

## **A Proposed Structure of the Union in Tanzania: Political Parties at a Crossroad<sup>1</sup>**

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### **Abstract**

*This article focuses on the implications of a particular constitutional design of decentralization on the behaviour of political parties as representative institutions. As Tanzania seeks to enact a new constitution, the proposed changes in the Draft Constitution of 2013 on the structure of the United Republic of Tanzania will most likely lead to new trends on how political parties organize, compete, cooperate and mobilize electoral support. The article argues that whereas a two-tier government model has been able to compel political parties to forge broad-based fronts thereby leading to national stability, on the other side, it has not adequately addressed issues and interests of the constituent governments partly due to its centralized party system. The proposed three-government model has expanded avenues of people's participation in decision-making processes but without addressing the mechanisms through which political parties will be compelled to promote coalition-building, national consensus and political stability.*

### **Introduction**

Political representation constitutes a key feature in the functioning of representative democracy. With the sheer size and complexities of modern nation-states, direct popular participation in the governing process had to be accompanied by indirect people's participation largely through representatives. In order to make democracy work, political parties have become key instrument of political representation in modern democracies. It is indeed asserted that "democratic representation is unthinkable without

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parties" (Urbit and Warren, 2008: 400). In a similar vein, Linz and Stepan (1998) point out that the primary task of political parties is to aggregate and represent differences between democrats. Through elections, political parties aggregate and articulate citizens' interests as they compete for votes and power to rule. The behaviour of political parties however tends to be influenced by a multitude of factors including the social structure of a society, constitutional design, the nature of the party system, the level of citizens' civic competence as well as the form of government. For instance, in terms of the social structure, the degree of issue polarization among political parties is very much shaped by the extent of heterogeneity or homogeneity in the social structure. Likewise, the extent of decentralization from national to sub-national levels also tends to affect the manner in which political parties mobilize electoral support and contest for power.

This article focuses on the implications of a particular constitutional design of decentralization on the behaviour of political parties as they play the representational role. Various types of decentralization "have become the dominant political trend of our time" (Gerring et al., 2007: 2), affecting the representational role of political parties either in unitary or federal political systems. In a federation, political parties are supposed to organize across more than one territorial level and in so doing, they should decide on how to cooperate with their sub-national counterparts, how much autonomy to grant them and how to balance the interests of their respective regional constituent parties (Thorlakson, 2010). In general terms, as the state is decentralized, and so are its political parties (Thorlakson, 2010; Duverger, 1964). Variations across states however are observed based on socio-cultural configurations, the type of the electoral system and the process of cabinet formation. On the contrary, the centralization of political power under unitary political systems creates an incentive for political parties to coordinate across various constituencies leading to the formation of nationalized party systems (Chhibber and Kollman, 2004). It is important to point out that there can be devolutions of power even under a unitary political system but with the main locus of power placed at the national level. The key issue here for political parties rests on the extent of representation between national and constituent levels of authority. As Beramindi (2007) points out, the question of representation in the context of shared rule becomes imperative in the presence of strong and directly elected levels of government. In this context, political parties become the mediating institutions between the national and the constituent governments in acting as a link across the multi-levels of governments. The United Republic of

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Tanzania is a unitary state constituted by a two-tier governments, namely, the Union government, which exercises its jurisdiction over Union matters and all matters that deal with Tanzania Mainland as well as the Revolutionary Government of Zanzibar, which exercises its jurisdiction over all matters in Zanzibar and non Union matters.<sup>2</sup>

As Tanzania seeks to enact a new constitution, implications of the proposed changes to the representational role of political parties need to be carefully analysed. Indeed, the constitutional debate on whether or not Tanzania should adopt a three-government federal structure has by itself caused some tension within and between political parties in Tanzania. The proposed changes in the Draft Constitution (2013) on the structure of the United Republic of Tanzania will most likely lead to new trends on how political parties organize, compete, cooperate and mobilize electoral support. As a consequence, Tanzania may witness partisan re-alignments on party policies, issues and programmes. The stability and civic peace of the Republic will therefore be shaped by the dynamics within and across political parties. This article sets out to give a closer look on the potential implications of the proposed constitutional changes to the functioning of political parties as representative institutions. The key question to be addressed here is that; how will representational role of political parties be impacted upon by various government models? The article proceeds in the following manner. Section two presents the analytical discussion on the relationship between citizens, political parties and political representation. Section three analyses the current two-government model and the manner in which political parties are managed in executing their representative function. Section four explores the potential implications of the proposed federal system to the behaviour of political parties as representative institutions. The last section makes conclusion and recommendations.

