

# The Pitfalls of Constitution-making in Tanzania: the lessons so far

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Big claims are made for the constitution. When it suits them, politicians in power use it as an excuse to divert attention from bigger issues. Politicians wanting to get into power use it as a mobilizing stratagem. Activists in NGOs use it to advance their advocacy work for human rights, gender rights, land rights, disabled rights, women's rights, children's rights, cultural rights, consumer rights, and a host of other rights. Political scientists and constitutional lawyers use it to propagate liberal democracy, multipartism, good governance, transparency, accountability, rule of law and legalism which they have picked up from their textbooks and consultancy clients such as the World Bank, USAID, DfID, donors and Foundations. Radical nationalists, a species that is fast disappearing, use it to assert national identity.

Our first task, therefore, is to disabuse ourselves of these exaggerated claims. So let me start with 'what constitutions are not'.

## **What constitutions are not**

First, constitutions don't make revolutions. It is revolutions, which make – or unmake – constitutions. Big changes in society necessitate new constitutions. New constitutions in themselves do not bring about big changes. To be sure, the constitution, like the legal order that underlies it, is a bulwark of the status quo, not a battle cry for its overthrow.

Big changes in society are brought about by social and political struggles of contending forces, not by constitutions.

Secondly, constitutions are not neutral documents. They are ideological. They reflect the interests of the ruling class. They support and promote the values of the dominant social and political order.

There is no textbook answer as to why a country embarks on making a new constitution. Reasons are varied. They are historically specific and always reflect and express the balance of political forces. The same is true for the contents of a constitution. There is no sacred text, which tells us what goes and what does not go into a constitution. Some constitutions are very short and they read like political manifestoes. Others are very long and carefully crafted legal texts. The US constitution, which today is presented as an example of one of the most democratic constitutions, is less than 10 articles. The Indian constitution, which governs what is considered one of the biggest constitutional democracies in the world today, is a long document running into over 300 articles. The US constitution was made by a group of 55 white men, among whom were slave- and plantation-owners, closeted in a room over a period of some five months. The Indian constitution was made over a period of three years by a constituent assembly of some 200 delegates elected by provincial legislatures sitting as electoral colleges.

Thirdly, a new constitution is not a panacea for all ills. It is not a *murobaini* or '*kikombe cha babu*'. Those who promise a heaven through a new constitution are simply cheats or political charlatans.

Fourthly, the wave of new constitutions in Africa, beginning in the 1990s, is informed by liberal bourgeois values of individualism and legal rights. 1990s was also the decade of neo-liberal reforms. The liberal constitutional order is superimposed on the neo-liberal social and economic reality. There is thus a huge discordance between the liberal edifice based on individual rights and the neo-liberal foundation based on social wrongs.

In recent times, Africa has witnessed many new constitutions. The 1996 South African Constitution, the 1995 Uganda Constitution and the 2010 Kenyan Constitution are fine works of legal craftsmanship in the best liberal tradition. Yet each of these societies bears severe scars of neo-liberal devastation. South Africa today is one of the most unequal societies in the world. Its Gini index is

63.1. This is more than the Gini index of the US (45), which is considered among the 39 most unequal societies in the world. Uganda's Gini index is 44.3 and Kenya's 47.7. The Ugandan polity is not a shining example of democracy. Kenya is one of the most socially and ethnically stratified, while South Africa remains one of the most violent societies. None of them can boast to have lifted the vast majority of their population from the scourge of poverty. So a good liberal constitution with a plethora of human rights does not necessarily mean humane conditions for their populations.

Does this mean that constitutions don't matter or that we shouldn't fight for a democratic constitution? No, constitutions do matter. The struggle for democratization of our societies is very much on the African agenda. The wave of new constitutions is part of that struggle. But the struggle for democracy is a contentious process. That contention is reflected in the process of constitution-making.

The movement from authoritarian civil, and dictatorial military regimes to democracy in the early 1990s in Africa was spearheaded from below. One of the early experiences starting with Benin was the spontaneous convening of national conferences or conventions. It is at these conferences that incumbent heads of state were replaced, where debates and discussions took place and where eventually the outlines of new constitutions emerged. Not all of these experiences were successful. And eventually the movement was hijacked by neo-liberal elites who channeled it into mainstream liberal constitution-making. Nonetheless, the movement threw up innovative forms of constitution-making from which we can learn. The new process of constitution-making caught the imagination of committed African intellectuals and was developed further theoretically.

