreed to embrace the spirit of reconciliation and democratization. They agreed to review the electoral laws, reform ZEC, compile a new voter's register, embark on civic education and review the constitution. To implement these objectives, the Zanzibar Government undertook to ensure that the opposition parties were given equal treatment in the public media. The judiciary was to be reformed to ensure its neutrality and independence. And claims of damaged or destroyed properties, during the post-election mayhem, would be assessed by an independent assessor.

In return, the CUF undertook to end its boycott of the House of Representatives and Union Parliament. And as a further carrot, the president of Zanzibar was to appoint two CUF members to the House.

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9 Maalim, Mahadhi J., "The State of Constitutionalism in Zanzibar" in Mute, L. (Editor), *Constitutionalism in East Africa: Progress, Challenges and Prospects in 2004*, Fountain Publishers, Kampala, 2007, pp. 29-50; and Oloka-Onyango, J. and Nassali, M., *Constitutionalism and Political Stability in Zanzibar: The Search for A New Vision*, A Report of the Fact Finding Mission organised under the auspices of Kituo Cha Katiba, The Friedrich Ebert Stiftung, Tanzania, 2003, pp.17-80.

The Central Committee of the CUF endorsed the agreement in July 1998. But CCM delayed its approval. Hence, the document was not signed until a year later. Clearly, there was no goodwill and *Muafaka 1* was, consequently, never implemented.

Given this background, it was hoped that this time round there would be political commitment and goodwill to fully implement *Muafaka 2*. In this regard, some progress has been made. Two constitutional amendments, 8<sup>th</sup> and 9<sup>th</sup>, have reduced the powers of the Director of Elections, who now has to work under ZEC; the absolute powers of the *shehas* over voter registration have been reduced; and the residency requirement has also been shortened from 5 to 3 years. ZEC was reconstituted to include two members appointed on the advice of the official opposition; two were to be appointed on the advice of the leader of government business in the House; the Director of Elections was to be appointed by the president on the advice of ZEC; and ZEC was now authorised to appoint the returning officers. Finally, the office of the Director of Public Prosecutions (DPP) was created in order to separate the government and the ruling party from DPP's office.<sup>10</sup>

Further progress has recently been made. Karume and Maalim Seif Hamad, the president of CUF, have reached some significant agreements, which are referred to as *Maridhiano*, or understanding. These include holding a referendum by May 2010 to determine whether a government of national unity should be created; recognition of Karume as president of Zanzibar by CUF; and appointment of two CUF members to the House of Representatives and Union Parliament. Above all, the House of Representatives has passed a motion to amend the constitution so as to create a second post of vice president to be held by the opposition.

These developments have considerably reduced the tension and suspicions that arose from non-implementation of *Muafaka 1*.

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<sup>10</sup> Maalim, *op.cit.*

When the mission visited Pemba, we found a buoyant and hopeful mood about *Maridhiano*. *Maridhiano* was welcomed in Pemba. It had already helped to ease the tension between the CCM and CUF supporters and also pointed towards a future of more peaceful electoral processes. However, it is generally acknowledged that more needs to be done. For example, there is a clear need for the political elite to demonstrate their commitment to the agreement.

From the available literature, one thing is clear. No one has advocated the dismantling of the Union. If anything, there are clear benefits that are acknowledged by both sides. The Union saved Zanzibar from political turmoil at a crucial time. There have been economic rewards, too. And given its population, Zanzibar is well represented, if not over-represented, in the Union Parliament. The general mood then seems to be that the Union is there to stay, if only the leaders can agree to remove the pinpricks.

## 2

# The Formation and History of the Union

### **The Making of the Union**

As noted in Chapter 1, the United Republic of Tanganyika and Zanzibar was formed on the 26 April 1964. Towards the end of 1964 it was decided to discard the name and under the 1965 constitution the country adopted the current name of the URT. The Union brought together hitherto two separate and sovereign states of Tanganyika and Zanzibar. The Union came hard on the heels of Zanzibar's independence in December 1963 and subsequent revolution that overthrew the immediate post-independence Sultan's government on 12 January 1964.

The mission received a number of interpretations of the events, motives and significance of the developments. It was common knowledge that the formation of the Union was associated with a considerable degree of urgency, haste, even secrecy and lack of consultation of the population.

Beyond that there were interpretations that give a more positive version of the promotion of the Union and those that do not. The former see the Union as an almost natural development, a culmination of the collaboration of the people of Tanganyika and Zanzibar, a step towards Pan-Africanism.<sup>11</sup>

11 That the Union tapped into the spirit of Pan Africanism is evident from the congratulatory messages received from all over Africa. Congratulatory messages were also received from Canada, the UK, USA etc. See Tanganyika Information Service, *Muungano wa Tanganyika na Uguja*, Dar-es-Salaam, 1964, pp.2-23. Nyerere's speech on the Union in this publication addresses a number of controversies associated with the formation of the Union.

They point out that the people of the two countries are akin to each other, that 90% of the people of Zanzibar were blacks most of whom had their origin in Tanganyika and migrated to Zanzibar or were shipped there as slaves or domestic workers or to dig roads and till the land. Over time they become the majority and the Arabs the minority.

Indeed they stated that Karume, the first president after the mutiny or revolution, was a mainlander who went to Zanzibar to work on a ship and decided to live in Zanzibar permanently. In addition many leaders in Zanzibar had migrated to Zanzibar in the 1940s and 1950s, thereby forging a natural link between the blacks in Zanzibar and the mainland.

On the other hand, the Sultan was depicted as a ruler who was backed by a few thousand Arab traders and farmers using black labour, dominating the black minority. Hence during the struggle on the mainland and liberation in Zanzibar, there was co-operation. Because the colonial government tried to suppress the struggle there was the forging of links between the mainland and Zanzibar.

This analysis depicts the ASP as a party of mainly black people led by blacks such as Karume and the Zanzibar National Party (ZNP) as mainly Arab.

Nyerere and Karume worked together. Indeed, TANU assisted Karume and the ASP in their struggle. But while the British easily and peacefully handed over independence to Tanganyika in December 1961, since Tanganyika was not a colony but a Trustee territory, there was greater resistance to the independence movement in Zanzibar and Nyerere was duty bound to assist the people of Zanzibar to gain their freedom.

TANU is said to have provided material, financial and other assistance to the ASP. It is said that the elections in 1962 and 1963 leading to independence were not free and fair, and independence

was handed over to the ZNP and Zanzibar Peoples Party (ZPP), which were Arab sponsored parties.

The people of Zanzibar realised that this system would not work for them; there would be continued Arab domination. The 1964 revolution is, therefore, characterised as a result of the frustration of the black majority.

With the overthrow of the Sultan, the Revolutionary Council was formed. Karume took over but realised that there was no political structure to keep the country intact, the coup leader, John Okello, was semi-illiterate and not experienced at all. The situation was dangerous and Karume is said to have contacted Nyerere for assistance to keep his government in power. Accordingly Karume sought to have Tanganyika take over Zanzibar and make it a province of Tanganyika. Nyerere on his part was cautious. Internationally, Nyerere did not want to create the impression of taking over and swallowing Zanzibar. Moreover the cold war was very much afoot and the East Germans had already moved into Zanzibar to the annoyance of West Germany and the West generally. Nyerere did not therefore want the cold war at his doorstep.

In the talks that ensued between Nyerere and Karume and their advisers, the Union was agreed upon but Nyerere rejected the total absorption of Zanzibar. Within the Union, Zanzibar would maintain its identity as well as its own government until such a time when a proper form of the Union would be worked out. For the present there was simply no time; even the lawyers had no time to work out elaborate documents, and certainly there was no time to consult the people as this might have given play to various forces, including those opposed to the Union.

A contrary version and interpretation of events regards the Union as having been entered into blindly and by force.

**The discrepancies between the two countries are highlighted**

Tanganyika had long received its independence in 1961. It was stable, even monolithic under TANU. In contrast, Zanzibar had gained independence a few months earlier. It was a country that was divided right through the middle. A revolution had taken place within a month of independence, carried out by people who had no education.

It was in these circumstances that pressure was brought to bear, by the United Kingdom (UK) and the USA, on Tanganyika to absorb Zanzibar. Zanzibar posed a threat of instability in the region and the West felt insecure about the left wing in Zanzibar. Nyerere fretted about a Cuba in his backyard. Karume was highjacked into the Union. The Union was formed within 100 days of the revolution without consulting the people. Neither apparently was the Revolutionary Council involved, or even shown the relevant documents. Others have stated that three quarters of the Revolutionary Council were opposed to the Union.

While it was fashionable to say that Karume warmly welcomed the Union, (Nyerere is often quoted as saying “Karume didn’t give it a second thought”), this version insists that classified records in the UK and USA show that a threat was used; that in fact the revolution was fluid, that there was a struggle within the ASP and also between the ASP and Umma Party and that Karume feared for his own position. In these circumstances before the signing of the Union papers, Nyerere had threatened to withdraw the Tanganyikan policemen in Zanzibar. It was asserted that the Criminal Investigation Agency (CIA) itself was taken by surprise; it did not really think that the Union would be pulled off.<sup>12</sup>

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12 The role of the CIA and the State Department in the formation of the Union is not insignificant at all. Amrit Wilson shows a paranoid US that tried all kinds of options: persuading the UK to occupy Zanzibar, persuading Kenyatta to form a union; Uganda and Kenya to send troops;

Therefore, far from the idea of Karume taking the initiative, here one discerns duress as underlying the formation of the Union. It is pointed out that this is consistent with the fact that all along in the struggle for independence, the ASP never made it part of its agenda or manifesto to unite Tanganyika and Zanzibar. On the contrary, they used to deny, reluctantly, accusations of intentions and plans to integrate Tanganyika and Zanzibar. It is also consistent with Karume's subsequent conduct which exhibited reluctance, and even resistance to the implementation of the Union agreement, a stance equally showed by the Revolutionary Council and the ASP.

This version does not even agree with the social and racial analysis underlying the earlier version. They point to the cosmopolitan nature of Zanzibar generally, and the fact that Pemba, where the ZNP enjoyed a majority, had a majority of blacks, rather than Arabs.<sup>13</sup>

While most people fault the process of the formation of the Union for the failure to involve the people, a respondent pointed out that this was universal practice. That unions are essentially results of high politics, results of sovereigns agreeing; federations are driven by national interests so that there is usually no preoccupation with public participation. Rarely does this happen. What drives unions is hegemony or perceptions of threat. Voluntarist unions driven by affection would be very weak.

A comment from a respondent in Zanzibar captures the sentiments of many on the formation and subsequent history of the Union: "We heard about the formation of the Union on Radio Tanganyika; we had not been consulted, everyone was shocked ...

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urging the formation of the EA federation e.t.c. See Amrit Wilson, *US Foreign Policy and Revolution, The Creation of Tanzania*, London, Pluto Press, 1989. Also see Petterson, op. cit., p.207.

13 Babu makes a thorough class analysis of the parties and of the situation in A. M. Babu, "The Background to the Zanzibar Revolution in Amrit Wilson *US Foreign Policy and Revolution*, pp.141-158.

the Union is organised chaos, the left hand does not know what the right hand is doing.”

### **The Legal Basis and Structure of the Union**

The Articles of Union constitute the legal basis of the Union. This instrument was consistently characterised by respondents as an international treaty. Under the common law system, treaty making is a prerogative of the head of state and the executive branch of government, but implementation in the form of ratification is a matter for the legislature.

For the Articles of Union to have effect therefore, they should have been ratified by both Tanganyika and Zanzibar. It is said that there was a provision in the Articles of Union to that effect. It is consistently stated by all, including scholars, that there was never any ratification on the part of Zanzibar.<sup>14</sup> There is no evidence of any law in Zanzibar ratifying the treaty. The only evidence of ratification appeared in the Government of Tanganyika Gazette under the signature of the solicitor general of the Tanganyika Government.

It is claimed that Nyerere asked his draughtsman to draft a law in similar terms for Zanzibar but none appeared in the gazette and there is no legal notice to that effect.<sup>15</sup>

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14 On the other hand, the CIA suggested that the ratification in Zanzibar was supported by only one-third of the islands' Revolutionary Council. See Amrit Wilson, *op cit*, p.115.

15 The mission contacted Prof. D.W. Nabudere on the legal aspects of the formation of the Union. He stated that he was invited by Rashid Salim, Ali Mafudha and A.R.M. Babu (although he was then in Indonesia), all three belonged to the Umma Party. He was asked to look at the Articles of Union which were unsigned. He advised Karume that the Articles were a political declaration which had the implication of Zanzibar losing sovereignty and that this required a political decision and that the people of Zanzibar needed to be clear about it. Karume responded that they were clear about the objectives of the Union. The Mainland could not overwhelm them politically because they had the capacity to influence them. After this discussion, Nyerere and Roland Brown came into the

The Union, therefore, it is concluded by most, lacked a legal basis right from the very beginning because while the Articles were signed by Karume they were not ratified. The Union therefore exists *de facto*, but not as matter of law. It is also asserted that the Union is in a constitutional crisis but those concerned do not want to admit it.

Hence decisions were made on the basis of goodwill and political expediency rather than law and the constitution. The unification process was not constitutionalised; it was just a political agreement between Nyerere and Karume and even the Articles of Union came as an afterthought. They were formulated subsequent to the fact.

Yet, there are those that would like to look at this issue in a more benign way; that one should refrain from exploring the question of legality, that the Union was formed in the spirit of pan-Africanism on the basis of solidarity rather than legality. But this may also support those who make the accusation that the Union, not just in regard to its formation and original legal basis, has and is still managed as a purely political system rather than a constitutional one.

Strong views were also expressed about the legality and management of the Union with regard to its legal basis. It is claimed that assuming, for the sake of argument, that the Articles of Union were ratified, they have been consistently breached and have become meaningless. A few of the articles breached will be mentioned:

- a. Article 3 provided for an interim constitution for one year. A commission and a Constituent Assembly and other constitution-making processes should have been set in motion in order to

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room and Nyerere wanted Karume to confirm his commitment to the Union which he did.

Outside there were protesters from the Umma Party who demanded that the Articles should not be signed until Babu was back in the country. On the day Babu arrived back from the East, Nabudere met him at the airport and reported to him his views and what Karume had told him (Nabudere). Babu said he agreed with Karume.

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promulgate a permanent Union Constitution. This was never done. Instead before the expiry of the interim period a bill was tabled in the Union Parliament extending indefinitely, the interim period.

- b. The current Union Constitution has a complete chapter on the governance of Zanzibar, yet the Articles of Union provided for governance in accordance with the laws of Zanzibar. This measure makes the governance of Zanzibar subject to amendment by the Union.
- c. The unilateral expansion by the Union Constitution of Union matters. Yet these are matters set out in the First Schedule and the Articles did not provide for such amendment. Since it was a treaty by sovereigns, the amendment should have to be done by them. This critical matter is addressed more fully in another chapter.

These and other breaches, it is argued, would erode any assumed legality of the Union. In any case a cavalier approach to the whole issue characterised the Union from the start since in the case of Tanganyika which is supposed to have ratified the Articles, the Hansard of the Government of Tanganyika shows that the debate on such an important matter (the Articles of Union) lasted no more than half an hour.

An air of suspicion and uncertainty hangs around the legality and constitutionality of the Union because of two related matters. It was consistently pointed out that the Articles of Union was a “secret” document that seems not to be known by the majority of leaders, including parliament and the population. It is stated that it is not certain that the original copy is available and that no effort has been made to identify it.

Closely related to this is the accusation that the Articles of Union is a taboo subject and that there were deliberate efforts to

discourage the discussion of the instrument. It is claimed that the Union government would rather have the Articles forgotten. In the Provisional Union Constitution of 1995, the Articles featured as a schedule to the constitution but subsequently were removed from the Union Constitution all together.

This lack of access to the original Articles of Union, the impression that it is a secret and taboo subject, is hurtful and a cause of problems as several people pointed out. It undermines confidence and trust and compounds the problems related to the Union. Indeed, such is the problem that even at simply the technical level lawyers asked the question what the Grundnorm of the Union is - the Articles of Union or the constitution? This may well be a rhetorical question but it is one that indicates the amount of uncertainty about the legal and constitutional basis of the Union. The fact that as an international treaty, the Articles are registered with the United Nations in New York does not resolve the problem.

### **The Structure of the Union**

The structure of the Union consists of two governments and three exclusive jurisdictions or authorities. The Articles of Union provided for the Union government and the Zanzibar government. The former exercises jurisdiction that is twofold: Union matters, and non-Union matters for the mainland. The Zanzibar government exercises jurisdiction over Zanzibar non-Union matters.

There are no provisions for a government for Tanganyika; no separate executive or legislature exists for that purpose.

There is great uncertainty as to what structure was envisaged by the Articles of Union: did the Articles envisage a unitary, federal, confederal or an associated arrangement? Most agree that the Union is neither of these. They describe it as being *sui generis*. It is united in some aspects and not in others. Some cite this very “uniqueness” as a reason not to disturb or question it.

The reasons assigned for this structure are diverse. One ascribes it to the exigencies of the situation in the formation of the Union. There was no time, even for lawyers to work out the documents. Nyerere was preoccupied with preserving the identity of Zanzibar through its own government. In any case, this was a stop-gap measure and according to the Articles of Union, a commission was supposed to be formed to work out permanent structures; that never came to pass.

Others ascribe the structure to the divergence between Nyerere's outlook and that of Karume with regard to the future of the Union. It is suggested that while Nyerere was reluctant to interfere in the affairs of Zanzibar, and for example left the violation of human rights in Zanzibar to take its course, his long term aspiration was a complete Union within 50 years of its formation. In that case, in the short and medium term he thought it was important not to swallow up Zanzibar, while on the other hand he regarded a government for Tanganyika as not being crucial and one that would be too costly. This strategy of two governments leading to one, it is said, is reflected in the attitude and measures Nyerere took over time, his aversion to three governments, his refusal to revive the government of Tanganyika and more specifically the measure to merge TANU and ASP, the dismissal of Jumbe in connection with his attempt to establish three governments; and Nyerere's personal intervention and threat to expel the Group of 55, which advocated for the re-establishment of a Tanganyika Government.

Contrary to this, Karume is said to have viewed the Union as an insurance policy in case of domestic or foreign intervention. There would be protection within the larger entity. This counterweight to the possibility of the return of the Sultan or a challenge from the left within the Revolutionary Council would not last forever. Karume's intention was to have the Union for only 10 years. It is pointed out that he took steps to print a Zanzibar currency— the Zanzibar dollar.

His subsequent reluctance and resistance to the implementation of the Union is also cited as confirming this position.