### **Political Representation: A theoretical Discussion**

Political representation is a complex and paradoxical term particularly in its relation to democracy. Historically, representation and democracy have not been always complimentary to each other. The Greek democracy was built on direct participation of those who were defined to be citizens, and representation as a word never existed in their language (Pitkin, 2004). The origin of representation dates back in Roman law and in the late Middle Ages and later in England. In the Roman law, representation was based on the belief that the head of the Catholic Church was God's representative on earth. In the monarchical England, representation was used as a political and

administrative strategy in enabling the king to collect taxes (Mushi, 2004). It was imposed as a duty by the king requiring delegates from each borough to commit their respective locality to special additional taxes to the king. Representation began to acquire democratic credentials when the landed gentry began waging a struggle to acquire substantial rights from the crown in demand for participation in the affairs of the state by representing their subjects (Pollack et al. 2009). Also, Hobbes' theory of representation set the stage for the theoretical discussion on political representation by asserting that the sovereign is said to be empowered with authority to act on behalf of the subjects who surrender their rights in exchange for peace and order (Skinner, 2005). For many years, representation came to be regarded as a mechanism to limit direct popular participation. As a result of struggles for broader participation in elective institutions such as parliaments, political representation and democracy became to be closely intertwined in making representative democracy work. It is important therefore to point out that the idea and practice of political representation has developed in relation to the socio-historical circumstances of a particular time (Pollack et al., 2009).

Moreover, under representative democracy, elections are important mechanisms in order to ensure responsiveness to the people by the representatives. In its traditional account, representation is very much tied to a territorial constituency, where individuals are represented as they inhabit a certain place of residence (Urbit and Warren, 2008). Pitkin's seminal work on political representation becomes quite imperative as we explore on the representational role of political parties in Tanzania. According to Pitkin (1967), representing means "acting in the interests of the represented, in a manner responsive to them" (Pitkin, 1967: 209). She categorizes representation into four distinct but interconnected types. They include; Formal representation, where the representatives must be authorized to act; Descriptive representation, where the representatives act on behalf of others by virtue of sharing similar identity such as race, sex, ethnicity or residence; Symbolic representation, which refers on how the representatives are perceived and evaluated by the representatives; Substantive representation, which refers to the congruence between representatives' actions and the interests of the represented. That is, the representatives must act in a way that promotes the interest of the represented (Waylen et al., 2013; Schwindt-Bayer et al., 2002). In all these four types of representation, the role of political parties in aggregating and articulating interests of the represented is indeed quite central.

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However, the standard account of political representation has come under attack largely due to the emergence of other forms of representation. It is important to note that Pitkin's classic work on representation was developed in the framework of nation-states. With the changing global context, there are other forms of constituencies that are beyond territoriality such as religion, ethnicity, gender and other identities. Also, the development of supranational entities has also challenged the traditional notion of political representation. There are a multitude of actors who claim to play a representational role without being authorized to act by the represented through elections. This brings to the scene many "voice entrepreneurs" claiming to represent various opinions and interests. They include civil society organizations, multinational organizations and social movements (Urbit and Warren, 2008: 389).

Furthermore, political presentation is increasingly being accompanied with various forms of direct of participation, which include such methods as holding referenda, recalls, initiatives, and citizen assemblies for collective decision making. People can hold a binding referendum on whether or not a certain law should be scrapped. This tends to give a veto to the people on government legislation. Recalls entail the practice in which the people have the right to recall elected officials by petition and referendum. Similarly, citizens' initiatives are being put to a referendum rather than just relying on the elected representatives. In all these participatory mechanisms, the role of political parties in popular mobilization cannot be underplayed.

It is important to recognize that while on the one hand political parties play the role of articulating and aggregating varied range of interests into common fronts and policies, on the other hand however, by their very nature political parties are inherently conflictual. Internal affairs of parties are characterized by a continuous process of compromise, adjustment and adaptability which gives room to the eruption of conflicts. Conflicts can emerge from disagreement over basic principles, subsidiary principles or issues over rules of the game including the constitution and the constitution-making process, rules governing the formation and functioning of political parties, electoral laws and regulations, the use of state resources, and other governance issues. There are times when political parties become highly vulnerable to conflicts such as during the writing of party's manifestos where differences in preferences, policies and priorities can lead to a series of conflicts; during selection of the party's candidates and election of party leaders, etc.