In this context, a new definition or concept of constitution emerged: constitution as an embodiment of national consensus. Depending on each concrete situation, the process of constitution-making was seen:

- one, as a process of consensus building between different competing and contesting interests through open national debates;

- two, the consensus thus reached would define the character of the political system that the people wanted;
- and, three, the process would be fully participatory lending legitimacy and stability to the political order.

In 1990, when the then President of Tanzania Ali Hassan Mwinyi, announced the government's decision to form a commission to look into one-party or multi-party system, a small number of academics at the University of Dar es Salaam called for a new constitution. The argument was that the transition from a one-party authoritarian system to a multiparty system was a good opportunity to have a protracted process of making a new constitution.

This author suggested an elaborate process of making the new constitution in three stages. There would be a national debate followed by the convening of a national conference of delegates representing major interests in society such as trade unions, peasant associations, commercial and industrial organisations etc. The national conference would outline the main principles of the new constitutional order, which would then be the basis for a committee of experts to draft the constitution. The draft would be submitted to an elected constituent assembly that would discuss its provisions and adopt the constitution. The constitution would then be submitted to a referendum in which people from both sides of the union would approve or reject. A 'yes' vote would give the constitution force of law. Thus, literally, the people would have given themselves a constitution marking a break from the past tradition where constitutions were enacted and 'imposed' from above. It would have given the system political legitimacy and, hopefully, resolved the union question.

The ruling party CCM (Chama cha Mapinduzi) adamantly refused to entertain the idea. There was no need for either a new constitution or a national conference, they argued. They did not want to open up a Pandora's box. CCM had too many skeletons in the wardrobe. Putative opposition parties did not want to have a long protracted process either. They couldn't wait to go to the state house. We thus lost an important opportunity to make a constitution in a less contentious atmosphere.

Since then, on and off, there have been calls for a new constitution until 2011 when the current process took shape.

After his election to the second term, President Kikwete took up the issue of a new constitution, partly perhaps to take the wind out of the sail of political opposition and partly to carve out a legacy, as he would be leaving presidency in 2015. Whatever the case, the issue of a new constitution does raise some fundamental questions: -

- What is the vision and direction of the country; what kind of country do we want to build?
- How do we address the long-standing grievance of Zanzibaris against the structure of the union?
- What is being done, or not done, about the deteriorating life-conditions of the working people? Such as education, health, water, sanitation, nutrition, shelter, joblessness etc.
- Who controls, and in whose interests are we exploiting the natural resources, including minerals and gas, and whom does it benefit?
- And do we acknowledge that there is a general perception of the class polarization in society and the fragmentation of the social fabric?

These are not the kind of issues that can be addressed, let alone be resolved, without a deep and protracted national debate. Hence, when the president announced his intention to initiate a process of making a new constitution, there was an intense, albeit short-lived debate on the nature of the process and its objective.

The University of Dar es Salaam held a major symposium. Two currents emerged. A small minority argued that:

- (1) the process ought not to be hurried;
- (2) the process itself of making a constitution was equally, if not more, important than the outcome;
- (3) the issue at hand was one of getting a legitimate constitution rather than just a good constitution in technical terms;

- (4) there should be a protracted national debate on what kind of country Tanzanians want;
- (5) the process should be extra-parliamentary and fully participatory; and
- (6) there was a need to build a national consensus before writing the constitution.

The other current, mainly political parties and NGO activists, favoured a parliamentary process with a specific time frame so that the next general election (2015) is held under a new constitution. Opposition political parties tended to interpret consensus and participation as *their* involvement rather than the involvement of the people as a whole. In any event, the government sent a bill to parliament providing for a process of constitutional review and eventually coming up with a new constitution to be launched in April 2014, thus coinciding with fifty years of the Union.

As was expected, once the bill was sent to parliament, it became a highly fractious issue as political parties within parliament turned it into a partisan tug of war. The ruling party, through its government, obviously wanted to retain control over the process while opposition parties had to find their niche on issues that they believed would strike a chord with their constituencies and enhance their prospect of winning the next election.

