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New constitution-making in Tanzania: An examination of actors' roles and influence

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On 9th December, 2011 Tanzania celebrated its 50th anniversary of independence. This was later followed by the anniversary on 26th April, 2014 of a diamond jubilee for the union between Tanganyika and Zanzibar which led to the birth of the United Republic of Tanzania. During these celebrations, there was what seemed to be the popular view that Tanzania needed a new constitution for the next 50 years. It was on the basis of this recognition that the country embarked on the process of making that constitution whose ending through a referendum is in limbo. Using ten labels to discuss the involvement of various actors in the process, this study shows that elitism was predominant thus making the role of other actors, particularly the general public, seasonal and insignificant. The study further shows that while the proposed new constitution ought to have reflected the interests of various constituencies for legitimacy purposes, parochial and partisan interests (orchestrated by elites) eclipsed the process hence immersing it into a stalemate. It thus concludes that the success or failure of the process of making the new constitution still depends much on elite consensus.

Key words: Constitution, democratization, labels, constituent assembly, actors.

INTRODUCTION

Since 1992 when Tanzania reintroduced¹ multiparty politics, the country has witnessed various developments purporting to facilitate the consolidation of democracy, one of which is the conduct of multiparty elections. Nevertheless, there have been concerns over the existence of obstacles to democratization; particularly the constitution of the United Republic of Tanzania of 1977. Critics are particularly directed at article 74-(1) (a)-(c) of this constitution which gives powers to the president, who is also the chairman of the ruling party to appoint top

officials of the National Electoral Commission. Similar concerns are directed at article 41-(7) which forbids presidential results to be enquired in courts.

It is on the basis of dissatisfaction with Tanzania's main law that opposition parties persistently advocated for the change of the 1977 constitution, triggering the then president of the United Republic of Tanzania, Jakaya Kikwete, to initiate the process of making the new constitution. The process officially began on 31st December, 2011 when the then president declared his

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intent to initiate this process. On 6th, April, 2012, the president appointed 32 members of the Constitution Review Commission under the chairmanship of Judge Joseph Sinde Warioba; who once served as Tanzania's prime minister and first vice president. This commission collected public opinion regarding the new constitution throughout the country and submitted to the vice president and the prime minister the first draft of the proposed constitution on 3rd, June, 2013. The commission submitted to the president of the United Republic of Tanzania the second draft of the proposed constitution on 30th September, 2013. This submission was followed by president's appointment of 201 members of the constituent assembly to join the members of the parliament of the United Republic of Tanzania, thus forming a total of 629 members. The constituent assembly commenced its work on 18th February, 2014 and was boycotted by the Coalition for the Defenders of People's Constitution (popularly known in Swahili language as *Umoja wa Katiba ya Wananchi- UKAWA* on 16th April, 2014. On 2nd October, 2014 a draft constitution proposed by the constituent assembly was adopted after obtaining the constitutionally required threshold of two-thirds majority votes from the members of the constituent assembly representing Zanzibar and Tanzanian Mainland. The next step is the holding of a referendum, whose fate is still unclear.

Despite passing through such stages, the process of making the new constitution was sometimes characterized by a standoff stemming from disagreements between the ruling party and the opposition parties. It was on the basis of these tensions that in September 2014 the then president of the United Republic of Tanzania, Jakaya Kikwete, met in Tanzania's capital city Dodoma with members of Tanzania Centre for Democracy (TCD)² to try and resolve such tensions.

In that meeting, four main issues were agreed upon namely:

1. That the constituent assembly cannot produce a constitution to be used in the 2015 general elections given the limited time that was remaining before the elections.
2. That the referendum on the new constitution be held in 2016 after the 2015 general elections.
3. That the constituent assembly would last in 4th, October, 2014 as per the government notice number 254.
4. That amendment had to be made to the 1977 union constitution to facilitate the conduct of free and fair elections. It was also agreed that these amendments were to specifically focus on facilitating the presence of free electoral commission; the winner of the presidential seat to win by absolute majority; allowing an independent candidate; and having a provision within the constitution which legalizes challenging presidential results in the courts of law³.

The process of making the new constitution involved various actors playing different roles. Apart from sharing a common vision of ensuring that Tanzania gets the aforesaid, the nature of actors' participation had a bearing on constitution-making processes. It is thus imperative that actors' roles be put in a perspective; a task that this study seeks to accomplish. On the basis of the foregoing, the descriptions and discussion in this study seek to answer the following question:

“How can actors' involvement in constitution-making processes in Tanzania be characterized and which effects did it have on the envisaged output?”

The discussion in this study covers the period from 2011 when the process of making the new constitution commenced to the passing of the proposed constitution by the constituent assembly in 2014. It thus focuses on the proposed constitution which was adopted by the constituent assembly and which awaits final approval by the general public through the referendum, on a date yet to be set.

METHODOLOGY

This study uses documentary analysis to discuss the role of actors in constitution making. The main sources of information include newspapers, books, journal articles and some online sources. In order to have an in-depth coverage of the progress of the constitution-making process, the study uses government, private and political parties' affiliated newspapers. Government papers covered include the *Daily News* and *Habari Leo* whereas private ones are *Mwananchi*, *the Citizen*, *Mawio*, *Nipashe*, *Mtanzania* and *the Guardian*. Newspapers owned by political parties which are covered by this work include *Uhuru* (CCM) and *Tanzania Daima* (CHADEMA). Information obtained from the above sources are aggregated and organized using ten (10) labels developed by the author that are assigned to various actors depending on the roles which they played during constitution-making processes. Prior to presenting and discussing these labels, next is highlights of the key features of constitution-making processes.

CONSTITUTION-MAKING: ITS CHARACTERISTICS

Since 1787 when the constitution of the United States of America was made, constitution-making has been one of the key issues in democratization discourse (Howard, 1993; Hart, 2003). The significance of the constitution stems from the fact that it is the higher law that defines the nature of relations among members of a given society (Van Cott, 2000; Hart, 2003; Mbonenyi and Ojieda, 2013; Media Development Association-MDA, 2012). It is also a long-term national strategy for socio-economic and political development of a country (Weingast, 1997; Odoki, 2002; Widner, 2005). Making the new constitution is a complex process that involves several practices such as setting the principles regarding the phases of constitution-making processes, formulating an interim

constitution, civic education and media campaigns, establishing communication channels, elections for constituent assemblies, and drafting and approving the proposed constitution (Hart, 2003). It also involves struggles and conflicts that revolve around identities, power and rights of groups which eventually complicate the possibility of reaching a consensus (Hart, 2003).

Constitution-making and democratization are intertwined and as Bannon (2007) argues, the two have been regular bedfellows. While constitution making is presumed to be a democratization process, its genesis is multifaceted. In some instances, leaders especially in developing countries initiate this process for the sake of legitimizing their leadership and it is on the basis of this drive that constitutions in these countries are written and re-written (Okoth-Ogendo, 1991; Hart, 2003).