It is these divergent positions about the eventual shape and nature of the Union between the two protagonists that resulted in the unwieldy structure, it was argued.

The two-government structure is an enduring problem and is always on the agenda. It is regarded as one of the main problems of the Union. The political instability and crises in Zanzibar are seen to be rooted in the structure of the Union. The *kero za muungano* (Union problems) appear to be inherent in this structure which was wrong-footed from the beginning. More seriously, most people think that the present structure cannot resolve these issues.

The crux of the matter is that the fusion or the dual responsibility of the Union government and the absence of a Tanganyika government leads to two divergent interpretations. The first is held by virtually all Zanzibaris, although it is also held by a substantial number of people on the mainland.

The prevailing view is that the fusion is at the expense of Zanzibar, as Zanzibar lost its sovereignty at the UN, the African Union (AU) and in all multilateral and bilateral relations in spite of the fact that it retained the symbols of statehood such as the flag and national anthem. The constitution and structure do not accommodate the interests of Zanzibar as a constituent member of the Union. Zanzibar cannot transact, negotiate or treat with its counterpart, Tanganyika, which ceased to exist and yet Zanzibar was never a defeated territory of Tanganyika, unlike Northern Ireland on which the Union appears to be modelled.

From this point of view, the Union is regarded as an expansion of the sovereignty of Tanganyika, the Union government in essence being the Tanganyika government with an extension to include some matters from Zanzibar. Thus Zanzibar suffered while Tanganyika gained and eroded Zanzibar's sovereignty. This is demonstrated by

a number of things. The national anthem of the Union is the same as Tanganyika's. The Tanganyika Constitution was amended and called the interim constitution. Subsequently, the constitution of the Union abolished the constitution of Tanganyika and all Tanganyika public servants were elevated and upgraded to the Public Service of the Union; so was the case with the judiciary.

This is characterised as the big brother approach, which is resented by Zanzibaris. The structure of two governments is characterised as one between a metropole and a dominion.

From this point of view, the army and police are seen as Union agents ready to force down the Union on Zanzibar.

The killing by Nyerere of the Tanganyika government, a matter which was not apparently the creation of the Articles of Union was not a positive development. Instead, it is said that within this two government structure, is a hidden government for the benefit of the mainland and at the expense of Zanzibar.

Such is the problem that the matter was raised in the Union Parliament (whether Zanzibar) is a country. The prime minister had to make a statement to clarify that Zanzibar was part of the United Republic, that it was no longer a state, a response which made many Zanzibaris unhappy. Subsequently, the president in a speech ended the debate on this matter. Even so, a serious problem pointed out to the mission by respondents in Pemba which arises from the non-recognition of Zanzibar as a sovereign state, is the impunity of those who may commit "treasonous acts" against the government of Zanzibar. It was held in the case of *SMZ v. Machano Khamis Ali and Ors*<sup>16</sup> that Zanzibar was not a state. Some people have inferred from this court decision that it would not be possible to charge those who plot against the government of Zanzibar with treason.

On the other hand, there are those on the mainland who think that the two government structure is at the expense of the

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<sup>16</sup> Criminal Application No. 8 of 2000, TZ CA 1.

mainland. They point out that Zanzibar never lost its statehood, it has a government, parliament (the House of Representatives), and a president, while the mainland lost its sovereignty. They point out that until 1999 mainlanders required a passport to enter Zanzibar but the reverse was not the case.

They point to the number of Zanzibar ministers in the Union government while there are no mainlanders in the Zanzibar government, and MPs from Zanzibar in the Union Parliament, while there are no mainlanders in the Zanzibar House of Representatives. Likewise, under the Second Schedule to the Union Constitution 8 matters require two-thirds majority of mainland MPs and two-thirds of Zanzibari MPs, yet some are not Union matters.<sup>17</sup>

It is for some of these reasons that the Group of 55 mainland leaders sought the revival of the Tanganyika government; and the sentiment still exists. It is pointed out that Zanzibar cannot have its cake and eat it – either there is a Union or not, but not a hybrid.

Other issues that are related to the structure of the Union were also pointed out. It was stated that some key figures in government do not understand the structure of the Union, i.e. the two governments and three jurisdictions. This creates confusion which is compounded by the constitution itself. It was pointed out that while Article 4 of the constitution does provide for the two governments with three jurisdictions other parts of the constitution mix up things and blur the distinction.

Connected to this is the perspective that the structure has been managed as a purely political system rather than a constitutional one. The political management of the Union is illustrated by the removal of Jumbe. It is said he was removed not because he was constitutionally wrong, but because he had gone astray politically.

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17 Article 98(1) (b) and Second Schedule List Two, the Constitution of the United Republic of Tanzania, 1997 (1997 Edition)

The political system itself undermines the checks and balances that would have led to a better managed Union.

The political rather than constitutional management of the structure is under strain because of the transition from the one-party state to the multiparty system. It is pointed out that previously (before 1992) the issues of the Union and its structure could be resolved through the party structure. Yet, in 1992 the multiparty system was introduced without thorough analysis of the structures and the law. Instead of an overhaul and introduction of a new dispensation and a new constitution, there has been gingerly tinkering with the constitution, to accommodate multipartism when the basic rubric is still the one-party state. In this connection, it is pointed out that the 1990/91 Nyalali Commission, which recommended that multiparty system also recommended a three-government structure, but while the government accepted the former, it rejected the latter.

And it is not as if there is lack of awareness of the problems on the part of the leadership. Both the Nyalali and Kisanga Commissions identified the structural problems of the Union. The problem is therefore not lack of awareness but rather in the opinion of many, a lack of sincerity in problem solving and the dynamics of the process: there is inertia on the part of the leadership. Until a serious problem crops up, matters will not be handled. The complacency that the Union will survive on the basis of its historical momentum ought to be replaced by a rigorous analysis and commitment to resolve issues.

This legacy has led to the accusation that the political instability in Zanzibar is a product of the Union structure because CCM has to ensure that it rules both sides of the Union as the structure can hardly accommodate “discordant” governments. One of the solutions to an aspect of this problem is a typical example of the dilemma. The 1992 de-linkage of the presidency of Zanzibar from the vice – presidency of the Union and the introduction of the running mate

system has produced unsatisfactory results without probably solving any problem. Most Zanzibaris are unhappy about this development. The relegation of the president of Zanzibar to an ex-officio member of the Union cabinet is regarded with the same hostility. The protocol issues connected to the precedence of the Union vice-president over the president of Zanzibar, just like the latter's refusal to be sworn in by the Union President and his swearing in by the Chief Justice are symptomatic of the serious flaws of a perfunctory approach to the tackling of issues of the Union structure.

There are a host of other complaints about the structure. The legislative process typifies this. Article 98 of the constitution stipulates that laws on Union matters are passed by simple majority yet there are only 64 Zanzibar MPs out of a total 324. Parliament therefore commonly passes laws against the wishes of Zanzibar, for example the law on deep sea fishing which Zanzibar's objection could not stop from being passed. It took 8 years to implement because of Zanzibar's unwillingness to enforce it.

This lopsidedness in parliament numbers is contested by Zanzibar on the basis that there are two equal partners. Zanzibar feels overwhelmed by the mainland in the Union Parliament.

The suggestion that a proper federal arrangement would solve the problem is sometimes countered by the view that such an arrangement would be unsuitable where the two component parts are in reality unequal, one tiny (and fractious), the other big and monolithic.

Reservations are also expressed about the Union cabinet. It is pointed out that there are only 4 Zanzibaris out of a cabinet of 31, and these 4 do not really represent Zanzibar; so the Union Cabinet passes policies against the wishes, demands and interests of Zanzibar and there is no structure or mechanism for Zanzibar's input.

Operational problems are also mentioned. For example the ministries that cover Union matters do not have offices in Zanzibar.

Yet, in the past there used to be Union deputy ministers based in Zanzibar. This creates problems of their accessibility for the people of Zanzibar. An example of scholarships was mentioned.

On the other hand, it was pointed out that some Union institutions are rejected when they go to Zanzibar. This applies to the Tanzania Revenue Authority (TRA) and to the Communications Commission which was established only after negotiations.

The following quotation from a respondent, illustrates the kind of feelings the present structure evokes:

When we elect MPs for Dodoma they discuss very few Zanzibar's issues. They are preoccupied with the mainland. We spend a lot of money and time on elections yet their role is minimal; they deal with very few issues which concern Zanzibar, such as defence. We need equality between Zanzibar and the mainland because the two are equal partners in the Union.

### **The Legitimacy of the Union**

In this section, the attitudes of sections of the population towards the Union are examined. This includes the perceived benefits and disadvantages of the Union and its acceptability.

#### **Politics and Government**

In regard to political and government institutions and processes, Zanzibaris expressed a number of views that reflect on the legitimacy of the Union in their eyes. They stated that they are not considered a country, yet they are and are not merely a region such as Tanga. They pointed out that while the Union entails two countries, their president has no role.

They pointed to the inequity in the sharing of government offices within the Union. There are only three ambassadors from Zanzibar; so when it comes to foreign affairs Zanzibar feels marginalised. The ambassadors from the mainland work for the benefit of the

mainland. Likewise, they point to the relatively few Zanzibaris serving in embassies abroad.

In the police service, a Zanzibari has never served in the position of Inspector General of Police and the same applies to the army, where all ranking generals are from the mainland. Most staff in the TRA are said to be from the mainland.

In general, therefore, at the political level, many Zanzibaris do not think the Union is in their interest; they think that they have no say in the Union. They even feel marginalised; they believe that, at the institutional level, they are not taken care of. They do not get to learn of opportunities or services offered by ministries dealing with Union matters since they do not maintain offices in Zanzibar.

They also attribute the tension during elections to the Union; namely, the fact that before the elections so many armed military, paramilitary and police are deployed means that there cannot be free and fair elections. The major consideration is CCM's fear of loss of elections. It was pointed out that party loyalty has overwhelmed civic duty, and yet ordinary people on the mainland know little about these problems of the Union.

However, peace was pointed out as a dividend of the Union because chaos had ensued in the aftermath of the revolution. Security was also identified as an advantage that the Union provides.

From the mainland, there were complaints about the over-representation of Zanzibar in Union institutions, including parliament. It was also pointed out that the portfolios for the mainland in government are virtually non-existent since, there are people from Zanzibar holding portfolios for non-Union matters.

Echoing this at the level of employment in government, one respondent stated, "I cannot work in the Zanzibar government, yet they are employed in the Union government." The initial rejection by Zanzibar of Union institutions in Zanzibar, for example, the

TRA offices in Zanzibar and the Communications Commission was also mentioned.

However, a mainlander also pointed out that the relieving of Jumbe of his offices in connection to his attempts to reform the Union detracted greatly from the legitimacy of the Union. It was pointed out that some in Zanzibar believe that the leadership of Zanzibar is plotted in Dodoma, not Zanzibar: that a special committee on Zanzibar with the president as chair considers the aspirants for Zanzibar leadership.

### **Resources, Finances and Economy**

In Zanzibar there was a consistent complaint about the sharing formula of revenues of 4.5% for Zanzibar.

In terms of resources, the people in Zanzibar pointed out that the mainland has minerals, national parks, agricultural land as compared to Zanzibar, which on top of having been unstable politically over time has limited resources. "Zanzibar is an island; we have no natural resources and no industries. Mainlanders have to understand this. We do not demand for resources from the mainland, but the freedom to exploit the limited resources we have," one said.

With regard to foreign aid they pointed out that although it is solicited and received in the name of the United Republic, Zanzibar receives little, or nothing in respect to non-Union matters such as agriculture. It is the mainland that decides on behalf of Zanzibar how much it should get. Yet Zanzibar cannot shop for foreign aid for itself. The little it gets is after making a lot of noise.

Business people complained of double taxation. While the TRA has a presence in Zanzibar, once you re-export to the mainland there would be reassessment, harassment, and delays in clearing the goods. They are frustrated by the response of some TRA officials who react to the complaints by asking why the business people do not move to the mainland and invest there, if there are all those problems.

They point also out the harmful practice of taxing *kangas*, *kanzus*, children's clothes and clothes for the poor, which has made them more expensive.

It was stated that the common man on the street does not see any benefits from the Union at this level. They struck a nostalgic note when they said that Zanzibar, before the Union, had a strong economy and many educated people; it provided expatriates in the region, had high education levels, and a sound and good infrastructure that was well maintained. Zanzibar produced its first magistrates, teachers and nurses before the mainland did. All these deteriorated after the Union. They are aware of complaints from the mainland that Zanzibar does not contribute to the Union but they retort by pointing out that the mainlanders do not say what Zanzibar gets from the Union.

They paint a portrait of contrast: Zanzibar has a total mileage of roads of 500km while the mainland has thousands of kilometres constructed with donor assistance. Nevertheless there are business people in Zanzibar who pointed out the benefits of the Union. Some believe that without the Union things could have been worse. For some the benefits outweigh the problems. There is the bigger market and freedom of movement that Zanzibar could not have mustered.

The mainlanders, in their turn, complained of lack of reciprocity. Mainlanders cannot easily own land in Zanzibar, but a lot of people from Zanzibar especially Pemba do own land, and invest in businesses in Dar-es-Salaam. They point to the requirement of a passport in the past. Some complained about Zanzibaris taking up higher education at the expense of the mainland. A cliché was pointed out to the mission: "Electricity goes from the mainland to Zanzibar; what comes from Zanzibar is the Union".

### **Social and Cultural Matters**

Civil society organisations (CSOs) pointed out that not many national CSOs registered on the mainland have a presence in Zanzibar. A CSO registered on the mainland would have to re-register in Zanzibar to be able to operate there. Although some relationship and co-ordination exists between Zanzibar and the mainland, for example networks, a sense of community between them is perhaps missing.

Civil society identified most of the problems that the Union poses for Zanzibar. Many were aware of what they see as breaching of the Articles of Union and believe that if they had been respected, the *kero za muungano* would not have arisen. They also added that if the Union had been transparent and democratically run, it would be an excellent idea.

At the social level, a number of social ills were associated with the Union: The rising number of armed robberies and prostitution (95% of sex workers are from the mainland) and the threat of HIV infection. This reflects a more insular attitude that Zanzibar holds. Many insisted that the issue of lifting travel restrictions between the mainland and Zanzibar should have been subjected to a referendum. The liberalization is held responsible for loss of employment, the rise in the number of churches from the pre-Union three to 27 today and likewise the rise in the number of bars from seven before the Union to the current number of 227 bars. All these, it was pointed out, pose a threat to the social and cultural integrity of Zanzibar.

But some benefits from the Union were also mentioned. These include relative press freedom. The Union brought relative fresh air to a Zanzibar that was less tolerant and exercised an iron fist over the media. The media on the mainland has expressed solidarity with its counterpart in Zanzibar. They have protested when there is a ban of a newspaper in Zanzibar.

Many people in Zanzibar also recognise the benefits in social relations that accrue from different people coming together. A new generation built from the two sides has emerged. Free movement of people is clearly recognised as an advantage, especially with the high levels of unemployment in Zanzibar.

Mainlanders on their part see Zanzibar as a “different place altogether”. The culture is different. There are also differences in civil society generally, and the media specifically. The mainlanders perceive their civil society/government relations as freer and more open. The media on the mainland is also regarded as much freer and vibrant.

For the youth on the mainland, Union issues are not a priority; it is seen as just a “government issue”. They are preoccupied with issues such as jobs, unemployment etc.

Civil society on the mainland does not regard Union issues as urgent or important enough; they are not their priority. Their attempts and initiatives to cross over and operate in Zanzibar are frustrated by the fact that non-governmental organisations (NGOs) are not a Union matter. Civil society in Tanzania can perhaps not be regarded as a united national movement. That may therefore detract from the sense of a Union at that level.

A mainlander characterised the attitudes of the mainland as follows: A *laissez-faire* attitude on the part of the mainland prevails; they do not care that the people of Zanzibar are concerned about the political, economic, social and cultural domination. Most mainlanders see this as a bother and a nuisance that should go away.

Indeed, some mainlanders attribute the cause of the complaints not to the reality of the situation, but to the hypersensitivity and diffidence of Zanzibaris.

# 3

## Union Matters

At the very core of the Union lies the question of what are referred to as Union matters. This is because the division of labour between the Union government and the Zanzibar government hinges on the distinction between Union matters that are the preserve of the Union government and non-Union matters over which the Zanzibar government exercises jurisdiction. Likewise, most controversies arise in connection with the subject of “Union matters.”

### **The Meaning of Union Matters**

The Articles of Union originally included eleven items as Union matters that defined the jurisdiction of the Union government. Over time, as is discussed later, the list has grown and now Article 4(3) of the Union Constitution stipulates 22 Union matters, which are contained in the First Schedule to the constitution.

The first schedule to the constitution lists the following matters:

### **First Schedule (Referred to in Article 4) Union Matters**

- The Constitution of Tanzania and the Government of the United Republic.
- Foreign Affairs.
- Defence and Security.
- Police.
- Emergency Powers.
- Citizenship.
- Immigration.
- External borrowing and trade.

- Service in the Government of the United Republic.
- Income tax payable by individuals and by corporations, customs duty and excise duty on goods manufactured in Tanzania collected by the customs department.
- Harbours, matters relating to air transport, posts and telecommunications.
- All matters concerning coinage, currency for the purposes of legal tender (including notes), banks (including savings banks) and all banking business; foreign exchange and exchange control.
- Industrial licensing and statistics.
- Higher education.
- Mineral oil resources, including crude oil and natural gas.
- The National Examinations Council of Tanzania and all matters connected with the functions of that Council.
- Civil aviation.
- Research.
- Meteorology.
- Statistics.
- The Court of Appeal of the United Republic.
- Registration of political parties and other matters related to political parties.

It has been argued that Union matters are 32 rather than just 22. This is because some items group several matters together. It would, therefore, be more accurate to talk about 22 “containers” because when the items mentioned are listed serially and individually they total to 32 items.

By exclusion, therefore, such matters as agriculture, primary and lower secondary education, trade, industry, water, construction, environment, health, etc. are within the exclusive jurisdiction of the Zanzibar government. The Union government also exercises jurisdiction over non-Union matters of the mainland.

Although, on the face of it, this division of labour may appear fairly clear, there is considerable uncertainty over the real meaning of an item being a Union matter. For example, when the item “harbours” is mentioned, does it refer to the business or the regulation of harbours? What does “higher education” precisely mean?