Moreover, while parties are universally regarded to have played a key role in modern representative democracy, management of political parties varies among countries. In certain countries, political parties are regarded as associations, and indeed in many of these countries, there is no special law on political parties. For instance, Switzerland has no special law governing the operation of political parties and instead, they are treated as private voluntary associations (Gastorn, 2013). In many other countries, there are special constitutional provisions stipulating the role of political parties and their relationship with the citizenry. In Tanzania, the operation of political parties since the re-introduction of multi-party democracy in 1992 is guided by the Political Parties Act (1992), which requires them to be of national character by representing a varied range of interests and groups in the Tanzania's society. Also, political parties are required to protect and uphold the Union as expressed in their constitutions, manifestos as well as in their actions.

As stated earlier, the representational role of political parties heavily depends on the extent of decentralization of authority between the national and constituent levels. For instance, in a federal system, if power is concentrated under the constituent governments, political parties may find it important to win and secure control of the constituent government rather than that of central/union government. This is especially the case in a congruent federal system, where the boundaries of the constituent political system are in line with cultural boundaries. In this system, there is high incentive for the creation of parochial elites with vested interests to promote and represent their local interests (Mayer, 1970). In line with this argument, it is asserted that excessive political decentralization could weaken not only the political system's abilities to collectively tackle national issues but also political parties' efforts to bring about broad-based coalitions in handling matters of national importance (Desposato, 2004; Ross, 2000). Following this, in order to bring about partisan harmony, the constitutional design should compel political parties to make broadly-based policy appeal. The level of citizens' civic competence among the public is also important in enhancing meaningful political representation. For instance, in a federal government structure, citizens may find it difficult to make judgments about which level of government is accountable for certain policy action. Also, in a highly centralized political system, meaningful participation of people in matters that affect their lives could be seriously undermined. Thus, the balance of powers between the national and the constituent governments should be carefully designed in the country's constitution in order to address the above

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trade-offs. In this article, the national government refers to the Union government of United Republic of Tanzania, and constituent governments refer to the governments of the partner states, namely, Tanganyika and Zanzibar.

This article sets out to apply Pitkin's typology of representation in analyzing the representational role of political parties in a proposed structure of the Union of the United Republic of Tanzania. The Pitkin's typology is slightly revised to include the informal actors of representation that have emerged in the contemporary times as a result of the changing nature of the nation-states.

### **Political Representation under the current Two-Tier Government Model**

In order to examine the extent in which political parties play their representational role, it is important to describe how they are governed as well as their electoral strength. This account is important in order to underscore how the representatives acquire their authority to act on behalf of the people through elections. The United Republic of Tanzania is a merger of two formerly sovereign states, namely Tanganyika and Zanzibar. The Republic is a sovereign state with two separate governments; the Union government and the Revolutionary government of Zanzibar. Each government has its own executive, judiciary and legislature. The Union government has its mandates over the Union matters and Zanzibar government exercises sovereignty over all domestic matters and non-union matters. The Union government is democratically accountable to the Union parliament and to the Tanzania's citizens. In the functioning of the United Republic of Tanzania, the Union issues, preferences and interests have been channelled and regulated largely through political parties. In the current two-tier government structure, political parties tend to operate in two levels of governments, namely, the central/union level and at the constituent level of the Zanzibar government.

Political parties are represented in the Union legislature and the House of Representatives of Zanzibar as well as in local government elective organs based on their electoral strength. In terms of electoral representation, Tanzania uses a 'First-past-the post electoral system (FPTP), whereby a candidate who gets the most votes, whether a majority or plurality is elected, and the party with a majority of seats forms the government. In parliamentary and local government elections, candidates are elected through a single-member constituency. In the Union parliament, the party

that gets the majority of seats forms the Union government. The Union parliament consists of 239 Members of Parliament (MPs) who are directly elected at the constituency level, 50 of these are from Zanzibar. On the part of Zanzibar, prior to the 2010 Constitutional Amendments, the party with a majority of seats constituted the government. Following the 2010 constitutional amendments that provided for the formation of a Government of National Unity (GNU), the top two winning political parties form the government of Zanzibar on a coalition basis in accordance with their electoral strength.

Moreover, while the powers are separated and shared between the central and the constituent government, the management of political parties is indeed a Union matter and centrally governed by the Registrar of Political Parties. The 1992 constitutional changes to a multi-party political system led to the emergence of various political parties competing to mobilize mass support and secure political power. The terms and conditions for the registration of political parties as stipulated in the Political Parties Act of 1992 set some limits on political parties on how they can be formed and operate in the Union. In order to operate, every political party needs to register with the Registrar of political parties. Section 9(2) of the Political Parties Act (1992) sets specific conditions that need to be fulfilled by a political party. It states that, "No political organ shall qualify for registration if by its constitution or policy:-

- (a) it aims to advocate or further the interests of –
  - (i) any religious belief or group
  - (ii) any tribal, ethnic or racial group, or
  - (iii) only a specific area within any part of the United Republic;
- (b) it advocates the breaking up of the Union constituting the United Republic
- (c) it accepts or advocates the use of force or violence as a means of attaining its political objectives;
- (d) it advocates or aims to carry out its political activities exclusively in one part of the United Republic; or



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- (e) it does not allow periodic and democratic election of its leadership” [Section 9(2), Political Parties Act 1992].

