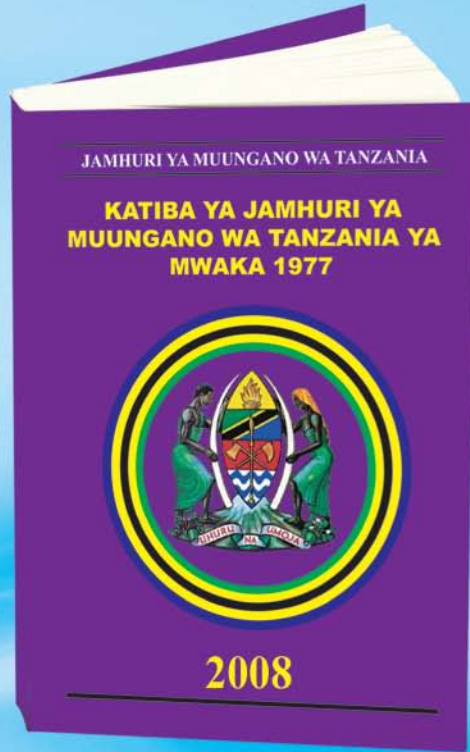


Toleo la VIII, Aprili 2011

MJADALA WA MAENDELEO

Demokrasia Tanzania



MUSWADA WA MAPITIO YA KATIBA YA NCHI WA MWAKA 2011.

**Je? Mchakato unaopendekezwa na muswada huu
utaweza kuzaa Katiba mpya ya Wananchi?**



Konrad
Adenauer
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MJADALA WA MAENDELEO

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utaweza kuzaa Katiba mpya ya Wananchi?*



Tanzania Development Initiative Programme
S.L.P. 3360
Dar es Salaam, Tanzania

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Toleo Na. VIII

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Taarifa na vielelezo vilivyomo katika chapisho hili vinaweza kurudufiwa bila malipo, kuchapishwa ama kutumiwa vinginevyo bila kuhitaji kibali kutoka TADIP/KAS. Hata hivyo, TADIP/KAS wanaomba kutambulika kama chanzo cha taarifa.

Maandalizi na Uchapaji wa kitabu hiki umefadhiliwa na **Konrad-Adenauer-Stiftung**.



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ORODHA YA VIFUPISHO

ASP	Afro Shiraz Party
CCM	Chama Cha Mapinduzi
CETA	Tanzania Development Initiative Programme
CHADEMA	Chama Cha Demokrasia na Maendeleo
CUF	Civic United Front
CSOs	Civil Society Organizations
DARUSO	Dar es Salaam University Student Organization
EATV	East Africa Television
IFM	Institute of Finance Management
ITV	Independent Television
KAS	Konrad Adenauer Stiftung
KIWOHEDE	Kiota for Women's Health and Development
NCCR Mageuzi	National Convention For Reconstruction Reform- Mageuzi
NEC	National Electoral Commission
NGO	Non-Government Organization
TADIP	Tanzania Development Initiative Programme
TANU	Tanganyika African National Union
TBC	Tanzania Broadcasting Corporation
TCIB	Tanzania Citizens Info Bureau
TWYDS	Tanzania Women Youth Development Society
TAWLA	Tanzania Women Law Association
TYVA	Tanzania Youth Vision Association
UDOM	University of Dodoma
UDSM	University of Dar es Salaam

DIBAJI

Tanzania Development Initiative Programme (TADIP) ni Shirika lisilo la kiserikali nchini Tanzania ambalo pamoja na kazi nyingine, hujishughulisha na kuandaa mijadala mbalimbali yenye lengo la kuchochea uelewa wa wadau na kuwapa nafasi ya kutoa maoni na misimamo yao kuhusu masuala ya kitaifa. Shirika la TADIP limekuwa likifanya hivyo kwa kushirikiana kwa karibu na Shirika la **Konrad Adenauer Stiftung (KAS)** la Ujerumani ambalo limekuwa likiendesha shughuli zake nchini Tanzania tangu mwaka 1964. Mbali ya Tanzania, Shirika la **KAS** linafanya kazi katika nchi zaidi ya 120 duniani. Makao makuu yake yako katika mji wa Sankt Augustin, karibu na jiji la Bonn.

TADIP kwa upande wake, limekuwa likijishughulisha na utoaji wa mafunzo, utafiti, huduma za ushauri, elimu kwa umma, ujenzi na uimarishaji wa asasi huru.

Baadhi ya mijadala ambayo imeendeshwa na mashirika haya mawili kwa pamoja, ni mjadala kuhusu: Uharakishwaji wa muundo wa Shirikisho la Afrika Mashariki (**Aprili, 2007**), Miaka kumi na tano tangu kurejeshwa kwa mfumo wa vyama vingi Tanzania (**Julai, 2007**), Nafasi ya vyama vya siasa baada ya Uchaguzi Mkuu wa Mwaka 2005 (**Aprili, 2008**), Miaka 48 ya Uhuru na Maadui watatu; Ujinga, Umaskini na Maradhi (**2009**), Rasimu ya Muswada wa sheria ya gharama za Uchaguzi (**Jan, 2010**).

Ni jambo la kujivunia kwamba mapendezo yote yaliyoibuliwa katika Mjadala wa Muswada wa gharama za Uchaguzi na kuwasilishwa kwenye Kamati ya Katiba, Sheria na Utawala ya Bunge yaliweza kufanyiwa kazi kwa kuingizwa kwenye sheria. Kwa maneno mengine, mijadala hii, ikiandaliwa vizuri na washiriki wakachangia ipasavyo inakuwa ni yenye tija kwa maslahi ya taifa na watu wake.

Kijitabu hiki ni matokeo ya mjadala ulioandaliwa na mashirika ya **TADIP** na **KAS** kuhusu rasimu ya muswada wa sheria ya mapitio ya Katiba ya mwaka 2011. Kama ilivyo ada, nia ya mjadala huo uliofanyika taraha 12 Aprili 2011 mjini Dar es Salaam ilikuwa ni kutoa fursa kwa wadau mbalimbali kujadili na kutoa mapendekezo kuhusu muswada uliotolewa ili uzae Katiba wananchi wanayoitaka ikizingatiwa kwamba Watanzania hawajawahi kushiriki katika kuandika Katiba ya nchi yao.

Baada ya majadiliano ya kutwa nzima, washiriki waliweza kuibua dosari nyingi kwenye rasimu ya muswada huo na hivyo kutoa mapendekezo ambayo yaliwasilishwa kwenye Kamati ya Katiba, Sheria na Utawala ya Bunge ili yafanyiwe kazi. Ni jambo la kujivunia kwamba mapendekezo yaliyotolewa na kuwasilishwa yalichangia kwa kiasi fulani kukoleza upinzani wa rasimu hiyo hadi kupelekea Serikali kuondoa hati ya dharura ya muswada, na hivyo kuahirisha mchakato mzima.

TADIP na **KAS** wanapenda kuwashukuru wote walioshiriki katika mjadala ule na kwa michango yao ambayo ilifanikisha madhumuni ya mjadala wenyewe. Shukrani za pekee ziwaendee Profesa Chris Maina Peter wa Chuo Kikuu cha Dar es Salaam, Kituo cha Sheria, na Mhadhiri Bashiru Ally, pia kutoka Chuo Kikuu cha Dar es Salaam, Idara ya Sayansi ya Siasa na Utawala, kwa mada zilizosaidia kufungua njia ya majadiliano kwa weledi mkubwa. Shukrani pia zimwendee Bi. Rose Mary Mwakitwange kwa kuratibu mwenendo wa mjadala katika hali ya utulivu na mshikamano wa hali ya juu. Mwisho shukrani ziende kwa Mashirika yote yasiyo ya kiserikali, Vyuo Vikuu, Vyama vya siasa, Taasisi za kijamii na washiriki binafsi, kwa kuacha kazi zao na kujumuika kwenye mjadala huu muhimu.

TADIP na **KAS** wanatoa shukurani kwa Mabwana Lawrence Kilimwiko na Ludger Kasumuni kwa kuchambua michango ya washiriki na kuhariri kijitabu hiki.

UTANGULIZI

Katika toleo la Gazeti la Serikali la tarehe 11 Machi 2011, Serikali ilitangaza rasimu ya Muswada wa Sheria ya mabadiliko ya Katiba ya Jamhuri ya Muungano wa Tanzania, na kuwaalika wananchi kutoa maoni yao.

Kama ilivyo ada yake, Shirika lisilo la kiserikali la Tanzania Development Initiative Programme (**TADIP**), kwa kushirikiana na Konrad Adenauer Stiftung (**KAS**) waliandaa mjadala kuhusu rasimu ya muswada wa sheria ya mapitio ya Katiba kama ulivyoandaliwa na Serikali na kutangazwa katika Gazeti la Serikali.



Madhumuni ya mjadala huo, ilikuwa kutoa fursa kwa wadau mbalimbali kuweza kutoa maoni kuhusu namna ambavyo rasimu ya muswada huo ingeweza kuboreshwa. Washiriki wa mjadala huo walitoka kwenye asasi za kiraia, Vyuu Vikuu, Vyama vya Siasa, Vyombo vya Habari, Asasi za Kiserikali Mashirika yasiyo ya kiserikali na Wananchi wa kawaida. Wote kwa ujumla wao waliweza kutoa michango iliyozaa mapendekezo yaliyowasilishwa kwenye Kamati ya Katiba, Sheria na Utawala ya Bunge ili yafanyiwe kazi.

Mada kuu ya mjadala huo ilikuwa kujenga hoja ambazo zingejibu jibu swali hili: ***Je, mchakato unaopendekezwa na muswada wa mapitio ya Katiba utazaa Katiba mpya itakayokidhi matakwa ya Wananchi?***

Mjadala ulifanikiwa sana kwani washiriki waliibua hoja nzito na kukubaliana kwa kauli moja kwamba rasimu ya muswada huo yafaa itupiliwe mbali kwani hailengi kuwapatia Watanzania Katiba mpya, bali kuifanyia ukarabati Katiba ya sasa ambayo siyo tu kwamba imepitwa na wakati, lakini pia Watanzania kwa ujumla wao walikuwa hawajawahi kushirikishwa katika kuandika Katiba tangu nchi ipate uhuru mwaka 1961.

Kwa maoni ya washiriki, huu ulikuwa ni wakati muafaka kwao kuweza kushiriki katika kuandika Katiba mpya katika hatua zote. Kwa kupitia mjadala ule, washiriki waliweza kugundua kwamba nia ya Serikali haikuwa kuwashirikisha wananchi kuandika katika mpya kwa jinsi wanavyotaka bali kuwahadaa. Pengine, ndiyo maana hata rasimu yenyewe iliandiliwa kwa njia ya dharura ilihali nchi haiko vitani.

Wakiongozwa na **Profesa Chris Maina Peter**, na Mhadhiri Mwanandamizi Bashiru Ally, wote kutoka Chuo Kikuu cha Dar es Salaam, washiriki waliweza kubaini bayana kwamba vifungu vyote kuanzia kichwa cha rasimu ya muswada, uliokusudiwa, utangulizi, madhumuni na kwa ujumla wake mtiririko mzima havikuashiria kupelekea Tanzania kupata Katiba mpya. Msimamo wa washiriki ukawa ni kuelekeza nguvu zao katika kujenga hoja madhubuti ambazo zitapelekea kuanzishwa kwa mchakato wa kupata Katiba mpya, na siyo kuziba viraka Katiba iliyopo.