Behind the conception of the items is the idea of a hermetic compartmentalisation of reality, whereas reality is more complex, interrelated, interwoven, nuanced and not as clear-cut as a list might suggest. The problems that arise from this are not just operational but conceptual as well. In this connection, just one example will be cited. It was pointed out that the economy is not a Union matter. However, with globalisation it is not possible to be isolated; there must be relations with other nations, yet international affairs is a Union matter, handled by the Union government, which means that Zanzibar cannot develop bilateral relations in relation to the economy. This, it was said leads to its economic isolation. The suggestion that there should be items of concurrent jurisdiction reflects an aspect of this problem.

There are matters that are not listed, such as parliament, the presidency, and the Union. Some people have expressed doubt over whether the latter was ever a Union matter. The omitted items appear to be so closely related to the Union that their exclusion tends to suggest that the list may not be conclusive on the matter. In this connection, the Court of Appeal in the case of *SMZ v. Machano Kamis Ali* and others, Criminal Application No. 8 of 2008, has ruled that there are Union matters that are not provided in the schedule.

Such interpretation throws open the door to the possibility of the subjective identification of Union matters. It is not helpful that the reasons for the inclusion or exclusion of items are not discernible from the Articles of Union. Nor can they be sought from the Hansard because there is no record of extensive discussions by either the

Tanganyika National Assembly or the Revolutionary Council in Zanzibar since the Union formation was carried out hastily.

Practice elsewhere has been cited in support of positions on Union matters. In the case of the contentious issue of oil and gas, it has been argued that in semi-autonomous states, oil resources are not a Union or federal matter and examples of Australia and the United Arab Emirates (UAE) have been cited. They only become a Union matter where such resources are found beyond the territorial waters in the deep sea, exclusive economic zone. The mission learnt that it has now been agreed to remove oil from the list of Union matters.

In the case of taxes, there is a list of Union taxes such as import tax, income tax, etc. However, it was also pointed out that, for example, because immigration is a Union matter, if a law imposes visa fees such revenue would be Union revenue. In the end, there is Union revenue by virtue of the fact that it is specifically listed and Union revenue arising out of the operation of Union matters.

It turns out, therefore, that the meaning of “Union matters” is not as clear-cut as it may at first appear to be. This uncertainty becomes all the more significant because these matters are the most critical and contentious aspect of the Union.

### **Expansion of Union Matters**

The fact that Union matters have increased from the original eleven items contained in the Articles of Union at the inception of the Union to the present 22 items is a source of a lot of controversy. It raises two interrelated problems. One of the problems is the legality and constitutionality of the increase in the list of Union matters. The other is a political issue; the acceptability of the manner, as well as the fact of the expansion of the list of Union matters and its political consequences.

### **The Legality of Increase**

The majority of the people that were interviewed held the view that the manner of expanding the list of Union matters was illegal and unconstitutional. It was pointed out that the list of Union matters has been expanded through the amendment of the Union Constitution by the Union Parliament. It was also pointed out that contrary to this practice the Articles of Union did not provide for the amendment of the list. This would have to be undertaken by the parties to the treaty. It is only these parties that could legally make any alterations. The problem, it is pointed out, is that one of the original parties to the treaty, i.e. Tanganyika, is no longer existent.

It is asserted that Jumbe held this view, just as did the Nyalali Commission. The conclusion from this view is that only the original eleven items are legal and constitutional and the rest are not.

There was a minority opinion that the expansion of the list has been undertaken legally by the Union Parliament in which Zanzibar is represented. Some people however, demurred because they point out that the 50 or so members of the Union Parliament from Zanzibar do not have the mandate to represent Zanzibar. It would have to be the leadership of Zanzibar and that of the mainland that would have to sit and negotiate before any expansion of the list is effected.

Others point out that indeed there were procedures through which the expansion was undertaken; that both the cabinet in Zanzibar and the House of Representatives (by a two-thirds majority) had to agree to the expansion in addition to the 2/3 majority of the Union Parliament; and that the procedure was designed in such a way, in terms of the arithmetic involved, that without Zanzibar's concurrence, the increase of Union matter would not be passed. They concluded that the increase of Union matters was done legally and constitutionally.

### **The Acceptability of the Expansion of Union Matters**

As is evident from the preceding section, most people, especially from Zanzibar, think that the manner in which Union matters are expanded is not acceptable. They take exception to the legalistic approach that has been adopted; there are no negotiations or agreement as the matter is handled as a simple matter of legislation. To counter the perceived unilateralism and legalism, it is suggested not only that the two original parties to the Articles of Union negotiate the matter, but that the list of Union matters feature in the Zanzibar constitution in addition to the list in the Union constitution. This would counter the unilateralism in the increase of the items of Union matters since Zanzibar would have to be involved in the amendment of its own constitution.

The expansion of the list of Union matters is generally unacceptable to Zanzibar. Most Zanzibaris, it was stated, reject the additions. It represents the swallowing up of Zanzibar by the mainland as the list grows against the wishes of Zanzibar. It represents the creeping usurpation of the autonomy of Zanzibar and confirms the suspicions and fears about the long-term calculations of Nyerere to proceed through two governments to the ultimate one government. They cited the common expression about the initial “Union of few items” and now a “Union of all items”. It is suggested that, instead, the direction should be in the reverse; there is need to reduce Union matters. This is also linked to the proposal for three governments in which there would be the three distinct jurisdictions with a lean Union government exercising the least jurisdiction.

There are others, especially those who were in one way or another involved in the processes, who attribute the expansion of Union matters to less sinister motives. Yet others have very benign explanations for the expansion and regard it as a very positive historical development.

It was pointed out that *Mwalimu* did not use force to increase Union matters. The greatest increase is attributed to specific developments, the first of which was the collapse of the EAC in 1977, although the very first addition was in 1967. When the Community collapsed, all the matters it had dealt with were absorbed into the jurisdiction of the Union Government. This is said to be the reason for the greatest expansion of Union matters. Another reason for the expansion is the adoption of multipartism in 1992. This led to additions to Union matters such as the registration of political parties.

While this historical explanation may be factual, in itself, it cannot be an adequate explanation for the expansion of Union matters. There is no inevitability that the collapse of EAC would lead to the increase in Union matters; such jurisdiction could just as well have been ceded to Zanzibar.

It was also explained that while the people of Zanzibar feel that the expansion of Union matters represents encroachment on their autonomy, the historical reality is different: while a few additions were suggested by the Union government, there were expansions that were done on the initiative of Zanzibar. The example of higher education is cited. Zanzibar did not have the capacity to run university education and it would be disadvantageous to Zanzibar students if they were to be charged the rates applicable to foreign students in Dar-es-Salaam; the Zanzibar government, therefore, suggested to the Union government that higher education be made a Union matter.

A more sanguine view of the matter is that Union matters grew over time from the original eleven because of the confidence built over time and in future the list may grow even longer. This view regarded the list as a voluntary one so that, if one side objects to an item, it can be discussed, as long as that is done in the "right forum".

A sentiment similar to the above was expressed about the expansion, namely that the 1977 constitution was also an occasion for the review of the division of responsibility; an opportunity to expand the list of Union matters as a move to closer unity, looking towards one country. In this regard it was pointed out that many mainlanders insist on one country and the debate continues, thus making the list of Union matters a critically controversial issue.

Another view suggested a way out of all this: Since the list of Union matters requires the two-third majorities, this necessitates sitting down and negotiating. The matter is open ended; the negotiations can result in addition or removal from the list. The whole list could be removed, resulting in a breakup of the Union.

### **The Operation of the Division of Power and Responsibility**

The management of Union matters has been identified by some as very problematic; it is regarded by them as the biggest problem facing the Union. These problems in part stem from the structural problems that were alluded to before. The separate mandates for Union matters and non-Union matters for the mainland are operationally merged under the Union government. Non-Union matters for the mainland are treated as Union matters; they are managed as such in terms of sources of revenue, budgeting, etc. This causes unnecessary confusion and suspicion.

Secondly, it would be expected that the partners in the Union would participate equitably in decision making and involvement in Union matters generally. But again no structure to accommodate this kind of process appears to exist where Union matters are concerned. It is said that the Union cabinet makes the decisions. The Zanzibaris feel that Zanzibar is not necessarily involved in Union cabinet processes. The meagre four Zanzibaris in a cabinet of 31 are not only too few to influence decision making, but they do not even represent Zanzibar. There is thus no authority on the

part of Zanzibar to decide anything for the benefit of the people; all decisions are made in Dodoma in a lop-sided relationship.

These fundamental problems are manifested in many other aspects. There is, for example, the merger of portfolios under a ministry combining both Union and non-Union matters as is the case with broadcasting and telecommunications. On the other hand, the appointment of a Zanzibari as minister for information, yet the ministry deals only with mainland issues, which are non-Union, reveals the other side of the problem. The problem also manifests itself in the fact that a single transaction may entail both a Union and non-Union mandate. For example, the process of arrest and prosecution of suspects and adjudication of criminal matters, although a single transaction, involves both Union and non-Union matters. The arrest and investigation is a matter for internal affairs, which is a Union matter, yet the prosecution and judging of the case are non-Union functions, although imprisonment would, on the other hand, be a union matter.

This structural and operational blurring of mandate has probably encouraged the disregard for the division of labour in reality. On the one hand are claims that operationally everything is run as a Union matter and Zanzibar's autonomy is a sham.

On the other hand, there are instances where Zanzibar manages Union matters. Some have attributed this to the fact that a single party runs both governments giving rise to difficulties of discipline. For example while higher education is a Union matter, the Zanzibar House of Representatives passed legislation establishing the University of Zanzibar in the face of insistence by the Union Parliament that the House had no such powers. The Zanzibar government runs and regulates university education in Zanzibar today.<sup>18</sup>

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18 It was also pointed out to the mission that the regulatory function is done by the Tanzania High Education Accreditation Council and the Tanzania Commission for Universities.

Likewise, there is no sharing of revenue; whoever collects keeps the revenue and there is no reconciliation between what is collected as Union revenue and what is spent on Union matters. Yet both sides complain. Zanzibar complains about unfair sharing and the mainland complains about Zanzibar not contributing.

Similar issues in connection with sharing are raised in respect of taxes levied on goods which land in Dar-es-Salaam but are ultimately destined for Zanzibar. The revenue would remain in Dar-es-Salaam while the goods end up in Zanzibar. Zanzibar also regards their port as of vital importance to them as a source of income. So when as is the case, “harbours” are made a Union matter, they find it disastrous.

These controversies have more recently engulfed the oil and gas issue. As one respondent perceptively pointed out to the mission, the open challenge by the Zanzibar government itself makes the discussion of Union matters urgent. He stressed that this was an open challenge (rather than a discussion with the Union government) and by the Zanzibar Government (rather) than, say a challenge in the House, or by a political party, or by groups or individuals in society.

The Minister of Natural Resources in Zanzibar is reported to have said that the matter of oil exploration is one that Zanzibar would go to the constitutional court about. The government has thus stated openly that oil exploitation is not a Union matter. Its position is that Zanzibar is entitled to the revenues from oil and gas, although formally it is a Union matter. Zanzibar asserts that it does not benefit from gas from the regions on the mainland.

Observations from the mainland expressed concern over the ferocity of the reaction: all of a sudden voices not from the House of Representatives, run-of-the-mill politicians and ordinary citizens, vehemently assert their claims to oil. They were so angry and daring on the issue of oil. CUF and CCM have come together on this issue. Such issues, especially those to do with the Union tend to unite the Zanzibaris.

For some, this reaction is attributed to Zanzibar's electoral politics. It was pointed out that oil has in fact not yet been found but the nature of politics in Zanzibar especially in CCM, is such that if one does not appear to support the interests of Zanzibar, one cannot be nominated. After the nominations, things would tend to cool down a little, although they are never quite the same again.

Civil society organisations (CSOs) are affected by the way Union matters are managed. The mission found that CSOs, both in Zanzibar and the mainland, were quite aware that NGOs are not a Union matter. Nevertheless, the Union does affect the way they operate.

One of the problems that was pointed out was that, although the NGOs themselves are not a Union matter, the subject matter they may deal with may have something to do with Union matters. They pointed out that strategies of civil society vary depending on whether they are dealing with a Union or non-Union matter. With regard to international treaties, the fact that it deals with a Union matter tends to delay the process of ratification. Zanzibar cannot choose to incorporate the standards in such treaties as soon as civil society may otherwise wish.

Tanzania Association of NGOs (TANGO) has some collaboration with Zanzibar NGOs. They recognise their autonomy, instead of absorbing one another. They recognise that both law and policy do not allow them to have membership of Zanzibar NGOs and so they accept and respect Zanzibar's demand for their own representation because they do not have the mandate to represent them.

Yet, TANGO bears the name Tanzania and this may create the false impression that they are a Union-wide national umbrella organisation; whereas TANGO does not extend to Zanzibar.

Civil society is, nevertheless, sensitive to the needs of Zanzibar and demands of Zanzibar civil society and they will include them in delegations to international fora.

At the individual level, people from Zanzibar can freely work in the NGO sector on the mainland. There is no problem with that and no discrimination occurs at that level.

In conclusion, Union matters entail a lot of conceptual, legal, constitutional, political and operational issues. The overwhelming view by way of a solution is a twofold suggestion; a reduction in the number of Union matters and a three-government structure with three distinct jurisdictions both legally and operationally.

# 4

## Mechanisms for Resolving Union Problems

### **Introduction**

The previous chapters have alluded to the issues and problems that are entailed in the Union. These range from structural issues to more specific *kero za muungano*.

There are problems of an economic and financial nature. These range from problems of fuel, energy and the exploration of oil. There are those to do with customs, especially on business in transit goods. There are also issues of revenue sharing as well as sharing the costs of the Union.

There are problems of a political nature that may be said to be linked to the Union question. At the top of this is the issue of electoral manipulation and post-electoral violence in Zanzibar. This particularly relates to the Zanzibar's presidential and House of Representative elections.

There are administrative issues, for example, that of the relationship between Union ministries and Zanzibar ministries.

There are then the structural and political problems that have to do more directly with the working of the Union. These include the issues of lack of an internal structure to discuss Union problems of the three jurisdictions, the management of Union matters by Zanzibar, and the Union government managing non-Union matters for the mainland without a structure. Aspects of this problem are expressed as "having in existence Zanzibar but no Tanganyika", hence the inability to solve problems through discussion between

the Union government and Zanzibar, when such discussions ought to be between the original partners.

The rhetorical question is asked by Zanzibar: when we have Union problems whom do we discuss with since Tanganyika ceased to exist?

There is also the delinking organically of the Zanzibar presidency from the vice-presidency of the Union with the introduction of multiparty politics. This is linked to the whole idea that the change to multiparty politics in 1992 was effected without a thorough analysis of the structure and the law.

Under the new dispensation, one is just tinkering with the constitution to try and accommodate multipartism when the basic rubric is still one party. This causes tensions and strains in the working of the Union, as one respondent put it.

The majority of respondents acknowledged the existence and seriousness of these problems. A few tended to characterise them as being merely “procedural”, rather than fundamental to the Union. Yet others sought to characterise the *keru za muungano* as having their basis in economics, rather than politics.

This chapter assesses the mechanisms that were put in place or adopted to try and deal with the problems that arise from the existence and operation of the Union. The chapter examines the success, or otherwise, of the mechanisms in tackling those problems and the reasons assigned for their success or otherwise.

It is evident from the respondents that indeed there are problems with the processes of problem-solving themselves. These were characteristically emphasised as: the lack of political will to solve problems so that although in theory everyone supports the Union and expresses the willingness to solve its problems, reality and practice are quite different. It was also pointed out that a forum for open debate and decision-making on Union issues is lacking. Whenever matters are raised, it is stated that they have been referred

to committees or commissions – which themselves become time-bombs – because such reference is not for problem-solving, but is used to the issues.

The failure to solve problems is also attributed, to the lack of transparency on Union matters right from the beginning. Issues are never discussed either collectively or by the two members of the Union separately.

This is coupled with allegations of intimidation. It was stated that the leadership in Tanzania is never happy whenever it hears about the Union being discussed. Instead there is heavy-handedness in the handling of matters so as to keep the Union together; the use of muscle and other indirect means. It was asserted that, until the presidency of Mkapa, it was taboo to discuss the Union. Consequently, there is not a lot of information in the popular mind about Union procedures.

All this compounded the basic approach – the management of the Union structure politically, i.e. as a purely political matter (within the one party state) rather than as a constitutional one.

In the end, it is not simply that the issues discussed 25 years ago are still outstanding today with little or no progress in resolving them, but the introduction of the multiparty dispensation, given the basic approach, has complicated the management of Union issues even further.

### **The Constitutional Court<sup>19</sup>**

Article 125 of the Union Constitution establishes the Constitutional Court. It confers exclusive jurisdiction on the Constitutional Court on issues relating to the Union between the mainland and Zanzibar. This is its exclusive purpose.<sup>20</sup> The High Court, on the other hand,

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19 Its official name is “The Special Constitutional Court of the United Republic”.

20 Article 126 of the Constitution. The Court has to give a conciliatory decision.

has the jurisdiction to interpret the Union Constitution while the Zanzibar High Court has the jurisdiction to interpret the Union and Zanzibar constitutions.

The Constitutional Court is an ad hoc court, and not a standing one. It is constituted when the mechanism is invoked to adjudicate on Union issues.

In spite of the litany of Union problems that the mission was informed about no one has ever invoked the Constitutional Court to adjudicate such matters. No one has ever lodged a legal challenge to the manner in which the Union is run from a constitutional point of view.

A number of explanations were proffered. One was that since it is Zanzibar that would be interested in such a move and Zanzibar generally keeps a low profile, no such challenge could emerge from them.

It was also asserted that this state of affairs is not an accident at all. The Constitutional Court was never meant to work. It was only included in the constitution at the insistence of Jumbe. Its composition attests to its unworkability. It is supposed to have equal numbers of members appointed by both the Union and Zanzibar government without a casting vote.

It is this very point, Jumbe's bid to invoke the court, which led to stripping him of his government and party positions. Nyerere, who was averse to resorting to court, is said to have accused Jumbe of seeking a legal (or legalistic) approach to a political issue.

The Jumbe experience is said to have dampened any enthusiasm to invoke the court to resolve Union problems.

There was, therefore, understandable scepticism about the Constitutional Court as a mechanism for resolving Union problems in the responses that the mission received.

While some responses expressed ignorance as to the explanation for the non-functionality of the court, many pointed to the

informality of the approach to Union problems by government: administratively and through party structures.

More recently, however, the Zanzibar Minister of National Resources is said to have vowed that Zanzibar was ready to go to the constitutional court over matters of oil exploration.

### **Commissions and Committees**

Since the inception of the Union, it is reported, there have been 45 commissions to deal with various *kero za muungano*. In the past 20 years there have been more than 20 commissions set up to deal with these issues.