In addition, a political party is granted full registration after it obtains no less than 200 members, who are prospective voters, from each of at least ten (10) regions. At least two (2) of these regions must be in Zanzibar (Unguja and Pemba). The law also specifies that the Registrar may cancel any political party that contravenes the prescribed rules. Currently, there are 21 registered political parties in Tanzania. Since the re-introduction of multi-party politics in 1992, three political parties have been de-registered by the Registrar of Political Parties for failure to conduct elections to elect their leaders as required by the Act. They include, Popular National Alliance (PONA), Tanzania People’s Parties (TPP) and Forum for Democracy (FORD).

Whereas there are 21 political parties in Tanzania, only five parties have representation in the Union parliament. These parties are Chama Cha Mapinduzi (CCM), Chama Cha Demokrasia na Maendeleo (CHADEMA), Civic United Front (CUF), United Democratic Party (UDP) and National Convention for Construction and Reform (NCCR-Mageuzi) (see table 1). In Zanzibar, only two parties have seats in the House of Representatives, namely, CCM and CUF. Smaller parties including Progressive Party of Tanzania (PPT-Maendeleo), CHAUSTA, Sauti ya Umma (SAU), Demokrasia Makini (MAKINI), Jahazi Asilia, National League for Democracy (NLD), Democratic Party (DP), Union for Multi-Party Democracy (UMD), Tanzania Democratic Alliance (TADEA), United People’s Democratic Party (UPDP), National Reconstruction Alliance (NRA), Alliance for Tanzania Farmers (AFP) and others, have failed to operate themselves as durable organizations. Indeed, internal mechanisms and processes within these parties are poorly developed. Also, they tend to lack formal grassroots structures that can be used to mobilize and recruit party members and supporters. While some of these parties have offices in Dar-es-Salaam, many of them do not have offices in other parts of the country. In Zanzibar for instance, apart from CCM and CUF, many smaller parties establish offices during election campaigns period and close them immediately thereafter. Indeed, many of the smaller parties seem to be political parties on paper rather than active players on the political scene. Thus, their capability to play a representational role is indeed rather limited.

**Table 1: Parliamentary Votes and Seats by Parties-2010 Union Elections**

<b>Political Party</b>	<b>Actual votes</b>	<b>Share of votes %</b>	<b>No. of seats</b>
CCM	4,641,436	60.4	186
CHADEMA	1,904,540	24.8	23
CUF	752,617	9.8	24
NCCR-M	193,797	2.5	4
UDP	85,395	1.11	1
NLD	14,387	0.19	0
NRA	1,179	0.02	0
APPT	5,731	0.07	-
TLP	52,608	0.68	1
SAU	3,670	0.05	0
UMD	1,102	0.01	0
TADEA	2,284	0.03	0
UPDP	3,512	0.05	0
AFP	3,917	0.05	0
CHAUSTA	2,653	0.03	0
DP	6,389	0.08	0
JAHAZI ASILIA	3,777	0.05	0
<b>Total</b>	<b>7,681,196</b>	<b>100</b>	<b>239</b>

Source: National Electoral Commission (NEC), 2010

In terms of the election strength, during the 2010 presidential elections, the CCM's presidential candidate secured 61% of the votes cast, followed by CHADEMA's candidate who won 26.3% of the national votes. The remaining 12.7% was shared by the remaining candidates from other opposition parties.

Zanzibar election results portray a two party system where two dominant parties are more or less of equal strength. During the 2010 elections, CCM won 50.1% of votes, followed by CUF's that secured 49.1% of the votes. What was unique about the 2010 elections in Zanzibar was that, for the first time since 1957, the losing presidential candidate from the opposition party

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accepted the election results largely due to the inclusive power-sharing arrangement of the Government of National Unity (GNU).

Thus, under a two-tier government model, there has been an incentive for political parties in trying to mobilize broad-based electoral support in order to win both the Union and Zanzibar elections. This is largely due to the fact that political parties are centrally registered and required to demonstrate a national character in their formation and operation. Indeed, decision-making structures of many political parties are also centralized in order to integrate the constituent and the national/central level and being able to attain popular electoral support. Symbolically, political parties are motivated to win significant electoral support from both sides of the Union so that they are perceived by the representatives to be national and inclusive parties. In this context, the party tends to be evaluated as being regional and exclusive when it secures its votes and seats from only one side of the Union.

