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81. Article 18 (1)
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83. See "Waandishi Wapinga Polisi Kumhoji Mhariri wa Express," *Mwananchi* (Tanzania), 14th - 17th March, 1994, p. 1.
84. See "Is Tanzania a Big Garbage Dump?" *The Express* (Tanzania), 10th - 12th March, 1994, p. 8.
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88. See "Baada ya Kutiwa Ndani Asiendo Kigoma: Mtikila Ahubiri Askari Rumande," *Rai* (Tanzania), 17th - 23rd February, 1994, p. 3.
89. See "Freedom From Arbitrary Arrest," *The Express* (Tanzania), 20th - 23rd February, 1994, p. 8.
90. "Exams Boycott: Dar Varsity Discontinues 211 Students," *Daily News* (Tanzania), 4th June, 1994, p. 1; and "Wanafunzi 211 Wasimamishwa Chuo Kikuu," *Uhuru* (Tanzania), 4th June, 1994, p. 1.
91. See "Discontinued Varsity Students go to Court," *Daily News* (Tanzania) 6th June, 1994, p. 1.
92. High Court of Tanzania at Dar es Salaam, Miscellaneous Civil Application No. 68 of 1994.
93. Article 13 (6) (a).

IN DEFENCE OF CLOSER UNION AND GREATER AFRICAN UNITY

By

Mwesiga Baregu

I was in the grounds of Karimjee Hall on the historical day of August 24th, 1993, when the CCM Parliament resolved to dissolve the union government as presently constituted. All who were on the grounds could not have failed to notice the emotions and passions the debate evoked among the members in the House and the audience outside the parliament. I recall one member of the House from Zanzibar who, on rising to express a dissenting view, was shouted down by fellow parliamentarians and virtually routed out of order by the Deputy Speaker; to the delight of the audience. Clearly the die was cast; a Tanganyika government had to be formed. Indeed, at some point, I even got the feeling that the parliament would move to proclaim the existence of the Republic of Tanganyika right on the floor and convert the house into a parliament of Tanganyika.

The purpose of this paper is to analyse and explain this incident and to comment upon the nature and dynamics of political unions in general and the Tanzanian one in particular. Now that the dust has settled and the euphoria has subsided, it behoves us to temper our passions with reason and reflect on the full meaning and implications of that decision. I choose to do this to try and clarify the issues involved. As matters stand now, in my view, people are either talking at, and not to each other, or past each other or we could indeed, all be talking past the problem. The latter, I believe, is the case.

Let me, first of all, point out that there emerged important differences in the understanding and considerable confusion in the interpretation of this decision. The Deputy Speaker of the house was at the centre of this sorry state of affairs. He had to perform a series of political summersault over the issue. In the first round he categorically stated and was correctly reported to have said that the resolution of the parliament was final and binding on the government. The government was

instructed to work out the *hows* and *mechanisms* of establishing a Tanganyika Government. In the second round he retracted from that position claiming that he had been misquoted. He now conceded that there was room for some discussion on *whether* the present arrangement should change and not simply on *how*. In the final and most recent round he was 'instructed' by the CCM Central Committee to make a statement to the effect that both the *whether* and *how* questions would be addressed, probably by a Presidential Commission. As Deputy Speaker of the National Assembly and final arbiter of controversy in parliament and having presided over the relevant session, Mr. Msekwa should know that his recourse in these matters is the Clerk's office and Hansard - the verbatim record of parliamentary debates and *not* the CCM Central Committee!! Subsequently, the CCM at a special National Executive Committee meeting resolved to take the issue to the people.

Be that as it may but, what is the full meaning of this decision and where does it arise from?