#### **List**

*Kamati ya Baraza la Mapinduzi (Kamati ya Amina) ya 1992* [Committee of the Revolutionary Council (Amina Committee) of 1992]; *Kamati ya Rais ya Kupambana na Kasoro za Muungano (Kamati ya Shambuna) ya 1997* [Presidential Committee to deal with the shortcomings of the Union (Shambuna Committee) of 1997]; *Kamati ya Rais Kucambua Ripoti ya jaji Kisanga (Kamati ya Salim Juma Othman)* [Presidential Committee to analyse the Report of Justice Kisanga (Committee of Salim Juma Othman)]; *Kamati ya Kuandaa Mapendekezo ya Serikali ya Zanzibar Juu ya Kero za Muungano (Kamati ya Ramia) ya 2000* [Committee to prepare the Recommendations of the Revolutionary Government of Zanzibar on the Union Problems (Ramia Committee) of 2000]; *Kamati ya Baraza la Mapinduzi juu ya Sera ya Mambo ya Nje* [Committee of the Revolutionary Council on Foreign Policy]; *Kamati ya Rais ya Wataalamu juu ya Kero za Muungano ya 2001* [Presidential Committee of Experts on the Union Problems of 2001]; *Kamati ya Baraza la Mapinduzi ya jumuiya ya Afrika Mashariki* [Committee of the Revolutionary Council on the East African Community]; *Kamati ya Mafuta* [Committee on Oil]; *Kamati ya Madeni baina ya Serikali ya Mapinduzi ya Zanzibar na Serikali ya Muungano*

*Wa Tanzania* [Committee on Debts between the Revolutionary Government of Zanzibar and the Government of the United Republic of Tanzania]; *Kamati ya Suala la Exclusive Economic Zone (EEZ)* [Committee on the Question of Exclusive Economic Zone (EEZ)]; *Kamati ya Masuala ya Fedha na Benki Kuu* [Committee on Fiscal Matters and the Central Bank]; *Kamati ya Rais ya Masuala ya Simu* (1996-1999) Presidential Committee on Telecommunication matters (1996-1999)].

In addition, seven Committees have been formed by the Union government, and these are *Kamati ya Mtei* [*Mtei Committee*]; *Tume ya Nyalali* [Nyalali Commission]; *Kamati ya Shellukindo* [Shellukindo Committee]; *Kamati ya Bomani* [Bomani Committee]; *Kamati ya Shellukindo II ya kuandaa Muafaka juu ya Mambo ya Muungano baina ya SMZ na SMT* [Shellukindo Committee II to reach an accord on Union Matters between the Revolutionary Government of Zanzibar and the Government of the United Republic of Tanzania]; *Kamati ya "Harmonization"* ["Harmonization" Committee]; *Kamati ya Masuala ya Simu (Kamati ya Kusila)* [Committee on the Telecommunication Matters (*Kusila* Committee)].

An example is given of a technical team to tackle such problems as budgeting, and decision making. A report was produced but it was politicised and nothing was adopted from it, the mission was told. Other reports are said to have had a similar fate; inaction. Far from being mechanisms for solving problems, many of these commissions are viewed as techniques of avoiding and shelving problems in the hope that they will somehow go away. Respondents questioned the *bona fides* of the measure to set up such committees.

There have been other commissions, not set up exclusively to deal with Union issues. Their remits however have included Union issues whether directly or otherwise. An example of such is the Nyalali Commission on the issue of the adoption of the multiparty system. In its report, the commission recommended the adoption of the

three-government Union structure. While the government adopted its basic recommendation in regard to the multiparty system, the Union structure remained the same and the problems associated with this structure have continued to haunt the Union.

One of the committees is of a standing nature, in contrast to the more frequent ad hoc efforts. However, in this case as illustrated by the Committee of the Vice President and Chief Minister, the committee enjoys no constitutional or legal status. Such administrative status may detract from its effectiveness as was pointed out to the mission.

The Joint Finance Commission (JFC) is one that is provided for in Article 134 of the constitution. It also addresses aspects of Union problems. Comments on these two were made copiously to the mission.

### **The Committee of the Vice President**

This is a governmental committee, essentially a joint ministerial committee. It is chaired by the vice president of the Union and consists of, among others, the Union prime minister and the Zanzibar chief minister. Apparently, at some earlier point the committee operated under an arrangement of co-chairship between prime minister and the chief minister.

The committee sits to address problems, such as customs especially on transit goods, oil and energy exploration. It holds quarterly meetings.

The committee was established by the Union President to deal with the various *kero za muungano*. The committee has had a series of meetings both in Zanzibar and on the mainland. Some of its successes were cited: the Commission of Human Rights and Good Governance (CHRAGG) was allowed to operate in Zanzibar after a meeting of the committee. It had been inoperational in Zanzibar before that. The sharing of the proceeds and costs of deep-sea fishing has also

been successfully tackled by the committee. Deep-sea fishing is now coordinated by the Deep Sea Fishing Authority based in Zanzibar. The Merchant Shipping Act is also said to be the result of the efforts of the committee, which has enabled Zanzibar to become an associate member of the International Maritime Organisation (IMO).

Currently, it was reported, the committee is working on various *keru za muungano*:

- Petroleum and Gas
- Union Matters
- Employment of Zanzibaris in Union institutions and ministries, e.g. army, police, etc.
- Zanzibar's inability to borrow externally
- Zanzibar's share in the former East African Currency Board assets
- Double taxation of Zanzibar business people

Various sub-committees on these items have been formed and are discussing, first with experts, then the matters will proceed to the ministers' committee, an organ within the committee and then, finally, to the joint committee of the Vice President.

It has been pointed out, however, that the Vice-President's Committee has no legal or constitutional backing. It is advisory in nature; and for this reason it requires good faith and commitment. Yet, it was strongly opined that there is no willingness, goodwill or political will on the part of the Union government to enable the committee to be effective in addressing the *keru za muungano*; that the committee had no courage to tackle problems, especially because its members are all CCM. But one stated that the committee discusses and resolves problems amicably.

The committee should be given legal/constitutional status. Parliament is said to have demanded for the formalisation of the committee.

### **The Joint Finance Commission**

Article 134 of the Union Constitution provides for the JFC. However, it took 40 years to establish the commission, which happened in 2003. It has commissioners from both sides of the Union. Both the governor of the Bank of Tanzania and the commissioner general of the TRA are members. The Commission is supposed to report to the Minister of Finance.

The mandate of the commission includes the following:

- To determine Union institutions
- To determine Union revenue
- To look into all sources of Union revenue
- To examine the collection of Union revenue
- To determine a formula for the sharing of revenue

The docket of the commission is therefore to establish Union revenues as well as the costs related to the collection of Union revenue and consider the formula for the sharing of the revenue between the mainland and Zanzibar.

The mission learnt that the commission, with the assistance of a consultant, prepared a report on the sharing of revenues and submitted the report to the two governments in August 2006. The report is said to have listed all internal sources of revenue and the two governments are still considering the report.

The mission further learnt that the Zanzibar government has discussed the report on revenue sharing but the Union government is yet to discuss the report. However, the views from the two governments will be submitted to the interparty committee – the Committee of the Vice-President.

But scepticism exists about the usefulness and ability of the commission to resolve the problems included in its remit. Doubt is cast on the feasibility of identifying Union revenues and much more so, Union expenditures. These difficulties stem from the very structure of the Union.

The structures of the ministries make this task a daunting one. Many ministries run portfolios that straddle the divide between Union and non-Union matters. In such cases it may be difficult to assign revenues and expenditure to the Union or vice versa. Likewise, when Parliament sits to discuss the Health budget – a non-Union matter – should the Union account be charged?

There is a considerable amount of inertia on these questions, especially on the part of the Union government. This has had a number of consequences. Not only was the commission inaugurated tardily, after 40 years, the interim formula for sharing revenues (4.5% to Zanzibar) has so far lasted for 15 years. Ideally, the taxes the TRA collects (and it has the mandate to operate in Zanzibar to collect taxes on international trade under the East African Customs Union) should go to the Consolidated Fund. Yet, in 1996 a letter instructed the TRA to remit all collections from Zanzibar to the Paymaster General in Zanzibar. The taxes collected by the Zanzibar Revenue Board also go to the Paymaster General. In other words, the revenues are spent where they are collected.

In the final analysis, such ad hoc arrangements create a murky atmosphere which ultimately undermines the integrity of the Union and at the same time fail to solve the problem or satisfy any of the parties.

On the one hand, Zanzibar is still dissatisfied with the 4.5% which it suggested should be raised to at least 10% while the Union government insists that is too high and would settle for 5%. Likewise, complaints persist that the Union government exclusively bears all costs of collecting revenue in Zanzibar (by TRA) since TRA remits all revenues collected to Zanzibar.

A similar unsatisfactory situation is the discrepancy between the formal position that the Central Bank should maintain two foreign currency accounts for Zanzibar and for the mainland. Zanzibar does not subscribe to that position and maintains its own foreign currency account with its own People's Bank. This has proliferated complaints from the mainland about Zanzibar not contributing to the expenses of the Union; paying for oil in local currency and not contributing to payment in foreign currency. In the same breath are complaints about Zanzibar benefiting from foreign loans that do work in Zanzibar, without contributing to the repayment.

Evidently, there are intractable problems that the JFC would contribute to solving. The uncertainties and recriminations are not conducive to a healthy Union. It is ominous, therefore, that the parties have not effectively used the mechanism to try to resolve these important challenges.

### **The Muafaka Processes**

This subject has received more thoroughgoing attention by Kituo Cha Katiba elsewhere. We are only concerned with it here in as far as it relates to the Union question.

The *Miafaka* refer to peace accords in relation to post- electoral violence in Zanzibar. The processes of negotiations leading to these accords and what happens in regard to the implementation of such accords are the subject of this section. The processes are linked to the electoral process in the context of multiparty elections in Zanzibar in 1995, 2000 and 2005. The processes relate specifically to the elections of the Zanzibar president and members of the House of Representatives. They do not involve elections to the Union Government which are generally incident-free.

Since 1995 there have been serious problems of electoral fraud as well as violence especially in 2001 and 2006. The three *Miafaka* processes were designed essentially to address the issue of free and

fair elections. The first accord relating to the 1995 elections was reached in 1999. The initiatives were from within Tanzania itself although it was held under the auspices of the Commonwealth. The 1995 elections were said to have been peaceful mainly because CUF was only three years old. But there were allegations of fraud and deliberate doctored figures. The declared results were 50.2% for CCM and 49.8% for CUF.

*Muafaka I* recommended a presidential commission for the implementation of *Muafaka*. But this had no legal support and could not be implemented and it was also considered by some impractical to effect the reforms that were agreed shortly before the 2000 elections.

Legislation was later made and the commission appointed but was dissolved before the 2005 elections owing to lack of political will and funds. As a result, only portions of it were implemented.<sup>21</sup>

Important aspects that were implemented included:

- The modification of the composition of the ZEC
- The creation of the office of the DPP
- Retirement benefits for all retired leaders

Other aspects of *Muafaka* not implemented were:

- Compensation for houses demolished for political reasons
- Reinstatement of school children dismissed from school for going for registration
- Government of National Unity failed – and was to fail even after the 2005 *Muafaka*

The current *Muafaka* process that was concluded in 2008 agreed on the need for a government of national unity and the system of proportional representation. It flopped because the CCM meeting in Butiama insisted on subjecting the matter to a referendum. There

<sup>21</sup> The *Muafaka* itself had stipulated that the commission would come to an end before the 2005 election. It was dissolved in 2005.

was also disagreement on the time-frame of implementation. In the view of the majority of respondents, the referendum is used as an excuse by the CCM to avoid reaching an amicable solution of the problem. Indeed, others suggested that the referendum suggested by CCM would simply repeat the near-even-split of the election results and perhaps exacerbate the problem.

Both the problems that the *Muafaka* process itself addresses and the process itself have a bearing on the Union question.

In the first place is the serious amount of violence and militarization that are associated with the electoral process in Zanzibar. The violence associated with the 2000 elections involved intimidation, and the use of force. People were forcefully denied registration. There were stories of the army collecting ballot boxes and staying with them without the agents of other parties. The demonstrations that followed were met by shooting, killing, sexual assault and damage to property. As many respondents stated, for the first time Zanzibar produced refugees who fled to Shimoni and Mombasa in Kenya, and even as far as Somalia. In the 2005 elections a few weeks before polling day an influx of armed forces was deployed with heavy weapons as if Zanzibar was at war. The army was deployed from the mainland. Other security forces, paramilitary and vigilantes included Prisons, Fire Brigade, Youth (*janjaweed*), Coast Guards and Zanzibar Special Forces. These armed forces not only intimidated and later engaged in violence, they were also said to have voted.

Clearly, and as was underscored by many respondents, there is no need or justification for the use of the army in a time of peace or any justification for the deployment and use of the army in Zanzibar.

But what is most ominous for the Union, and which makes all this relevant here, is that to the Zanzibaris, the security forces conducted themselves as a foreign army, as an occupation army. This is a veritable threat to the Union and Mkapa's initiation of

talks which resulted in *Muafaka* II signed in October 2001 should be seen in this context.

An anecdotal rendering of this point was made to the mission to the effect that when CUF began to protest the nature of the electoral process, the leadership was taken to a military barracks, was interrogated and shown munitions, ordnance and military machines and were told that these had been brought in to deal with them.

Secondly and of equal importance is the *Muafaka* process which is bilateral in nature. The issues are framed in CCM versus CUF terms. This excludes the other political parties, CSOs and any other stakeholders.

Some of the political parties have no objection to this. They think this bilateral framework reflects the political presence in Zanzibar. They think that their own presence in Zanzibar is a formality. It is 'statutory' in order to fulfil the requirements of the law. Hence, they believe that their presence might complicate matters instead of improving the *Muafaka* processes. In their estimation, the two parties left to their own devices would be able to reach decisions more easily. "If you have no seats, even in local government ... leave it to those who have."

Others however, including civil society, thought otherwise about the process. They stressed the need to involve others apart from CCM and CUF. They thought that there is a need to involve smaller parties, academia, business people and civil society generally. They faulted parties for always maintaining partisan stands, which need to be moderated by those outside political society. They attributed the exclusion of civil society to the secret and informal way in which the discussions were began through personal contacts. They attribute the difficulty in the implementation of the accords to this very fact.

The polarisation of the *Muafaka* processes between CCM and CUF not only makes it difficult for the processes to work, it also has implications for the Union.

Although the CCM/CUF issue arises from the history of Zanzibar and is connected to the pre-Union divide between Pemba and Unguja, pursuing it in this form entwines it irretrievably with the Union question.

There are people who present the issue as one of CUF representing Arabs and presenting the danger of their return and the selling of the country. They go ahead to charge that CUF would return Zanzibar to the pre-revolution period and restore properties to Arabs. These views have been expressed by CCM in Zanzibar. The majority of respondents, both in Zanzibar and on the mainland, dismissed these charges as empty air, a bogey and lacking any connection with reality. CUF itself vehemently denies the connection to 'Arabs' and clarifies that the point in the CUF manifesto is about land deeds to enable owners to use them as collateral to obtain credit.

There was also near unanimity that CCM on the mainland is more liberal than CCM in Zanzibar. CCM in Zanzibar was said to have many 'reactionaries', who seek to protect the 'revolution'. They are militantly opposed to a government of national unity. It is these CCM Zanzibar hardliners who believe that CUF represents Arabs who were removed by the revolution and that once in power it would return them. It was stated that it was CCM in Zanzibar which initiated the idea of the referendum – which eventually became the official CCM NEC position. It was CCM Zanzibar which was reluctant to sign the latest *Muafaka* accord, not CCM Mainland (the eventual reluctance by CCM to sign the accord was the fear of splitting the party).

And this is where the critical link to the Union issue lies. Zanzibar is unable to resolve issues (for example within the framework of *Muafaka*) on its own because everything has to go through the 'Union' through CCM. It was emphasised that the real negotiations of *Muafaka* go to CCM before they go to CUF – which represents people in Zanzibar. If an understanding in Zanzibar is to be reached,

it must be *Muafaka* among Zanzibaris, rather than taking the issue to the mainland and working it out there.

CCM Mainland may be more liberal but paradoxically its link to CCM Zanzibar hardens the positions of the latter making it inflexible, less accommodating and less amenable to negotiations within Zanzibar itself. The bilateral format of the *Muafaka* process that excludes other sections of Zanzibar society reinforces this polarisation. The alleged reluctance of new Union presidents to look at matters anew – the concept that “I inherited two governments” and I will hand over two governments – “Zanzibar government will not be lost on my watch” – also reinforces the idea that it is the Union connection that is not only the source of the electoral chicanery and violence, but is also responsible for the recalcitrance of CCM Zanzibar and makes peaceful resolution impossible among Zanzibaris.

It is important that the *Muafaka* process is also seen as a mechanism that can resolve the problems of the Union. Already looking towards the 2010 elections, dangers of fraud and violence loom on the horizon. The claims of denials of registration on the pretext of not having identity cards in relation to the update of the voters register in May 2009 adumbrate the problem that may blight the 2010 elections. The mission separately heard complaints about the amendment of the Election Act to require a Zanzibar residence identity card before registration as a voter. There were complaints about denial of identity cards by *Shehas* who are said to be partisan on the one hand; and the giving of identity cards to people on the mainland, including those below 18 years.

### **Political Parties, Leaders and the Public**

These may not be well structured as mechanisms for resolving Union issues, but they are certainly of great relevance and have or can play a role in the processes.

### **Political Parties**

Political parties have been used as a mechanism to deal with the problems of the Union for a considerable period of time. These became pronounced in 1977 when the two parties (TANU and ASP) merged to form the one party system. It may be noted that the committee that prepared the party constitution also prepared the Union constitution.

Henceforth, many problems in the Union were resolved within the one party structure. CCM, therefore has been a mechanism through which *keru za muungano* would be discussed in its caucuses. That was the case with CCM's decision of spending revenue where it is collected.

This is not to say that the arrangement was always satisfactory. It is said that Zanzibar authorities soon realised that through the party and Union constitutions, Zanzibar's autonomy had been seriously eroded. It is said also that even now Zanzibar does not have much influence in the top CCM organs, although the Central Committee of the party has members from the mainland and Zanzibar.