Outside parliament, both the existing human rights and other NGOs, or rather FFUNGOS (foreign funded NGOs), joined the constitutional debate from the standpoint of their own sectional interests: gender, land, disabled, youth, women, media, etc. New NGOs, among which the most vocal being *Jukwaa la Katiba*, sprung up. Seminars, workshops, symposia, training sessions etc. multiplied as project funds had to be spent and visibility to be manifested. A few of these activities provided forum for serious reflection, many tended to be repetitive NGO-speak – human rights, good governance, independent electoral commissions, etc. Very few engaged in the bigger picture analyzing the real life-conditions of the large majority or the domination of the polity and economy by imperialism. Hardly any offered alternative platforms to address the concerns of the working people. I do not know of any which developed alternative

constitutional arrangements, which would address issues of transforming the social-economic order. Any attempt to introduce such discussion was shot down on the ground that it was 'theoretical', not feasible and would not be easily acceptable by the powers-that-be. (Least of all, I guess, by the funders!) As is wont, NGO paradigm is goal- rather than process-oriented with little conceptualization and much less understanding of history generally, and history of social struggles, particularly. For NGOs, the time horizon begins and ends with a project, just as with mainstream politicians the time is bounded by five-year election cycles.

After much tussle, the Constitutional Review Act (Cap. 83) was passed in 2011. A constitutional review commission was eventually formed. The Act itself went through several amendments, twice in 2012 and twice in 2013. As I am speaking, the latest amendment has yet to be published. For the purposes of this lecture, I will not dwell in details or legal problems of the Review law. My focus will be the process of constitution-making as conceived by the Act and the positions taken by political forces in relation to the process.

### **Organs and process under the Constitutional Review Act**

The Review Act provides for three main organs and two stages of consultation.

The organs are:

- Constitutional Review Commission;
- Constituent Assembly; and
- Referendum

### **The Commission**

As we know, the *Commission* is composed of 32 members, 16 from Tanzania Mainland, 16 from Zanzibar, including the Chairman who is from the Mainland and the Vice-Chairman who is from Zanzibar. The President in agreement with the President of Zanzibar appointed all members. The President invited fully registered political parties, faith based organisations, NGOs and other civil society groups to submit nominations from which he picked the membership.

The terms of reference of the Commission are very broad. It is charged with educating the public in the workings of the Commission and gathering and

coordinating their opinions on the 'new constitution'. The Commission is also responsible for constituting *mabaraza* to discuss the first draft of the Constitution prepared by the Commission following its analysis of the opinions given by the public. The Commission has already accomplished the two tasks and is now involved in preparing the second draft of the Constitution, which it is required to finish by 15<sup>th</sup> December 2013. Under the Act, the second draft of the Constitution, together with a comprehensive report, will be submitted to the Union President and the President of Zanzibar.

The Commission was thus conceived as a kind of unelected "representative" body, representing different interests, rather than a body of experts. Since there was no prior debate or a national consensus as to the kind of constitutional order desired by the people in their collective capacity, it was left to the Commission to determine the vision, direction and the structure of the new constitution. The Commission presumably believed that it could do so after gathering and receiving opinions from the people at large and the more articulate and vocal organised civil society and political elites.

In a society divided into competing and conflicting interests, as expected, *people* had different expectations of the constitution. Working people expected betterment of their life-conditions – better and accessible education, health, water, sanitation and nutrition; participation in the control and disposal of their land and natural resources; decent jobs and humane treatment. The section of the political class in power (divided and fragmented as it is) wanted only the tinkering of the constitution to get legitimacy and continue to be in power. The section of the political class in opposition wanted the constitution to facilitate and expedite their entry into power. They used the call for a new constitution as a mobilizing device, presenting it as a panacea for all ills for all time. The intelligentsia in academic institutions and the NGO sector wanted the new constitution to deliver democracy, as they understood it, that is, rooted in liberal values of the market-place - individual human rights, pluralism, political competition, good governance, etc. The business class wanted freedom to exploit and accumulate and legal protection against competition from foreign businesses. Small disparate groups of nationalist radicals, a remnant from the

Nyerere era, wanted the constitution to reclaim national pride and respect. There was a voice in the wilderness. The dominant voice was undoubtedly that of the neo-liberal compradorial class combining the political, intellectual and business elites.

The first stage of consultation is before the Commission prepares the first draft. Members of the Commission did this by organising trips to various parts of the country. At this juncture, in absence of a report of the Commission and an analysis, it is difficult to make an assessment of the process. Nonetheless, as could have been expected, in their submissions ordinary people talked about their daily problems arising from their real life conditions rather than address what the learned would consider constitutional issues. Often, participants repeated what they had been taught by their parties to say. Both these irritated members of the Commission, the former because the speakers failed to relate their contribution to constitution and the latter because the Commission insisted that they wanted to hear people's *own* opinions and not the opinion of their parties. In Zanzibar, the response was more focused, albeit polarized. Zanzibaris concentrated on the structure of the union. This translated into the number of governments, two or three. A significant number also demanded '*muungano wa mkataba*' (treaty based union) which, in effect, means breaking up of the union.