Moreover, in playing their representational role, political parties have articulated and aggregated various issues and policies regarding the relationship between the central/Union and the constituent government. Some of these issues include; the structure of the Union, the expanded list of Union matters, elections and electoral processes as well as resource allocation and revenue sharing. On the structure of the Union, CCM's policy advocates for the existing Union structure of a two-government model. On the contrary, CUF, CHADEMA and other opposition parties tend to advocate for a three-tier government model.

Also, there have been some concerns regarding the additional list of the Union matters. The original list as per the Articles of Union had 11 items: (article iv (a-k)). They included the following; the Constitution and government of the United Republic, external affairs, defense, police, emergency powers, citizenship, immigration, external trade and borrowing, the public service of the United Republic, income tax, corporation tax, customs and excise, harbours, civil aviation, posts and telegraphs ( Schedule 1 of the 1977 Constitution of the URT). Over time, the list was increased to 22 Union matters to include such items as the Court of Appeal, registration of political parties, oil and natural gas, higher learning and national security. Some have argued that this added list was indeed illegal, contrary to the provisions of the articles of the Union (Bakary, 2006: 9; Sherrif, 1994: 155) Even the then President Salmin Amour declined to accept the legitimacy of the added Union matters and instead recognized only the original eleven

Union matters as listed in the articles of Union (Bakary, 2006: 9). As Seif Sherrif Hamad once put it, “a principal problem has been the lack of a clear demarcation between union and non-union matters” (Hamad, 2007: 135).<sup>3</sup>

On the question of resource allocation and revenue sharing, Zanzibaris often argue that they do not get a fair share of the Union’s revenues and therefore contesting Zanzibar’s contribution to the Union budget (Peter and Othman, 2006). For instance, it was claimed that oil was included as a Union matter without consultation with the government of Zanzibar (Hamad, 2007: 136). In the 2013 Draft Constitution, oil and natural gas have been removed from the Union matters, and instead it is proposed that they come under the exclusive jurisdiction of each constituent state, Zanzibar and Mainland Tanzania.

Moreover, there has also been an issue of the extent of legislative representation between Zanzibar and the Union government to the Union parliament. With the population of 1.3 million, it is claimed that Zanzibar’s representation in the Union parliament is over-rated compared to that of the Tanzania Mainland (Makaramba, 1997). As a result, the descriptive representation of the Union parliament is imbalanced in favor of Zanzibar at the expense of the actual representation of Tanzania mainland. Related to this is the concern that Zanzibar issues are not adequately discussed in the Union parliament even when they belong to the Union matters, and therefore undermining the extent to which the Zanzibar’s representatives promotes the interests of the Zanzibaris (substantive representation).

Furthermore, due to the centralized party structure under a unitary two-government model, there have been some disputes over the candidates’ nomination process during election times. For instance, the CCM’s nomination process of the Zanzibar’s presidential candidates is one case to be cited. Usually, it is the sub-committee of the CCM committee in Zanzibar that nominates names to be submitted to the Central Committee and to the National Executive Committee (NEC) of the party. At times however, the preferences of the CCM Zanzibar are not necessarily in line with those of NEC (Dodoma). For instance, during the 2000 elections, NEC preferred Amani Abeid Karume, who was ranked third by the CCM sub-committee in Zanzibar. The number one choice of the Zanzibar CCM sub-committee was Dr. Mohammed Bilal, who received 44 votes as opposed to Amani Karume, who received 9 votes (TEMCO Report, 2000: 116). This has created some intra-party conflict and hence affecting the CCM’s internal cohesion.

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In spite of these issues and their accompanied conflict, the main mechanism that has been used in resolving Union-related conflicts among political parties is through reconciliation. For instance, Reconciliation Agreements known as MUAFAKA I (1999) and MUAFAKA II (2001) and *Maridhiano* (Reconciliation) (2010) between CCM and CUF were reached in an attempt to resolve long-standing political conflict in the Islands but also in Tanzania. While MUAFAKA I was not implemented, MUAFAKA II led to some significant constitutional changes that brought about, among other things, a reformed electoral commission and the adoption of the permanent voter register.<sup>4</sup> Also, through the *Maridhiano* process, party leaders of the two major parties agreed to end their differences and start a modality of forming a coalition government to involve CCM and CUF. This led to a referendum that was held on 31 July 2010 and a two-third majority of Zanzibaris voted for the formation of a Government of National Unity (GNU) after the October 2010 elections. In this case, the GNU has been an instrument of managing differences between political parties in Zanzibar.