It was asserted that CCM fears a strong government in Zanzibar. There are also real differences when it comes to specific *keru za muungano*. On oil, there are differences within CCM; CCM in Zanzibar does not agree with CCM Mainland. So, on such issues, the point is not whether the opposition is in power or not in Zanzibar, but whether the people are involved in making decisions – which becomes the basic issue. Moreover as pointed out earlier, CCM in Zanzibar is less amenable to discussion as in the case of *Muafaka* than the mainland. It was even stated that some in the CCM on the mainland think it would be better to deal with CUF because they do not know what CCM Zanzibar wants, whereas they at least know what CUF wants. This stems from the view that CCM in Zanzibar has many people who seek to protect the revolution and resist any movement towards change.

The multiparty system introduced a new order of things. Structurally it is difficult to address the issues in the same old way. In part, this explains the proliferation of commissions on Union matters. Nevertheless, it was reported that the internal process continues within CCM to try to resolve Union issues using the CCM to CCM party machinery. This is unsatisfactory because there are now other parties in Zanzibar. The point is then for all parties in Zanzibar to sit together, negotiate and agree with the mainland. CCM to CCM agreement is a limited result when other parties are excluded. A new approach must be found where Zanzibaris and the mainland each sit down and agree.

To come to such a position, a lot of responsibility and initiative is required of CCM. As was pointed out, it is really only within CCM's power to initiate change and the basic requirement is political will and courage. As the ruling party in both Zanzibar and the mainland, it should be able to make such initiatives. Such a potentially big role for CCM is said to be constrained by what was described as "selfishness".

The role of other parties in resolving Union problems, including the *Muafaka* process, should be assessed bearing in mind certain factors. Firstly, political parties by law must have membership in Zanzibar as well as the mainland; otherwise they would not be registered. Since they have to straddle the channel between Zanzibar and the mainland, this would in theory put them in good stead to address Union questions, including *Muafaka* in an even-handed manner. It would even make them an appropriate forum for the discussion of Union issues.

The reality on the ground is that, as stated earlier, the other parties have only a nominal presence. A respondent stated:

We have never had any serious presence in Zanzibar and Pemba. We fulfilled the legal requirements but have no real footing there. You cannot fail to find people anywhere to jump on to the bandwagon... the legal requirement forces us to campaign,

to address everyone, and even go to Pemba. We thought it was not a bad idea. It makes parties appear to have national representation. But you can campaign and attract huge crowds, but end up with zero votes.

One suspects that the other parties see only a marginal role for themselves in Zanzibar. This is reflected in their attitudes on the *Muafaka* processes. It was also remarked that political parties may hesitate to take positions on Union issues because of legal limitations: Parties are a Union matter and the Political Parties Act does not permit them to advocate for the breakup of the Union. The parties probably underestimate the potential they hold in addressing the *kero za muungano*, although their manifestos address some of the Union problems.

As was pointed out Zanzibar nationalism is not a partisan issue. Both CCM and CUF in Zanzibar share the same positions on the *kero za muungano*. There is, therefore, a basis for all political parties to address *kero za muungano* in a non-partisan manner and in national interest. In this sense, political parties in their totality are a national mechanism for tackling Union issues.

## **Leaders and Government Departments**

### **Government Departments**

Government departments would contribute to solving Union problems, especially if they worked as they were meant to do. The working of government structures in relation to the Union has been discussed in various sections of this work. There are a few additional things to point out in regard to their role as mechanisms for tackling *kero za muungano*.

One of the problems in this regard is the flawed, initial ad hoc engineering of the Union structure. As has been pointed out before, the Articles of Union envisaged a commission that would be formed to come up with proposals about permanent Union structures within 12 months of the formation of the Union. That never came to be

within that period. Government departments, therefore, for a long time operated within this flawed environment.<sup>22</sup>

However, the portfolio of the Minister of State for Union affairs should be a veritable mechanism in tackling *kero za muungano*. Its role may be direct or through the other mechanisms, such as the commissions and committees.

In spite of this, there were comments to the effect that government meetings have produced no results because the intention of CCM is to eventually have a one government Union. Given this, however positively the portfolio may be run, unless there is confidence-building, its efforts may be regarded negatively and with suspicion, instead of it contributing to the resolution of problems.

Likewise, there are conditions that would make government departments natural mechanisms for the harmonious running of the Union. For example, it is said that government agreed on a formula for the sharing of posts within the Union government, but that the shortage of competent people fails the implementation of the formula. A satisfactory solution would make Union departments appear less alien and more inclusive to Zanzibar.

The mission was also informed that the National Electoral Commission (NEC) delegates a lot of powers to ZEC in relation to Union presidential and parliamentary elections where it has jurisdiction. Such collaboration between government departments in various areas, such as revenue collection, etc would go a long way in creating a more positive version of the Union.

Similarly, the agreement by the two governments to employ an external expert on how to share the benefits and costs of gas and petroleum with specific terms of reference is an example of government's positive collaboration in tackling *kero za muungano*. When these were multiplied to cover the breadth of government, they would constitute a positive starting point in the resolution of problems.

<sup>22</sup> The party Commission that merged the two parties was converted into the envisaged Commission on permanent Union structures.

### **Leaders**

Various leaders have in their own way attempted to contribute to the resolution of the problems of the Union. These attempts have been made when the persons were actively engaged in government or as in the case of *Muafaka*, when they had retired.

The examples that featured most frequently were those of Aboud Jumbe and the Group of 55 (G55) and other elders. Jumbe is said to have contributed to a better Union through the liberalization of the situation in Zanzibar and enacting a constitution in 1979. The merger of the CCM and ASP was said by a number of respondents to be a genuine effort by Jumbe to make the Union work. In this connection, it was said that his predecessor would hide behind ASP to resist a Union measure, saying that ASP had declined to approve the measure. Jumbe is, therefore, said to have tried to unify the country more than any other person did.

He employed a Ghanaian lawyer to work out a formula for three governments. His forced removal from government and party positions in 1984 on account of this effort to construct a properly functioning Union perhaps more faithfully, reflects the problems of the Union. It should be remembered that it is Jumbe who also had insisted on the provision on the constitutional court to resolve Union problems. Within the party organs, he was accused of secretly undermining the party.

The G55 were mainland leaders in parliament who sought to revive a Tanganyika government. The G55, therefore, sought to establish a three-government structure of the Union. These were regarded as rebels. They were silenced in parliament when they raised the matter of the Articles of Union. They were reprimanded. It was stated that Mwalimu Nyerere summoned the entire group and admonished them and then proceeded to meet each of them alone.

The hesitation to allow open debate on the matters of the Union did not only affect leaders such as Jumbe or the G55. It also blighted the efforts of the public as well as civil society to effectively participate in the resolution of Union problems. In the first place, there is reported ignorance on the part of the public on Union issues and procedure. The history of secrecy, right from the inception of the Union, has not been helpful.

The mission was informed that the public discusses Union matters, but not in a systematic way. This may be at conferences or in the media. Among civil society, for example, in the 1990s, there were discussions on constitutional issues. This was probably in connection with the Nyalali Commission. Discussions of Union matters were, therefore, generally oblique. Such matters among civil society might arise for example, when discussing the issue of opening offices in Zanzibar. It was reported that a peace conference by civil society was stopped midway by the government in Zanzibar in 1999.

The prospects of public participation as a mechanism of resolving Union problems appear to be bleak in view of all this.

### **Conclusion**

There have been various formal and informal mechanisms of resolving Union problems. Most of these have been ad hoc. The *bona fides* of some of them has been doubted. There have been political casualties in such efforts. It may also be said that these efforts have met little success to the extent that most of the problems are still outstanding. Others may say that these mechanisms have worked inasmuch as the Union has survived for over 45 years.

It has been pointed out to the mission that African politics is very much determined by charismatic leaders. Those who thought so were at the same time not very optimistic in relation to the Union. They felt that the Union was founded by charismatic leaders. It thrived in spite of intractable problems on the back of charismatic leadership.

They conclude, therefore, that without the one party state and in the absence of charismatic leadership, the prospects of efforts like *Muafaka* or the Union generally are bleak.

It is in view of these that recommendations in respect of mechanisms that may tackle the *kero za muungano* were suggested. Those included a Council of State to deal with Union matters; with equal membership from both the mainland and Zanzibar. A bicameral parliament was proposed; as well as the formal review of the constitution to enable the Union to survive and work smoothly in the post-one-party state in Tanzania.

# 5

## The Future of the Union

### **Introduction**

This chapter records the views of Tanzanians on the future of the Union. Some of these views were directly expressed. In other cases popular sentiments on the issue were reported by those whom the mission interacted with.

In discussing the future of the Union as viewed by Tanzanians, consideration must be had of significant realities brought to the attention of the mission.

One is the fact of Zanzibar nationalism. There is the undisputed consciousness about the Zanzibar identity among the Zanzibaris which is certainly more pronounced than any idea of a Tanganyikan identity on the other hand. This in some cases is tied up with a sense of loss or at least apprehension about the possible loss of identity; as well as Zanzibar's sovereignty.

The picture also emerges of the dissatisfaction with the Union in its present form. Again, this dissatisfaction is more clearly and vigorously expressed in Zanzibar than on the mainland, although in the case of the latter such dissatisfaction also does exist. This relates generally to issues surrounding the structure of the Union as well as the historical increase in the list of Union matters.

Also significant is the fact that most respondents would want the Union to continue, but they demand a just one. The idea of a just Union points to an urgent need for change; this is made more urgent by the adoption of the multiparty system that has been around for over a decade now.

There are those who would like to see the Union come to an end. There are those who do not care whether the Union continues to exist or not. Yet others, although they may like the continued existence of the Union, do genuinely fear for it; they are apprehensive about its future given the inertia in the process of its reform, and even the unwillingness to discuss or deepen the discussion of Union issues.

The future as reflected in these positions is set out. But also set out in this chapter are the means that have been suggested in order to realise these visions of the future.

### **Union is the Future**

There is the strong popular sentiment that nobody wants to break up the Union. This sentiment was palpable both in Zanzibar and the mainland:

- No one says they do not want the Union; all want the Union but with problems solved.
- The Union is entrenched, there are no deep running feelings against the Union: the issues are identity, self-determination, sharing of benefits and costs, clarifying the jurisdictions etc.
- The Union itself is accepted, but the expansion of Union matters beyond the initial eleven is another matter.
- Civil society would like to see the continuation of the Union – but with adjustments.
- Young people born in the Union know nothing else; they would support the Union.
- The Union will survive but will need revisiting.
- I have no problem with the Union – only with the circumstances of its formation and operation – secrecy.
- The idea of breaking up the Union is not popular, even CUF which is strongly Zanzibari does not advocate a break-up.
- None of us is interested in breaking up the Union, the Union

will never come to an end.

- Zanzibar wants an equitable Union not an end to the Union.

The Nyalali Commission was cited as stating that people believe in the Union and so it should remain. Other respondents were even more sanguine about the future: “Every day we come closer and closer”.

In this respect, the advantages and benefits of the Union were cited: “Both sides have benefited from the Union; for example free movement and freedom of expression, the liberty to criticise government for Zanzibar, burgeoning social relations, the mingling of people, free movement, especially in view of unemployment in Zanzibar, security etc...” Some respondents on the mainland pointed out that there are many Zanzibari on the mainland: “We live as brothers and sisters, we have no problem.” Others find the problems to be greater than the benefits; this balance sheet leads to the feeling that the Union is no longer needed in Zanzibar, having eroded all its autonomy.

Yet others see the security of the future of the Union anchored, not necessarily in the reform of present arrangements:

We are talking about business not sovereignty; such things do not matter to us. It is a small group fighting for autonomy; the majority is looking to integration. The Union has been here for 40 years. After that, separation is artificial; it is politics. Zanzibaris are happy in the Union, they are happy with business. The cloves industry collapsed and so the Union is an advantage to them. We put aside politics in business. Business opportunities determine where people go in a free market.

More ominously, one pointed out that Tanzania’s sending of troops to the Comoros under the auspices of the AU was an indirect signal to Zanzibar that they will not be allowed to secede. This contrasts with Mwalimu’s alleged response to a question about his support of Biafra: “If Zanzibar wanted to secede I would not bomb it.”

On whether the Union can survive the two governments, each run by a different party, opinion was divided. Those who thought it would, state that it would be a different Union. Yet others underlined the importance of the future of the Union by painting a portrait of an apocalyptic future without it. This is a sentiment that the mission encountered only on the mainland, but not in Zanzibar. This is to the effect that if the Union broke up, Zanzibar would also disintegrate; that Pemba and Unguja would each go its way. Others stated that the breakup of the Union would spell disaster and Zanzibar would become another Somalia. Others cited Mwalimu Nyerere as stating: “Without the Union there is no Zanzibar.”

### **Future without the Union**

There are those who do not see much of a future for the Union as well as those who actively desire to see its back. These sentiments are shared across the channel.

There are those who see the Union as an imposition and by implication or otherwise would like to see it come to an end. It was, for instance, stated that “Zanzibar is sick and tired of the Union and will use any opportunity to express its disillusionment. Equally, there are those in Zanzibar who see the army and police as essentially mainland who would force down the Union on them. It is just that with the changing trends in the world, it would be difficult to use force against the people to insist and impose the Union”. The same sentiment was more strongly expressed thus: Zanzibar is a colony of Tanganyika; people have died because of family fights on the mainland but the government does not deploy troops. But in Pemba, where it is peaceful, there is deployment.

It was also remarked on the mainland that the mood in Zanzibar had undergone change: “The language used today in Zanzibar is that mainlanders are colonialists. We the sons and daughters of Zanzibar Muslims need to take action against mainlanders.”

Some Zanzibaris point out that Zanzibar (like Northern Ireland) has never been a conquered territory of Tanganyika and can therefore reclaim their independence.

Scepticism about the Union is expressed in other ways. It was stated that the Union only exists in the political sphere and does not touch the other aspects; culturally and socially each side is on its own. The same point was made with the description that this was “a Union of leaders”. Others pointed to a generational shift. Today there are different ideas, thoughts and attitudes from those of the founders (Karume and Nyerere). It was reiterated frequently that, for the young generation born after the formation of the Union, Zanzibar comes first and then Tanzania. They feel that they are Zanzibari first and they would not like to lose their identity.

Others pointed to the unravelling of the Union. One such sign was the severance of the nexus between the two when the president of Zanzibar ceased to automatically assume the vice-presidency of the Union. Others saw it in the oil issue: “The oil issue will blow the Union apart and end democratic slavery. I like the Union but not the state it is in”. An observation was made on the mainland that the situation in Zanzibar was dangerous in the absence of mechanisms for resolving outstanding issues. On the other hand, there were people in Zanzibar who thought that the mainlanders view Zanzibar as an unnecessary burden, that they are tired of the Union and resent Zanzibar participating in their non-Union matters. That view, unfortunately, is not completely groundless.

One respondent on the mainland described the situation thus: “There are extremists on both sides; there are mainlanders who say “let Zanzibar go, we are paying costs for nothing” and there are Zanzibaris saying “you are swallowing us we need our independence.”

Mainlanders reported their sentiments. There are those who question the benefits they derive from the Union. Others would say, “To hell with Zanzibar, to hell with the tail wagging the dog.”

Others asserted that, if there was a referendum, the majority of the mainlanders would let Zanzibar go: “They have been on our backs for too long, enough is enough, they are big babies now”. In this connection, it was pointed out that it was Nyerere (after the death of Karume) who was the mainstay of the Union and who resisted a referendum on the Union and, therefore, the Union might break up in the post-Nyerere era.

A respondent who was candid enough to express his own sentiments stated thus:

I see no advantage from the Union, may be they may be political.  
But as a mainlander I see no tangible advantages from the Union.  
It can be there or not. May be the uniqueness, as we are told, of this particular Union may be the only ‘advantage’.

In view of all this, one appreciates the true significance of the statement that, in theory, everyone supports the Union; or the observation that brotherly relations exist with Kenya and Uganda; so the Union is not a requisite for brotherly relations.

### **A Just Union**

As stated earlier, the majority of respondents expressed support for the Union. Likewise, the overwhelming majority of the respondents expressed dissatisfaction with its present form. Frequently, respondents variously referred to a just, equitable or sustainable Union. Many suggested that without that, the Union has no future.

One of the important aspects of a just, equitable and sustainable Union was reiterated by many people i.e. an interest-based Union. They talked about a Union that ‘takes care of their interests, one that ‘benefits both’. It was emphasised that if the Union takes care

of their interests Zanzibaris will reciprocate; and that the Union will be strong only if it takes care of members' interests.

The other aspect is equality. The two sides should be treated as equal partners and Zanzibar should not be treated as just another region of Tanzania. A just Union should, therefore, not swallow Zanzibar. It should respect their identity and a measure of their autonomy, each side handling its own affairs. This should be reflected in the structure of the Union, but also the vision entails such symbols as a flag, national anthem, protocol considerations, and for some, even more substantive things such as a Zanzibar currency.

The vision of a just Union includes its being based on consensus and goodwill. In this regard, it was pointed out that a sustainable Union is crucial, transparently governed, friendly, with a win-win situation. Army occupation of Zanzibar around election time runs counter to this vision.

### **Three-Government Union**

A more concrete aspect of the vision of a just Union is its structure. We have discussed this matter before. Here it is mentioned as an aspect of the future of the Union.

From the efforts of Jumbe, the attempts of the G55 on the mainland who sought to revive the government of Tanganyika, the recommendation of the Nyalali Commission, the positions of most political parties, the opinions at one time or another of leaders such as Warioba, Mkapa and Malecela, the wishes of the people of Zanzibar, and many on the mainland it is clear that the three-government structure is an integral part of the vision of a sustainable and just Union.

This is a long way from the original position of Nyerere which he insisted on: a two government Union leading eventually to a one government Union. This may still be the official position as reaffirmed by CCM in a 1994 resolution. It may embody Nyerere's

vision of a complete Union in 50 years. However, it appears to enjoy decreasing support.

There are few people who still entertain the hope of drifting towards a one government Union. They pin their hopes on a generational shift, from those who enjoyed the sovereignty of Zanzibar and are proud of it, from existing leaders 'who are too much tied to the past' to 'young people not tied to history and identities.' Their hopes are also pinned on intermarriage and other forms of integration.

This eventuality is unlikely as was amply indicated by responses from Zanzibar. Issues of identity, the desire for autonomy have in fact been passed down through the three generations since the Union was established. Secondly, there is probably no firm conviction now behind the CCM official position of two governments leading to one. This is not only because it is rarely asserted today, but also because there are no concrete steps taken towards one government and behind the CCM party unity on the position, is said to lurk a firm CCM (Zanzibar) position of three governments. It is also the case that Zanzibar interprets a one government Union as swallowing Zanzibar. On the contrary, visions of a three-government Union have crystallised: bicameral parliament, a lean Union government with limited jurisdiction etc.