It is from these mutually contradictory contributions of the respondents, that the Commission was supposed to arrive at a conclusion as to what kind of constitution people wanted. The Commission arrived at the conclusion that the majority wanted a three-government federal structure. Until we see the Commission's Report, we cannot tell how was this conclusion reached – through head counting, or sampling, or opinion survey or the Commission's own analysis and assessment.

In view of its conclusion, the Commission drafted a federal constitution taking a minimalist position, that is, only six matters as falling within the federal list among which the most important being foreign affairs, army, security and immigration while the rest would be left to the respective partner governments, that is, the Tanganyika and Zanzibari governments. The draft has elaborate provisions on human rights, directive principles and a stringent code of ethics

for leaders. However, these are not federal matters and therefore respective constitutions of the partner states need not follow them. In short, in my view, the structure suggested is that of a weak, but 'fat', central government – weak in power, bloated in terms of institutions. The structure is closer to a confederation than a federation. And confederations are known to have a short life span.

It was this draft of over 250 articles that was taken to *mabaraza* for discussion and opinion. Expectedly, ordinary citizens could hardly comment on the technically drafted provisions. Inevitably discussions revolved around the issue of the structure of the union – two or three governments. Some Commissioners were irritated if speakers favoured two governments or opposed three governments on the ground that *mabaraza* were supposed to suggest improvements to the structure proposed by the Commission and not recommend an alternative structure.

At the first stage of consultation, people had no basis for discussion since there was no prior national consensus. At the second stage of consultation, people had a basis for discussion in the form of a draft constitution, but it was too technical. We would have to await the Commission's Report and further analysis to pass a judgment on the effectiveness of this form of people's participation in constitution-making. One thing, however, we can say with certainty. The process did generate a lively debate and raised some fundamental questions going to the root of our social, economic and political system. No doubt, the dominant voices were those of the elites. But people also spoke, and spoke freely, even if their voices were filtered through the biased lenses of the media. At the minimum, future researchers would have rich raw material to analyze the width and the depth of social differentiation that our society has undergone over the last two decades of neo-liberalism.

The debate is ongoing. We are likely to see more of it in the Constituent Assembly to which I turn next.

### **The Constituent Assembly**

As its name suggests, a constituent assembly is a body that deliberates and passes a constitution. The theory is that since all citizens cannot meet, they elect their delegates with a specific mandate to make a constitution on their behalf.

The constituent assembly is a body higher than the parliament that is created by the constitution. A constituent assembly is never provided for in any constitution since no constitution can predict its own death and replacement. It is created in a *political*, rather than a legal process, as and when people want to have a new constitution. The composition of a constituent assembly very much depends on the particular circumstances which give rise to the need for a new constitution. The ideal to achieve, though, in all circumstances, is to have a constituent assembly that is composed of delegates elected by people based on universal suffrage. This maximizes people's participation and gives the constitutional and political order legitimacy to rule.

In our constitutional history we have had two constituent assemblies, one in 1962 when Tanganyika became a republic, and one in 1977 after the merger of ASP and TANU, to adopt the permanent constitution of the union. The 1962 constituent assembly was in fact the national assembly, which converted itself into a constituent assembly. The 1977 constituent assembly was composed of all members of parliament then – roughly two-thirds from Mainland and one-third from Zanzibar. The President, under the authority given to him by the Articles of Union, appointed them as delegates. The present process would have been an excellent opportunity for us to reach the ideal and have a fully elected constituent assembly. Unfortunately, that is not to be.

In terms of the Constitutional Review Act, the Constituent Assembly will be composed of –

- All members of the Union National Assembly (357)
- All members of the House of Representatives (81)
- Other 201 members appointed by the President from among persons nominated by the following civil society organisations as follows: -
  - NGOs (20)
  - Faith based organisations (20)
  - Fully registered parties (42)
  - Higher learning institutions (20)

- Groups of people with special needs (20)
- Trade Union organisations (19)
- Association representing livestock keepers (10)
- Fisheries associations (10)
- Agricultural associations (20); and
- Other groups of people having common interest (20).

This means that the constituent assembly will have 639 delegates of which 438, or 69 per cent, will be party members. CCM will be 52 per cent and opposition will be 16 per cent of the constituent assembly. Out of the remaining 201, 42 members will come from those nominated by fully registered political parties. We can safely assume that all these will be either members or sympathizers of political parties, which brings the total of party members to 75 per cent or three-fourths of the constituent assembly. After giving the benefit of doubt to the opposition and independents, my guess estimate of the break down of 201 civil society members is CCM 34%, opposition 36% and independent 30%. This gives us the breakdown of the total as CCM 63%, opposition 27% and independents 10%.