In recent times there has been an increasing urge for popular participation in constitution-making process (Elkins et al., 2008; Khanal, 2014; Brandt et al., 2011). Participation is considered important as it is credited for developing democratic characteristics of the general public, including the support for the political system (Moehler, 2006; Banks, 2008). Nevertheless, there are variations on the extent to which citizens can participate in this process. Participation can thus take the form of election of members of constituent assemblies, a referendum and direct engagement during the drafting period (Moehler and Marchant, 2014). The significance of participation remains debatable as despite increasing constitutional legitimacy, it might also contribute to sectarian debates that might negatively affect the content of the constitution (Elster, 1995; Elkins et al., 2008; Moehler and Marchant, 2014;).

It is worth-noting that for a long time, constitution-making was an elite affair that was separated from other political processes as it was mainly the politicians and legal experts who dominated this process (Moehler, 2006). For instance, the US and post WWII German constitutions were written by elites in closed sessions while focusing on compromise by those who took part in this process (Hart, 2003). The conventional view was that a constitution should be judged democratic according to the nature of its provisions, not by the manner in which it was created (Hart, 2003). This norm was however broken when liberal democracy adopted during the second wave of democratization failed to institutionalize liberal democratic governance thus necessitating the need for more popular participation in constitution making (Moehler, 2006).

On the basis of elite-mass divide in constitution making, this study is anchored on the elite theory. The choice of this theory is based on the need to examine the role and influence of elites and the mass in the process of making the new constitution. Elite theory rests on a belief that societies are divided into two groups namely the elites and the mass (Anderson, 1994). It assumes that it is only

the elite who influence political processes especially given that the mass is considered to be politically apathetic (Cloete and Deconing, 2011). Elite theory also provides that political undertakings depend on elite consensus and not on popular or mass interests (Dye, 1987). As pointed out earlier, constitution-making is the process which needs to be inclusive. Inclusivity is considered necessary so as to ensure that the constitution made represents all voices in a given society. Against this backdrop, this theory helps in shedding light on the role of elites versus other actors in this process.

Constitution-making: An Experience from East Africa

Since 1960s to date, constitution-making has been very topical across Africa, notwithstanding country-specific political developments that have unfolded over five decades. Besides Tanzania which is the main focus in this study, constitution-making experience can also be drawn from Kenya and Uganda as highlighted hereunder.

Uganda

Having passed through decades of instability since independence in 1962 up to 1986, Uganda began a formal consultative process for constitution-making in 1986 following the establishment of ministry of constitutional affairs (Oloka-Onyango, 1995; East African Centre for Constitutional Development-EACCD, 2013; Odoki, 2013). This was followed by the formation of a 21-member Ugandan Constitutional Commission in 1988 (Waligogo, 1994). This commission had several tasks such as stimulating public discussions and awareness of constitutional issues, collecting public views regarding the new constitution and formulating proposals for the new constitution (Moehler, 2006; Tripp, 2010). After completing its task, the commission suggested in its report the establishment of a constituent assembly directly elected by the people (Odoki, 2002).

The earlier mentioned recommendation was accepted by the government and the formal process for constituting the constituent assembly began thereafter (Odoki, 1993; Tripp, 2010). As per the Constituent Assembly Act of 1993, political parties' activities were banned and candidates for this assembly were to run as individuals (Nelson, 1994; EACCD, 2013). After the election of constituent assembly members, this body was opened in February 1993 and it consisted of directly elected delegates and representatives from different interest groups such as women, the army, active political parties, the disabled, youths and presidential nominees. The assembly concluded its task by adopting the new constitution in August 1995 which was enacted in September 1995 and promulgated by the president in October in the same year (Tripp, 2010; Odoki, 2013).

The process of making the new constitution in Uganda faced several challenges such as: the perception that members of the constitutional commission were not independent given that their appointment procedure was not systematic (Tripp, 2010). Likewise, most of the members of this commission were said to be strong supporters of the movement system (Moehler, 2006). A related challenge was too much reliance on existing regime's administrative structures for purposes of civic education and collective views (Tripp, 2010). Other challenges included minimal involvement of political parties; sectarian debates in the constituent assembly and multiple representation of the ruling regime by different groups such as presidential nominees and the army (Tripp, 2010).

Kenya

Since independence, there were concerns that Kenya's constitution which dates back to 1963 was a symbol of both British colonialism and internal oppression (Bannon, 2007). It was on this basis that demands for a new constitution were high. From 1990, calls for the new constitution, together with other demands such as multiparty politics, presidential term limits and more political freedom increased (Mutunga, 1999; EACCD, 2013). The official process of making the new constitution began with the formation of the Constitution of Kenya Review Commission (CKRC) consisting of 27 members in accordance with the Constitution of Kenya Review Act of 1998. This commission represented several interests such as the top leadership, political parties, civil society and religious groups. It had several tasks namely: conducting and facilitating civic education; collecting and collating the views of the people on proposals to alter the constitution, to draft a bill and to carry out research concerning constitution-making (Moehler and Marchant, 2014; Bannon, 2007; MDA, 2012).

Using a participatory approach, CKRC collected views from various stakeholders and presented a report together with a draft constitution in 2002 (Bannon, 2007). This draft was to be debated and adopted by the National Constitutional Conference (NCC). NCC consisted of all members of the CKRC who were ex-officio members; all members of the national assembly, three representatives of each district, one representative from registered political parties, representatives of religious and the civil society. In total, NCC had 629 delegates (EACCD, 2013).

NCC debated and adopted a draft constitution which was popularly known as the BOMA draft. This draft did not proceed to the parliament due to a stalemate regarding who had to approve the constitution (MDA, 2012). This debate was intensified by a court ruling in 2004 that it was the people through the referendum who were to approve the draft constitution, not the parliament.

This initiative was thus called off and the government made its own draft in 2005 popularly known as the WAKO draft which was however rejected in a referendum in the same year. After the referendum, a committee of Eminent Persons consisting of 15 members was formed and it was tasked to review the progress of the constitution review process and suggest the way forward. It completed its task in 2006 (Bannon, 2007).

The drive for having the new constitution gained momentum in 2008 especially after the appointment of an eleven member committee of experts. The committee reviewed the BOMA and WAKO drafts and came out with a harmonized draft constitution. This draft was published and the public was invited to make comments (Maxon, 2009). Based on public views, the committee of experts prepared a proposed constitution of Kenya which was later reviewed by a parliamentary select committee. This draft was approved by the Kenyans in a referendum in 2010 (EACCD, 2013; MDA, 2012).

Like in Uganda, the process of making the new constitution in Kenya had several challenges which included: over-politicization of the process particularly in the composition of NCC; direct involvement of politicians in NCC activities; ambivalence in either opting for the National Conference or a Constituent Assembly (EACCD, 2013). Other challenges included the large size of NCC which made it difficult for effective discussions; initial skepticism of the committee of experts; polarization and sectarianism especially on issues such as gay rights, ethnicity and abortion; and the influence of USA, Britain and Germany (EACCD, 2013).