In this paper I wish to address, first the origins of this glaring confusion. My basic contention is that part of this confusion in thinking about and analysing the problems facing our union arises from the failure to distinguish, analytically, between different sets of factors and how they have acted either independently or in combination with others to affect the union in different ways. This conceptual weakness has led to clumsy and rather loose formulations of the problem and correspondingly weak, partial and myopic prescriptions. This contribution is written in the spirit of rectifying that situation. At least four distinct sets or clusters of factors come to mind. They are;

- a) The structural and institutional factors relating to the separation of powers between the Legislature, the Executive and the judiciary.
- b) The factors revolving around the process of arriving at the Union and drawing up a constitution.
- c) The historical factors which brought the union into existence, including the subjective and objective conditions.

- d) The contingent, operational or proximate factors relating to state craft and the prudent or imprudent management of public affairs both Union and non-Union.

The structural and institutional factors relate to questions of the distribution of power between the component parts of the union, the power of the Union parliament *vis a vis* the Revolutionary Council and the House of representatives; the structure of authority e.g. powers of the executive or union president etc. These were almost solely the factors stressed by the Nyalali report and which are used now to rationalize the Tanganyika resolution of Parliament. At a lower level the Shellukindo report deals with similar questions.¹

As we shall see, these factors are important and require necessary and careful attention. Yet in a dynamic and historical political setting, they are not enough. Unfortunately this is where at least two fatal errors in logic are to be found. One is the error of false analogies (U.S., India, Canada, etc). The other is the fallacy of composition (federal, confederal, union). The first error invites false comparison; the latter, false generalization. We shall deal with these in some detail later on.

Secondly, there are those issues relating to process. Here it is not so much the institutional framework that is set up that matters. More important is the process of getting there. Apart from stressing positive legality these arguments tend to be normative and prescriptive. In this vein Shivji, Babu and others have argued persistently over the years that the union was between two leaders i.e. Karume and Nyerere and that it was imposed upon their respective peoples without their consultation, leave alone, consent. This school of thought stresses the necessity of a referendum to establish the will of the people and, presumably, if they say no and no it is!! Otherwise the union lacks political legitimacy by this school of thought.

The Denmark Maastricht (European Union) referendum is a good case in point, although it relates to a qualitatively different situation. Here again, it must be admitted that that process may represent part of the diagnosis of the problem. It does not logically follow, however, that simply because a particular process had certain desirable outcomes in a given situation, it can be universally prescribed for all situations. In this regard Denmark and Britain approached the ratification and accession to Maastricht differently. While Denmark called for a referendum,

Britain sought parliamentary ratification. Neither of these is better or worse than the other. They are different methods arising from the histories of these countries and the institutional structures and processes that work for them.

A third set of factors relate to the concrete historical and political conditions. This is the real-politik approach. These are the factors which featured predominantly in Karume's and Nyerere's arguments in defence of the Union. There was a clear perception that Tanganyika and Zanzibar shared a common national interest and that, in coming together, the two countries would be better placed to defend and protect their individual and common interests.

Here the structural and institutional arrangements and the process were not significant in and of themselves. Indeed such arrangements were to be sufficiently flexible to lend themselves to prudent and expeditious political decisions and actions. It is in this vein that despite Karume's insistence on a unitary government Nyerere consistently resisted this temptation lest Tanganyika is perceived to have annexed Zanzibar and extinguished its sovereignty, opening up a whole geo-political can of worms! These decisions were strongly influenced by the volatile geo-political environment in which the union came into being. The model was in essence incremental and gradualist; but it was and remains intended to lead to a unitary government at some future stage. This is now being abandoned if, indeed, not reversed altogether.

A fourth set of factors revolve around proximate or contingent factors or those relating to considerations of exigencies of the moment. Such issues relate to behaviour of leaders of the conduct of government. Such issues arise from good or bad statecraft or the mismanagement of public affairs. The current debate and discussion on the union, unlike the earlier ones, has its roots not so much in the structures, institutions, processes or history but much more in concerns of the moment. It will be noted that the structure and institutions of the union took into account the asymmetry of the two parts and indeed explicitly favoured Zanzibar and deliberately allowed it greater flexibility even in matters that were defined by the Union Constitution as union matters. Practice saw to it that Zanzibar took advantage of this space and was either ignored or occasionally silently slapped on the wrist. This went on until the IOC incident, in which the leadership in Zanzibar, by seeking independent membership of the organization clearly overstepped the boundaries and violated the Union constitution.