The constituent assembly is therefore *overwhelmingly* a body of political parties, *dominantly* CCM and only *marginally* made up of independents.

How will the constituent assembly arrive at its decisions? The traditional formula of the majorities required for the passing of constitutional documents is two-thirds of all members. This was stipulated in the earlier Review Act. The latest amendment has deleted this clause and left it to be determined by the standing orders to be made by the constituent assembly itself. This is rather strange. Such an important issue ought not to be left to subsidiary legislation. The discussion of standing orders on voting will itself raise extremely heated, and perhaps a fractious debate at the very beginning of the deliberations of the constituent assembly thus bogging it down.

Let me now sum up the problems of the composition of the constituent assembly.

First, the proposed constituent assembly is not an elected body. Although, members of parliament and the House of Representatives are elected, they are elected under the present constitution and have no mandate to adopt a new constitution.

Secondly, the constituent assembly is overwhelmingly made of political party membership rather than the people. A very significant proportion of the population is not card holding party members.

Thirdly, the dominant party in the constituent assembly will be CCM. The Constituent Assembly would thus be a party body delivering a party constitution, most probably in favour of CCM unless, of course, CCM splits. Whatever be the case, in principle, it is simply not correct to have a constitution, which is supposed to belong to the people, being made by a party body.

It is even more ironical that some 200 members should come from the so-called civil society organisations when these CSOs represent nobody except their own members and activists. It is even more absurd that members coming from NGOs, faith based organisations and higher learning institutions should be almost equal in number to those coming from the working people - workers, peasants, pastoralists and fisher men and women. This is the reflection of the extent of NGOisation of our politics. NGOisation of “representative democracy” and marginalization of traditional class based organisations (such as trade unions) is the new form of donor driven neo-liberal politics. NGOs in fact demanded representation in their own right and did not feel embarrassed that they should substitute themselves for elected delegates of the people based on universal suffrage which is what ought to have been an elementary democratic demand.

### **The Referendum**

*The referendum* to validate the constitution passed by the constituent assembly is the last stage before the constitution gets force of law. Various versions of the Review Act provided for a referendum. In the latest amendment of the Review Act, the provisions on the referendum have been deleted on the ground that the referendum would be taken care of by the proposed Referendum Act to be enacted in the future sitting of the parliament, most probably in December.

The proposed bill for a referendum was published on 7<sup>th</sup> June and went for first reading. But apparently the relevant Parliamentary Committee recommended many amendments. As a result, the bill was withdrawn and a new version has been published on 5<sup>th</sup> November. The new version is substantially different. For all intents and purposes, it is really a new bill. Whereas the first bill provided for a generic referendum, the new one is specifically on the referendum for validating the proposed constitution. Suffice it to say, that there must have been some 'high', behind-the-scene politics for this fundamental change, including perhaps the fact that the constitutionality of the June bill was doubtful since it dealt with referendum when referendum is not a union matter.

For a lawyer, it is a bit disconcerting that the parliament passes a law without some fundamental provisions (referendum) anticipating that such provisions will be made in a future law. This is contingency legislation, which is unheard of. What would happen, for example, to the whole process of constitution-making should the proposed referendum Act, for whatever reason, is not enacted or cannot be enacted? In practice, this is not likely to happen and there is a high chance that the referendum bill will be passed. But certainly, members will be constrained in their discussion of the referendum bill or even to oppose it, if they are so inclined. At the least, this sets a bad precedence in legislative history and hopefully will not be repeated in future.

I will not discuss in detail the provisions of the bill except point out the most important feature and raise one question. The decision on the referendum question will be made by a simple majority of the valid votes, which must be obtained in both parts of the union. If in any one part, the 'yes' vote falls short of 50% of the valid votes, the Electoral Commission would have to repeat the exercise, including if necessary, allow time to the President in consultation with the President of Zanzibar to reconvene the Constituent Assembly to reconsider the provisions of the constitution.

The most important issue, though, is that the decision to pass the new constitution could be made by a small minority of the electorate, if the voter turnout is low. For example, if the electorate is 100 voters, the turnout is 60 and

spoilt votes are 5, it is possible for the constitution to be passed by only 28 people, or 28% of the electorate.