Mjadala ukawa ni fursa nzuri kwa wadau kuhoji nia ya Serikali kuwapuuza wananchi katika ujenzi wa mfumo wa utawala wanaoutaka, ikizingatiwa kuwa Katiba ndiyo sheria mama ambayo huendana na mila, desturi, miiko, historia na utamaduni wa wana

wa nchi. Washiriki wakaikemea Serikali kwa tabia yake ambayo waliieleza kuwa ni yenye kudhohofisha maendeleo ya demokrasia, utawala bora, haki za binadamu, pamoja na kufifisha ustawi wa jamii nchini.

Washiriki kwenye mjadala hawakusita kuyapongeza mashirika ya **KAS** na **TADIP** kwa kuwawezesha kukusanyika pamoja na kuhamasisha wananchi ili waweze kuamka na kuishinikiza Serikali kuondoa vikwazo vinavyodumaza ustawi wa demokrasia, utawala bora na haki za binadamu, pamoja na ukosefu wa maendeleo na ustawi wa jamii.

Mwisho wa siku, na baada ya kukubaliana kwa kauli moja kwamba kinachotakiwa ni Katiba mpya itakayoandikwa kwa njia shirikishi na siyo ukarabati, iliundwa kamati ndogo ili kuhuisha maazimio kabla ya kuyawasilisha kunakohusika.



SURA YA KWANZA

UFUNGUZI WA MJADALA

Mjadala ulifunguliwa kwa mwezeshaji, Bi. Rosemary Mwakitwange kuwakaribisha na kuwafahamisha washiriki kuwa lengo la shughuli iliyokuwa mbele yao ilikuwa ni kujadili rasimu ya Muswada wa Sheria ya Mabadiliko ya Katiba ya Mwaka 2011 kama ilivyotangazwa katika Gazeti la Serikali, kisha kutoa mapendekezo ambayo yangewasilishwa kwenye Kamati ya Katiba, Sheria na Utawala ya Bunge.

Bi. Mwakitwange aliwashukuru waalikwa kwa kuitikia mwaliko na akaijulisha hadhara kuwepo kwa msaidizi wa Balozi wa Ujerumani hapa nchini, Viongozi wa vyama vya siasa, Wawakilishi wa mashirika yasiyokuwa ya Kiserikali, Asasi za kiraia, Vyombo vya habari, Vyuo vikuu na Washiriki wengine binafsi.

Akawafahamisha kwamba mjadala wao utatunguliwa na mada kutoka kwa wanazuoni wawili, Profesa Chris Maina Peter na Mhadhiri Bashiru Ally, wote kutoka Chuo Kikuu cha Dar es Salaam, na kwamba muswada wenyewe ulitarajiwa kuwasilishwa Bungeni tarehe 18, Aprili, 2011. Kwa sababu hiyo, akawakumbusha washiriki kuwa kwa kuzingatia kuwa muda ni mfupi, kazi ya ziada ya ushawishi na uhamasishaji ni budi ifanyike kwa uharaka ule ule, na kwamba mwisho wa siku ilipaswa kuundwa kwa kamati ya wafuatiliaji (**Task Force Committee**) wa maazimio yatakyokuwa yameazimiwa na kupitishwa.

Katika hotuba yake ya ufunguzi, Kaimu Mkurugenzi Mtendaji wa **TADIP, Bw. Steven Mmbogo**, alisema mjadala wa rasimu ya muswada wa marekebisho ya Katiba ulikuwa muhimu ili kushinikiza Bunge lisipore madaraka ya wananchi kuunda Katiba yao pasipo kuyumbishwa na maslahi ya makundi fulani katika jamii.

Akawakumbusha washiriki kuwa rasimu ya muswada uliotangazwa katika toleo la Gazeti la Serikali la tarehe 11 Machi 2011, ulikuwa umepangwa kuwasilishwa Bungeni kwa hati ya dharura na kuongeza kuwa Kamati ya Katiba, Sheria na Utawala ya Bunge ilikuwa imepangiwa kupokea maoni ya wananchi katika miji ya Dar es Salaam, Dodoma na Zanzibar tu. Hivyo fursa inayotolewa ni ndogo mno na kwamba Muswada huu unatia wasiwasi. Baadhi ya dosari alizoziorodhesha kiongozi huyo wa **TADIP** ni kama zifuatazo:

- Muswada umempa Rais madaraka ya kuunda tume ya kuongoza mchakato mzima wa Katiba bila kuhusisha Bunge ama wadau wengine wa msingi. Nafasi ya Bunge inayoonekana ni ile ya kupitisha sheria inayompa Rais mamlaka hayo makubwa.
- Muswada umempa Rais mamlaka ya kuteua wajumbe wa tume husika bila kushauriana na mtu ye yote, isipokuwa Rais wa Zanzibar (kama akitaka). Muswada huo unaeleza kuwa katika kuteua wajumbe Rais atazingatia uwakilishi wa makundi ya kijamii, lakini makundi husika hayatajwi hata kwa ujumla wake, na hivyo kuacha mamalaka yote ya kuamua uwakilishi kubaki kwake mwenyewe.



- Muswada umempa Rais mamlaka ya kutengeneza hadidu za rejea za Tume, na kwa mamlaka hayo, Rais ndiye atakayeamua Tume hiyo ifanye nini, na kwa maslahi ya nani. Kwa kutoa mamlaka ya kuunda hadidu za rejea kwa Rais, mwanya umetolewa kwa mtu mmoja kuweka mipaka ya nini kinastahili kufanywa na Tume wakati wa mchakato wa kuandaa Katiba.
- Muswada huo unataka Tume iwasilishe ripoti yake kwa Rais ambaye atampa nakala Rais wa Zanzibar na baadae kumuelekeza waziri mwenye dhamana kupeleka yale atayoamua Rais yaende Bungeni.
- Muswada umetoa mamlaka kwa Rais kuitisha Bunge la Katiba ikiwemo kuteua wajumbe wa Bunge husika. Ieleweke kuwa katika kuunda Bunge hilo la Katiba, Rais pia amepewa uhuru wa kuligeuza Bunge la sasa kuwa Bunge la kupitisha Katiba kama akitaka.
- Aidha muswada huo umezungumzia kuwa kutaitishwa kura ya maoni itakayoendeshwa na Tume ya Taifa ya Uchaguzi (**NEC**). Hii ni tume tunayojua na tuliyoizoea ambayo nayo viongozi wake wakuu wameteuliwa na Rais. Tume ambayo imekuwa ikilalamikiwa kuwa haiko huru, ndiyo itakayofanya kazi ya kuitisha kura ya maoni ikiwa ni pamoja na kuipigia kampeni rasimu ya Katiba itakayokuwa imepitishwa na Bunge maalum litakaloundwa na Rais (*Bunge la Rais*).

Kaimu Mkurugenzi Mtendaji wa **TADIP** akabainisha bayana kuwa dosari hizo katika rasimu kama inayopendekezwa na serikali hazikidhi matakwa na maslahi ya wananchi. Ni wazi Rais anafanywa kuwa **Alfa na Omega** katika jambo linalohusu umma pasipo wao kupewa nafasi. Na kama hiyo haitoshi, wabunge wanageuzwa kuwa mamlaka ya Katiba, jambo ambalo si halali. Kwa maoni yake, muswada huu haulitakii mema taifa kwa vile maslahi ya wananchi yamekandamizwa.

Naye Kiongozi Mkazi wa KAS hapa nchini, Stefan Reith aliwashukuru wajumbe kwa kushiriki katika mjadala, alisema kwamba kwa kuwa jambo hili linawahusu Watanzania wote, ni muhimu wadau wote washiriki.



SURA YA PILI

UWASILISHAJI WA MADA

Baada ya ufunguzi, uliwadia wakati uwasilishaji wa mada kuhusu rasimu ya muswada huo wa Serikali. Mtoa mada wa kwanza alikuwa Profesa Chris Peter kutaka kitivo cha sheria cha Chuo Kikuu cha Dar es Salaam ambaye alianza kuelezea historia ya madai ya Katiba hapa nchi ambayo yalianza mara tu baada ya kuanzisha mfumo wa chama kimoja mwaka 1965. Mfumo wa ukiritimba wa siasa ya chama kimoja ulidumu hadi mwaka 1992.



Chini ya mfumo huo, uhuru wa wananchi kushiriki katika siasa uliminywa sana. Moja ya mapendekezo ya Tume ya Nyalali ilikuwa ni kuandikwa kwa Katiba mpya kukidhi uendeshaji wa siasa ya vyama vingi na uchumi huria.

Ingawa Tume ya Nyalali ilipendekeza kuwa Katiba ya mwaka 1977 ilikuwa haina mhimili wa kuendesha utawala wa vyama vingi, bado serikali iliendelea na mtindo wake wa kuziba viraka tu.

Katiba ya mwaka 1977, kwa mujibu wa Profesa Peter, imebadilishwa mara 14. Si kwamba ina viraka tu, bali kuna mapengo yanayopotosha mtiririko wake, na akatolea mfano wa Kifungu cha 10 kinachosema Ibara hii inafutwa.

Hoja ya Katiba mpya ilijitokeza katika Uchaguzi Mkuu wa mwaka jana ambapo vyama vya siasa vilikuwa na Ilani za Uchaguzi zilizotoa hoja hiyo. Baada ya uchaguzi, Rais Kikwete alitamka haja ya kuwa na Katiba mpya baada ya miaka 50 ya uhuru hapa nchini.

Profesa Peter akasema kuwa Katiba zote zilizotangulia hazikuwashirikisha wananchi. Alizitaja Katiba ya Uhuru, 1961, Katiba ya Jamuhuri, 1962, Katiba ya Muungano wa Tanganyika na Zanzibar, 1965 na Katiba ya 1977 ambapo watu walewale waliounganisha vyama vya siasa TANU na ASP kuunda CCM, ni haohao pia waliotunga Katiba ya Watanzania wote bila kuwashirikisha.

Katiba ya Zanzibar ya mwaka 1964 baada ya kuunda Serikali ya Mapinduzi ya Zanzibar (**SMZ**) nayo haikuwashirikisha wananchi wa Zanzibar. Vibaya zaidi ni kwamba Zanzibar ilitawaliwa na matamko ya Rais (Presidential Decrees) had mwaka 1979. Na kama hiyo haitoshi, mabadiliko ya Katiba ya Zanzibar ya 1984 pia hayakuwashirikisha wananchi wa visiwani.

Hata baada ya maridhiano, akafafanua kuwa mabadiliko ya 10 ya Katiba ya Zanzibar bado nayo hayakuwashirikisha wananchi. Muswada unaowasilishwa chini ya rasimu ya sasa nao vile vile haujaona haja ya kuwashirikisha wananchi katika uandikaji wa Katiba mpya.

Baada ya kuelezea historia ya Katiba, Profesa Peter alielezea kwa ufupi maudhui ya rasimu ya muswada. Kwamba muswada una sehemu 6 kama ifuatavyo:

- Vifungu vya awali (Kifungu 1 – 3)

- Madhumuni kifungu cha 4
- Kuanzisha kwa Tume (Kifungu cha 5 – 16)
- Utaratibu wa Tume (Kifungu cha 17 – 20)
- Kutamkwa na kutangazwa kwa kura za maoni (Kifungu cha 21 – 25).
- Uhalalishaji wa Katiba (Kifungu 26 – 31).

Ni muhimu wananchi waelewe muswada unahusu marekebisho ya Katiba, na wala si Katiba mpya. Na kudhihirisha uharaka kwa marekebisho ni kwamba hata tarehe ya kuanza kutumika imependekezwa kuanza Juni 1, 2011. Tarehe tayari imetangazwa na inaelezwa kuwa maana ya Katiba ni pamoja na Katiba ya sasa akazidi kuwafafanulia maudhui ya rasimu ya muswada huo wa sheria ya marekebisho ya Katiba.