Evolution of constitution-making in Tanzania and the context for the new constitution

The history of constitution-making in Tanzania starts from 1961 when the country adopted the independence constitution (Maina et al., 2004; Liviga, 2009). This constitution provided for, among others, a Governor General representing the queen as the head of state and an executive prime minister from the majority party in parliament. It was formulated and adopted without a broad consultation of stakeholders, particularly the general public (Shivji, 1991; Mukangara, 1998).

The next phase of constitution-making was in 1962 when the republican constitution which combined the powers of head of state and government was adopted (Nchalla, 2013; Nassoro, 1995). The earlier mentioned epoch was followed by the interim constitution of the United Republic of Tanzania in 1964 which marked the union of Tanganyika and Zanzibar (Bakari and Makulilo, 2014; Sheriff, 2014). This union was formalized by signing a treaty called the articles of the union by the presidents of both sides and it is these articles that form the legal base of the union (Bakary, 2006).

In 1965 the interim constitution was modified in order to formalize the one party state- Afro-Shirazi party for Zanzibar and Tanganyika African National Union (TANU) for Tanganyika (Dourado, 2006; Othman, 2006). In 1977, the permanent constitution of the United Republic of Tanzania was adopted and it has remained in force to date. Having been in force for more than three decades, this constitution seemed unable to cope with multiparty politics. It was on this basis that the process of making the new constitution became inevitable (Fimbo, 1995). This process was much influenced by the country's political context as explained by aspects such as the legal framework, the nature of relationship between opposition parties and the incumbent party and the perceived partiality of the police.

The legal framework which guided this process consisted of two laws namely the constitution of the United Republic of Tanzania of 1977 and the Constitution Review Act of 2011. The 1977 constitution has since with the reintroduction multiparty politics in 1992 been challenged by opposition parties particularly for granting too much power to the president. Despite such said weaknesses, this constitution provides for civil and political liberties that were expected to facilitate popular participation in the process of making the new constitution. The second law was the constitution Review Act of 2011. This was the law specifically dedicated to the making of the new constitution. Prior to its amendment, this Act was challenged by opposition parties and other groups for limiting the freedom of the members of the constituent assembly. This act had barred any debates on items such as the presidency and the existence of the United Republic of Tanzania. The pressure from opposition parties and the civil society against these provisions culminated to the amendment of the Constitution Review Act in 2012.

Besides the legal framework, there was distrust between the main opposition parties and the incumbent party. As the two sides were the major players, there were signs that this process would be polarized along party lines. The genesis of this mistrust was linked to the fact that since 1992 Tanzania's political context has been dominated by the ruling party- Chama Cha Mapinduzi (CCM), particularly during elections which has ensured its majority in the national assembly for three decades. Given that all members of the parliament automatically became members of the constituent assembly, it was most likely that CCM would use its majority to set the tone of the discussions.

Lastly, the process of making the new constitution commenced within an environment that was characterized by perceived impartiality of state apparatus such as the police. Given that this process brought together individuals and groups of people with different political orientations, it was obvious that protests and demands would be part of this process. Given this state of affairs,

maintaining political tolerance was of paramount importance. The existence or absence of tolerance could, for instance, be examined by looking at the nature of relationship between the police and opposition political parties. Since 1995 to date, opposition parties have been accusing the police of being partisan in favour of the ruling party. While the opposition effectively participated in the process, they had mistrust against the police especially in letting them organize rallies and demonstrations for or against the process. Under this environment, the process of making the new constitution took off and culminated to the adoption of the proposed constitution which however lacks support from the major opposition parties. The next discussion below presents labels that explain actors' involvement in the process.

ACTORS' ROLES AND LABELS

As earlier shown, the process of making the new constitution involved several actors who played various roles. Their participation is discussed using ten labels, which include:

1. The materialists,
2. The unpredictable,
3. The betrayers,
4. The chosen and lucky,
5. Belated resurrection,
6. The national enemy,
7. The misplaced,
8. The opportunists and coward,
9. The doubted; and
10. The arrogant and ambitious.

The Materialists

This was the label used to describe members of the constituent assembly who decided to continue attending constituent assembly sessions after the coalition of main opposition parties pulled out from the process. The basis of this label was the argument that proceeding with the debates on the draft constitution with only members and supporters of CCM was a waste of time. The view in support of this position was that constitution making is a process that has to involve bargaining and consensus building. On that regard, a neglect of the concerns by opposition parties, which were the originators of the process, was interpreted as undemocratic. The challenge directed at the members of the constituent assembly was that their reluctance to put the process on hold was due to their materialist motives for daily subsistence allowances, which these members were not ready to miss, had the constituent assembly been adjourned.

This label became bold especially after the meeting between the then president of the United Republic of

Tanzania and TCD members in which it was decided that the referendum stage for the new constitution will be pushed forward to 2016 so as to give way to preparations for 2015 general elections. Following this decision, there were appeals from opposition parties, the academics, religious organizations and civil society organizations for the constituent assembly to be adjourned so as to save public money.

Other critics went as far as trying to compare the amount of money spent in the constituent assembly and possible projects such money would have funded. For instance, the chairman of Chama cha Demokrasia na Maendeleo (CHADEMA), Freeman Mbowe argued that if the constituent assembly was to proceed with sessions for the remaining 19 scheduled days after the consensus reached between the president and TCD, three billion Tanzania shillings would be spent. This amount of money was said to be equal to the amount of money needed to construct 195 classrooms⁴. It was likewise alleged by a member of the constituent assembly from CHADEMA⁵ that the country was in the danger of losing 120 billion Tanzanian shillings (Tshs) should the country fail to get the new constitution. This amount of money was estimated to suffice serving as loans to 80,000 students from higher learning institutions. Other estimation was that the same amount of money would be enough to construct 600 modern dispensaries. It was also estimated that 120 billion Tanzanian shillings would buy 857,000 desks; while other estimation was that such amount of money would drill 4,800 wells⁶.

It is worth-noting that the critics against the materialist behavior of the members of the constituent assembly were voiced even before the official opening of the constituent assembly. Following the appointment of 201 members of that assembly, there were rumours that every member of that body would be paid a daily subsistence allowance of 700, 000 Tshs. However, when it turned out that they will be paid 300,000 Tshs, they became furious, pushing hard for the earlier anticipated ransom. That push included a demand that each member be given an Ipad (Kamata, 2014).

This label treats these members, to use Ayi Kwei Armah's formulation⁷, as Chichidodo; a bird that hates human excretion but is fond of worms from this waste. This analogy stems from the views that were advanced by UKAWA that despite CCM's awareness that without the presence of the former the adopted constitution by the constituent assembly would be a sham, pro-CCM members were ready for whatever outcome provided they continued receiving their daily subsistence allowances.