It can therefore be concluded that a two-tier government model, which is characterized by centralization of power in the national government, has been able to create incentives for political parties to vertically integrate the national level and the constituent level in order to secure national electoral support. This has somehow contributed to social cohesion and political stability in the country. At the same time however, a centralized party structure under the two-government model has restricted political space for the articulation of a varied range of interests and demands at the constituent level. For instance, complaints over the decisions on the presidential candidates in Zanzibar tend to emanate from the functioning of a centralized party structure under a unitary two-government model. Also, persistent demands for Zanzibar sovereignty and autonomy are raised partly due to restricted space in decision-making at the constituent level of government. In this case, political parties, especially the ruling party, have been at a crossroad on how to maintain a centralized and nationalized party structure under a two-tier government model amidst increasing demands for a decentralized party structure.

### **Political Representation under the Proposed Federal System**

Tanzania is currently undertaking a constitutional review process with the purpose of enacting a new constitution. Political parties have been at the centre of the constitutional making process in articulating and aggregating

issue, positions, and preferences. Indeed, the debate has intensified the divisions within and between political parties especially on the structure of the Union government. The Constitutional Review Act (2012) established the Constitutional Review Commission to collect people's views and draft the new constitution. One of the major proposals in the Draft Constitution states that Tanzania should adopt a three-government model to include the government of Zanzibar, the government of Tanzania Mainland and the Union government [Art. 60(1)] of the Draft Constitution of the United Republic of Tanzania, 2013). Another proposed change in the Draft Constitution is a significant reduction of the Union matters. It is proposed that the Union matters should include only seven matters, namely, Constitution of the United Republic, defense and security, citizenship and immigration, external affairs, currency and the Bank of Tanzania, registration of political parties, corporation tax, customs and excise (Schedule 1 of the Draft Constitution of the United Republic of Tanzania, 2013). The significant reduction of union matters raises some concerns on the relative power of the national/union vs. constituent governments. As discussed earlier, when the national/union level is weak, political parties tend to resort to the promotion of parochial interests, making coalition building and consensus on national issues rather difficult. With the proposed three-government federal structure, forms of political representation between citizens, political parties and the three levels of government are also under intense scrutiny.

Also, the constitution-making process can be a source of conflict within and between parties over both the process and the content of the constitution itself. The structure of the Union has become the most divisive issue that sets the ruling party and the opposition far apart. Differences between them are vividly clear. A three-government federal structure is supported by major opposition parties in Tanzania, namely, CUF and CHADEMA but strongly opposed by the ruling party, CCM, which still stands for its policy of the two-government structure (*The Citizen*, 26.08. 2013).

Moreover, divisions within the ruling party are vivid especially in Zanzibar, where the struggles for more autonomy have gained momentum over the years. CCM in Zanzibar is striving to maintain and propagate the party's position of a two-government model amidst some resistance from reformers within the party. For instance, in August, 2013, CCM expelled from the party Mr. Mansour Yussuf Himid for acting against the party policies and ethics, which had largely to do with his position for more Zanzibar autonomy. In addition, Mr. Mansour, who was a member of the House of the

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Representative for Kiembesamaki constituency, was stripped of all his leadership posts.

This is indeed not the first time that CCM had to discipline its own senior members of the party for questioning the status and the structure of the Union. During the 1983/84 constitutional debate in Zanzibar, some views were aired calling for the full sovereignty of Zanzibar. In 1984, the then President of Zanzibar, Aboud Jumbe was forced to resign for calling for greater Zanzibar autonomy (Bakari, 2000). In 1988, the then Chief Minister of Zanzibar, Mr. Seif Sherrif Hamad and some cabinet members were expelled from the party on similar grounds. In 1993, the Union parliament, which was occupied by CCM MPs only, passed and adopted a resolution to re-establish the government of Tanganyika within the Union (Makaramba, 1997). The move was advocated by some reformist MPs who were known as the 'Group 55'. Following the intervention of the late J.K. Nyerere, the decision was postponed and left to die a natural death.<sup>5</sup>

Moreover, clear divisions within CCM were demonstrated by the 10<sup>th</sup> Constitutional amendments to the 1984 Zanzibar constitution that declared Zanzibar to be a state. Section 1 of the amended constitution states that "Zanzibar is a state which consists of the whole area of the Islands of Unguja and Pemba and all small Islands surrounding them and include the territorial waters that before the Union formed then People's Republic of Zanzibar" (1984 Zanzibar Constitution as amended in 2010). With Zanzibar being declared a state, the President of Zanzibar is now vested with powers to divide Zanzibar into regions and districts in accordance with the 1984 Zanzibar constitution (as amended in 2010) by the House of Representatives (Article 2A). Previously, it was the President of the United Republic who could do so in consultation with the President of Zanzibar. Equally significant is the curtailing of the functions and jurisdiction of the Court of Appeal of Tanzania. The 10<sup>th</sup> constitutional amendment makes the decision of the High Court of Zanzibar to be final and no appeal can be filed against its decision [Article 24(3)].