Masuala mengine yaliyoainishwa kwenye muswada ni kama yafuatayo:

- Tume itaundwa na Rais wa Jamuhuri kwa kushirikiana na Rais wa Zanzibar baada ya kushauriana na Mwanasheria Mkuu wa Serikali.
- Katika kuchagua wajumbe, Rais ataangalia uzoefu, umri, jinsia, uwakilishi na vikundi vya jamii.
- Watu ambao hawastahili kuingizwa kwenye Tume ni pamoja na viongozi wa vyama vya siasa, wakiwemo Wabunge, Madiwani na viongozi wa vyama vya siasa, watu waliohukumiwa, watu ambao si raia, wafanyakazi katika vyombo vya ulinzi na usalama.
- Kuhusu idadi ya wajumbe, Tume itakuwa na Mwenyekiti, Makamu na wajumbe wasiozidi 30 na hivyo jumla ni wajumbe 32.

- Kazi ya Tume ni kuratibu na kukusanya maoni kwa kuangalia utawala, mamlaka (*sovereignty*), mfumo wa siasa, utawala wa sheria, utawala bora na haki za binadamu.
- Hao watu 32 tu ndio watakaoandaa Katiba pendekezi (Draft Constitution).

Kifungu cha 9(2) kinaainisha maeneo 9 ambavyo hayapaswi kuguswa (yaani *maeneo matakatifu*) kama ifuatavyo:

- Muungano
- Kuwepo kwa Utawala, Bunge na Mahakama
- Urais
- Serikali ya Mapinduzi ya Zanzibar
- Umoja wa Kitaifa na amani
- Uchaguzi wa mara kwa mara, na haki za kupiga kura.
- Kulinda na kuhamasisha Haki za Binadamu .
- Serikali na dola kutojihusisha na masuala ya kidini.
- Uhuru wa Mahakama.

Mambo mengine ni yafuatayo:

- (a) Katibu wa Tume atateuliwa na Rais
- (b) Viwango na malipo ya posho yataamuliwa na Waziri anayehusika na masuala ya Katiba.
- (c) Kifungu cha 15 kinasema wajumbe hawawezi kushitakiwa.
- (d) Matumizi yatatokana na Mfuko Mkuu wa Serikali (Kifungu 14(1))
- (e) Masuala yote yatawasilishwa kwa Rais -Kifungu 16(1)
- (f) Rais atampa nakala Rais wa Zanzibar (Kifungu cha 16(2)).
- (g) Rais ndiye atakayeagiza na itangazwe, kuratibu na kukusanya maoni

- (h) Tume inaweza kuwatumia Makatibu Kata, Makatibu Tarafa na Masheha kwa upande wa Zanzibar.
- (i) Mikutano ya kukusanya maoni itahusisha raia tu.
- (j) Kifungu 18 kinaorodhesha nyaraka mbalimbali, hususan Tume ya Nyalali, Tume ya Jaji Kisanga kuhusu White Paper, na Tume ya Profesa Shivji kuhusu ardhi.
- (k) Shughuli za Tume haziwezi kuhojiwa na Mahakama yoyote.
- (l) Ukiizuia Tume isifanye kazi utatozwa faini Sh. Milioni 5 au kwenda jela miaka 12.
- (m) Rais kwa kushauriana na Rais wa Zanzibar au kwa ushauri wa Mwanasheria Mkuu wa Serikali anaweza kupitisha vifungu vya Katiba au kugeuza Bunge la sasa liwe Bunge la Katiba.
- (n) Vifungu vya Katiba vitahalalishwa kupitia kura ya maoni ya wananchi.
- (o) NEC kupitia Sheria yake kwa kushirikiana na Mwanasheria Mkuu wa Serikali itaandaa swali moja la Ndiyo au Hapana ili kuhalalisha Katiba.
- (p) Kura ya maoni itaendeshwa kwa siri
- (q) Tume pekee itafanya kampeni na mtu akifanya kampeni adhabu yake ni kifungu miaka miwili bila faini.
- (r) NEC itatangaza matokeo ya kura za maoni, na baada ya kutangazwa, Rais atavunja Tume.

Mada ya Profesa Peter ilifuatwa na ya Mhadhiri, Bashiru Ally ambaye alianza kwa kuungana na wale wote waliotamka hadharani kupinga rasimu ya muswada huo akisema muswada huo haufai kabisa, kwani una dosari zifuatazo:

- i. Unaathari mbaya sana za kisiasa
- ii. Muswada umechakachua dhana ya Katiba, Bunge la Katiba, Kura ya Maoni na Tume au Baraza la Katiba.



- iii. Rasimu ya muswada inadhihirisha kudumaza demokrasia toka kuanzisha kwa vyama vingi 1992.
- iv. Matumizi ya wataalamu waliobobea hayapo. Hii ni muhimu nchi inapoingia katika jambo lenye mivutano ya kisiasa na kimaslahi.
- v. Kauli zilizotolewa na wanazuoni watano muhimu kuhusu ujenzi wa demokrasia, zinapuuzwa.
- vi. Wanataaluma wanaojitoa kuwasemea wanyonge wanaopuuzwa, badala yake wanatumiwa wanaotetea maslahi ya wachache.
- vii. Muswada huu ni wa maslahi ya wachache tu.
- viii. Muswada huu umeweka toroli mbele ya farasi, kwani uanze na mchakato wa kisheria, kumbe ulitakiwa kuanza na mchakato wa kisiasa na kuishia na mchakato wa kisheria.
- ix. Ukipitishwa hautaheshimiwa na kukubaliwa na wananchi kwa sababu sio wao, maana hawakushirikishwa.

- x. Katika vifungu vyote kuna kasoro na kudhihirisha kuwa kuna watu wanachakachua mambo kwa maslahi yao ya muda mfupi.
- xi. Kuna harufu ya ushabiki wa kisiasa. Chama kilicho madarakani hakizingatii uongozi, bali ushabiki.
- xii. Haya ni matokeo ya utamaduni wa ukiritimba wa kisiasa uliojengeka wakati wa utawala wa chama kimoja na hata kuingia kwa vyama vingi 1992, hadi sasa.
- xiii. Hiki ni kielelezo cha madaraka ya Rais kupimana nguvu na nguvu za umma (madaraka ya umma). Kitu ambacho si kizuri.
- xiv. Kuweka mambo matakatifu ambayo hayajabarikiwa na umma.
- xv. Matumizi ya NEC ambayo inashindwa kuongoza vizuri chaguzi na kwa ufanisi.
- xvi. Madaraka ya wananchi kuhoji nguvu za Rais yameminywa.
- xvii. Hii ni kudhihirisha kuwa hatuna muafaka wa kitaifa, na huu ni wakati wake.
- xviii. Kuhusu vifungu takatifu, huwezi kuujenga utakatifu kabla ya muafaka.
- xix. Vifungu vyote havifai kwa sababu vinatanguliza mchakato wa kisheria kabla ya wakisiasa

SURA YA TATU

MAMBO YALIYOJITOKEZA WAKATI WA MAJADILIANO

Sehemu ya Kwanza

Haslim Bakari, CUF: Kuhusu kifungu cha 40, (Profesa Peter) anafikiria Tume ifanyeje?

Mwakajila Emmanuel, Mwananchi wa Kawaida: Kuna viongozi waliokataa Katiba mpya, (Waziri wa Masuala ya Katiba na Sheria, Celina Kombani na Mwanasheria Mkuu) hawa wanapaswa kujiuzulu.

Fatma Mohamed Malili, Kaimu Katibu Mkuu, TPP-Maendeleo: Hoja ni kwamba kwa nini Rais anateua NEC. Tume huru inatakiwa kuundwa.

John Khamis Makoli, Mwanafunzi wa IFM: Kwa kuwa mijadala ya Katiba mpya imefanyika katika sehemu tatu tu, Dar es Salaam, Dodoma na Zanzibar, ni dhahiri Watanzania wengi wamekosa fursa na haki yao. Muda unapaswa kuongezwa kusudi watu waliokosa fursa nao pia washiriki. Wabunge pia washiriki katika majimbo yao ili kuhamasisha wananchi.

Fredrick Bomani, Mwakilishi kutoka CSOs: Maslahi ya wengi yametupwa nje kwa sababu tuna Wabunge 324, 64 ni Wazanzibar. Watakaopitisha muswada ni theluthi mbili kutoka pande mbili za Muungano. Hao wanatakiwa kujadili Muungano. Je? nini hatma ya Muungano.

Hussein Kabwe, Mwanafunzi, Chuo Kikuu cha Dar es Salaam: Endapo mambo yatafanyika kwa haraka, kutakuwepo madhara makubwa. Tumwombe Rais aongeze muda ili kuzunguka katika mikoa yote. Tuchukue fursa hii tuendeleze mijadala.

Sofia Mwakaganda, Mwakilishi kutoka CSOs: Zanzibar inajitambua kama nchi kwa hiyo tunaomba ufafanuzi wa kisheria.

Paulo Chacha, Waziri DARUSO: Yeye kama Profesa wa sheria anaweza kutuambia wameshirikishwa katika kuandaa muswada huu. Wanafunzi vyuo vikuu hawajahusishwa. Kwa mfano wanafunzi wa UDOM walipigwa na polisi kwa sababu hii.

Emmanuel Ismail. Mwakilishi kutoka CSOs: Nataka kufahamu uhalali wa kisiasa, kwani wakati wa Uchaguzi Mkuu uliopita CCM haikuonyesha katika Ilani yake ya Uchaguzi nia ya kuwa na Katiba mpya. Katiba mpya ni hoja ya vyama vya upinzani.

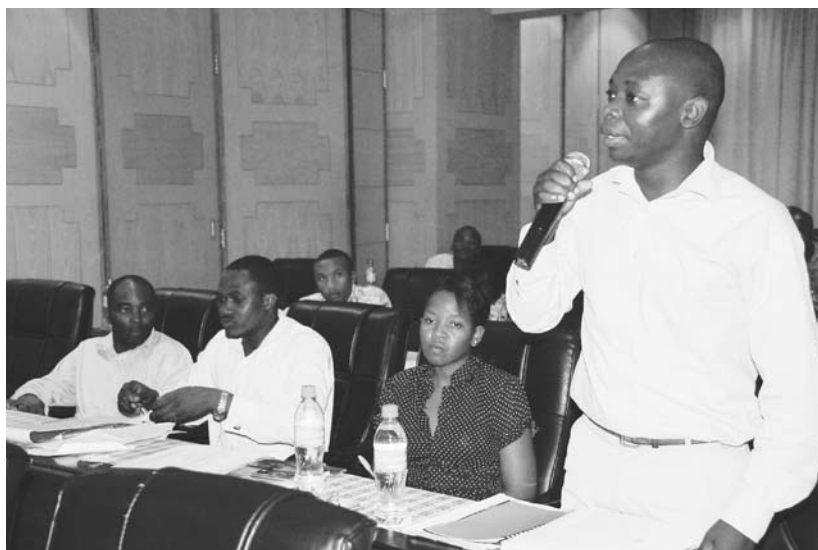
Rachel Julius, Mwanafunzi wa Chuo Kikuu cha Dar es Salaam: Utaratibu wa kukusanya maoni uwe wazi. Nani akusanye maoni, na yapelekwe wapi.



Dunstan Buberwa, Mwananchi wa Kawaida: Muswada huu umewekwa kwa kubana wananchi wasihoji chochote. Lengo ni kuziba watu midomo. Muswada huu haufai. Tunaomba Profesa ashauri muswada mbadala.