### **Impediments to a Just Union**

A number of factors were mentioned as impeding the tackling of the problems of the Union. These problems have either been ignored or efforts to their resolution actively suppressed. And this is put mostly at the door of the ruling party CCM.

Jumbe is quoted as having stated that complaints about the future of the Union have always been raised but have always been suppressed. His own fate is perhaps the clearest testimony to the truth of the observation. It was remarked that the mess in the Union

will continue unless it is cleaned up, instead of trying to cover it up. Some explicitly stated that the ruling party is interested in keeping the lid on the matter.

Likewise, on constitutional amendment, some observed that the ruling party has been adamant except for where they benefitted; and therefore constitutional amendment was unlikely since the opposition was still weak.

All this has had a number of consequences. It was reported that most people (both on the mainland and Zanzibar) are fearful of saying the truth about the Union. They lack the courage to mention their discontent with the Union. Such an atmosphere evidently is not conducive for open and constructive discussion.

Others see a growing gap between the leaders and the people over the issue. This was expressed in varying ways. "Today all those involved are delaying the process of tackling and resolving the problem. It is a matter of time. In future it is inevitable that the problems have to be tackled. But today the situation causes frustration amongst the people." "If the people feel marginalised the Union will also be marginalised." "The referendum on the Union is feared on the mainland but probably the Union would be upheld by such a referendum. The real fear is of the people having a say, people being given too much power. Democracy is feared." "The referendum depends on the leadership. It has to make a decision; and right now there is not enough connection between the people and the leadership."

It is in the context of those observations that the following remarks should be appreciated: "The people are ready to be together but not the leaders", and "Right now the Union issue is among leaders rather than among the people."

Some have a more nuanced explanation of the inaction on the Union: "Currently it is not so much ignoring issues as not knowing what to do. There are issues of legitimacy of the Union government.

So it is difficult for them to take a firm public stand on a matter that may appear controversial like Nyerere could". This was echoed in the remark about "the challenge of legitimacy; CCM's tragic failure of leadership, leadership based on unfounded fears."

In relation to Zanzibar, it was claimed that CCM has never won an election and that, if CCM accepted it had lost the popular vote in Zanzibar, the latter would break up. The question of legitimacy thereby gets linked to electoral issues and the *Muafaka* processes. Given multipatism and electoral results which are evenly split (around 50%/50%), the knife-edge results are said to be always clerically manipulated. Today, it is not just that Zanzibar is disappointed about the 45 years of the Union, where Union issues have not been addressed in a thoroughgoing manner, but civic education and awareness were reported to have risen. People are increasingly asking questions which more urgently beg for answers. Yet, the impediments mentioned in this section still keep such a prospect at bay.

### **The Means to a Sustainable and Just Union**

Most people who addressed the issue did not think that the road to a just Union is insurmountable. Indeed, many had concrete prescriptions on the prerequisites for the process.

Many were sceptical that elections alone can eventually lead to a just Union. For example, the strategy to vote CCM first out of Pemba, even when extended to Unguja may not solve the problem. This is not just because of the problem of the authenticity of the result, but also because it is uncertain that if CUF came to power in Zanzibar, the problem would be solved. This is in spite of what some stated, that if Union problems were solved CUF would have no agenda in Zanzibar. The electoral process is by its nature partisan and the Union problem transcends partisan considerations.

Discussions, debate and negotiations of the Union is an important step in the road to a just Union. This should be in all fora, at all levels, including government, political parties, civil society, academia, etc... Many stress that a workable and durable structure of the Union should come from the people and not government.

In this regard, the first step is to create an atmosphere that engenders free and open debate and to dissipate any thick fog of fear and secrecy that is said to have engulfed the Union right from the circumstances of its creation. The responsibility to generate these conditions especially lies heavily, although not exclusively, with the government and CCM. All interested parties and stakeholders need to cultivate the interest and the courage to contribute to the discussion of all issues in the confidence that a just Union can be negotiated. This will be a breath of fresh air.

Once these conditions begin to emerge, they should lead to more concrete measures, such as a conference, constitutional review and referenda as most respondents have recommended. In this respect, very prescriptive suggestions were made.

As one Zanzibari put it, "For 45 years a Union that was hastily and secretly cobbled together has been limping for too long. It needs to be streamlined on the basis of goodwill. When we united we (Zanzibar) were only 3 months old, our partner was considerably older and better organised. So there are lots of things that have to be reviewed. We need to sit down and discuss and review the Articles of Union. This has to have the support of the people."

In the same vein, another respondent stated, "Some say let us forget about the legality issue because the Union is a factual reality. What needs to be done is to readjust it and review the original agreement."

Virtually everyone suggested constitutional reform. "Serious effort should be made to solve Union problems. There is need for constitutional reform, on how to amend the constitution; it should

also entail clarifying Union matters, mechanisms for co-operation and how to safeguard the interests of Zanzibar as well as those of the mainland. A survey should be conducted on how Zanzibar can be accommodated either as a full member or some such status within the East African Community. Zanzibar needs to be recognised; it ought to have a special status, some privilege so that it has a say within the Community.”

Others pointed to the need to look at other federal or kindred arrangements in other countries such as Scotland within the UK or the former Soviet Union arrangements, etc.

It was stressed that everything should be negotiable during the process of constitutional review. It was stressed that there is a dire need for formal constitutional review especially because the current constitution is a product of the one party state; and in that context problems used to be discussed within the one party which cannot be done in a multiparty system.

The cornerstone of the process of writing the new constitution, it was stressed by many, is participation of the people. This is in contrast with the non-fundamental amendment of the constitution in the transition to multipartism. The constitution essentially remained the 1977 one, based on one-party supremacy and the process did not involve the people.

It was pointed out that the writing of a new constitution on the basis of people’s views was indeed a significant recommendation by the Nyalali Commission which suggested at least a year-long process.

Apart from constitutional review, others suggested a conference on the nature of the state including whether to have a unitary or proper federal state.

Ultimately, a referendum may be held on the Union. Or it may be held specifically on whether to have a two or three government structure of the Union.

Many noted that Nyerere rejected the idea of a referendum until his death and that many people lost their posts because of this. But they insist that the way forward is a referendum on the structure of the Union.

On the referendum on the Union, an insightful comment was made by an experienced Tanzanian leader: when it comes to the referendum – the leadership may in pursuit of power, want to break the Union. But amongst the people, if you really explained the matter, including the implications, they would not vote against the Union.

Rather they will vote for a just Union, which mere political speeches or tinkering will not achieve. And as stated earlier, these well-meant suggestions may be ignored at a very high cost.

The means towards a just Union mentioned above are not in the alternative. It will take the cumulative use of most of them to move towards the desired goal.

# 6

## The Union and East African Integration

This part addresses the issues that arise from the fact of and the nature and structure of the Union as it interfaces with the East African integration process. It highlights the problems as perceived by the Tanzanians themselves and their views on the possible ways in which they can be resolved.

### **The East African Integration Process**

The old EAC was established in 1967. It had been preceded by various forms of cooperation and integration, including the East African Common Service Organisation (EACSO) formed in 1961 and even earlier the East African High Commission, a common market and a common currency. The EAC was dissolved in 1977 for reasons that cannot be sufficiently stated here. However three institutions survived the collapse of the Community, i.e. the East African Development Bank (EADB), the Inter-University Council of East Africa (IUCEA) and the East African Directorate of Aviation. In 1984, the partner states of the old EAC signed the East African Mediation Agreement, regarding the division and sharing of the assets and liabilities of the defunct Community.

The efforts to revive the integration process can be traced back to 30 November 1993 when the Agreement for the Establishment of the Permanent Tripartite Commission for Cooperation between the Republics of Kenya, Tanzania and Uganda was signed. The Commission was set up with the responsibility of coordinating the social, economic, cultural and political matters in the three countries.

The three Heads of State also made a declaration for closer East African Co-operation.

In 1997, the three heads of state approved the East African Co-operation Development Strategy for the period 1997 to 2000 and directed the Tripartite Commission to embark on negotiations for the upgrading of the Tripartite Commission Agreement into a Treaty. This was accomplished in 1999, when the Treaty for the Establishment of the EAC was signed in November 1999. Rwanda and Burundi become members of the EAC on 1 July 2007 at the Fifth Extraordinary Summit of Heads of State.

The integration process has gone through a number of stages. The Protocol for the Establishment of a Customs Union was signed on 2 March 2004 by the Heads of State of the three countries. Rwanda and Burundi joined the Customs Union in 2008 and began to apply its instruments in 2009. The Protocol for the Establishment of the Common Market was signed on 20 November 2009 and is to come into force in July 2010, although there are still outstanding issues regarding land ownership and management, common external tariffs, travel documents and protection of local jobs. A common currency is projected for 2015 and discussions towards that end are underway – leading to a monetary union.

As to the ultimate stage of a political federation at the Extraordinary Meeting in 2004 the Heads of State of Kenya, Tanzania and Uganda resolved to establish a Committee on Fast-Tracking the East African Federation. The committee headed by Amos Wako presented its report in November of the same year to the Heads of State at the Sixth Summit. Amongst other things, the committee set up a time table entailing:

- a. Draft of the constitution of the federation of East Africa by December 2007
- b. Approval of the constitution by the Summit in January 2009

- c. Referendum on the constitution by December 2009
- d. A political federation with a rotational presidency by 2010 and elections of the president by 2013

The Extraordinary Summit of Heads of State held in Dar-es-Salaam in May 2005 directed the formation of national consultative mechanisms to gather views from East Africans on the East African Federation and the fast-tracking of the process.

The national consultative processes were launched in October in Tanzania, Kenya and Uganda and in 2008 in Rwanda and Burundi. There was unanimous endorsement by East Africans of the political federation. Strong reservations were also expressed against fast-tracking. One of the specific concerns that emerged out of the consultative process in Tanzania was the issue of the complete marginalisation of Zanzibar under the Union government in the federation government.

### **Historical Considerations**

The present position of the Union within the EAC and the process that is supposed to ultimately lead to the East African Federation is not without precedent. The current Community is not something totally new nor is the attempt at federation.

Currently, Zanzibar is within the United Republic, which is the one that negotiates and treats with the rest of the partners in the EAC.

The mission readily received information, including from people who witnessed some of these proceedings that led to the formation of the old EAC. From around 1959, Nyerere was advocating for an East African Federation. He believed that it was more difficult to achieve that goal if each of the East African countries became independent separately. So he was ready to delay Tanganyika's independence. On this matter, it is said, he had not even consulted

his colleagues in Tanganyika who even queried him. In the event, delaying Tanganyika's independence proved impossible, not least because of Uganda's internal problems that at this point prevented the realization of the federation.

In 1964, Uganda was ready and negotiations began and it was then that the Zanzibar revolution took place. Nevertheless, in 1964, a tacit agreement was reached amongst the four – that is, Kenya, Tanganyika, Uganda and Zanzibar – to unite under the leadership of Kenyatta. As it was put, in Nairobi people went to bed expecting that the next day Kenyatta would announce the federation. This never came to be. It is speculated by many that it was Charles Njonjo and Bruce McKenzie that prevailed upon Kenyatta not to proceed with the federation. So it is at this juncture that, Nyerere – who preferred Zanzibar to enter into the East African Federation, an option that was better sellable to the UN – resorted, with Karume, to the Union. It is in this sense that the Union may be said to be the result of the abortive attempts to form the East African Federation.

This was confirmed by another submission to the mission that, before the Zanzibar revolution, the Union was talked about only in terms of the federation. Indeed as soon as Zanzibar got its independence in 1963, Tom Mboya visited Zanzibar which paid lip service to the federation without actively opposing it like Uganda did.

With the failed federation attempts, combined with the apprehension of the other East African countries which had all negotiated their independence, about the bad precedent of the Zanzibar revolution, as well as the army mutinies in the three East African countries in the same year, one can discern the link between the failed federation and the Union of the duo, and why the Union was not questioned within an East Africa that would not accept a federation, on the other hand.

In this context, it was explicitly mentioned that the East African countries were apprehensive that Zanzibar could be used by external powers to destabilise the region.

This background is relevant if one is to appreciate fully the attitude of some Zanzibaris towards the fresh efforts towards an East African Federation, as well as towards the Union itself. It is equally important to realise that the Union came into being when both countries were members of EACSO, which ran common services, a customs Union and a common currency.

In 1977, the old EAC disintegrated. Among others, there are two significant developments of special importance to the Union, arising partly from the collapse of the EAC institutions. One is specific and relates to the assets of the East African Currency Board, which was wound up in 1966 and is not directly related to the old EAC. Every country was paid its share of the assets of the Board. Zanzibar's share was given to Tanzania. It is these funds that were used to launch the Central Bank of Tanzania. The money from the Currency Board is said to form about 12% of the capital of the Central Bank. This proved a point of great grievance in Zanzibar. It was reiterated by many respondents in Zanzibar that Zanzibar was entitled to its share. It forms a basis for Zanzibar's dissatisfaction with the Union. For some, it is linked to the desire for a separate currency for Zanzibar.

The other significant development from the dissolution of the first EAC was the expansion of Union matters from the original 11. In the Zanzibar collective consciousness, the dissolution of the EAC provided the occasion and the springboard for the creeping absorption by the Union of Zanzibar's autonomy and identity through the increase in the list of Union matters whose logical conclusion will be the one government Union. The legal instrument – the Articles of Union – had not touched on matters ran by the EACSO; it had confined itself to only 11 items. The 1977

constitution that came on the heels of the dissolution of the EAC amended the list and included all the matters formerly run by the EAC as Union matters.

It was mentioned that the Zanzibaris were not informed about why the old EAC was dissolved. In the same vein, it was claimed that no serious debate involving Zanzibar took place when the current EAC was formed. Some limited debate has only occurred over the issue of fast – tracking the East African Federation.

### **The Union in International Relations**

It is agreed among the respondents that the current legal and constitutional position is that Tanzania is one sovereign state. The constitutional position is also that foreign affairs are a Union matter. The conclusion that was drawn from these premises is that in international relations the recognised entity is the United Republic. Internally there may be the government of Zanzibar and the Union, but externally there is only the United Republic. It also follows that Zanzibar as such has no competence to negotiate or treat internationally. So the Union government interacts with other governments and international organisations in the name of the United Republic, including Zanzibar. This extends to non-political engagement, financial, economic and sports as well as the activities of civil society as the respondents put it. This includes the UN.

Zanzibar, wistfully and with nostalgia, alluded to the loss of their UN seat. But the principle extends to regional and sub-regional organisations of which Tanzania is a member, such as the AU, the Southern Africa Development Community (SADC) and the EAC, respectively. The issue has also surfaced with other organisations such as the Organisation of the Islamic Conference (OIC) and sports bodies such as Confederation of African Football (CAF) and International Federation of Association of Football (FIFA).

Practice has mostly been consistent. Thus Zanzibar had to pull out of the OIC, which it had attempted to join. Zanzibaris pointed to the fact that Zanzibar is 90% Muslim and yet cannot join the OIC unlike such countries as Uganda, which has a Muslim population of only 10%, and Mozambique with a comparable percentage, which are members. They pointed out that Zanzibar had joined the OIC mainly for economic purposes – to expand the port and establish an Export Processing Zone.<sup>23</sup> Zanzibar also failed to join FIFA (an apolitical body) although the latter was willing to accept her. On the other hand, it was stated that in other international organizations like SADC, Zanzibar is sometimes invited as an observer.

But there are variations in the practice of international engagement. Zanzibar is a member of CAF. It was also mentioned that the African Development Bank (AfDB) works directly with Zanzibar and that there are working relationships with China and Indonesia. At the civil society level, both the East Africa Law Society (EALS) and KCK have Zanzibar Law Society (ZLS) and representatives of Zanzibar on the board, respectively.

A number of problems were raised in regard to the question of international engagement and the Union. These mostly relate to Zanzibar.

The first issue relates to the representation of Zanzibar on non-Union matters. This is a matter that was raised time and again both generally and in relation to the EAC. It was pointed out that in 2008 there was a proposal to abolish certain taxes by SADC. These taxes did not relate to Union matters and it was, therefore, opined that the Union government had no mandate to commit Zanzibar. This matter will be elaborated further in respect of the EAC.

The second problem is the exclusion of Zanzibar from the international arena, a problem in itself, as it was put; but also leading

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23 The mission was informed that Tanzania made an undertaking to apply for membership, which it has not done to date.

to the loss of (equal) benefits from international dealings. In this connection, the loss of the UN seat was mentioned. It was also stated that the exclusion stems from the informal mechanisms that have been adopted internally to try to involve Zanzibar. These are said to be ineffective. A further discussion of them is undertaken in the discussion of the EAC engagement.

The loss of benefits is connected to the ineffective representation. It was stated that Zanzibar cannot directly negotiate grants. Yet the Union government, when it purports to do so on behalf of Zanzibar, does not always channel the benefits to Zanzibar or do so equitably. Zanzibaris feel short-changed.

The inequity is also said to consist in, and also result from, the inadequacy of internal consultation procedures, the unfamiliarity of the Union Government with the Zanzibar situation and Zanzibar's needs, the relatively small presence of Zanzibaris in the Union Government generally and particularly in foreign service including ambassadorships; and the lack of accessibility by Zanzibar to foreign missions in Tanzania, since the latter maintain no offices in Zanzibar.<sup>24</sup> In this way, Zanzibar's voice is lost, since individuals are important in international dealings and these may act oblivious of Zanzibar's interests and concerns.

It was explicitly stated that, whether or not intentionally, representatives of the Union when they speak on behalf of Tanzania, they are oblivious of a country called Zanzibar.

To counter these complaints, it was pointed out that the arrangement is no different from that of Scotland and the UK and that there were effective internal mechanisms to involve Zanzibar.

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24 The mission learnt that some consulates are maintained in Zanzibar. These include the Chinese and Indians (and recently the USA, Norway and some UN sub-offices). Zanzibar tries to utilise these offices in the absence of embassies.

### **The Union in the EAC**

In respect of the EAC, because of both the constitution of the United Republic and the East African Treaty, Zanzibar is not officially a member because the latter, as it was put, is a community of states which Zanzibar is not. "There is no member of the EAC called Zanzibar. Within the United Republic there is Zanzibar and fears that the interests of Zanzibar may not be well served in the community are unfounded." Zanzibar has no competence in the EAC because foreign affairs are a Union matter.

There was an opinion that this argument, really begs the question, for how in the first place does a matter become a Union matter so as to exclude the competence of Zanzibar?