These amendments mark a significant departure from the previous political setting of the Union structure. In the previous provisions of the Zanzibar Constitution (1984), it was stated that "Zanzibar is an integral part of the United Republic of Tanzania" (section 1). This amendment was effected in contradiction with the Union Constitution which states that "Tanzania is one state and is a sovereign United Republic consisting of the whole of Mainland

Tanzania and the whole area of Tanzania Zanzibar” (Article 2). Despite all these efforts to change the structure of the Union, the CCM’s policy has persevered, and struggles and divisions within and between parties still persist.

In terms of political representation in the constitution-making process, the expanded version of political representation is being employed whereby citizens’ views were collected in shaping the substance of the constitution. In this case, the citizens have been involved in charting out the country’s destiny. The membership to the Constitutional Review Commission has included not just politicians, but also some members from the civil society and the academia. In so doing political parties are no longer the only actors playing the representational role in the constitution-making process in Tanzania. The composition of the Constituent Assembly also goes beyond political parties to include some members drawn from the civil society, special groups and the academia, who constitutes 25% of the total members of the Assembly.<sup>6</sup> Yet, the low level of representation of members drawn outside political parties has raised a great deal of concern among some CSO groups. Also, the Constituent Assembly consists of all MPs from the Union parliament and the House of Representatives in Zanzibar. Given the fact CCM holds a majority in both houses, the composition of the Constituent Assembly is equally dominated by members from the ruling party. This imbalance representation in favour of the ruling party poses a threat to fair and objective deliberations over various issues of public interests.

Thus, the constitution-making process has brought to the fore the underlying questions, namely: How should the people be represented in the decision-making process? Who are the ‘real’ representatives of the people: the MPs or the CSOs? How should the representatives get the authority to act? Should the people select their representatives to the Constituent Assembly through elections or be appointed by the President? The status of political parties as the sole representatives of the people is being challenged through the ongoing constitutional making process.

Also, apart from assessing the process, it is imperative to evaluate the extent in which political representation is being addressed in the proposed three-government model. First and foremost, through holding a referendum, citizens are given a direct role in determining the increase or the reduction of the Union matters as well as in determining the existence of the Union. These decisions shall no longer be taken by the Union parliament as it is provided



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in the current constitution (Art. 119). Also, the role of political parties in representing the citizens in the elective bodies is well established in the Draft Constitution. Based on the Winner-takes all electoral system, the political party with a majority of seats constitutes the Union government. In addition, participation in electoral process has gone beyond political parties to include individual citizens who will be free to contest for elective posts as independent candidates. This expands the space for citizens to directly participate and having an opportunity to govern without using the medium of political parties. Also, unlike the current system where the President is elected by a simple majority, in the Draft Constitution, the presidential candidate must receive an absolute majority (50+1) for her/him to be declared a winner [Art. 80(6)]. There will be second run-off elections of the two top candidates if no candidate attains the absolute majority in the first round [Art. 80(7)]. This system compels the candidates to make broadly-based appeals across the Union and with fellow candidates in order to gather support for the second rounds of elections if it becomes necessary.

Further analysis however shows that there is a representational deficit on the part of Zanzibar, which is a smaller partner state in terms of the population magnitude. It is possible that the Union presidential candidate may secure 50+1 victory with or without the Zanzibar votes. In this case, the power of Zanzibar as a partner state to influence the election of the Union president is indeed rather limited. The Draft Constitution does not provide for any threshold that the presidential candidate must attain in every part of the partner state in order to be declared a winner. The extent of participation on the part of Zanzibaris in electing their highest leader of the Union is in this case restricted. Also, the Draft constitution does not specify whether or not there will be a rotation to serve for the Union presidency between the two constituent states.

Moreover, the national/Union government will be democratically accountable to the people and to the Union parliament in executing its functions. The Union parliament consists of 70 directly elected constituency-based MPs and 5 special MPs appointed by the President (Art. 113). These five MPs represent people with disabilities. Each geographical constituency will be represented by two MPs, a female and a male. This is indeed a good formula if the parliament is to attain gender balanced representation. 50 MPs are drawn from the Tanzania Mainland and 20 MPs come from Zanzibar (Art. 113(2a)). In terms of representation of the constituent states in the Union parliament, whereas Tanzania mainland makes up of 71.4% of the directly

elected MPs in the Union parliament, Zanzibar MPs constitute 28.6 % of all the directly elected MPs in the house.