Victor Kimesera, Kiongozi kutoka CHADEMA: Muswada una mambo yanayopingana na Katiba ya Jamuhuri ya Muungano. Mambo ya muungano yanatakiwa yakubalike na pande mbili. Hakuna kipya hapa, kwani huwezi kufanya marekebisho ukapata kipya.

Cecilia Paresso, kutoka CSOs: Kutokana na Kifungu 18(2), katika kutekeleza majukumu yake, Kamati lazima ihakiki na kuchanganua maoni na taarifa za nyaraka kama zilivyobainishwa katika kifungu husika. Je, hakuna njia mbadala ya kupata taarifa hizi?



Majibu ya hoja na maoni ya Profesa Peter

Kinachowezekana, kwanza ni kupinga vifungu vinavyosema atakayepinga maeneo 9 yasiyogusika atashitakiwa. Kuhusu kujiuzulu akina Kombani na Mwanasheria Mkuu, tungekuwa na taratibu kama za zamani wakati wa Nyerere, wangejiuzulu kama alivyofanya Rais Mstaafu, Ali Hassan Mwinyi.

Ni kweli kwamba Tume ya Uchaguzi (NEC) uhalali wake unatia mashaka. Kwa mfano Zanzibar hawakutumia Tume ya Uchaguzi, badala yake kulikuwa na kura ya maoni (Referendum). Nakubaliana na wanaosema muda uongezwe. Katiba haiwezi ikapitishwa kwa hati ya dharura (certificate of urgency). Muda mwingi zaidi unatakiwa. Kuna baadhi ya vifungu vinatakiwa viondolewe, vifungu vingine havipo. Kwa mfano: Mahakama ya Katiba haijaundwa.

Kutokana na mabadiliko ya 10 ya Katiba ya Zanzibar, Zanzibar ina Katiba yenye nguvu sawa na ile ya Muungano. Kifungu kingine ambacho kimelela ni cha 98 kinachozungumzia robo tatu ya wabunge kutoka Bara na Visiwani kupitisha Katiba. Tungetegemea serikali, hasa Mwanasheria Mkuu wa Serikali kuishauri serikali kuchambua Katiba ya Jamuhuri kutokana na kasoro hizi. Serikali inapaswa kuelimisha jamii kuhusu Muungano, na je, Zanzibar ni nchi. Tume ya Nyalali na Jaji Kisanga walizungumzia umuhimu wa kuwa na serikali tatu. Hicho ndicho kinawezekana.

Kuhusu mfumo wa utoaji maoni, Serikali ya Mapinduzi Zanzibar katika barua yao ya Machi 14, 2011 walilalamika kuwa hawakuhusishwa. Ni kweli ibara 62 ya Katiba ya Jamuhuri haikuzingatiwa. Mwanasheria Mkuu wa Zanzibar na Waziri wa Sheria, Othman Masoud walilalamika kuwa hawakushirikishwa na maoni yao hayakuzingatiwa. Mimi nadhani kuna njia nyingine nzuri za kuandaa Katiba mpya. Tunaweza tukajifunza kwa uzoefu wa nchi nyingine duniani, kwa mfano uzoefu wa Uganda na Kenya.

Sehemu ya Pili ya Maoni

Selemani Rashid, Mwananchi wa Kawaida: Uzoefu wetu tuliojifunza ni kwamba mapendekezo ya tume zilizopita kama za Nyalali na Jaji Kisanga yalitupwa. Tusitegemee kipya.

Elihud Kakagama, Mwanafunzi, Chuo Kikuu cha Dar es Salaam: Muswada unaainisha vitu ambavyo havitakiwi kuhojiwa. Hivyo basi hakuna uhalali wa zoezi hili. Hii ni propaganda tu.



Deogratias Munishi, mwakilishi wa Tanzania Youth Vision Association: Kuna woga wa serikali dhidi ya maoni ya wananchi. Iache woga. Nashauri iondoe hati ya dharura. Bunge litunge sheria kuwepo kwa Baraza la Katiba.

Chacha Bikiharibu, Mwakilishi kutoka CSOs: Wito ni vipi vyombo vya habari (mfano TBC) kuendeleza mjadala ili kodi yetu itumike kihalali? Vijana tujipange mstari wa mbele kupinga mambo yasiyobadilika.

Sam Luhuza, Mwakilishi wa NCCR-Mageuzi: Katiba ya Jamhuri ina utata, kwani kuna mamlaka yameingiliwa na Katiba ya Zanzibar, hasa Mahakama Kuu na Mahakama ya Katiba. Huwezi kukwepa kuzungumzia Katiba ya Tanganyika kutokana na hali hii. Rais asiwemo kwenye mchakato huu kwa kuwa yeye ni mtoto wa Katiba. Serikali ya Mapinduzi haipo ingawa inatamkwa baada ya kuundwa kwa Serikali ya Umoja wa Kitaifa Zanzibar. Bunge lirekebishe kifungu namba 98 ili tuwe na Baraza la Kitaifa la kutunga Katiba.

Mwakilishi wa wanafunzi Vyuho Vikuu: Rais apunguziwe mamlaka, na Tume ijitegemee. Pia pawepo uwezo wa kushitakiwa.

Elias Mhegera, Mwandishi wa Habari: Mchakato mzima umetekwa na Rais. Mamlaka ya Rais kuhusu hili, yasiwepo.

M. Jeremiah, Mwanafunzi wa Chuo Kikuu cha Dar es Salaam: Sikubaliani na NEC kuhusishwa kwa sababu NEC ni chanzo cha madai ya Katiba mpya. Iundwe Tume huru. Wanasiasa na viongozi wa taasisi mbalimbali lazima washiriki.

Anthony Komu, kutoka CHADEMA: Tusianzishe vita ya wenyewe kwa wenyewe. Bali tutafute njia ya kuhudumia wananchi na kutatua matatizo yao.

Kisheni Mchele, Mwananchi wa Kawaida: Utaratibu wa mchakato mzima uandaliwe na Wizara husika, kisha upelekwe Bungeni kupata idhini. Muda wa kutoa maoni uongezwe na kanuni za Bunge zibadilishwe ili watu wengi zaidi washiriki.

Justa Mwaituka, kutoka KIHOWEDE: Bunge linaweza kutoa tamko au maamuzi yanayopingana na matakwa ya wananchi. Kuwe na tamko la wananchi kupinga muswada huu. Makundi mbalimbali ya jamii yaandike Hadidu za Rejea.

Dk. Wilbroad Slaa, Katibu Mkuu, CHADEMA: Serikali ijue kuwa huu muswada haufai. Uandaliwe upya. Ibara ya 98 iondolewe. Baada ya kuondolewa tunahitaji chombo mbadala. Lakini Bunge lije na chombo hicho. Napingana na Tanganyika Law Society, wanaosema Kamati ya Bunge iendelee. Kutokana na mkanganyiko. Je kweli tuna muungano?

Jacob Mwenda, Mwakilishi, Open University of Tanzania: Rais ni kada wa CCM. Je, atajitenga vipi na CCM? Atazuia vipi maslahi ya Chama chake?

William Kahale, kutoka TCIB (NGO): Tupeleke maoni yetu kuwa muswada huu umekataliwa. Hivyo serikali ije na muswada mwingine. Mkutano wa kitaifa (National Convention) ndicho chombo bora. Vitisho vya makosa ya jinai katika mchakato ni kinyume na Haki za Binadamu.

Martin Lissu, Mwanafunzi wa Chuo Kikuu cha Dar es Salaam: Je, kwa nini tuwe na Muungano. Wabara wakienda Zanzibar hawawezi kupata ardhi kwa urahisi, lakini wa huko wakija bara wanapata kwa urahisi.



Majibu ya hoja na maoni ya Profesa Peter

Unapotaka Katiba mpya ni sharti uanze na sifuri. Kuna suala zima la wananchi kumiliki Katiba yao. Vyombo vya habari ni muhimu vihusishwe kwani vimeleta mabadiliko mengi na makubwa. Vipewe nafasi kubwa. Katiba ya Zanzibar na Muungano zote zinalingana. Huu msimamo ulienda vizuri wakati wa chama kimoja na sio sasa.

SMZ haipo. Bunge lilitakiwa kufanya mabadiliko ya Katiba katika kikao chake cha kwanza baada ya Uchaguzi Mkuu. Katiba ya Zanzibar haitambui Mahakama ya Muungano ambalo ni jambo la Muungano. Zanzibar wana Sheria ya Referandum (Kura ya Maoni) wakati Katiba ya Muungano haina. Kuna utata kuhusu mambo ya muungano. Wenyewe Zanzibar wanatambua mambo 11 tu. Huu ni wakati mzuri wa kuweka vizuri masuala haya ya Muungano. Rais wetu angestaafu kwa heshima kubwa na kumbukumbu (Legacy) kama atafanikisha Utawala wa Katiba (Constitutional Order.)

Uzoefu unaonyesha hata tukikataa kwa asilimia 99, muswada huu utapita. Lakini kwa lengo la maelewano muswada usipitishwe kwa nguvu. Hata dhana ya Katiba mpya haieleweki. Suala la Katiba mpya liwe nje ya kanuni za Bunge. Waziri mwenye dhamana ya Katiba awe na checks and balance (asifanye maamuzi ya kikiritimba katika mchakato wa kuelekea kwenye Katiba mpya).

Chombo kingine cha kupata maoni ya umma kianzishwe. Muswada huu hautusaidii kwa sababu hautoi ratiba ya mchakato. Zanzibar haijahusishwa kabisa katika mchakato. Tufikiria mkakati wa kumbana Rais asiwe na nguvu peke yake ya kufanya maamuzi. Nchi nyingi duniani huandaa Mikutano ya Kitaifa kujadili mambo mazito. Uganda walifanya utaratibu wa kupitia makundi mbalimbali ya jamii na waliweza kujenga umiliki wa Katiba yao.

Malipo ya wajumbe ni vizuri yatokane na Mfuko Mkuu wa Serikali. Kenya walihusisha makundi ya ndani ya nchi na wataalam kutoka nchini humo katika mchakato wa kuandika Katiba. Hata kama mchakato utatumia muda mwingi, ni vizuri ili utoe na matokeo mazuri.

Majumuisho ya Profesa Peter

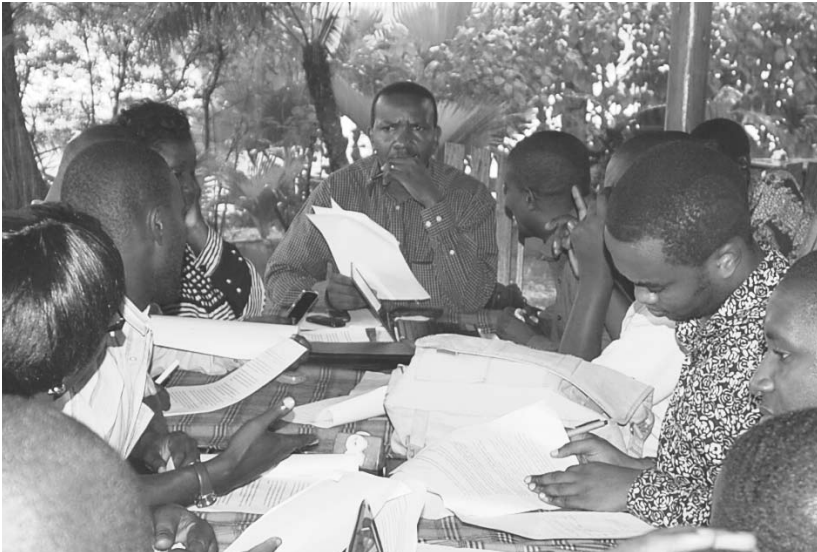
Kuna haja ya kuimarisha Muungano kwa kuondoa dosari zilizopo, na huu ndio wakati muufaka wa kuamua na mustakabali juu ya Muungano wetu. Watu walioandaa muswada huu hawakuwa na lengo la kuwa na Katiba mpya. Tujaribu kwa nguvu zetu zote kupinga bila kufanya fujo ili Katiba mpya iwepo. Isitoshe, mchakato huu hauzungumzii Katiba ya Zanzibar.