It is difficult to refute or pass this label and this difficulty stems from two facts. In one hand, pro-CCM members were exercising their democratic rights and all that they were doing in the constituent assembly were in accordance with the Constitution Review Act. As there was no provision within that Act providing for the

adjournment of the assembly in case a particular "potential" group of members pulled out, having the opposition members outside the constituent assembly was none of their business.

On the other hand, irrespective of any critiques against the decision of major opposition political parties to quit the constituent assembly, CCM members ought to have been concerned about the legitimacy of the proposed constitution that was passed without the inputs from the country's main opposition parties. This was especially so given that it was the opposition that strongly championed the new constitution before this agenda was supported by the then president of the United Republic of Tanzania. Given the uncertainty on the possibility or impossibility of getting the required majority to pass the proposed new constitution that existed before voting for the proposed constitution in the constituent assembly, neglecting UKAWA was indeed a big risk.

The Unpredictable

This label was used to describe two prominent figures in the process of making the new constitution namely; the then president of the United Republic of Tanzania, Jakaya Mrisho Kikwete and the chairman of the Constitution Review Commission (CRC) Mr. Joseph Warioba. The unpredictability of the ex-president was linked to the following aspects:

1. His decision to initiate the process of making the new constitution irrespective of the fact that this was initially not an agenda of the ruling party. It is worth-noting that having the new constitution was not in CCM's priority list as it even was not mentioned in the party's election manifesto of 2010. Supporting the demand for the new constitution left some CCM members in a dilemma, and it was not possible to exactly tell what pushed him to this position. However, there were conspiracy theories one of which was that he decided to initiate the constitution making agenda so as to minimize the popularity of opposition parties who had taken the new constitution agenda at the centre stage of their political rallies and movements against the government.
2. His decision to allow for the amendment of the constitution review Act which had initially treated some matters such as the presidency and the union between Tanganyika and Zanzibar as sacrosanct. Following a lot of pressure especially from the opposition, a ban on debating these issues was lifted and it is the debate on the structure of the union that brought the constituent assembly into an impasse.
3. His speech to the constituent assembly on 21st, March, 2014 in which he seemed to take position by openly criticizing some provisions of the draft constitution submitted to him by the CRC instead of letting it be decided by the constituent assembly members.

Immediately after that speech, there were questions regarding the president's commitment to having the new and legitimate constitution. Some of the provisions of the proposed draft constitution that the president challenged included: a proposal that a member of parliament shall lose his/her post if he/she fails to perform his/her responsibilities due to illness or imprisonment; a provision for the member of parliament to serve for three terms; a recall of a member of parliament in case he/she fails to deliver; and the proposed three governments union structure.

Labeling the then president as unpredictable was realistic given his reactions to various constituencies in the process of making the new constitution. However, a question that needs to be asked is whether that unpredictability had consequences on the process. Looking at his role, the unpredictability of the then president had both positive and negative consequences. On the positive side, being unpredictable by initiating the process of making the new constitution but also by supporting the call for the amendment of the Constitution Review Act demonstrated his understanding of the intricacies that often characterize constitution-making processes. Given that there were various constituencies with different interests, creating room for consensus building among these factions was of paramount importance. Therefore, the president positively made appropriate interventions that were sometimes not partisan thus giving room for the views and voices of different groups to be heard. He demonstrated his awareness of the fact that like in any bargaining context, constitution-making required the negotiating parties to be ready to lose in some scenarios but gain in others; including their readiness to change positions after being convinced by other sides.

Similarly, during the process of making the new constitution, the ex-president sometimes distinguished himself from conservative actors who always wanted their viewpoints to prevail; while not tolerating alternative views. Opposition parties seemed to partly fall to this category given that throughout the process of making the new constitution they never relaxed their stance on contentious issues. Therefore, being unpredictable and ready to accept others' viewpoints in some situations was at least a positive gesture in keeping the process going.

Nonetheless, in certain cases this unpredictability brought negative consequences. This was particularly the aftermath of his speech to the constituent assembly. While the ex-president, like any other Tanzanian citizen had the right to express his views, it was difficult to certainly distinguish whether what he articulated in that speech were his viewpoints as an individual or as a president and chairman of the ruling party. On this basis, his position stood as the position of the ruling party and it was most likely that his speech influenced much the

orientation of members from his party towards the draft constitution submitted by the CRC. It was therefore not a surprise that the proposed constitution eliminated or changed all the provisions which were challenged by the then president.

Similarly, it was after his speech that the debate on the structure of the union intensified. It is however worth noting that the position of upholding the existing union structure had been earlier pointed out by CCM as it issued a circular challenging the first draft of the constitution submitted by the Constitution Review Commission, which provided for, among others, a three tier government structure. Irrespective of CCM's earlier stance over the preferred union structure, the speech by the president triggered more heated debates and polarization regarding the union. His speech thus did not help in solving controversies that had emerged since the first draft of the proposed new constitution was presented.

Like the then president, the chairman of the CRC was unpredictable especially from most CCM supporters and leaders. Given his longtime membership to the party and his service to the CCM-run government at different portfolio; including serving as a prime minister during the first phase government⁸, no CCM supporter expected Warioba to "deceive" the incumbent party. Following his appointment as the chairman of the commission, it seemed the party was certain that the commission could not touch the sacred valuables; especially the structure of the union. The fact that his commission came up with the draft constitution providing for a three tier government union structure was indeed an abomination. It is worth noting that Article 60-(1) of the draft constitution proposed by the CRC provided that the United Republic of Tanzania will be a federal state with three governments namely: the government of the United Republic of Tanzania; the Revolutionary Government of Zanzibar and the government of Tanganyika. To those supporting a two tier government union, Warioba was seen as a traitor who did not respect the roots of the government and the party he served for many years.

Irrespective of such accusations, treating the chairman of the CRC as unpredictable was baseless and unfounded. The naivety of this labeling rest on the fact that Warioba was erroneously singled out from the rest of other members who were part of this Commission; a majority of whom were CCM members and supporters. Despite being the figurehead of the commission, his relationship with the rest of members of the Commission was on the basis of first among equals. He thus had no power to impose his will or the will of his party on all members of the Commission.

In addition, the CRC had a task of collecting public opinion and using such opinion to draft, propose the new constitution. Blaming Warioba for going contrary to the ruling party raised concerns on the willingness of the government and the ruling party to let people's views be

the main inputs in preparing the draft constitution. It is worth-noting that Tanzania's constitution making history has been characterized by limited involvement of the citizenry. Therefore, having the commission that toured all parts of the country to collect public opinion was seen as a beautiful beginning to having the new constitution that is anchored on the views from all segments of the society. Storming the commission's chairman for producing "unexpected" proposals questions the spirit and commitment of top decision makers in pushing for an inclusive deliberative process.