The process of cabinet formation also raises some questions regarding political representation. The President shall form the cabinet whose composition should represent both constituent states (Art. 98(4)). However, the Draft Constitution does not specify on how the representation of the partner states to the Union Cabinet will be attained. For instance, will the composition of the Union cabinet be based on the population size of the partner state? The Draft Constitution is silent on the indicators or measures of representation of each partner state to the cabinet. It is important to note that cabinet ministers and their deputies are not supposed to be MPs [Art. 101 (2a)], and therefore the members of the cabinet may not be members of any political parties.

Moreover, at the national/Union level elections, political parties will largely have to compete based on Union issues. This will enhance a political link between the Union parliament and the electorate. Yet, there is need for the constitutional design to put an incentive so as to encourage political parties to file candidates in both elections, that is, Union as well as sub-level elections at the constituent states. Otherwise, the regional-based electoral support for political parties may pose a threat to a broad-based popular representation and to national cohesion.

Furthermore, a functioning party system in a democracy requires some degree of consensus over basic underlying values. Conflicts can therefore occur primarily over the degree of emphasis accorded to certain values in the political system but not over basic values. However, there are party systems where there are conflicts over basic or core values of a society. When interests of certain significant political groups are not met or accommodated by the existing party system, then there is a possibility for the emergence of political movements challenging the very existence of the party system itself. These parties question not only frameworks that guide the operation of the state but also the foundation and the nature of the state. This tends to lead to high degree of political instability.

In Tanzania, there is no any political party that seems be persistently anti-system by questioning the nature of the state. Indeed, the issue of the existence of the Union itself is addressed in the 2013 Draft Constitution whereby all political parties are required not to propagate for the break-up of

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the Union [Art. 197(b)]. This might be due to a long tradition of social cohesion and civic peace. However, the discussion in this article indicates the existence of issue polarization among political parties on the structure of the Union. There are clear differences on the conceptions and definition of the Tanzania state, that is, whether it should be founded on two or three-governments. This is the basic underlying question that should be addressed in the new Constitution.

### **Conclusion**

This article concludes that the behaviour of political parties in playing their representational role is very much affected by the adopted form of government; federal or unitary. The discussion has shown that on the one hand, a two-tier government model has been able to compel political parties to forge broad-based fronts as they compete for and mobilize national votes, thereby leading to national stability. On the other hand however, the two-government model has not adequately addressed issues and interests of the constituent government partly due to its centralized party system and unclear division of powers. Intra-party conflicts (especially in the ruling party) on issues of autonomy and resource allocation between the Union and Zanzibar government have persisted for many years despite some attempts to resolve them. It is in this context that a federal system is seen as an alternative to the current two-government model. The three-government model, as stipulated in the 2013 Draft Constitution, has expanded avenues of people's participation in decision-making, and decentralized more powers to the constituent governments. At the same time however, there are still unanswered questions on the forms of political representation and on the mechanisms in which political parties will be compelled to promote national interests as opposed to parochial vested interests, which may be a source of weak parties and political instability. The key issue therefore should have been on how to design a federal system that would enhance meaningful political representation as well as compel political parties to promote coalition-building, national consensus and political stability.

### **Notes**

1. The original version of this paper was presented at the conference on "Constitutional Process in Tanzania" commissioned by the Eastern and Southern African Research Programme (ESAURP), Dar es Salaam, Tanzania, 17-18 February 2014.

2. For the debate on whether Tanzania is unitary or federal government, see Peter and Othman (2006); Shivji (1990); Srivastava (1983).
3. Seif Sherrif Hamad is the Secretary General of CUF and the first Vice-President of the Government of Zanzibar.
4. For details, see ESAURP (2004) *MUAFKA: The Roots of Peace in Zanzibar*.
5. For details, see Nyerere (1995) *Our leadership and the Destiny of Tanzania*.
6. This percentage is calculated based on the actual number of members drawn from civil society, academia and special groups (159 members). It is important to note that out of 201 members, 42 members of them are selected from the registered political parties. Other groups include NGOs (20 members), religious institutions (20 members), educational institutions (20 members), people with disabilities (20 members), trade unions (19 members), pastoralists organizations (10 members), fishermen organizations (10 members), farmers' organizations (20 members), and people with common interests (20 members).

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