SURA YA NNE

MAAZIMIO YALIYOPITISHWA

Baada ya majadiliano ya kutwa nzima, washiriki walikubaliana kwa kauli moja kupitisha maazimio yafuatayo kuhusu rasimu ya Muswada wa Sheria ya Mabadiliko ya Katiba wa Mwaka 2011 kama yanavyopendekezwa na Serikali:

1. Muswada wa Sheria ya Mabadiliko ya Katiba wa Mwaka 2011 una dosari lukuki, kuanzia tafsiri ya dhana ya Katiba inayokusudiwa, na katika vifungu vyote, kuanzia jina la muswada wenyewe.



2. Kwa kuwa Katiba ni sheria mama, maandalizi na uundwaji wake unapaswa kuwa shirikishi kwa kuwahusisha wananchi wote katika maeneo yote ya nchi.

3. Muda uliotengwa kwa ajili ya mchakato wa Katiba ya kudumu ni mfupi mno. Ikizingatiwa kuwa nchi haiko vitani, inapendekezwa mchakato mzima upewe muda wa kutosha ili tuweze kupata Katiba iliyo kamilifu, na iliyoandaliwa kwa ushiriki wa Watanzania wote.
4. Lugha iliyotumika katika rasimu hii, yaani Kiingereza, inawatenga zaidi ya asilimia 70 ya Watanzania wasio na ufahamu wa lugha hii. Ilihali wanayo haki ya kikatiba ya kushiriki katika mchakato. Inapendekezwa rasmu ya sheria ya muswada huo kuandikwa katika lugha ya taifa, Kiswahili.
5. Maeneo yanayotajwa kama matakatifu katika kifungu 9(2) na ambayo hayapaswi kuguswa katika mchakato, **ndiyo Katiba yenyewe**. Hivyo utakatifu huo uondelewe ili maeneo hayo yajadiliwe kwa kinaga ubaga ili kupata muafaka wa kitaifa kwa ujumla wake.



6. Maeneo ya kupata maoni kutoka kwa wananchi kama yalivyoainishwa katika Kanuni za Bunge, yaani Dar es Salaam, Dodoma na Zanzibar, hayakidhi uwakilishi wa maoni kutoka

maeneo mengine yanayoathiriwa na Kanuni za Bunge. Kwa kuwa muswada huu unahusu Katiba, inapendekezwa uwanja wa kupata maoni ya wananchi upanuliwa kwa makusudi, ili Wananchi wote nchini mwetu washiriki.

7. Madaraka aliyopewa Rais katika mchakato huu ni makubwa mno kiasi kwamba siyo tu yanaweza kutumiwa vibaya, lakini pia ni kikwazo katika kufanikisha mchakato mzima. Inapendekezwa kwamba nafasi ya Rais iondolewa na kukabidhiwa kwa Umma kupitia chombo shirikishi kitakachopendekezwa na wananchi wenyewe.
8. Washiriki wamegundua kuwa muswada unaopendekezwa umeffisha dhana zote za mchakato wa Katiba, Kura ya Maoni, na hata taratibu na kanuni nyingine zinazoongoza uundwaji wa Katiba. Kwa sababu hiyo, inapendekezwa kwamba mchakato huu ubuniwe upya kwa utaratibu mpya.
9. Ukisoma na kuzingatia kasoro zote zilizojitokeza katika mchakato wa muswada huu, ni wazi unakiuka misingi yote ya uandikaji wa Katiba iliyozoeleka duniani. Hivyo, inapendekezwa kuachana na utaratibu huu, badala yake tutumie uzoefu wa uandikaji wa Katiba wa nchi nyingine.
10. Kwa kutambua kuwa mchakato wa kuandaa Katiba ya wananchi huanza na mchakato wa Kisiasa na kumalizika na mchakato wa Kisheria, ni vema Tanzania nayo ikarejea kwenye utaratibu huo.
11. Yaelekea mchakato wa rasimu hii umeegemea zaidi kwnye maslahi ya kichama badala ya wananchi na mstakabali wa taifa, ni vema basi maslahi ya wananchi na nchi kwa jumla yakapewa kipaumbele.

12. Katiba nzima iliyopo sasa ina dosari nyingi na hata kukinzana na Katiba ya Zanzibar kiasi kwamba Jamhuri ya Tanzania inaonekana kukosa utawala wa Katiba (*constitutional order*). Kwa sababu hiyo, inapendekezwa kuwa mkazo uelekezwe kwenye mchakato wa kuandika Katiba mpya, badala ya kubadili vifungu vya Katiba iliyopo.
13. Washiriki kwa kauli moja wanakubaliana kwamba kwa jinsi rasimu ya muswada huu ilivyoandaliwa haitaipatia Tanzania Katiba mpya. Badala yake dhana nzima imeelekezwa katika kukarabati Katiba iliyopo. Kwa mantiki hii, inapendekezwa kwamba mchakato wote ujielekeze katika kupata Katiba mpya kwa kuyahusisha makundi yote ya jamii. Tuanze na mchakato wa kuunda Baraza la Katiba.



14. Muswada huu kama ulivyo umekataliwa kwa kauli moja kuwa haukidhi nia ya kupata Katiba mpya. Inapendekezwa kubuni utaratibu mpya wa kuandaa Katiba mpya kwa kufuata mchakato shirikishi.

15. Washiriki wameunda Kamati ya Ufuatiliaji ya maazimio ambayo wajumbe wake ni pamoja na wawakilishi wa asasi zisizo za kiserikali, wawakilishi wa vyama vya siasa, wawakilishi wa vyombo vya habari, wawakilishi wa vyuo vikuu na wananchi wa kawaida

Baada ya mjadala wa kina, wadau walikubaliana kuunda kikosi-kazi (*Taskforce*) ya watu 15 kwa ajili kupitia na kuratibu maazimio ya wadau na kuyawasilisha kwenye kamati ya kudumu ya Bunge ya Katiba, Sheria na Utawala.

VIAMBATISHO:

1.0 HOTUBA YA UFUNGUZI - MKURUGENZI WA TADIP

HOTUBA YA KAIMU MKURUGENZI MTENDAJI WA TADIP, STEVEN A. MMBOGO KATIKA UFUNGUZI WA MJADALA KUHUSU MUSWADA WA SHERIA YA MABADILIKO YA KATIBA, WA MWAKA 2011, TAREHE 12. 04. 2011

Kaka yangu Prof Chris Maina Peter,
Ndugu yangu Stefan Reith kutoka KAS,
Viongozi wenzangu kutoka TADIP,
Ndugu zangu kutoka vyombo vya habari,
Itifaki imezingatiwa.
Wageni waalikwa, Mabibi na Mabwana,

Kwa niaba ya TADIP na washirika wenzetu Konrad Adenauer Stiftung [KAS] nawashukuru kwa kuitikia mwaliko wetu ambao kimsingi umelenga kutoa fursa yenye manufaa kwenu na kwa taifa letu. TADIP ni asasi isiyo ya kiserikali ambayo pamoja na kazi nyingine za kiraia, imekuwa ikiandaa midahalo mbalimbali yenye lengo la kuchochea uelewa wa wadau na kuwapa nafasi ya kutoa maoni na misimamo yao, kuhusu masuala nyeti ya kitaifa. Tumekuwa tukifanya hivyo tukishirikiana kwa karibu na Shirika la Kijerumani lijulikanalo kama Konrad Adenauer Stiftung [KAS]. Huu ni mjadala wetu wa NANE!

Januari mwaka 2010 katika ukumbi huu; tulikuwa na mjadala juu ya muswada wa sheria ya gharama za uchaguzi wa mwaka 2009. Wengi mtakumbuka kwamba mnamo tarehe 11 Desemba 2009; Gazeti la Serikali lilitangaza muswada wa

sheria za gharama za uchaguzi wa mwaka 2009; na muswada wa mabadiliko ya sheria za uchaguzi wa mwaka 2009.

Wananchi walikaribishwa kutoa maoni yao kabla ya muswada kupelekwa Bungeni. KAS na TADIP walichukua fursa hiyo kuwa na mjadala katika ukumbi huu. Mahudhurio yalikuwa mazuri sana; na michango ilikuwa ya hali ya juu. Mwisho wa mjadala wana-mjadala waliamua kuunda kikundi maalum; yaani taskforce – ili kiainishe mapendekezo yaliyofikiwa na kuafikiwa na mjadala; halafu kiyapeleke kwenye Kamati husika ya Bunge.

Nafurahi kuwaarifu kwamba hayo yalifanyika; na karibu mapendekezo yote tuliyowasilisha, yaliingizwa kwenye sheria husika. Nimearifiwa kwamba chapisho tulilolitoa kufuatia mjadala huo amepewe kila mmoja wetu aliyefika kwa wakati.

Kwa kifupi; midahalo ikiandaliwa vizuri na washiriki wakachangia ipasavyo; inakuwa na tija!

Karibuni katika mdahalo huu wa leo unaohusu Muswada wa Sheria ya Mapitio ya Mabadiliko ya Katiba wa mwaka 2011.

Kikubwa ni kuafikiana mkakati wa pamoja wa kushinikiza Bunge kuheshimu matakwa ya wananchi kabla ya kujadili muswada huu. Tunaahidi kuwa maoni na msimamo wa pamoja utakaotokana na mjadala huu, vitawasilishwa bungeni kabla ya mjadala huo kuanza rasmi Bungeni Aprili 18 mwaka huu.

Kama tulivyobainisha katika mwaliko wetu, mjadala huu utajikita katika kujibu swali moja tu: *Je? Mchakato unaopendekezwa na muswada huu utaweza kuzaa Katiba mpya ya Wananchi?*

Mada hii itawasilishwa na Profesa Chris Peter Maina muda mfupi ujao ili kuchochea mjadala wa kina kwetu sote.

Izingatiwe kuwa muswada utakaochambuliwa katika mada hiyo ulichapwa kwenye Gazeti la Serikali toleo Namba 1 Vol. 92 la tarehe 11 Machi 2011. Vikao rasmi vya kukusanya maoni ya wananchi “public hearing”, vimefanywa katika vituo vitatu vya Dar es Salaam, Zanzibar na Dodoma. Muswada huo unatarajiwa kuwasilishwa na kujadiliwa bungeni Aprili 18 mwaka huu kwa hati ya dharura.

Ni dhahiri kuwa fursa hiyo iliyotolewa kwa wananchi kutoa maoni yao ni ndogo na finyu mno hasa tukitilia maanani unyeti wa suala la madai ya Katiba kwa nchi yetu bila kusahau kikwazo cha lugha ya Kiingereza iliyotumika katika muswada huo kwa Watanzania walio wengi.

Wakati Profesa Maina akijiandaa kwa mada yake hiyo, nitumie fursa hii kugusia kwa uchache baadhi ya maudhui ya muswada huo ambayo tayari wadau mbalimbali tukiwemo TADIP, yametutia wasiwasi na pengine kutuhakikishia jinsi ilivyo vigumu kupata Katiba mpya inayotokana na wananchi kupitia muswada huu.