But even if the position is accepted, many Zanzibaris expressed dissatisfaction with it insisting that they are ineffectively represented and that they would wish to participate directly in the East African integration. They argue that it is better for Zanzibar to speak for itself in the EAC. An example was given of the tariffs on rice which hurt Zanzibar. Zanzibar said no to the tariffs because on that occasion they happened to be there at the EAC and realised the problem. It was also argued that if Rwanda and Burundi can participate directly, why not Zanzibar?

The most problematic issue, however, is the matter of representation of Zanzibar at the EAC on non-Union matters.

Zanzibar's argument is a complex one. It is argued that the Union government has no competence to represent Zanzibar on the basis of the division of labour in terms of Union and non-Union matters.

The problem, according to Zanzibar, is not just the lack of mandate on the part of the Union government over non-Union matters within the EAC. The bigger problem accordingly is that among the 18 issues dealt with by the EAC only 4 are Union matters. The majority of the EAC business is non-Union matters lying within the competence of Zanzibar. If these are in effect taken up by the

Union Government, that strips Zanzibar further of its jurisdiction which is taken up by the Union Government which handles EAC matters, leaving Zanzibar nothing. In other words, it is an indirect way of introducing a one- government Union through the EAC, according to the respondents.

In spite of all this, the question is whether Zanzibar's interests are taken care of under the present arrangements. There are two major positions on this. The first is that there is effective representation of Zanzibar.

One of the ways through which Zanzibar's interests are taken care of is through consultations. Non-Union matters relating to the EAC are handled by Union ministers after consultations. Officials in the Zanzibar government admitted that they participate in consultations with the Union Ministry in question over EAC matters when informed by such a ministry and are invited. For example, in the case of issues involving tourism or agriculture, which are non-Union matters, they participate through consultations within the Tanzania framework. A position is agreed, for example, which will then be presented to the Council of Ministers in the EAC. The office of the president of Zanzibar, it was pointed out, has a co-ordination desk for East African matters. So co-ordination will be done there. "So Zanzibar is taken care of in spite of its size."

It is also normal practice "before Arusha" to meet with the "Union government people" as a technical team. This may sometimes involve non-government entities such as civil society like NGOs and chambers of commerce.

The other ways of taking care of Zanzibar interests were said to include the composition of the Tanzania membership of the East African Legislative Assembly (EALA), which includes a quota for Zanzibar (3 out of 9). It is also deliberate that the Deputy Minister for East African Affairs is Zanzibari just like the Deputy Minister for foreign affairs. Technical teams are also said to have a composition

that takes into account the presence of Zanzibar. Thus any delegation is bound to include Zanzibaris.

It was also pointed out that there are administrative measures where the EAC can hear or receive representations from Zanzibar on matters concerning them which are not embedded in the treaty.

Yet other means of ensuring Zanzibar's participation in the EAC is the attendance of Zanzibar officials or leaders in EAC proceedings. It was pointed out that, when Tanzania is in the chair, there may be greater involvement of Zanzibar in EAC meetings. Thus the president of Zanzibar has attended summit meetings when Tanzania is chair. But no such invitations will be forthcoming when it is not. Equally, Zanzibar ministers dealing with non-Union matters are present in the Council of Ministers in the same circumstances.

Through all these means, it is argued, Zanzibar is fully involved in the EAC. Indeed, it was stated that compared to the former EAC, the present one is different only because the Union has grown from strength to strength so that Zanzibar's interests are effectively taken care of and in case of any problems, there is readiness on both sides to discuss and resolve them. It was stated that the representation of Zanzibar is essentially a procedural issue and how it is done evolves overtime into best practices. Someone put the point even more forcefully: "Since foreign affairs are a Union matter, I do not see what is so special about the EAC. Zanzibar is not complaining about how it is represented in other international fora. This is not a problem."

But, in fact, many Zanzibaris fault the mechanisms designed to ensure Zanzibar's participation in the EAC. They find them wanting.

First, it is pointed out that no formal internal structure for discussion and consultation between the Union government and Zanzibar exists. What takes place is ad hoc. Such consultations are subject to individual ministers' inclinations and idiosyncrasies.

There are also many instances where the Union takes up non-Union matters relating to the EAC without Zanzibar being consulted or considered. Sometimes the consultations are not properly conducted. The Ministry of Foreign Affairs does not automatically pass on documents to the Zanzibar Government.

Moreover during consultative meetings, there is no Zanzibar position as such. The Zanzibar government and other actors from Zanzibar do often hold different views; there is no co-ordination of Zanzibar positions.

In relation to Zanzibaris attending EAC meetings, there are other constraints. Sometimes even Zanzibar government officials may not attend meetings simply due to lack of funds. Meetings are missed in many cases, and sometimes attendance occurs only because they are funded by the EAC.

But even when Zanzibaris attend, there are still constraints. They have no power to make representations directly to the EAC. It will, for example, be the Union Minister to present on an issue. As one respondent put it: "Once you are in a regional meeting, you cannot talk of Zanzibar. You will be restrained from talking about Zanzibar." Yet another respondent put it differently: "Our position is not well known in the EAC because the matter is political. Raising such issues may lead one to be ostracised or dismissed from a job. CCM is still in control of employment. There are people who have been dismissed."

The mission was told that there is information flow between the EAC, the Union government and Zanzibar government in part because the Deputy Minister for East African Affairs is from Zanzibar and there is coordination through internal arrangements; that in terms of protocol for example, the Minister of Health of the Union government and the equivalent Zanzibar Minister are equal; that whenever the Union President or Prime Minister go outside the country, they take with them ministers from Zanzibar. Note

nevertheless needs to be taken of the limitations of such measures in the perception of many Zanzibaris. Indeed, Zanzibar through the House of Representatives and parliament has expressed dissatisfaction with the way Zanzibar matters are handled in the EAC.

Civil society in Zanzibar also expressed dissatisfaction with the EAC situation vis-à-vis Zanzibar. They feel that Zanzibar is not sufficiently represented at the EAC. They admit that they are invited, but state that once you talk of integration everyone should be on board; there are other people apart from government and chambers of commerce who can contribute to the integration process.

In some cases, the Zanzibar business people may request meetings with the Union government, but the latter may decline. Invitations may come but they are tardy. They may come too late for them to be able to participate. They find the East African Business Council (EABC) practice to be acceptable. The Zanzibar business people and the Chamber of Commerce participate as part of Tanzania and there are prior consultative meetings in Dar-es-Salaam. But sometimes there are no such meetings and then also the Union government may have its own ideas.

The Chamber of Commerce on the mainland also emphasised that they go into EAC negotiations as a country. That has occurred, for example, in the current European Partnership Agreement (EPA) negotiations in Kigali and Kampala. The delegation would include Union ministries and those in Zanzibar, the private sector people both from the mainland and Zanzibar – in addition to the preparatory meetings where a common Union position is developed. In the preparatory meetings, Zanzibar and mainland issues are raised and the main spokesman has to generate a consensus. The mission was informed that, in such preparatory meetings, the mainland is very conscious of the needs of Zanzibar. In addition, it was stated that even in areas which relate to non-Union matters, there is still a lot of interaction. It was observed that the invitations from the

EAC go to the Union Minister for East African Co-operation, and Zanzibar does not have one.

There are insights the mission gained from various NGOs on Zanzibar's involvement in the EAC process. One NGO described the process thus: "When we participate in an international conference we go as a Union team. The leader may, or may not, put across the Zanzibar position. If there is need to prepare and submit a position paper, there will be contribution from Zanzibar. But it is usually people from the mainland who make the presentation, even on Zanzibar. This is disadvantageous because they may not be conversant with the situation".

ANGOZA in Zanzibar, TANGO and the Tanzania Council for Social Development (TACOSODE) on the mainland are umbrella civil society networks. All of them are involved in the discussion of the East African association of NGOs. But when it comes to signing, it becomes a little problematic because only one signature is required. In the past, there were consultations amongst these organisations from both sides before international engagement. But when the Tanzanian chapter of EA NGOs is established, there will need to be equality between the partners in the chapter.

The NGOs on the mainland indicated there was minimal contact between them and their counterparts in Zanzibar: As one respondent noted: "We might be collaborating more with DENIVA (Development Network of Indigenous Voluntary Associations) in Uganda or the Kenya network; we may be more familiar with their activities than with what is going on in Zanzibar. We may be invited more in Kenya and Uganda than Zanzibar. And Zanzibar NGOs may have more collaboration with Kenya than with the mainland. We really need to come together to discuss issues of East African engagement and integration."

Another aspect of the Union and the EAC process is the issue of the information gap that Zanzibar raised and, conversely, the

amount of information that the rest of the East African region has about Zanzibar issues.

Views were expressed to the effect that Zanzibaris do not know what is happening in the EAC; that very few of them have read the Treaty or have any information about the activities of EALA.

In all probability, this is true. But probably the same can be said of the information gap about the treaty in all the member states of the EAC.

In Zanzibar, it was claimed that many matters concerning the EAC are unknown or not clear; and the unknown frightens, especially when you think you are not taking part in decision-making. Conversely, it was claimed in Zanzibar that the larger region is not conscious of Zanzibar's problems. In part, they attributed this to their own failure to educate the East African region about the problem of the Union and Zanzibar's participation in the EAC process.

But it was also opined that, if there was strong East African leadership, maybe the issue would be addressed; and in this regard, the new EAC process presented a unique opportunity to address the issue; but the matter was still swept under the carpet. Yet some of the actions in Zanzibar are meant to draw the attention of the East Africans to Zanzibar's problems.

A political party put it this way:

We have always discussed the possibility of boycotting elections but have always agreed against it so as to expose the shortcomings, so that SADC, the EAC could see that we have a democratic agenda.

But another facet was also revealed from the mainland. There was insistence that at least other East Africans in the EALA were aware of Zanzibar's problems, but they thought that the Tanzanians could resolve them on their own. They point to the fact that EALA

members visited Zanzibar, appreciated the problems and that they had observed the violent elections in Zanzibar.

Yet another important aspect of the interface between the Union and the EAC process are the reservations and fears of Zanzibar. This must be placed in context. It is the case that all the partners within the EAC have reservations and even fears about the integration process that is supposed to culminate in the East African Federation.

Nevertheless, the people in Zanzibar expressed their fears vehemently and in good part many of them arise from their position in the Union, at least from their perception. This is particularly because they believe they do not have the voice within the EAC process to argue their case, thanks to the Union.

They pointed out that Zanzibar is an island. There is scarcity of resources, and dependence on tourism. They may be 1.1 million people but their birth rate is 3.4%. They pointed to the collapse of producer prices for cloves, the fluctuation and unpredictability of tourist numbers. Given all this, the free movement of people, labour and goods that the common market entails should take into account that Zanzibar is a small place. In spite of this, they expressed support for the EAC.

With regard to the Customs Union, they pointed to the collapse of trade between Zanzibar and the mainland. This is exacerbated by the fact that, although goods imported into Zanzibar are charged a common tariff when they are taken to the mainland, they are charged again (under the pretext of handling charges or claims that the goods had not been inspected in Zanzibar and tariffs were not collected).

Yet for an island in Lake Victoria, there would be no charges. This makes the goods uncompetitive because of warehousing and handling charges. So this makes the customs Union unpopular amongst the business community in Zanzibar. The Zanzibar business

people accept there were consultations before the customs Union was adopted, but Zanzibar's ideas were not incorporated.

They pointed out that today they only export rubber to Kenya within the region and seaweed elsewhere and unless they can have industries to produce goods not produced on the mainland and the rest of East Africa, they cannot prosper.

The youth were also apprehensive about the EAC. They fear Zanzibar may be swamped and rendered uncompetitive. For example, employment opportunities may elude them. So might chances for higher education and economic opportunities generally. They point to the peculiar characteristics of Zanzibar: very small, an island, etc.

The free movement of people within East Africa, they fear, might disadvantage them. People from Kenya, Rwanda and elsewhere may have an edge over them.

Some of them fear they are less competitive and have lower education levels, without a sound education system. They also point to different cultural attributes: most Zanzibaris are Muslims and peaceful. Other East Africans behave differently. Perhaps they may be more aggressive.

But some youth are upbeat. They think culture is not static but dynamic; so things are changing. They insist that their education system is not any poorer than elsewhere in East Africa. It is just a misconception that if one does not speak English, then they are poorly educated.

Zanzibar expressed other general concerns. Uncertainty about the future is one of them. As one Zanzibari said: "Zanzibar is playing its part and will play its part in the EAC but our place therein, in terms of the present and the future, is a problem." They are concerned even about issues of protocol. For example, when the president of Zanzibar attends the EAC summit he does not do so as president.

While many people are sceptical about the benefits from the EAC, others differ: One observed: “Psychologically Zanzibar may feel their position is unclear – but in reality they are losing nothing in terms of benefits from the community, except for those who are after posts.”

Another one mentioned a catalogue of 7 projects in the pipeline for Zanzibar from the EAC:

- The Wind Power project, USD 70 million
- New Terminal for the Airport, USD 78million
- New Hub Port, USD 400million
- Agriculture and Food Security, USD 71million
- Zanzibar Free Zone, USD 32million
- Roll-on/Roll-off Port project - to connect Zanzibar to Mombasa port
- Animal Disease Free Zone, USD 22million

### **The Road to the East African Federation and the Place of the Union**

In this section, the mission presents the attitudes and opinions of the Tanzanians we interviewed. These attitudes and opinions relate both to the process and the end result of the integration of East Africa right to the East African Federation.

In order to give free play to the authentic voices of Tanzanians, the views are presented more or less verbatim so that anyone can objectively draw the inference that they suggest.

The presentation is disaggregated so that the opinions gathered in Zanzibar are presented separately from those of the mainland. That in itself may be of significance in terms of determining the way forward.

### **The Voices from Zanzibar**

- There is today a lack of enthusiasm about the EAC in Zanzibar given the history of Zanzibar's lack of autonomy and structure of the Union for the last 45 years.
- What is required is an open EAC and federation which is a result of agreement.
- The issue of the EAC becomes secondary because of Zanzibar's preoccupation with Union problems. Problems of the Union make it difficult for us to focus on the EAC.
- Who gave the Union government the power to give away the powers of Zanzibar to the EAC?
- For a stable EAC, there is a need for a prior disengagement by Zanzibar from the Union in order to clarify matters and then Zanzibar can join the EAC or federation as a separate entity. Otherwise, the Union problems will be built into the East African Federation.
- Disengagement is necessary because, when Union issues are clarified, Zanzibar would know how to negotiate with other units in East Africa. Otherwise, problems will be compounded.
- The East African integration process is not an opportunity to resolve our problems. The community will compound the problem, if things remain as they are. There is no other part of the EAC that has the same problem as Zanzibar.
- The EAC process would only be viewed as an opportunity if Zanzibar is accepted as a separate entity. Zanzibar's attitude towards the EAC has been one of suspicion in general, almost pitting African nationalism against Zanzibar nationalism.
- Zanzibar being part of the East African Federation would allay the fears of other East African countries about it being used by outside powers to destabilise the region.
- To deal with the question of the lack of awareness, on the part of East Africans, of the Union problem, the EAC should send

a commission to investigate - that is, if the Union government concedes and agrees that there is a problem. But we are pessimistic that after a whole 45 years of Union problems, anything can be done; that the Union government can accept.

- We would like to participate directly in the EAC, but the constitution requires that this is done through the Union government. We are dissatisfied with this position. We would like some Zanzibaris in the Union Ministry for East African Affairs to handle Zanzibar matters.
- We did not accept fast-tracking of the East African Federation because there were unconfirmed reports that the candidates for the federation president had already been identified.
- We should have a seat in the EAC - as observers to take care of non-Union matters.
- We need to have an observer status, but the proposals have not been made to the EAC. It would be the Union government to do so, given that the treaty does not provide for observer status.
- I cannot say whether or not the people of Zanzibar want to join the East African Federation because they do not have locus, no recognition.
- I am sceptical as to how Zanzibar can get to be directly represented in the EAC.
- There is no point in fast - tracking the East African Federation when within the Union you cannot embrace your fellow countrymen. This equally applies to Kenya and other countries.
- There is suspicion on the part of Zanzibar. Will the EAC cooperation be the same as before? Most people in Zanzibar want to participate as an individual country. If the East African Federation comes with the present structure, it will just compound problems. For example, land will be lost to other East Africans.

- At the level of the economy, there is fear of domination just as Kenya dominated in the old EAC.
- To settle the question of the status of Zanzibar within the East African Federation there is need to resolve the issue of Zanzibar's autonomy at national level. If the Union structure and problems are solved then we can engage the international community. We need to resolve our internal problems first.
- There should be a protocol between Tanzania and the East African partner states on Zanzibar's participation in non-Union matters.
- Zanzibar said no to the E.A Federation fast-tracking because once you have a federation there will be no Republic of Kenya, Uganda, etc unless it is a very loose confederation.
- Part of Tanzania's reluctance to join the federation is due to the internal mess of the Union and the CCM/CUF problem.
- The direct participation of Zanzibar in the EAC has been discussed in the Interparty Committee.
- Zanzibar should be given membership of the EAC because most EAC business relates to non-Union matters.
- Zanzibar should enjoy full membership of the EAC and if not, at least associate membership so that its voice can be heard.
- If the *kero za muungano* are not resolved, they are sure to affect integration.
- We business people prefer representation of Zanzibar directly in respect of non-Union matters in the EAC so that we have an adequate say on our own issues, not because we are anti-Union.
- The preferred status of Zanzibar in the community is that it should be a member in its own right. But the government of Zanzibar has had no position on this.
- The best solution is for Union problems to be solved first; otherwise they will affect the EAC's process.
- With the present set-up, if there was a referendum on the EA Federation 85% of Zanzibar would say no.

- A survey should be conducted on how Zanzibar can be accommodated either as a full member or another acceptable status. Zanzibar needs to be recognised. There is a need for a special status or privilege for Zanzibar in the EAC, so that it can have a say.
- Before we go for the EA Federation we have to prepare internally. Zanzibar needs a place, may be an observer status, etc... instead of being under the Union.
- It would be problematic if we came to the E.A Federation through Tanzania.
- We need to clear our own house first because the issue of the EAC may turn out like the OIC.

#### **The Voices from the Mainland**

- We in East Africa should thrash out what “federal matters” will be. It is not enough to talk about Union matters. We need to identify what for the E.A Federation will be federal matters. Who negotiates with who? Since Zanzibar is a competent partner in the Union, it ought to have a say in what is included in the E.A federal matters and how the federal government is constituted and with what powers and how leaders of the federal government are selected. This opens up a lot of issues. Zanzibar should have some competence in these negotiations.
- There are non-Union matters where the president of Zanzibar has competence to talk about. We should not ignore Zanzibar’s identity otherwise it will become a problem. Zanzibar should have a specific seat in the negotiations on the EA Federation, although there may be some resistance to the idea.
- What would be the position of the president of the Union and the president of Zanzibar in the E.A Federal structure? Zanzibar’s attitude would naturally be. What do I benefit from the federal structure and from the Union? It depends on how they negotiate. But if they are kept out of the negotiations,

there is a big problem. Tanzania needs to be careful always to take into account the interests of Zanzibar.