It is not clear from the Bill whether political parties will be allowed to campaign during the referendum period either for or against the 'yes' vote. Civil societies, NGOs, and other like associations are allowed to campaign through referendum committees provided such committees are registered with the Electoral Commission. This is another example of NGOisation of our politics. Be that as it may, my reading of the proposed referendum bill further reinforces me in my conviction that the most important organ in the process of constitution-making will be the constituent assembly rather than the referendum, unless something unpredictable happens.

### **Summing up the lessons so far**

It may be too soon to draw any fundamental lessons from the process of constitution-making so far. Yet, it is the duty of an honest intellectual to say it when things begin to go wrong rather than be clever after the event. It is in this spirit that I will highlight a few issues, which have emerged so far.

1. First, the process of constitution-making in the long journey of democratization is too important to be hurried and completed within short timelines. Such haste as we are witnessing in our situation provides an opportunity to demagogues to whip up disruptive forces in society.
2. Second, the political process of *building* national consensus must precede the legal process of *writing* a constitution. Lack of consensus allows politicians and opportunists with short time horizons to arouse divisions, which could threaten national integrity and social stability. The very fact that the Constitutional Review Act had to be amended almost four times, and even then it is not satisfactory, shows how fractious the process has become because there was no consensus before we set out to write the new constitution.
3. Third, embarking on the legal/technical process of writing a constitution without the political process of public debate and national consensus marginalizes the vast majority. People's participation in the making of the constitution is then, at best perfunctory, and at worst spurious – a

kind of rubber-stamping exercise. Political, intellectual and business elites substitute themselves for the people and hijack the democratic project in their own narrow interest.

4. Fourth, the very process of making a constitution is as, if not more important than the outcome. This is because full participation of the people has pedagogical effect. The process serves as a school of democratic struggles.
5. Fifth, the constituent assembly is a lynchpin in the process of making a new constitution. In my view, it is even more important than the referendum because it is the constituent assembly that discusses in public the provisions of the constitution on behalf of the people. Therefore, it is extremely important for the constituent assembly to be a truly representative body composed of directly elected delegates based on universal suffrage. In the history of constitution-making in our country we have never had such a constituent assembly although we have had five new constitutions, and Zanzibar has had three new constitutions. The current process began with a promise that it would be different. Regrettably, signs are that the sixth constitution will again be made by a body composed of members of political parties rather than people's delegates.
6. Sixth, there is increasing NGOisation of our politics in which traditional organisations of the people like trade unions are marginalized and representative politics are denigrated. NGOs and FFUNGOS, instead of being pressure groups, arrogate to themselves the role of being people's representatives when they are neither elected by, nor accountable to the people.
7. Finally, there is always the most critical period of transition between the old and the new constitution even where the new is adopted in relative peace. The transition period has to be thought through very carefully and planned ahead of time if it is not to be disruptive.

Should the current process end in the adoption of a three-government structure, we would need a long transition period before such a constitution can be implemented. Assets will have to be divided, the civil service will have to be re-formed, new institutions will have to be established, Tanganyika constitution will have to be passed, presidential and general elections will have to be conducted in Tanganyika, the civil and political rights of Zanzibaris in Tanganyika and Tanganyikans in Zanzibar will have to be determined – and all this would have to be in place before the federal constitution is brought into force and begins to function. I wonder if there is any forward planning for this eventuality.

Lastly, I can only call upon my fellow intellectuals to play a sober and nationalist role during this delicate and sensitive period rather than jump on the bandwagons of political operators and power mongers.

Let me remind you of what Mwalimu once said: constitutions are made to serve people; people are not made to serve constitutions.

### Composition of the Constituent Assembly

WAJUMBE	JUMLA	CCM	WAPINZA NI	BARA	ZANZIBAR	WASIONA CHAMA
WABUNGE WA BUNGE LA MUUNGANO	357	282	75	287	70	
WAWAKILISHI	81	54	27	-	81	
WENGINE WA KUTEULIWA	201	68 (34%)	73 (36%)	134 [67%]	67 [33%]	60 [30%]
<b>JUMLA</b>	<b>639</b>	<b>404</b>	<b>175</b>	<b>421</b>	<b>218</b>	<b>60</b>
<b>ASILIMIA (%)</b>	<b>100</b>	<b>63%</b>	<b>27%</b>	<b>66%</b>	<b>34%</b>	<b>10%</b>

Division of the 201 members into parties and independents are estimates based on my impression of the current political situation. If I have erred, it is likely to be in favour of opposition parties and independents.