1. Muswada umempa Rais mamlaka ya kuunda tume ya kuongoza mchakato mzima wa Katiba bila kuhusisha Bunge au wadau wengine wa msingi. Nafasi ya Bunge inayoonekana ni ile ya kupitisha sheria inayompa Rais Mamlaka hayo makubwa.
2. Muswada umempa Rais mamlaka ya kuteua wajumbe wa tume husika bila kushauriana na mtu yoyote isipokuwa Rais wa Zanzibar [kama akitaka]. Muswada huo unaelekeza kuwa katika kuteua wajumbe, Rais atazingatia uwakilishi wa makundi ya kijamii, lakini

makundi husika hayatajwi hata kwa ujumla wake, na hivyo kuacha mamlaka yote ya kuamua uwakilishi kubaki kwake yeye mwenyewe.

3. Muswada umempa Rais mamlaka ya kutengeneza hadidu za rejea za Tume, na kwa mamlaka hayo Rais ndiye atakayeamua tume hiyo ifanye nini na kwa maslahi ya nani. Kwa kutoa mamlaka ya kuunda hadidu za rejea kwa Rais, mwanya umetolewa kwa mtu mmoja kuweka mipaka ya nini kinastahili kufanywa na Tume wakati wa mchakato wa Katiba.
4. Muswada huo unataka Tume iwasilishe ripoti yake kwa Rais ambaye atampa nakala Rais wa Zanzibar, baadae kumwelekeza waziri mwenye dhamana kupeleka yale atakayoamua Rais ndiyo yaende bungeni.
5. Muswada umetoa mamlaka kwa Rais kuitisha Bunge la Katiba [Constituent Assembly] ikiwemo kuteua wajumbe wa Bunge husika, na ieleweke kuwa katika kuunda Bunge hilo la Katiba, Rais pia amepewa uhuru wa kuligeuza Bunge la sasa kuwa Bunge la kupitisha Katiba, kama akitaka.
6. Aidha, muswada huo umezungumzia kuwa kutaitishwa kura ya maoni itakayoendeshwa na Tume ya Taifa ya Uchaguzi [NEC], hii ni Tume tunayojua na tuliyoizoea. Nayo viongozi wake wakuu wameteuliwa na Rais. Tume ambayo imekuwa ikilalamikiwa kuwa haiko huru, ndiyo itakayofanya kazi ya kuitisha kura ya maoni ikiwa ni pamoja na kuipigia kampeni rasimu ya Katiba itakayokuwa imepitishwa na Bunge maalum litakaloundwa na Rais [Bunge la Rais].

Je kwa mapungufu haya Katiba tunayoitaka itakuwa mpya kweli? Je Katiba hiyo itakuwa imetokana na wananchi na itakidhi maslahi ya makundi mbalimbali? Kwa nini muswada umemfanya Rais kuwa ndiye Alpha na Omega katika kuamua mwenendo wa mchakato na aina ya Katiba itakayopatikana? Haya na maudhui ya kina yatakayobainishwa katika mada ya Profesa Maina, yatusaidie kujadiliana kwa uhuru, hatimaye kutoka na msimamo wa pamoja utakaolisaidia taifa letu kupata Katiba mpya, ya haraka na inayokidhi maslahi na matakwa ya wananchi wote.

Katiba ndiyo muongozo mama wa jinsi gani nchi yetu ijiongoze. Ni maoni yangu kuwa Wabunge wamepewa mamlaka ya kutuwakilisha na kutuongoza kwa mujibu wa Katiba iliyopo, na si kugeuzwa kuwa Wabunge maalum wa kupitisha Katiba nyingine bila wananchi kushirikishwa moja kwa moja. Wananchi ndiyo msingi wa mamlaka yote, inapotokea nchi inataka kufanya mageuzi makubwa ya kikatiba, ni lazima mageuzi hayo yaanzie moja kwa moja kwa wenye nchi yao kama msingi wa mamlaka yote inayoanzishwa.

Kwa mtazamo wa jumla, muswada huo haulitakii mema taifa, kwani umefinya nguvu na mamlaka ya watu wake katika kuamua upya ni jinsi gani wajitawale. Kwa pamoja tujadiliane kwa uhuru na kupata maoni na msimamo wa pamoja wa jinsi gani tunaweza kulinusuru taifa dhidi ya Katiba mbovu. TADIP itaheshimu maoni yenu nyote.

Ahsanteni kwa kunisikiliza.

2.0 MAONI YA WADAU YALIYORATIBIWA NA KAMATI MAALUMU (TASK FORCES) NA KUWASILISHWA KWENYE TUME YA KUDUMU YA BUNGE YA KATIBA, SHERIA NA UTAWALA.

UTANGULIZI

Sisi Wawakilishi wa Asasi za Kiraia, Vyama vya siasa, Vyuo vikuu, Vyombo vya habari na Wananchi wa kawaida, tuliokutana Aprili 12, 2011, katika **Ukumbi wa Dar es Salaam International Conference Centre (DICC)**, jijini Dar es Salaam katika mjadala wa Muswada wa Sheria ya Mapitio ya Katiba wa mwaka 2011, ulioandaliwa na shirika lisilo la kiserikali la Tanzania Development Initiative Programme (**TADIP**) kwa kushirikiana na shirika la Kijerumani la Konrad Adenauer Stiftung (**KAS**);

Baada ya kuujadili kama ulivyochapwa kwenye gazeti la serikali toleo Na. 1 Juzuu. 92 la tarehe 11 Machi 2011, tunatoa maoni kwamba tumeukataa muswada husika na badala yake tunataka uondolewe bungeni ili kutoa fursa zaidi kwa serikali kuzingatia maoni ya wananchi na kuandika muswada mbadala usiokuwa na mapungufu, kama tunavyobainisha na kupendekeza hapa chini;

MAPUNGUFU NA MAPENDEKEZO.

1. PUNGUFU: JINA LA MUSWADA NA DHANA YA KATIBA ILIYOELEZWA.

Jina la Muswada, “Muswada wa Sheria ya Mapitio ya Mabadiliko ya Katiba (Constitution Review Act, 2011)”, na dhana ya Katiba iliyoelezwa katika kifungu

cha 3 kinachotoa tafsiri ya neno Katiba, havikidhi matakwa na matarajio ya wananchi kwa sababu vinamaanisha kurekebisha vifungu vya Katiba ya sasa ya Jamhuri ya Muungano wa Tanzania ya mwaka 1977, wakati tunachotaka ni mchakato utakaowezesha Katiba kuandikwa upya.

PENDEKEZO: Jina, dhana na vifungu vya muswada mbadala vihakikishe vinapendekeza mchakato utakaowezesha Katiba mpya kupatikana.

2. PUNGUFU: USHIRIKI MDOGO WA WANANCHI

Vyombo vya uandaaji Katiba vilivyoainishwa katika kifungu cha 3 cha tafsiri kuwa ni Rais, Bunge la Katiba au Bunge, vimetoa fursa ndogo kwa wananchi kuamua aina na maudhui ya Katiba wanayoitaka.

PENDEKEZO: Kwa kuwa Katiba ni sheria mama, mchakato wa utungaji wake uwashirikishe wananchi na kuwapa fursa ya kutosha ya kuamua Katiba wanayoitaka.

3. PUNGUFU: HATI YA DHARULA ILIYOWEKWA

Hati ya dharula iliyowekwa kwa Bunge kuujadili muswada husika haraka, imetoa muda mfupi mno, ikizingatiwa kuwa muswada huu ni nyeti na unaohitaji muda wa kutosha kujadiliwa na Watanzania wengi.

PENDEKEZO: Mchakato mzima upewe muda wa kutosha ili nchi iweze kupata Katiba iliyo kamilifu, na iliyoandaliwa kwa ushiriki wa wananchi wote.

4. PUNGUFU: MUSWADA HAUJABAINISHA LINI KATIBA MPYA ITARAJIWE KUANZA KUTUMIKA.

Muswada huu haujaweka wazi muda wa kila hatua ya utengenezaji wa Katiba wala, tarehe ambayo Katiba mpya itakua tayari na kuidhinishwa kuanza kutumika rasmi. Hii inaleta mkanganyiko na inatoa mwanya wa mtu yeyote kuweza kuvuruga na kuchelewesha au kuharakisha mchakato wa kuandika Katiba mpya pasipo sababu za msingi.

PENDEKEZO: Muswada mbadala ueleze bayana muda utakaotumika kwa kila hatua ya mchakato na muda ambao Katiba mpya itakuwa tayari na kuanza kutumika.

5. PUNGUFU: LUGHA ILIYOTUMIKA.

Lugha iliyotumika katika muswada huu, yaani Kiingereza, imewatenga zaidi ya asilimia 70 ya Watanzania wasio na ufahamu wa lugha ya hii ya kigeni, wakati wanayo haki ya kikatiba ya kushiriki katika mchakato kwa kutoa maoni na kuelewa suala linalojadiliwa kwa mujibu wa ibara ya 18 ya Katiba iliyopo.

PENDEKEZO: Muswada mbadala uandikwe kwa lugha ya Kiswahili kisicho na utata.

6. PUNGUFU: MAENEO YALIYOAINISHWA KUTOGUSWA NA KUJADILIWA (MAENEO MATAKATIFU)

Maeneo yanayotajwa kama matakatifu katika kifungu cha 9(2) na ambayo hayapaswi kuguswa na kujadiliwa katika mchakato, yanaondoa uhuru na mamlaka ya wananchi katika kujadili na kupata Katiba wanayoitaka.

PENDEKEZO: Muswada mbadala uondoe utakatifu huo ili maeneo hayo yajadiliwe kwa uhuru wote.

7. **PUNGUFU:** Kanuni ya Bunge inayotoa nafasi kwa kamati ya kudumu ya Bunge ya Katiba, Sheria na Utawala, kukusanya maoni ya wananchi katika vituo vitatu pekee, yaani Dar es Salaam, Dodoma na Zanzibar, inawanyima haki wananchi wa maeneo mengine kutoa maoni yao kuhusu Katiba.

PENDEKEZO: Kwa kuwa mchakato wa kupata Katiba mpya ni suala nyeti na linawahusu wananchi wote, kanuni hiyo isitumike tena katika kukusanya maoni yahasuyo mchakato wa Katiba.

8. **PUNGUFU: MADARAKA ALIYOPEWA RAIS KATIKA MCHAKATO HUU.**

Madaraka aliyopewa Rais kama ilivyobainishwa kwenye muswada, kwa mfano: Rais kuteuwa wajumbe wa Tume ya Katiba, Kutoa hadidu za rejea, Kuteuwa Katibu wa Tume, Kupokea na kutathmini Ripoti ya Mapitio ya Katiba, Kuteua wajumbe wa Bunge la Katiba au kuligeuza Bunge lililopo kuwa Bunge maalumu la Katiba, mamlaka hayo ni makubwa mno na yamepoka haki ya wananchi kuwa waamuzi katika mchakato wa kuipata Katiba wanayoitaka, hasa yakitumiwa vibaya.

PENDEKEZO: Madaraka ya Rais katika mchakato huu yaondolewe na kukabidhiwa kwa umma kupitia chombo shirikishi kitakachopendekezwa na wananchi wenyewe.

9. **PUNGUFU: KURAYAMAAMUZI KUENDESHWA NA TUME YA UCHAGUZI (NEC).**

Muswada katika kifungu 26 umependekeza kura ya

maoni iendeshwe na Tume ya Taifa ya Uchaguzi ya sasa. Tume hii siyo huru kwa sababu mwenyekiti, mkurugenzi na makamishina wake huteuliwa na Rais na huwajibika kwake. Rais anaweza kuathiri utashi na utendaji wa Tume hii kwa maslahi ya chama chake. Ikumbukwe kuwa kasoro kubwa za Tume hii ya Taifa ni moja ya sababu zinazowasukuma wananchi kutaka Katiba mpya.