- If Kikwete does not suggest the involvement of Zanzibar in the negotiations for the federation, then other presidents in East Africa should raise the issue. But Zanzibar itself must take a stand as to what status it should enjoy in the E.A Federation. So a forum must be found to enable Zanzibar to do this. The problem is real.
- Once the E.A Federation is established, would the Union government be necessary? What would be its role? If there was a Tanganyika government, a Zanzibar government, then a federal government then what would the Union government do? It would be redundant. There would be too many governments: local governments, Tanganyika government, Union government and Federal government, all pretending to work for citizens. Yet we need a lean government. People should not be over-governed. A third tier government for Tanganyika would not be necessary; just elected regional leaders would handle non-Union/federal matters. The problem would be which government negotiates with Kenya, Uganda ...
- For the EA Federation it is better to hold a referendum so that the federation is not an affair for the EA leadership alone.
- The issue in the EALA was not raised by EALA members from Zanzibar. It was others who were concerned about its participation.
- Zanzibar ought to appear as an entity, it is a matter of self-determination. But the Union doesn't like it.
- Many people in Zanzibar believe they should be like they were in the EACSO. But this cannot happen because it contradicts the policy of the ruling party. But if there was a referendum, this would be acceptable.

- I support Zanzibar going as an entity into the E.A integration process. Its bid is enhanced by the fact that small Rwanda and Burundi are members. Why not Zanzibar?
- If Zanzibar went into the E.A Federation as an entity then the Union government would not be necessary. The sovereignty of Tanzania, as Tanzania, would go. But so would Zanzibar's sovereignty.
- It could alternatively be agreed where Zanzibar goes to the EAC on its own and where it relates as part of the Union. A formula can be found along those lines. The bottom line is that Zanzibar's complaints must be addressed. If the issue is not addressed, then we are carrying problems into the federation.
- Tanzania would still be ready to go into the integration process without resolving outstanding issues. Technically the integration process will move forward but the problems will remain.
- In spite of its problems, there are many lessons the East African Federation can learn from the Union: what should be avoided; what should be emphasised ... 97% of the people in Tanzania want the East African Federation but only 25% want fast-tracking. The land question can remain in the hands of each of the EA states. But if Rwanda and Burundi which are small are not scared of being smothered, why should a big country like Tanzania be afraid?
- If you give Zanzibar a privileged status, then Buganda and similar units elsewhere in East Africa will make demands for it.
- The EAC and the federation should be built on the Union. The closer Union in Tanzania should be a basis for the bigger regional Union. Zanzibar claims that it is not involved in the current negotiations on the Common Market. But Zanzibar is just looking for an exit route so that it can negotiate on its own within the EAC. That will not happen unless the Union constitution is overhauled, which is unlikely.

- Some people would wish the Union to break up - but the Union has set up a positive precedent for the United States of Africa.
- The new EAC should be people based. It should revamp the infrastructure of the earlier EAC so that people beyond our capitals can benefit. There is need to take care of Zanzibar's complaints internally before we go into the E.A Federation since we go there as the United Republic. Tanzania is reluctant to go into the federation because there are secret agendas: Kenya suffers shortage of land and is eyeing the huge tracts that Tanzania has, Museveni wants to become the first president of the federation. So they are not solely thinking about the people. Zanzibar should go into the EAC process as part of the United Republic but particular issues should be handled by the House of Representatives, especially on non-Union matters, like is the case with the island of Jersey.
- It is argued that the autonomous presence of Zanzibar in the EAC would strengthen the United Republic's position in the EAC because it would have two votes in the EAC. But within the current constitutional order, this is not a real option. If the constitution and the Treaty allowed Zanzibar's presence it would be okay. We politicians tend to be the biggest hurdle. Under international law, the subject of a treaty is a state, a country which in this case is the United Republic. So this is a big obstacle. But apart from this legal hurdle there is the political one, i.e. fears of Zanzibar secession.
- There is need to rethink the Union, and the representation of Zanzibar in international fora, in the EAC. Zanzibar should have the right to be present and feel well represented as a country. I have the impression that today Zanzibar is better placed to be an independent member of the EAC.
- Zanzibar is not happy with the United Republic. They will probably not be happy cooperating with the other five in the present form. This is a challenge to the leaders in Tanzania and

East Africa but also all other East Africans. Yet some partners are trying to force the federation ... Much needs to be done to have a smooth and productive and sustainable Union in Tanzania before you think of the East African Federation.

- Zanzibar is in a dilemma. Zanzibar wants to be separate, to be a full and complete member of the EAC rather than through the Union.
- The positive approach on the EAC issue is what lessons are there from the Union for the East African Union, instead of emphasizing problems of the Union. It is just that Zanzibaris are just hypersensitive.
- Tanzania will be a member of the East African Federation, not Zanzibar. In fact, raising the issue amounts to challenging Tanzania's national integrity.
- Representation of Zanzibar on its own in the EAC would be a retrogressive step, a bad lesson for unity. Rather you could create a desk in the community to deal with Zanzibar issues.
- To have an East Africa for us all, Zanzibar should be represented. The people of Zanzibar themselves want to have a say on how they should be represented. They should not be left out of the process.
- Zanzibaris have no confidence in themselves; whatever you do they are sensitive and suspicious; they have an inferiority complex, and we try to cope with it. Going to the EAC is an even bigger problem-because they do not know English. They should be represented as Tanzanians but including people from Zanzibar so that they can present their views and participate as Tanzanians.
- Zanzibar would like to be equal members of the EAC but that means you must change the constitution and treat Zanzibaris on the mainland as you treat Kenyans and Ugandans on the mainland. If the East African Federation has the same jurisdiction as Union matters, then Zanzibar's presence would be no problem. Zanzibar has been quarrelling about land,

but if they join the federation they will be like Kenyans and Ugandans on the mainland; they will lose the benefits they enjoy now on the mainland.

- The East African Federation is not going very far and Tanzania is one of those that is very rigid and strict on the basis of the suspicion of Kenya grabbing land, etc. But this is simply an issue of emotions.
- It is not easy to work it out but Zanzibar may lose out a lot in terms of their rights on the mainland.
- We as Tanzania, including Zanzibar, have gone through the Customs Union, Common Market and monetary Union stages of integration. East Africa is yet to.
- If full membership of the EAC cannot be attained, Zanzibar could enjoy a special status in the EAC and that would entail also a special status within the Union.
- We are participating in the EAC process without having resolved issues of our Union relations.

The gamut of opinions above amply highlights the nature of the problem and the possible permutations of the processes and eventual shape of the solution of how the Union should relate to the EAC process. In determining how to proceed, consideration should be had of the argument of legal scholars to the effect that the joining by Tanzania of the East African Federation would require the amendment of Article 4 of the Constitution of the URT, which vests all governmental powers exclusively in both the Union and Zanzibar governments—since the joining would involve ceding some of these governmental power to the federal government of East Africa. Such amendment would require the concurrence of two thirds majority of MPs from Zanzibar, effectively giving Zanzibar a veto over the mode of joining the East African Federation that may not be acceptable to them.<sup>25</sup>

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25 See Article 98 of the Constitution of the URT.

# 7

## Conclusions and Recommendations

The mission set out to examine the Union and gather the views on it, both in Zanzibar and on the mainland. It sought to establish the problems associated with the Union. It also sought to establish the Union question related to the East African integration process.

On the basis of the views expressed by Tanzanians on the issue, the mission came to the conclusion that there are problems associated with the formation, structure and management of the Union. Many of these problems remain unresolved and are the basis for the dissatisfaction and grievances on many aspects of the Union including its legality, the two-government structure, the expansion of the list of Union matters, the sharing of Union benefits and costs, the threat to Zanzibar's identity and international dealing and, to some extent, the loss of the Tanganyika identity.

The mission also concluded that, in spite of these problems, the majority of Tanzanians not only accept the Union, but would not want to break it and would like it to continue.

The mission also concluded that the majority of people both in Zanzibar and on the mainland would like to see changes in all the aspects of the Union stated above in order to have a just and equitable Union, which genuinely represents the interests of both sides of the Union.

In making its recommendations, the mission has taken the following into account, apart from what is set out above:

- The Union was formed in a non-participatory manner and even in secretive circumstances. The people did not participate in

decision-making through such processes as a referendum or even a simple survey or debate. Their involvement was only indirect and limited, to the extent that the people's representatives in the Tanganyika National Assembly briefly discussed the matter in the process of ratification.

- The Union is a fact in spite of some challenges to its legal basis.
- The Union was formed in the context of the Cold War which, in all probability, affected the manner in which it was formed and the structure it assumed. The Union now exists in a post-Cold War world.
- The formally equal partners in the Union were unequal in size, resources and in their political circumstances and stability.
- For most of its life, the Union has operated under the one-party state and a history of charismatic leaders. The one-party state has since given way to multipartism and the current and future leadership will never enjoy the advantages and aura of the "father of the nation".

**The Mission, therefore, makes the following recommendations**

- There should be a formal and comprehensive review of the Union including its structure, Union matters, the sharing of costs and benefits and the future of the Union itself.
- There should be a comprehensive review of the constitution so that all its provisions accord with the multiparty dispensation and with the agreed type and form and management of the Union.
- The processes of reviewing the Union and the constitution should involve the active participation of the citizens. The citizens should be involved in identifying sustainable solutions, and their views should be gauged to identify their wishes and solutions that serve the interests of the people. The mission recommends the following avenues for the involvement of the people:

- a. Public consultations, debates and seminars on the issues
  - b. A national conference
  - c. A referendum on the structure of the Union
  - d. A referendum on the status of Zanzibar in the EAC
- A Constitutional Review Commission should be duly constituted.
  - A Union Review Commission should be duly constituted.
  - Measures should be taken to tackle Zanzibar's electoral problems on a non-bilateral basis that should involve stakeholders beyond CCM and CUF.
  - Tanzania, because of its history and unlike many of its partners in the EAC, has many tested retired leaders both from Zanzibar and Tanzania Mainland. This invaluable resource should be utilised to the full in the initiation and conduct of the processes recommended here.
  - Regarding the East African integration process, Zanzibar should participate adequately in the negotiations ultimately leading to the East African Federation, so as to have its interests taken care of.
  - Tanzania should look at the EAC integration process as an opportunity, and occasion, to resolve outstanding Union problems on its own, or together with other East Africans.

#### **Lessons the EAC Can Learn from the Tanzanian Union**

- The EAC needs to emphasise the people-centred nature of the EAC right from the process of formation and the various stages to its working. Secrecy and ignoring the people, as the formation of the Tanzania Union shows, can lead to subsequent problems.
- The EAC can learn from the Tanzanian experience that a federation is workable if properly formed. It is noted that, in spite of a shaky legal basis, the Union has persisted.

- The experience of the Union points to the necessity of effective institutional mechanisms for problem solving.
- In spite of almost a half-century the existence of the Union, Zanzibar nationalism still thrives. The EAC must ensure that it should not attempt to suppress the nationalism of the constituent parts of the federation.

# Annex

## **Persons Interviewed by the Mission in Tanzania Mainland**

**(23-28 August 2009)**

<b>Name</b>	<b>Position/Organisation</b>
Adam Zuku	Senior Chamber Development Officer, Tanzania Chamber of Commerce, Industry and Agriculture (TCCIA)
Amb. Daudi Mwakawago	Mwalimu Nyerere Foundation
Ananlea Nkya	Executive Director, Tanzania Media Women Association
Ayoub Ryoba	Asst. Lecturer, School of Journalism and Mass Communication; Chairperson, Media Institute of South Africa, Tanzania Chapter
Baraka Rajaba	Assistant Director, Ministry of State for Union Affairs
D.U. H. Mshana	Principal Assistant Secretary, International Relations, Chama Cha Mapinduzi (CCM)
Daniel Mchemba	Tanzania Chamber of Commerce, Industry and Agriculture (TCCIA)
Dr. Willbrod P. Slaa	Secretary General, Chama Cha Demokrasia na Maendeleo (CHADEMA)

Eng. Aloys J. Mwamanga	President, Tanzania Chamber of Commerce, Industry and Agriculture
Francis Mollay	Ag. Director Union Secretariat, Ministry of State for Union Affairs
Gasper Shao	Senior State Attorney, Ministry of State for Union Affairs
Harry M. Kitillya	Commissioner General, Tanzania Revenue Authority
Hebron Mwakagenda	Executive Director, The Leadership Forum
Hon. Justice Joseph S. Warioba	Former Vice President of The United Republic of Tanzania, former Judge of the East African Court of Justice (EACJ)
Hon. Hamad Rashid Mohammed	Leader of Opposition in Parliament, Civic United Front (CUF)
Hon. John Zephania Chiligati	Minister, Ministry of Lands, Housing and Human Settlements Development, Publicity Secretary, CCM
Hon. Mabere Marando	Advocate, Marando, Mnyele and Co. Advocates; Former Member of Parliament EALA, Member NCCCR Mageuzi
Hon. Mahfoudha Alley	Vice Chairperson, Commission for Human Rights and Good Governance (CHRAGG)
Hon. Mohammed Seif Khatib	Minister of State for Union Affairs, Vice President's Office

Jabir Idrissa	Journalist, <i>Mwana Halisi</i> Newspaper
John P. Mireny	Ag. Executive Secretary, Media Council of Tanzania
Joseph W. Butiku	Executive Director, The Mwalimu Nyerere Foundation
Juliana W. Chitinka	Principal Assistant Secretary, Political Affairs and International Relations, CCM
Mark D. Bomani	Advocate, Bomani and Company Advocates
Mary J. Mwingira	Executive Director, Tanzania Association of NGOs (TANGO)
Hon. Mbarak Abdul Wakil	Permanent Secretary, Ministry of Home Affairs, Former Deputy Secretary, Vice President's Office
Nehemia Mandia	State Attorney, Ministry of State for Union Affairs
Prof. Issa G. Shivji	Mwalimu Nyerere Professor of Pan-African Studies, University of Dar-es-Salaam
Prof. Mwesige Baregu	Head, Department of Political Science, University of Dar-es- Salaam
Prof. Gamaliel Mgongo Fimbo	Professor of Law, Faculty of Law, University of Dar-es-Salaam,
Prof. Ibrahim Lipumba	Chairman, CUF
Seif Nakukima	The Leadership Forum
Specioza Mashauri	Chamber Development Officer, Tanzania Chamber of Commerce, Industry and Agriculture

**Persons Interviewed by the Mission in Zanzibar**

(13-16 July 2009)

<b>Name</b>	<b>Position/Organisation</b>
Abdalla Abas Omar	President, Zanzibar National Chamber of Commerce, Ind Commerce, Industry and Agriculture
Abdulla Mohammed Juma	Managing Director, Zanzibar Leo Newspaper
Abeida Rashid	Woman activist
Asha Aboud	Woman activist
Ali Mansoor	Advisory Member, Chamber of Commerce
Ali Shauri	Assistant Principal Secretary for Propaganda, Head of CCM
Alphonse Baltazer	Youth Social Worker, ZAPHA
Amina Talib	Vice Chair, ZAFELA
Asha Aboud	Woman activist
Assa Ahmad Rashid	Corporation Secretary, Zanzibar Revenue Board
Dadi K. Maalim	Chairperson, Zanzibar Youth Forum C/o ANGOZA
Dr. Mohamed Hadifh Khalifan	Executive Director, Zanzibar National Chamber of Commerce, Industry and Agriculture

Fatuma Saleh	Member, ZAFELA
Fakih Kombo	Youth
Hamza Omar	Deputy Chairperson, ANGOZA
Hassan Khamis Juma	Ag. Secretary General, Association of NGOs in Zanzibar (ANGOZA)
Hon. Ismail Jussa	Official spokesperson, Head of Foreign Affairs and International Relations, (CUF).
Hon. Mansoor Yussuf Himid	Minister of Water, Construction, Energy and Land
Hon. Othman Masoud Othman	Director of Public Prosecutions
Hon. Pandu Kificho	Speaker of the House of Representatives
Hon. Samiha Sululu Hassan	Minister for Industries, Commerce and Investment
Hon. Seif Shariff Hamad	Secretary General, CUF
Hon. Shamsi Vuai Nahodha	Chief Minister, Zanzibar
Hon. Dr. Mwinyihaji Makame Mwadini	Minister of State for Finance, Office of the President
Ibrahim Mzee	Clerk, House of Representatives
Issa Kheri Hassan	Youth
Jamila Mahmoud Juma	Member, ZAFELA

Masoud Nassor	Project Officer, Zanzibar Association for Persons with HIV and AIDS (ZAPHA)
Mohamed Haji	Assistant Principal Secretary, CCM
Mohamed Issa Khatib	Vice President, Chamber of Commerce
Mwanamkaa Mohd	Member, ZAFELA
Nassor Mohamed	Former Member, Presidential Committee of Muafaka , Member of the Zanzibar Electoral Commission (ZEC)
Ngwali Ali	Youth
Omar Abubakar	Member, ANGOZA
Prof. Abdul Sheriff	Executive Director, Zanzibar Indian Ocean Research Institute (ZIORI).
Prof. Khamis Ishau	Deputy Director for Elections, CCM Kisiwanduwi
Raya Aley	Chairperson, Albino Association of Zanzibar C/o ANGOZA
Hon. Saleh Ramadhan Ferouz	Deputy Secretary General, CCM
Salim Said Salim	Deutsche Wella Correspondent
Salma Sadat	Woman activist
Seif Abdallah Juma	Executive Director (ZAPHA+)
Shemsa Abdulkarim Abdalla	Woman activist

Yahya H. Khamis	President, Zanzibar Law Society
Zainabu Hamisi	Member, ZAFELA
Zuberi Khamis Ismail	Youth

**Persons Interviewed by the Mission in Pemba**

(19 - 20 APRIL 2010)

Mr Hamad Ali Musa	Secretary of the Pemba Petition to UN in 2008 (Elder)
Mr Juma Bakari Alawi	Coordinator, Association of Zanzibar Processing Organisation
His Worship, Mr Haji Omari Haji	Resident Magistrate
Mr Saleh Nassor Juma	District Secretary, CUF
Mr Hemed Kombo	Officer in Charge, Ministry of Good Governance and Institutional Affairs
Mr Juma Kassim Tindwa	Regional Commissioner, Chake Chake

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