The Betrayers

This label was mainly used to refer to those individuals who dismembered themselves from the groups to which they belong due to having contrasting positions and mostly involved leaders and members of political parties. A first group of betrayers included some members of the constituent assembly representing the ruling party whom at some point stood contrary to the position of CCM. These included individuals who boycotted the constituent assembly sessions namely Kangi Lugola, the late Deo Filikunjombe and Hamis Kagasheki⁹. It also comprised members who were participating in constituency assembly sessions but held a position different to that of the party to which they belong. This was particularly the case with Ally Keissy Mohammend (a CCM member) who consistently stood firm in support of a three tier government union structure. Nevertheless, he relinquished his stance and voted in support of the proposed new constitution. The list of betrayers also included Mr Mwigulu Nchemba and other CCM members whom at a certain point had a position that the constituent assembly should be adjourned and resume only when members of the coalition of defenders of people's constitution¹⁰ resumed their attendance in the constituent assembly.

The second group included members of opposition parties who took independent positions contrary to the stance of their parties. These included Mr. John Shibuda and Hamad Rashid Mohammed from CHADEMA and Civic United Front (CUF) respectively. These constituent assembly members were treated by their parties as betrayers given that they refused to boycott the constituent assembly sessions as decided by their parties' top leadership. For instance, Shibuda was quoted by the media saying that he did not see the reason why UKAWA was outside the constituent assembly. He however was afraid of the consequences of such betrayal to the extent that he declared not to vie for Member of Parliament seat under CHADEMA's ticket in the 2015 general elections on the argument that he was being ridiculed and threatened by some CHADEMA leaders¹¹. The third group involved other opposition parties deciding not to join UKAWA. Parties represented by this label included

Tanzania Labour Party (TLP) and United Democratic Party (UDP). It is imperative to note that the stance of TLP and UDP chairmen was a prolongation of separation between the leaders of these parties against Tanzania's main opposition party-CHADEMA as in several occasions; the two parties were not supportive of movements such as walkouts initiated by the opposition camp in the national assembly.

The betrayers label also included Zanzibar members who cast a "No" vote to the proposed new constitution, particularly Zanzibar's chief attorney. It is worth-noting that one day before the end of the voting exercise, nine members of the constituent assembly from Zanzibar had openly voted 'No' to the proposed draft constitution whereas other 30 members were said to have opted for a secret ballot. Following Zanzibar's chief attorney decision to reject some articles of the proposed draft constitution, there were anger and outrage from other members of the assembly who regarded the 'No' voters as betrayers. Zanzibar's chief attorney, who had earlier pulled out from the constitution writing committee voted against article 2, 9, 86, 37, 70, 71,72,73,74 and 75. He also cast a 'No' vote to Chapter 11 which contains articles 158, 159, 160 and 161. The chief attorney also voted against Chapter 16; including an addition to a list of union matters¹². As a result of Zanzibar's chief attorney openly voting against many provisions of the draft, there were fears that the required threshold for passing the draft might not be reached as it was still unclear as to whether those who opted for a secret ballot supported the draft.

Given that there were a total of 629 members of the constituent assembly; 412 members from Tanzania mainland and 217 from Zanzibar, securing the required majority needed to obtain 145 'Yes' votes from Zanzibar. The good news to the proposed new constitution was that almost all those who opted for a secret ballot voted in favour of the proposed constitution. This paved way for the much anticipated two-third majority of the votes for members of the constituent assembly from the two sides of the union to be obtained. The results of the votes indicated that while the total number of members of the constituent assembly from Zanzibar who voted was 156, the required majority for all 289 articles of the proposed constitution was obtained with those in support of that constitution ranging between 146 and 147 thus hitting or slightly exceeding the required two third majority of 146 members. Likewise, on the side of Tanzania mainland, those who supported the proposed constitution ranged between 332 and 334 members, thus surpassing the required two-third majority of 274 members¹³.

Given what transpired during constitution-making, it can be said that this label represents different realities. In one hand, it signifies an element of indiscipline as members and supporters of either the ruling party or the opposition were to abide by the position of their camps. Going contrary to this expectation suggested the betrayal. On

the other hand, this label suggested that the process of making the new constitution was a test of tolerance for both the incumbent party and the opposition. As the foregoing has shown the incumbent party and opposition parties did not tolerate divergent opinions from within their camps as each side immersed in a blame game instead of lobbying and persuading those who seemed to take different positions. It was on this basis that for instance members of the constituent assembly from CCM who challenged the legitimacy of the constituent assembly in the absence of main opposition parties were called agents of UKAWA¹⁴. It was also along the same line that Zanzibar's state attorney general Mr. Othman Masoud was fired.

The Chosen and Lucky

This label represents some members from the 201 group of the members of the constituent assembly who were appointed by the president. A lot of accusations, mostly from opposition supporters, were leveled against these delegates from the date they were appointed. The main accusation was that CCM hijacked the process of appointing these members by making sure that those appointed were its allies. On the basis of this accusation, most of the members in this group were said to masquerade their allegiance to CCM by pretending to represent various groups such as pastoralists, farmers and traditional doctors. For instance, these allegations were made by Mr. Ezekiel Wenje (a member of the constituent assembly representing CHADEMA) who alleged that some of those members were bribed by government officials so as to make them play an agency role. He made these accusations on 27th March, 2014 during the debate on the use of sections 37 and 38 of the Constitution Review Act regarding the adoption of either an open or secret ballot system by the constituent assembly. This member of the constituent assembly accused CCM and top government officials of inviting some members from the 201 group for dinners and that these members were also given envelopes with money. While it might be difficult to certainly establish whether or not these members were 'the chosen and lucky', it is however true that most of them seemed to share CCM's stand point regarding the content of the proposed constitution. They thus had little to prove their representational legitimacy, especially in advocating for the interests of the groups through which they secured the tickets of being appointed members of the constituent assembly.

A belated resurrection

Since the commencement of the process of making the

new constitution, some civil society organizations were very active. Some of the active organizations included; Legal and Human Rights Centre (LHRC), Tanzania Gender Networking Programme (TGNP); and the the Constitutional Forum (popularly known is Swahili language as *Jukwaa la Katiba*), just to mention some. On the other hand, some organizations were dormant at some point before they became vibrant. This was particularly the case with Tanganyika Law Society (TLS). This society of lawyers was for a long time silent and had not distinguished itself as an influential actor. Its inactive role was evident even in cases where there were serious quarrels regarding the interpretation of some laws. It only came to "resurrect" after the outbreak of a heated debate regarding the jurisdiction of the constituent assembly. The critique over the dormancy of TLS was reiterated by a renowned public speaker, Professor Patrice Lumumba from Kenya at a conference on the new constitution organized by TLS on 2nd, August, 2014.