It is imperative to be clear at all times which factors one is stressing. Whereas the breach of the constitution by the government is a cause for legitimate concern by the citizens, I do not believe that this, in itself is what precipitated the demands for the Tanganyika Government, which finally crystallised around the group of fifty five MPs. My own view is that even this grievous issue could have been handled relatively uneventfully. The straw that will eventually be remembered to have broken the back of the union is the imprudent behaviour of the leadership and the bad conduct of government. Having clandestinely committed an illegality against the state, the leadership lacked the courage and resolve to stand up, confess and apologise to the people. The behaviour of the president was reminiscent of that of ex President Nixon in the early stages of his impeachment proceedings where he shamelessly but tellingly announced to the press "I am not a crook." The rest is history.

Now, rather than confront this treasonable behaviour on the part of the head of state and being justifiably enraged by the Loliondo and other scandals, the MPs turned on the union. In their view, much like Mtikila's view, the problem is that, the union government is dominated by Zanzibaris who, in turn, have their own government on the island and hence the interests of the mainland are not sufficiently and ably protected or defended. But what seems to have escaped the attention of the MPs is that leaders may come and go but the interests of the union persist. Why did the MPs not go in the direction they should have gone, i.e. initiate impeachment proceedings against the president? Lack of courage, perhaps? At any rate the Tanganyika resolution is tantamount to 'throwing the baby out with the bath water,' as the English say. Or shall we say, cutting your nose to spite your face?

What worries me with making decisions on impulse and in the heat of the moment is that one is unable to embrace a coherent and consistent set of principles which may guide future action. Each incident is treated in isolation and there is no cumulative learning process. It is instructive to note, for example, that the same parliament which adopted the Tanganyika private member's motion in *defence of the interest of Tanganyika*, had on the previous day, *struck down two other private members motions one seeking to investigate rampant corruption and amebezzlement in the financial system and the other seeking to probe the truth surrounding Loliondo and the wholesale plunder of the resources of the country.* Are these people basically interested in the defence of Tanganyika and Tanganyi-

kan's interests or in their own which might have temporarily clashed with those of their counterparts in Zanzibar.?

The problem of a bad, corrupt or imprudent government has to be confronted head on. To this end, there is no guarantee that a Tanganyika government will be any better or more responsive to the citizens except in so far as it is guided by commitment to clear and shared social goals, prudence, integrity, good judgement and, above all a sense of obligation to the society, whose power it holds in trust and for whose resources it acts as the custodian. The opportunity to re-assert these essential qualities was lost or betrayed in the Tanganyika motion. What then is the real source of the problem? In the next piece we shall look at the historical setting in which the union was founded and attempt to test the fallacy that the conditions giving rise to the union have changed in essence and the fallacy that the union will survive 'only differently'.

PRINCIPLES OF UNION

In order to structure our discussion let me begin by making a number of general propositions on the nature of federalism be it federal, confederal, community, commonwealth, Greater (as in Britain), etc. etc. These various designations, it must be noted, essentially refer to the degree of closeness which is, in turn, associated with effectiveness depending on the clarity of goals of the union, ours includes.

- 1) A union of any kind can only be as successful and effective as some basic goals and mutual expectations are clear and shared by all parties.
- 2) In almost all cases, and depending on the degree of closeness, all political unions entail the surrender of some sovereignty to a supreme and over-arching authority charted with the pursuit of the mutually agreed interests. Such interests need not be uniform for all parties all the time. they may also be real, perceived or anticipated. It must be stressed that interests arise from *necessity* on the one hand and *freedom*, on the other. One party may gain enhanced security, another may buy insurance against future

risks while yet another may expect immediate economic gain, and so on. It is the balance between necessity and freedom that eventually determines the range of choices available to the parties individually and severally.