PENDEKEZO: Muswada mbadala utoe fursa kwa wananchi kuunda tume huru ya mpito ya kuendesha kura ya maoni ya katiba.

10. **PUNGUFU:** Muswada unatambuliza mchakato wa kisheria kabla ya mchakato wa kisiasa. Mijadala ya awali ya wananchi kuhusu Katiba haijapewa kipaumbele kabla ya maamuzi makubwa ya kisheria. Hii itasababisha Katiba itakayopatikana kukosa uhalali na muafaka wa kitaifa.

PENDEKEZO: Muswada mbadala utambulize kwanza mijadala ya awali ya kitaifa kujenga maridhiano na muafaka wa kitaifa kisha mchakato wa kisheria ufuatie.

11. **PUNGUFU: VITISHO NA ADHABU**

Muswada katika kifungu cha 28(2) unatamka kuwa ni Tume pekee itakayoruhusiwa kuendesha kampeni ya kura ya maoni na siyo chama chochote cha siasa au chombo chochote chenye uhusiano na chama chochote cha siasa.

Pia unatoa adhabu ya kifungu cha miaka miwili bila faini kwa watakaokiuka kifungu cha 28 (2).

Aidha, kifungu cha 20 (1), (2) na (3) kinasema kuwa ni kosa la jinai kwa mtu yeyote kuihoji au kuishitaki Tume ya Katiba. Adhabu ya mtu atakayekiuka kifungu hicho itakuwa faini ya Shilingi milioni tano au kifungo cha miezi kumi na miwili gerezani.

PENDEKEZO: Vifungu hivyo viondolewe kwani vinakiuka misingi ya utawala wa sheria na haki za binadamu na uhuru wa kujieleza uliobainishwa katika ibara ya 18 ya Katiba ya Jamhuri ya Muungano wa Tanzania ya mwaka 1977.

HITIMISHO

Ni maoni yetu kuwa kutokana na mapungufu tuliyoyabainisha hapo juu, muswada wa sheria ya mapitio ya Katiba wa mwaka 2011, haufai kabisa na wala haurekebishiki; Na ni dhahiri kuwa mapungufu makubwa yaliyomo kwenye muswada husika yametokana na kuwekwa mbele zaidi kwa maslahi ya watawala walioko madarakani hivi sasa, kuliko maslahi ya kudumu ya kitaifa.

Tunalishauri Bunge kupitia Kamati yake ya Kudumu ya Katiba, Sheria na Utawala, iiagize serikali kuandaa muswada mpya utakaopendekeza mchakato wa Katiba wenye kuzingatia matakwa ya wananchi ya kupata Katiba mpya.

3.0 MUSWADA WA MAPITIO YA KATIBA 2011

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SPECIAL BILL SUPPLEMENT

No. 1

11th March, 2011

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THE CONSTITUTIONAL REVIEW ACT, 2011

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NOTICE

This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dar es Salaam,
11th March, 2011

PHILLEMONT L. LUHANJO,
Secretary to the Cabinet

A BILL

for

An Act to provide for the co-ordination and collection of public opinions on the Constitution; to establish an institutional framework for the co-ordination and collection of public opinions; to provide for national *fora* for constitutional review for validation of legislative proposals for a constitution; to provide for preparation and submission of the report on the public opinions to the relevant constitutional organs, the procedure to constitute the Constituent Assembly, the conduct of referendum and to provide for related matters.

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

- | | |
|---|------------------------------|
| 1.-(1) This Act may be cited as the Constitutional Review Act, 2011. | Short title and commencement |
| (2) This Act shall come into operation on the First day of June, 2011. | |
| 2. This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar. | Application |

Interpre-
tation

3. In this Act, unless the context otherwise requires:

"Attorney General" means the Attorney General referred to in Article 59 of the Constitution;

"Commission" means the Commission established or formed for purposes of coordination and collection of public opinions on constitutional review process;

"constitution" means the fundamental law, written or unwritten, that establishes the character of a state by defining the basic principles to which a society shall conform, distribution of powers and functions among pillars of the state, by describing the organization of the executive, legislature, judiciary and their regulation, distribution, and the limitation of different state organs, and by prescribing the extent and manner of the exercise of its sovereign powers, and, for the purposes of this Act it includes amendments to an existing constitution;

"constitutional organs" means, for the purposes of this Act, the President, the Constituent Assembly or the National Assembly;

"Minister" means the Minister responsible for constitutional affairs;

"public opinions" means ideas, views, information, opinions, proposals or recommendations collected from the general public for purposes of constitutional review process;

"Secretary" means the Secretary referred to under section 13(1);

Cap. 2

"the Constitution" means the Constitution of the United Republic of Tanzania, 1977.

PART II
OBJECTIVES

Objectives

4. The objectives of this Act are to:

- (a) provide for establishment of the Commission for purposes of collection and coordination of public opinions;
- (b) prescribe the oath and provide for the manner under which members of the Commission and the Secretariat shall take oath;
- (c) make provision for Terms of Reference of the Commission;
- (d) provide for establishment of the Secretariat of the Commission to be headed by the Secretary;
- (e) provide for a mechanism by which the public shall widely participate in expressing and transmitting public opinions on matters relating to the constitution;

- (f) provide for a mechanism by which the Commission shall prepare and submit a report to the relevant constitutional organs for determination;
- (g) provide for the functions and powers of the Commission;
- (h) provide for the manner in which the Commission shall collect information from public and private institutions, civil societies and religious organizations;
- (i) provide for a mechanism for procuring technical information by the Commission from consultants;
- (j) generally, provide for a mechanism for consensus building in national issues during constitutional review process;
- (k) provide for a mechanism for scrutiny of a Draft Constitution Bill; and
- (l) put in place a legal mechanism for the President to constitute a Constituent Assembly.

PART III

ESTABLISHMENT OF A COMMISSION

5. The President may, upon consultation with the President of Zanzibar and, with the advice by the Attorney General and after considering any information or prevailing social, political and economic circumstances within the United Republic at all times and, by order published in the Gazette, establish a Commission to examine, analyse and recommend for the enactment of a constitution or existing constitution that shall exalt, entrench and promote the rule of law and good governance.

Establishment of a Commission

6.-(1) Members of the Commission shall be appointed by the President in equal numbers from Mainland Tanzania and Tanzania Zanzibar.

Appointment of members of the Commission

(2) In appointing members of the Commission, the President shall have regard to:

- (a) experience and professional qualifications of the members;
- (b) the diversity of the United Republic of Tanzania;
- (c) the national interests;
- (d) age, gender and representation of various social groups; and
- (e) such other criteria as the President may consider appropriate.

(3) Notwithstanding subsection (2), a person shall not qualify for appointment as a member of the Commission if that person is:

- (a) a Member of Parliament, a Member of Peoples' Representatives of Zanzibar, a Councilor or a leader of a political party;
- (b) a member of security organs;
- (c) a person who was convicted of, or is the subject of proceedings in the court of law for an offence involving dishonesty or moral turpitude; or
- (d) a non-citizen of Tanzania.

Composition of the Commission

7.-(1) The Commission shall consist of:

- (a) a Chairman;
- (b) a Vice-Chairman; and
- (c) not more than thirty other Commissioners.

(2) Appointment of the Chairman and the Vice Chairman shall be made on the basis of the principle that where the Chairman hails from one part of the United Republic, then the Vice Chairman shall be a person who hails from the other part of the United Republic.

(3) Members of the Commission shall be appointed by an order published in the Gazette.

Terms of Reference

8.-(1) The Terms of Reference for the Commission shall be issued by the President under the same order under which the appointment of members is made and specify the time within which the Commission shall complete and submit a report.

(2) The President may extend the time for the Commission where circumstances so require.

(3) The Terms of Reference shall be a legal document upon which the performance of the functions and the exercise of powers by the Commission shall, subject to the provisions of this Act, revolve.

Functions of the Commission

9.-(1) The principal functions of the Commission shall be to:

- (a) co-ordinate and collect public opinions;
- (b) examine and analyse the consistency and compatibility of the constitutional provisions relating to the sovereignty of the people, political systems, democracy, rule of law and good governance; and

- (c) make recommendations including a Draft Constitution Bill, on how best the United Republic is to be governed in accordance with the will of the people at all times.

(2) In the implementation of subsection (1), the Commission shall adhere to national values and ethos and shall, in that respect, observe inviolability and sanctity of the following matters:

- (a) the Union of Tanganyika and Zanzibar;
- (b) the existence of the Executive, Legislature and the Judicature;
- (c) the Presidency;
- (d) the existence of the Revolutionary Government of Zanzibar;
- (e) national unity cohesion and peace;
- (f) periodic democratic election based on universal suffrage;
- (g) the promotion and protection of human rights;
- (h) human dignity, equality before the law and due process of law;
- (i) the secular nature of the United Republic; and
- (j) the independence of the Judiciary.

10. The Commission shall have powers and enjoy such independence and autonomy as may be necessary for the performance of its functions and exercise of its powers under this Act.

Powers of the Commission

11. Every member of the Commission and the Secretary shall, before taking assignment, subscribe to an oath or affirmation, as the case may be, set out in the First Schedule to this Act.

Oath of members and the Secretary

12.—(1) A person shall cease to be a member of the Commission upon the occurrence of any of the following events:

Cessation of membership

- (a) death;
- (b) resignation;
- (c) inability by reason of health;
- (d) removal by misconduct.
- (e) conviction for an offence which carries a custodial sentence of not less than one month.

(2) For the purpose of better discharge of the functions of the Commission, there shall be a code of conduct prescribed in the Second Schedule to this Act.

(3) A member of the Commission or the Secretariat who breaches the provisions of the Code of Conduct shall be disqualified from continuing to be a member as such.

Secretariat 13.-(1) There shall be a Secretariat of the Commission to be headed by the Secretary.

(2) The Secretary shall be appointed by the President.

(3) The Secretary shall be responsible to the Commission and shall perform such functions and discharge duties of the Secretariat.

(4) Other members of the Secretariat shall be appointed by the Minister.

(5) The Secretariat shall have such number of public officers as may be necessary for better performance of the functions and the exercise of powers of the Commission.

Expenses of the Commission 14.-(1) The expenses of the constitutional review process incurred by the Commission in accordance with this Act shall be charged on and issued out of the Consolidated Fund.

(2) Members of the Commission and the Secretariat shall be remunerated in such manner as the Minister may determine.

Immunity of members of the Commission and the Secretariat 15. A member of the Commission or the Secretariat shall not be liable to a civil action or suit for or in respect of any matter or thing done or omitted to be done in good faith as a member of the Commission or the Secretariat.

Submission of the report 16.-(1) The Commission shall, after the completion of assignment, submit the report to the President.

(2) Upon receipt of the report, the President shall avail a copy of the report to the President of Zanzibar.

(3) After considering the report, the President shall, subject to section 21, direct the Minister to present a Constitution Bill to the Constituent Assembly for enactment of provisions for the constitution.

PART IV
PROCEDURE OF THE COMMISSION

17.-(1) The Commission shall perform its functions in accordance with this Act. Mode of operation

(2) For the purposes of the implementation of subsection (1), the Commission shall perform the following functions:

- (a) articulate and conduct awareness programmes on the existing constitution;
- (b) coordinate the collection of public opinions;
- (c) hold such number of meetings or similar fora in such places and at such times as it shall determine;
- (d) make recommendations to the relevant constitutional organs for consideration;
- (e) prepare a Draft Constitution Bill; and
- (f) prepare and submit a report to the relevant constitutional organs in accordance with the Terms of Reference.