During that conference, Professor Lumumba challenged the lawyers' society for being silent while the process of forming the new constitution was facing legal-related challenges that needed court interpretation with a push from organs such as TLS. He challenged TLS to seek for court interpretation of some contentious sections of the Constitution Review Act regarding the jurisdiction of the constituent assembly and the CRC. It was from that conference that TLS increased its involvement in constitution-making process. Such active role was manifested by two developments. The first one was the filing of a case seeking for court's clarification. In that case, TLS asked the court to declare that the ongoing processes within the constituent assembly were null and void. It also sought for court's interpretation of section 25 (1) of the Constitution Review Act of 2011 which provided that the Constituent Assembly shall have the powers to make provisions for new constitution of the United Republic of Tanzania and to make consequential and transitional provisions to the enactment of such constitution and to make such other provisions as the constituent assembly may find necessary. It also sought for the clarification of section 25(2) of the same act which provided that the powers of the constituent assembly to make provisions for the proposed constitution shall be exercised by a draft constitution tabled by the chairman of the commission and passed by the constituent assembly¹⁵. The second belated intervention was the airing of advertisements in TV stations calling for the involvement of all actors in the process of making the new constitution.

This label realistically captured the role of TLS in the process of making the new constitution as this society was largely inactive compared to other civil society organizations. Limited involvement of TLS was a reflection of the level of activism on several issues that other civil society organizations such as TGNP, LHRC, and

Tanzania Women Lawyers Association (TAWLA) have been advocating for. Since the adoption of liberal politics to date, TLS has had very little influence in the country's socio-economic and political matters. The fact that it later tried to influence constitution-making process was indeed the belated resurrection.

The National enemy

The phrase "national interest" is very contentious. The contention stems from the process through which national interests are identified; including the extent to which there is a consensus within a given society over such interests. However, in most cases it has been that national interests are a prerogative of the ruling elites. In this case, whoever goes contrary to the interest of the ruling class stands to be accused of threatening national interests.

During the process of making the new constitution, some actors were labeled as national enemies. This label represented those who either challenged the existing union structure or the legitimacy of the union. It was mostly applied to two individuals namely Tundu Lissu from CHADEMA and Joseph Warioba; the then chairman of the Constitution Review Commission. With regard to Lissu, he acquired this label following his presentation of minority opinion in the constituent assembly on 12th, April, 2014 in which he questioned the legitimacy of the union; arguing that the articles of the union were nonexistent. This claim forced the government, through the chief secretary, to make the articles of the union public so as to disprove Lissu's allegations. Even when the articles of the union certificate were made public, still Lissu argued that the unveiled articles of the union document were not genuine.

Given his presentation in which he strongly challenged the legitimacy of the union, there were accusations directed at Tanzania Broadcasting Corporation (TBC) following what was described as its decision to deliberately stop live TV broadcasting of Lissu's speech¹⁶. He had to present his speech for the second time the next day. The national enemy label also applied to the Warioba Commission for coming with the proposal of a three tier government union structure. Whether this label was realistic or not is a matter of debate. However, it indicated the struggle by the ruling elites to maintain the status quo. The label also suggested an existence of double standards as despite the said freedom of members of the constituent assembly in discussing any issues, including the nature of the union, there were limits on the extent to which this debate could be extended.

The Misplaced

Since Tanzania's independence in 1961, religious

organizations (both Muslim¹⁷ and Christian) have been influential actors on various socio-economic and political matters. It is no wonder that the government has always maintained close contact with these organizations; including maintaining cordial relations with them. Religious leaders have been issuing statements and sometimes calling press conferences to discuss some matters which they consider to be of public interest. During the process of making the new constitution, these organizations, particularly Christian organizations tried to influence the process. However, unlike in the previous when these organizations commanded a lot of respect from the government, the process of making the new constitution saw them being treated as misplaced actors. Despite being vocal and publicly challenging the trend of constitution making process, they were neglected by the government and this neglect was evident on several occasions as shown below.

Since April, 2014 when the opposition quit the constituent assembly, religious leaders repeatedly called for the adjournment of the assembly to no avail. For instance, on 28th August, 2014, Tanzania's Christians Forum¹⁸ (known in Swahili language as *Jukwaa la Wakristo Tanzania*) issued a press statement in which it congratulated the CRC for collecting public opinion on the new constitution; including the preparation of key documents containing public opinion. That statement condemned the evil innuendos to sabotage public opinion as presented in the draft constitution which was submitted by the commission. Some of the evil acts mentioned included: a closure of the website of the CRC while the process of making the constitution was ongoing; excessive use of power by CCM members to oppose public opinion; and the use of abusive language in the assembly.

On the basis of these weaknesses, the forum made several recommendations namely: that the website of the CRC be reinstated; that the constituent assembly should not distort public opinion; that the constitution-making process should be put on hold so that a consensus is reached among competing factions within the constituent assembly. Other recommendations included a call that once the constituent assembly resumes, its chairperson should cease using excessive force, arrogance and the dominance in number of constituent assembly members from CCM to distort the process. The statement also recommended that the CRC be reinstated and given legal mandate to respond to questions stemming from the draft it submitted.

It is imperative to note that prior to this joint statement, the Christian Council of Tanzania (CCT) had issued a statement on 14th, July, 2014 in which it challenged the president's speech to the assembly; accusing it of downplaying the draft constitution presented by the CRC. This statement called upon the constituent assembly to respect public opinion; members of the constituent

assembly to focus on national interests than party interests; and it rebuked the use of abusive language by the assembly's members¹⁹.

The issuance of statements by religious organizations did not change the manner in which the constituent assembly was managed. The views of religious organizations were thus blatantly neglected. The neglect of the views of these organizations by the government gave an impression that decision makers just regarded religious organizations as misplaced. Being misplaced was explained by what appeared to be the position of the government that religious bodies were to focus on spiritual matters while giving space for other actors to deal with politics; including the choice of a direction to which the process of making the new constitution had to take. For instance, this position was made clear by the chairman of the constituent assembly who criticized the circular issued by the Christians Forum on the process of making the new constitution. In his critique to that circular, the chairman challenged some bishops whom he dubbed UKAWA agents and claimed that what these bishops were doing were not spiritual but political and that such bishops ought to be derided²⁰.

It was thus obvious that unlike in the previous where religious organizations had a commanding influence in the country's socio-economic and political affairs, the process of making the new constitution put them in the periphery. Their attempt to influence the constitution making process seemed to be interpreted by the governing elites as an invasion of their territory.

While not condoning the critics directed at the involvement of religious organizations in the process of making the new constitution, it is the view of this study that the intervention of religious leaders was a bit too much. This was especially so given that much of what they advanced had already been echoed by political parties and other civil society organizations. While there was no scale to which the involvement of religious leaders in political matters should be limited, there was overstepping in the way religious organizations reacted to the progress of the constituent assembly. The weakness in their intervention was their being specific instead of adopting a generic approach that would call for harmony and consensus among conflicting groups while ensuring that such rival groups continue to perceive spiritual organizations as neutral. It was thus improper for the circulars issued by these groups to mention the names of individuals or organizations which they thought to have been constraining the process of making the new constitution that is supported by all factions.

