

The new constitution

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A golden jubilee of any important event has, at least, two images to it. This is even more so when the event is to commemorate fifty years of a country that is a product of a voluntary agreement between two formerly sovereign African countries. One image of the occasion is that of celebration to appreciate the survival and successes of the union. That, at least some Tanzanians, have done sometimes to excesses.

The other image, however, is a more somber and reflective one. It is the face of contemplation and deliberation on the trials and tribulations that have afflicted the union in the last fifty years. It is also a time for projecting the future course of the union and drawing up a vision and roadmap for the next fifty years. That we have not done as much as we should.

Tanzania is currently embarked upon a process of drawing up a people based and people driven constitution. This is a rare and unique historical opportunity to make a constitution that enjoys the legitimacy of the people. It is also an appropriate occasion to dispassionately revisit the Union question taking into account the difficulties and conflicts that have arisen over the last fifty years during which dissension has been met by diffidence on the part of the union government.

It is time to pose difficult questions, such as the following: Has the union lived up to the original expectations or has it veered off-course and drifted in a different direction? What is the root cause of the endless conflicts that have dogged the union? Has it been accepted with unquestionable commitment by both parties as a legitimate political order? Is the structure an aid or hindrance to the furtherance of the goals of democracy, national integrity and popular consent of the citizens? What are the possible alternatives that can deepen democracy while maintaining national unity and territorial integrity?

These are some of the questions that should feature prominently in the current, sadly inchoate debate on the structure of the union in the Constituent Assembly (CA). These are also the questions that engaged the minds of many of the citizens that presented their views to the Constitutional Review Commission (CRC). From listening to the views of the people, carefully studying the various reports and writings on the irritants (kero) of the union as well as carrying out independent research, the CRC came to the conclusion

that these irritants were mere symptoms of a malaise that is rooted in the structure of the union.

It is this conclusion that led the CRC to recommend the adoption of a federal structure of the union. Unfortunately, the controversy in the CA has narrowly focused on and distorted the proposed cure instead of interrogating the strength and validity of the diagnosis. It is not the number of governments or the costs thereof that is at issue here. Rather, it is the clear demarcation of boundaries of political authority with a definite hierarchy between the federal government and the two parties. What is overshadowed in this misplaced preoccupation with two or three governments in the CA is that the proposal, for the first time, creates an autonomous, exclusive, sovereign federal authority. The proposal also seeks to minimize the possibility of conflict of interests, power clashes and turf wars among the parties to the union and between them and the federal authority.

Almost throughout the life of the union there have been persistent grievances from both sides. Prominent among these grievances is the perception that Tanganyika has donned the coat of the union and that the union government is a disguised Tanganyika government. The union government therefore is seen to have a conflict of interest in being responsible both for union matters as well as all the affairs of the mainland. Most of the reports confirmed this. The other grievance expressed by Zanzibar is that the costs of running the union are unfairly weighted against Zanzibar since it is impossible to separate the costs of running union and Tanganyika affairs. Many on the mainland respond by claiming that Zanzibar is a freeloader since it does not contribute to the Union revenues, etc.

It is my hope and expectation that the discussion in the CA and beyond will recognize the dangers that can arise from a constitution designed unilaterally to address symptoms rather than the root cause of the 'keros'. One possible danger is the break-up of the union. This may arise either from Zanzibar seeking to cast-off the union (read Tanganyika) coat or from Tanganyikans seeking to offload the 'burden' of Zanzibar. The other potential danger may arise from frustrating the expectations that have been created that the new constitution would be people centered and driven. This could trigger election related violence if the country proceeds to hold elections without reaching a national consensus on how to proceed. **E**