- 3) Unions between states must, in the first instance, be understood as political only secondarily are they legal (constitutional), or institutional (federal, etc.) Unions are sustained by essentially three political forces, namely a shared '*national interest*,' the *political will* to sustain the union and *good honest and open institutions of governance*.
- 4) All contracts, covenants or constitutions between parties to a union will normally clearly demarcate areas of authority in which the parties are sovereign and those which belong to the supreme authority. They will also normally spell out to whom the residual or unspecified powers belong. In the US, for example, the residual powers are left to the federal government while in Canada, on the other hand, they belong to the provinces.
- 5) Lastly, but perhaps most important, there is no universally accepted or indeed applicable standard design for all unions of all times and countries. Every union is unique and is born of concrete historical circumstances.

Now, therefore, it is imperative to be clear about the historical conditions of and the other forces surrounding any union (including ours), in order to determine whether the conditions that gave rise to it have changed, and in what ways if at all. This should make it possible to make informed decisions on the degree and forms of necessary changes. Such changes may range from a much closer union at one extreme to dismantling the arrangement altogether, at the other extreme.

In our case one hears statements such as 'Muungano umepitwa na wakati' (the union has been overtaken by time) without any effort to substantiate or justify this view. Another such view is 'Twende na Wakati' which presumably means riding the disintegration wave that has hit the Soviet Union, Eastern Europe, Liberia, Somalia, etc! This position also tends to deliberately ignore the opposite wave

towards closer union in the European Union and in NAFTA in North America.

In this section I make essentially three arguments. First, that the conditions which gave rise to the union between Tanganyika and Zanzibar have not changed in essence. If anything, conditions are even more compelling. Secondly, I argue that in our circumstances, if the supreme or union authority is accorded a residual or peripheral status, the union will collapse. Finally I contend that if that happens and the process and momentum takes on a life of its own, there is no reason to presume that it will simply stop at independent Tanganyika and Zanzibar. What is there to stop secessionist demands from the potential republics of Kagera (joining Uganda?), Kilimanjaro, Unyanyembe, Pemba, Zanzibar, Ngoni, etc. In my view, the likelihood of such disintegration is very real, if we take our territorial integrity for granted. If we take it seriously, however, and to the extent that we would like to avoid disintegration and fragmentation, then we should be thinking of a closer union.

The Articles of the Union give supreme authority to the union government. At the inauguration of the union this was symbolized by the mixing of the soils of Tanganyika and Zanzibar in a jar by Karume and Nyerere both declaring that from then on, the two were one country. It must be remembered that in politics, as in religion, myths, symbolism and ritual are essential and powerful influences in shaping and maintaining political attitudes as well as citizen behaviour and expectations.

In this vein, I strongly suggest that those contemplating a re-definition of the union should simultaneously be thinking about a fitting symbolic act corresponding to the new status of the union. How about employing a soil analyst who can separate or loosen the soils mazed, in 1964 as the symbol of a looser union! Where is that soil, any way; at the National Museum?

This is not an epitaph to, according to some, the soon defunct union. I will leave that unenviable task to the rejectionists, if it ever comes to pass. For reasons that I have stated before and later on, this is a plea for a closer union and greater unity. But it is not a plea based purely on my own conjecture, preferences or sentimental reasons. It is based on a hard nosed critique of the confused thinking surrounding the issue of the Union, the historical origins and record of the Union and any analysis of the contemporary international situation.