The Opportunists and coward

In modern societies, universities and other institutions of higher learning have distinguished themselves as the

fountains of knowledge. With the power of expertise, they have established themselves as centres of excellence with distinguished skills over socio-economic and political matters affecting societies. In Tanzania, the University of Dar es Salaam, which is the most renowned and oldest university in the country has for many years been playing a pivotal role in various issues. Apart from focusing on core activities such as teaching, research and consultancy, university academics through their assembly- University of Dar es Salaam Academic Staff Assembly (UDASA) has for the past five decades been outspoken over critical matters affecting the country. It thus used to issue press releases pointing out its position over a particular issue of concern and organized conferences and symposia for discussing pertinent issues affecting Tanzania.

Contrary to this commitment, UDASA was largely a passive actor in the process of making the new constitution. Even when it tried to organize conferences to discuss the trend of this process, there were accusations and claims that it was biased in favour of the status quo. This bias was said to be on controversial issues such as the structure of the union. For instance, in the symposium organized by UDASA on 27th July, 2014 to discuss what needed to be done to ensure that the country got its new constitution, there were allegations that the symposium was infiltrated by members and supporters of the ruling party. These people were said to have been ferried *en masse* by commuter buses to the University of Dar es salaam where the symposium was being held. UDASA leadership later admitted these allegations but denounced to have had prior knowledge about such underground movements²¹. The critics were however that UDASA seemed to have been part of the arrangements on how the symposium was to be managed as exhibited by the arrangement of speakers and the chairman of the discussions.

There were also concerns over the representational legitimacy of UDASA given that some of its top leaders who were appointed members of the constituent assembly did not seem to take a neutral position towards the two competing sides in the constituent assembly- (UKAWA and Pro-CCM members). The accusation was that supporting the incumbency was based on opportunism, on the basis that its leaders did not want to antagonize with the government and the ruling party. Not willing to antagonize with the ruling party and the government was linked to some of them having aspirations to vie for political posts in the 2015 elections via the ruling party. One of these leaders was said to have tried his luck in intraparty nominations within CCM in previous elections but was not fortunate.

The Doubted

Throughout the process of making the new constitution,

Zanzibar's autonomy was a contentious issue as a lot was said regarding the fate of these islands continuing to be part of the United Republic of Tanzania. It is imperative to note that there have been attempts to demand for more Zanzibar autonomy from the union government which is blamed of mainly representing the interests of Tanzania mainland. A source of this worry was the 2010 tenth amendment of the Zanzibar constitution of 1984 which intensified the union debate due to its controversial provisions. Among other issues provided for, this amendment redefined the status of Zanzibar which to a great extent contradicted with the constitution of the United Republic of Tanzania of 1977. It is imperative to note that article 2-(1) of the constitution of the United Republic of Tanzania provides that the territory of the United Republic of Tanzania consists of the whole of the area of mainland Tanzania and the whole of the area of Tanzania Zanzibar and includes territorial waters. Article 2-(2) provides that for the purpose of the efficient discharge of the functions of the government of the United Republic or of the Revolutionary Government of Zanzibar, the president may, in accordance with the procedures prescribed by law or provisions of such law as may be enacted by the parliament divide the United Republic into regions, districts and other areas; provided that the president shall first consult with the president of Zanzibar before dividing Tanzania Zanzibar into regions, districts and other areas.

Similarly, article (1) of the 1984 Zanzibar constitution before the 2010 tenth amendment provided that Zanzibar is an integral part of the United Republic of Tanzania. Article 2-(2) provided that for the purpose of the efficient discharge of the functions of the government, the president of the United Republic in consultation with the president of Zanzibar may divide Zanzibar into regions, districts and any other areas in accordance with the procedures prescribed.

However, the 2010 amendment of the 1984 Zanzibar constitution changed the above provisions and gave Zanzibar more autonomy. Article 1 of the amended Zanzibar constitution provides that Zanzibar is a state whose territorial boundaries include the whole of the territory of Unguja and Pemba islands; including surrounding small islands and territorial waters which before the union between Tanganyika and Zanzibar was called People's Republic of Zanzibar. Article 2A of the same constitution provides that for effective execution of government functions, the president of Zanzibar may divide Zanzibar into regions, districts and other areas.

Nevertheless, these amendments seem to have been quashed by the proposed new constitution which reinstates the hegemony of the government of the United Republic of Tanzania. Article 1-(1) of the proposed constitution provides that the United Republic of Tanzania is a sovereign state which originated from the union between two states- the republic of Tanganyika and

People' Republic of Zanzibar, which before the articles of the union of 22nd, April, 1964 were sovereign states. Article 2-(1) (a) of the proposed constitution provides that the territory of the United Republic of Tanzania includes the whole territory of Tanzania mainland; including territorial waters which before the union was known as Tanganyika. Article 2-(1) (b) also provides that the United Republic of Tanzania includes the whole of the territory of Zanzibar; including territorial waters. Article 2-(2) of the proposed constitution further provides that the president of the United Republic of Tanzania shall have the power/authority to divide the United Republic into regions, districts and other areas and that for the case of Zanzibar the president may delegate such powers to the president of Zanzibar.

It is on the basis of the earlier mentioned constitutional developments that the position of Zanzibaris (both CCM and CUF) members attending the constituent assembly seemed to have been doubted by the top leadership of the ruling party and government of the United Republic of Tanzania. This doubt was reflected in the heated debate over the modality of voting in the constituent assembly. Conspiracy theories suggested that a push for open balloting that was supported by most CCM members meant to control members from Zanzibar who were doubted to use the secret ballot to push for the agenda on Zanzibar autonomy. Despite the fact that it was CUF members and other sects such as Uamsho (awakening) that openly advocated for the autonomy of Zanzibar, there were uncertainties as to whether CCM members from Zanzibar did not share the same viewpoint. This uncertainty was supported by the fact that the amendment of Zanzibar constitution in 2010 was blessed by the representative assembly and representative council which are composed of members from both CCM and CUF.

Conspiracy theories suggested that CCM members from Zanzibar attending the constituent assembly did not want to openly divert from the mainstream CCM's viewpoint. There were worries that they could push for Zanzibar's autonomy through secret ballot. However, given that the two-third majority required from Zanzibar was obtained during voting and that most of those who opted for a secret ballot cast a "Yes" vote, such doubts seemed to be baseless.

The arrogant and ambitious

This label was used to describe individuals playing inexplicit multiple roles within the constituent assembly. Specifically, this label better described Mr Samwel Sitta, the chairman of the constituent assembly who was criticized of being too arrogant and unwilling to listen to alternative views. He was the main person blamed by UKAWA members and other critics such as Christian organizations. Some religious leaders equated him with

the story in the Holy Bible about the mighty Goliath who was defeated by a tiny David due to his arrogance and insults to God²². His label as an arrogant person, especially from Christian religious leaders became bold following his bitter exchange of words with some religious leaders who are part of Tanzania's Christians forum. As a response to Sitta's critics, some bishops condemned his arrogance and disregard of public opinion. Other bishops went as far as pitying him that his arrogance was due to the stress he had been going through following the bumpy progress of the constituent assembly²³. Yet other bishops questioned his level of wisdom, pointing out that his deeds will be judged by history²⁴. The view about the arrogance of the chairman of the constituent assembly was regularly featured in newspapers as well, with some columnists calling him a national disaster²⁵.

Nevertheless, Sitta's said arrogance needs to be examined using different lenses. From those who had hoped that he will only facilitate cosmetic changes to the draft constitution proposed by the CRC, he is worth-calling arrogant. However, one thing that seemed to be overlooked was his political affiliation. Given that he was nominated and endorsed by CCM to vie for the chairmanship of the constituent assembly, it was obvious that he was going to remain allegiant to the position of his party.

Apart from being labeled as arrogant, Sitta was also said to be very ambitious to becoming the next president of the United Republic of Tanzania. Since the commencement of the constituent assembly, Sitta was accused of using this assembly as a podium to increase his popularity given that he was linked to vying for presidency in 2015 general elections. These allegations gained momentum when Mr. Sitta declared during one of the constituent assembly sessions that he was a right candidate for the presidency in the next general elections. On 2nd, September, 2014, during the assembly's session he said that if Tanzanians wanted a dedicated leader with a clean record they should consider him as a right candidate. He was quoted saying:

"...others are claiming that this job as a chairman of the constituent assembly demonstrates that I am not a good enough leader to become president of Tanzania"²⁶.

CONCLUSION

The foregoing has shown the roles which were played by various actors in the process of making the new constitution. The study has elucidated that this process was marked by various developments one of which was the unity of opposition parties. It is worth-recalling that before the commencement of the constitution making process there were no signs that the country's main opposition parties namely the CUF and CHADEMA would form a coalition. This was especially so due to open

differences between the two that were evident during the 2010 general elections. The formation of UKAWA proved to have a significant impact on the 2015 general elections as it was in these elections that for the first time since 1995, CCM's presidential candidate Mr John Magufuli failed to secure 60% of the votes. It was also during these elections that for the first time the opposition candidate Mr Edward Lowassa secured about 40% of the votes²⁷.

The second development was an ambivalence of the centre. Since the commencement of the constitution-making process, the centre²⁸ was at the crossroads. In one hand, it was indicating its commitment in ensuring that Tanzania got the new constitution that was supported by all groups. On the other, it was bowing down to the forces and pressure from the ruling elites who sought to maintain the status quo. Consequently, instead of serving as the engine of change, the centre found itself in a quandary of seeking to please every voice; thus failing to maintain harmony and common understanding among rivaling groups. A related development was the active involvement of opposition parties, religious and civil society organizations in influencing the process. Despite the fact that their voice was overshadowed by the influence of the governing elites, these organizations proved to be essential in pushing for the new constitution.

The dark side of the process of making the new constitution was the infringement of individual freedom which was, for instance, marked by the harassment of members of the constituent assembly who vowed to cast a "No" vote to the proposed constitution. Those who voted to reject it were reportedly threatened by colleagues, raising doubts as to whether the process would be fair and objective²⁹. It was a disgrace that the members of a body that was charged with the responsibility of making the new constitution would be directly or indirectly coerced to take a certain position. The decision of the then chairman of the constituent assembly to form a nine-member consultation team to discuss with those who voted against the proposed constitution was indeed an outrageous act.

From all these developments it can be learnt that as the push for the new constitution was mainly elite-driven, successful completion of this exercise still depends much on elite consensus. As the proposed constitution awaits the referendum, frictions between UKAWA and the incumbent party suggests the possibility of endless constitution-related debates and struggles even if the proposed constitution were to pass the referendum test. Against this backdrop, ironing out differences between the two rivaling camps is very crucial for a successful ending of this process.

Conflict of interests

The author has not declared any conflict of interests.

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Notes

¹ When Tanzania (then Tanganyika) got her independence in 1961 it had a multi-party system that was however abolished in 1965 after the adoption of single-party rule

² This is an association of political parties which have representatives (members of parliament) in the parliament of the United Republic of Tanzania

³ *Mwananchi*, 10th, September, 2014; *Daily News*, 10th, September, 2014, *The Guardian*, 10th, September, 2014

⁴ *Mwananchi*, 11th September, 2014.

⁵ Tundu Lissu

⁶ *Nipashe*, 15th, September, 2014

⁷ Ayi Kwei Armah (1968) *The Beautiful Ones Are Not Yet Born*. Boston: Houghton Mifflin

⁸ Since independence in 1961, Tanzania has had five phases of presidency. The first phase president was Julius Nyerere who led the country from 1961 to 1985. The second phase president was Ali Hassan Mwinyi who served from 1985 to 1995. The third phase president was Benjamin Mkapa who reigned from 1995 to 2005. The fourth phase president is Jakaya Kikwete whose tenure began in 2005 and lasted in 2015. The fifth phase is under John Magufuli who came into office in 2015.

⁹ *Tanzania Daima*, 1st, October, 2014

¹⁰ Members of this coalition include Chadema, CUF, NCCR-Mageuzi, National League for Democracy (NLD) and Democratic Party (DP)

¹¹ *Nipashe*, 11th, 08, 2014; *Uhuru*, 11th, 08, 2014; *Habari Leo*, 11, 08, 2014.

¹² *Mwananchi*, 3rd, October, 2014

¹³ *Tanzania Daima*, 5th, October, 2014; *Daily News*, 5th, October, 2014; *Uhuru*, 5th, October, 2015

¹⁴ *Tanzania Daima* 1st, October, 2014

¹⁵ *Mwananchi*, 23 September, 2014

¹⁶ *Mwananchi*, April 13, 2014

¹⁷ However, Muslim organizations maintained a low profile in the process of making the new constitution. This seemed to have been a calculated strategy because they did not want to dilute their main demand of having the Kadhi courts recognized by the new constitution. While the proposed new constitution does not contain a provision for these courts, Muslim religious leaders taking part in the constituent assembly were promised by top government officials that a law will be enacted in 2015 to officially recognize Kadhi courts.

¹⁸ Its members include: Tanzania Episcopal Conference (TEC), The Council of Pentecostal Churches of Tanzania (CPCT), Christian Council of Tanzania (CCT) and the Seventh Day Adventists (SDA)

¹⁹ *Mwananchi*, 15th, July, 2014

²⁰ *Tanzania Daima*, 2nd, October, 2014

²¹ *The Citizen*, 8th, August, 2014

²² *Tanzania Daima*, 2/October/2014

²³ *Mwananchi*, October 2, 2014.

²⁴ *Mwananchi*, October 2, 2014.

²⁵ *Mawio*, 25 September -1st October, 2014

²⁶ *Mwananchi*, 3rd September 2014

²⁷ During the 2015 general elections, CCM's presidential candidate Mr. John Magufuli obtained 58% of the votes while UKAWA candidate got 39% of the votes.

²⁸ Top leadership of the government

²⁹ *The Citizen*, 2nd, October, 2014