Earlier on in this paper, I alluded to two fatal errors in logic. These errors are false comparisons and unwarranted generalizations. Our union has, for example, been wrongly compared with the US, Canada, and India. The US is made up of fifty states-stemming from a settler colonial revolt from British rule (1775) and expanded by a civil war and violent annexation of native lands; the Canadian Federation comprises ten provinces stemming from the British North America Act (1876) and induced by the Anglo-American rivalry and the US civil war. Contemporary India, composed of twenty five states and seven union territories including Delhi, is largely a creation of British imperial hegemony from local princedoms but reduced by the secession of Pakistan at Independence.

It should be noted that in each of the above cases, the shape and form of a union is determined by concrete historical conditions. So are the relevant instruments of the union. Secondly the number of uniting units differ over time and space. There is no prescriptive critical mass which is historically, necessary. The US, for example, arose from a white-seller (non-indigenous) war of independence from the motherland and the subsequent civil war in which the unionist states defeated and virtually annexed the Southern States. Ours is a union of two countries formerly unified under German rule, partitioned by the British and re-unified against a background of a common anti-colonial struggle, and anti-Arab Sultanate revolution in Zanzibar and a foreign instigated but failed army mutiny in Tanganyika.

The hostile forces of neo-colonialism, inter-imperialist rivalry (US and Britain) and the East-West rivalry combined to create forces threatening newly acquired independence right across Africa. The scramble for Congo typified these forces. It is against this background that Pan-Africanism re-emerged, the OAU was founded, Ghana-Guinea-Mali federated and Tanganyika and Zanzibar unified - to protect their newly acquired sovereignty, consolidate their independence and restore territorial integrity.

In my view the imperatives of sovereignty, national independence and the restoration of integrity between Tanganyika and Zanzibar have not disappeared. Only recently it is reported that about 6,000 people in Zanzibar demonstrated to reaffirm the latter point.

The threats to national independence, national self determination and territorial integrity are even more ominous now than they were in 1964. This is the lesson we should draw from Liberia, Somalia, Angola, Zaire, etc. Indeed looking at the former Soviet Union I would argue that the demise of the cold war by ushering in U.S. unipolar hegemony has made the world more precarious and the third world more vulnerable. The propensity for the disintegration, subjugation and conceivably eventual occupation of our countries is a clear and present danger.

To survive these threats the third world countries will need a lot of foresight. In our individual national interests we will need the wisdom to bond together rather than disintegrate. It is quite clear to me that Tanganyika would not feel more secure with an off-shore Zanzibar controlled by Oman or hosting a U.S. Naval or airforce base. Neither would Zanzibari indigenous nationalism (which precipitated the 1964 revolution) tolerate such a situation. The result would likely be chaos and internecine conflicts which would inevitably engulf at least both countries, if the ten mile strip on the East Coast of Kenya does not become an issue!!

This, in my view, is the most compelling argument for closer unity - the looming threat to our very survival as countries or nations. It is not based on romantic sentiments about the union but on this stark reality facing not only Tanganyika and Zanzibar but the third world in general. It arises out of necessity *not* choice. The challenge is not less than that of uniting to secure our future and that of future generations. To dismantle the existing arrangement and advocate Tanganyika is to fall prey to the forces of the new imperialism. It is retrogressive, backward, reactionary and anti-people.

To counter the divisive, disintegrative and debilitating forces history and prudent judgement impose upon us the necessity to re-kindle the fire of African unity in all seriousness. But I am quite mindful of the fickleness, avarice, quillibility and vulgar indulgence of Africas present leadership. This is the project not of the nationalist 'Waleta Uhuru' nor of the present discredited 'Wala Uhuru' but one for the youthful, dispossessed, Mageuzi 'walinda uhuru.'

To enhance and nuance this *closer union* and *greater unity* argument, the next column will address the problem of creeping forecloser on our countries i.e. the Westen re-possession of whole countries to service crushing external debt. Loliondo and the Sheraton debt conversion project are the tip of an enormous

Icerberg! The disintegration of smaller countries creates conditions for wider and deeper imperialist penetration, domination and exploitation on a scale hither to unanticipated.