(3) The Commission may:

- (a) for Mainland Tanzania, require the Ward Executive Officer or the Mtaa or Village Executive Officer to cause to be convened a meeting of residents of a ward or Mtaa or village, as the case may be; and
- (b) for Tanzania Zanzibar, require Sheha to cause to be convened a meeting of residents of a Shehia,

for the purpose of collecting public opinions on constitutional matters.

(4) The meetings and fora referred to in this section and in other provisions of this Act shall, exclusively, be for citizen of Tanzania.

(5) In order to facilitate effective discharge of its functions, the Commission may form committees and may assign to any of such committees general or specific matter to deliberate upon.

(6) The Commission may co-opt any person or engage any consultant as may be necessary for the proper performance of its functions.

(7) In the performance of its functions, the Commission shall devise a methodology that is uniform and applicable in each part of the United Republic in the collection and analysis of public opinions, the conduct of fora for constitutional review and the writing of the report.

Powers to collect information

18.—(1) The Commission may ask any person who is willing to appear before it for discussion, orally or by production of document, on any constitutional matters which the Commission considers relevant to the constitutional review process.

(2) In the performance of its functions under this Act, the Commission shall examine and analyse ideas, views, information, opinions, proposals and recommendations collected and collated including:

- (a) a summary of the public opinions;
- (b) all documents reflecting on ideas, views and opinions of the general public under the White Paper No. 1 of 1962 on the Establishment of the Republic of Tanganyika, the Presidential Commission on the Establishment of Democratic One-Party System, the National Executive Committee of CCM Proposed Amendments to the Constitution of the United Republic of Tanzania, 1977 and the Constitution of Zanzibar, 1979, the Presidential Commission on Single Party or Multi-Party System in Tanzania, 1991 and the Committee for the collection of views on the Constitution (the White Paper, No. 1 of 1998);
- (c) the Independence Constitution of Tanganyika, 1961;
- (d) the Constitution of the Republic of Tanganyika, 1962;
- (e) the Articles of Union of the Republic of Tanganyika and the Peoples' Republic of Zanzibar;
- (f) the Interim Constitution of the United Republic of Tanzania, 1965;
- (g) the Constitution of the United Republic of Tanzania, 1977;
- (h) the Constitution of Zanzibar, 1979;
- (i) the Constitution of Zanzibar 1984;
- (j) analytical and academic studies undertaken by the Commission; and
- (k) any other relevant documents as the Commission may consider necessary.

Cap. 2

Report of the Commission

19.—(1) On the basis of the examination and analysis undertaken pursuant to section 19, the Commission shall prepare a report containing:

- (a) a summary of public opinions on each Terms of Reference;
- (b) recommendations of the Commission on each terms of reference;
- (c) reports by consultants engaged by the Commission;
- (d) a Draft Constitution Bill; and
- (e) any other relevant information.

(2) The Draft Constitution Bill shall form an annex to the report of the Commission.

(3) For the purposes of subsection (2), there shall be a *fora* for constitutional review.

(4) The *fora* for constitutional review shall be formed on *ad hoc* basis by the Commission based on geographical distribution of the United Republic and shall involve and bring together representatives of various groups of people within the communities.

(5) The *fora* for constitutional review shall advise on the Draft Constitutional Bill through meetings organized by the Commission.

20.-(1) The Commission shall be inviolable and the conduct of constitutional review shall not be called in question in a court of law nor shall the court entertain a petition in which the complainant or an applicant seeks to challenge the constitutionality or legal propriety of the Commission or the conduct of constitutional review.

Inviolability of Commission

(2) A person who obstructs, hinders or prevents a member of the Commission or the Secretariat from performing the functions or exercising powers of the Commission or the Secretariat, commits an offence.

(3) A person who is convicted for contravention of subsection (1) shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding twelve months.

PART V

PROCLAMATION OF A CONSTITUENT ASSEMBLY

21.-(1) The President may, upon consultation with the President of Zanzibar and with advice of the Attorney General, by proclamation published in the Gazette, constitute a Constituent Assembly for the enactment of provisions for a constitution.

Proclamation of Constituent Assembly

(2) The powers of the President to constitute the Constituent Assembly shall not be construed as derogating powers of the President to proclaim the National Assembly to resolve itself into a Constituent Assembly.

(3) Without prejudice to any provisions of this section, the President shall, by notice in the Gazette, publish names of persons appointed as members of the Constituent Assembly.

Powers of
Consti-
tuent
Assembly

22.-(1) The Constituent Assembly shall have and exercise powers to make provisions for the constitution and to make provisions consequential to, and supplementary to the enactment of a constitution and to make such other provisions as the Constituent Assembly may find necessary, and the powers may be exercised notwithstanding any power of a similar nature conferred on the Parliament.

(2) The powers of the Constituent Assembly to make provisions for the constitution shall be exercised by a Bill tabled by the Minister and passed by the Constituent Assembly.

Provisions
relating
to the
Consti-
tuent
Assembly

23.-(1) Subject to such necessary modification, the Constitution and the Standing Orders of the National Assembly, all other provisions relating to the passing of Bills for Acts of Parliament by the National Assembly shall apply to the Constituent Assembly and to the passing of Bills for Acts of the Constituent Assembly as they apply to the National Assembly and, subject to subsection (2), the passing of Bills for Acts of Parliament.

(2) Without prejudice to subsection (1), the passing of a Constitution Bill shall require support of two third majority of the total number of the Members of the Constituent Assembly.

(3) For the purposes of giving effect to the provisions of the new constitution, the President shall assent to enactment of the Constituent Assembly under the same procedure provided for under Article 97 of the Constitution.

(4) Unless it is otherwise provided in an enactment of the Constituent Assembly, the Minister shall, by order published in the Gazette, appoint a date on which a constitution shall come into operation.

Acts of
Consti-
tuent
Assembly
Cap. 1

24. Subject to the provisions of any Act of the Constituent Assembly, the Interpretation of Laws Act shall apply to the interpretation of an Act of the Constituent Assembly and references in that or in any other law to an Act shall, except where the context otherwise requires, include reference to an Act of the Constituent Assembly.

Abate-
ment of
powers
of
Consti-
tuent
Assembly

25.-(1) On the coming into operation of the provisions enacted by the Constituent Assembly, the Constituent Assembly shall stand dissolved and powers to enact provisions for a constitution or existing constitution shall abate.

(2) Dissolution of, and abatement of powers of the Constituent Assembly shall not be construed as derogating powers of the President to proclaim a Constituent Assembly in future for enactment of provisions for a constitution or existing constitution.

PART VI
VALIDATION OF A CONSTITUTION

26. For purposes of giving effect to the provisions of the Constitution, there shall be a referendum to be organized, conducted and supervised by the National Electoral Commission.

Conduct
of referen-
dum

27.-(1) The National Electoral Commission shall, within seven days of the publication of the Constitution, frame and publish the question to be determined by the referendum.

Referen-
dum
question

(2) The question referred to in subsection (1) shall be framed in consultation with the Attorney General.

(3) The question to be submitted to the referendum shall require the voter to indicate whether the voter approves or does not approve the constitution and shall be so framed as to require the voter to answer "Yes" or "No",

(4) The voting at a referendum shall be by secret ballot.

28.-(1) The National Electoral Commission shall, within fourteen days after publication of the question in the Gazette, specify-

Notice of
holding a
referen-
dum

- (a) the day on which the referendum is to be held;
- (b) the referendum campaign; and
- (c) the polling time of the referendum.

(2) For the purposes of paragraph (c) of subsection (1), the referendum campaign shall be conducted by the Commission and no political party or affiliate organization to a political party shall participate in the referendum campaign.

(3) A person who contravenes the provisions of subsection (2) commits an offence and shall on conviction be liable to imprisonment, without fine,

for a term not exceeding two years.

(4) The returning officer of every constituency shall, within twenty one days of publication of the notice by the National Electoral Commission, notify the public of the referendum.

Right to
vote in a
refere-
ndum
Cap. 342

29. A person whose name is entered in the register of voters established under the National Elections Act shall, unless prohibited from voting by any other written law, be entitled to vote at the referendum.

Procedure
for
conduct
of a
refere-
ndum
Caps.
342 and
292

30. The procedure for conducting the General Elections under the National Elections Act and the Local Authorities (Elections) Act shall, with necessary modifications, apply to the conduct of a referendum under this Act.

Dissolu-
tion of
the
Commis-
sion

31.-(1) Upon declaration of the results of the referendum by the National Electoral Commission, the President shall, by an order published in the Gazette, dissolve the Commission.

(2) Dissolution of the Commission by the Order of the President shall entail abatement of powers of the Commission and the Secretariat.

FIRST SCHEDULE

(Under section 11)

PART I

OATH/AFFIRMATION OF A MEMBER OF A COMMISSION

I,.....having been appointed
as..... by the President on the day
of..... 20..... to perform the functions of a member of Commission,
do hereby swear/affirm that I will faithfully, impartially and, to the best of my knowledge
and ability, discharge the duties and perform the functions devolving upon me by virtue
of being a member of the Commission.

So help me God

.....
Member of Commission

PART II
OATH/AFFIRMATION OF A SECRETARY

I,.....having been appointed
as..... by the President on the day
of.....20..... to perform the functions of a Secretary, do hereby
swear/affirm that I will faithfully, impartially and to the best of my knowledge and
ability, discharge the duties and perform the functions devolving upon me by virtue of
being a Secretary.

So help me God

.....
Secretary

—————
SECOND SCHEDULE
—————

(Under Section 12(2))
—————

CODE OF CONDUCT OF MEMBERS OF THE COMMISSION AND SECRETARIAT

1. Every member of the Commission/Secretariat shall serve impartially and independently and perform the functions of his office in good faith and without fear, favour or prejudice.
2. A member of the Commission/Secretariat shall not, during tenure of office, be eligible for appointment or nomination to any political office.
3. A member of the Commission or Secretariat shall not-
 - (a) by his membership, association, statement, conduct or in any other manner jeopardize the perceived independence of the member or prejudice the credibility, impartiality, independence or integrity of the Commission; or
 - (b) make private use of or profit from any confidential information gained as a result of being a member of the Commission.

OBJECTS AND REASONS

This Bill, divided into Six Parts, proposes the enactment of the Constitutional Review Act, 2011, for the purposes of establishing the Constitutional Review Commission and the Secretariat for collecting public opinions on the constitutional review. The constitutional review is intended to examine consistency and compatibility of the existing constitution with regards to sovereignty, political systems, democracy and good governance throughout the United Republic of Tanzania. The legal mechanism that is proposed will enable participation of the people of Tanzania in the constitutional review process. Once enacted into law, there shall be a legal framework for the President to establish a Commission for reviewing the Constitution and to constitute the Constituent Assembly for purposes of enacting a new constitution.

Part I provides for the preliminary matters which include the title, date of commencement and application of the proposed Act. It further provides for the interpretation of certain terms, designations and words used in the proposed enactment.

Part II provides for objectives of the proposed Act. The Part specify in details the objectives and the essence of constitutional review process, including oath of members of the Commission and members of the Secretariat and the procedure through which the constitutional review process will be undertaken.

Part III of the Bill provides for the establishment of a Commission which will coordinate and collect public opinions for purposes of constitutional review. This Part also deals with the composition of the Commission and Terms of Reference and manners in which they can be given by the President; powers of the proposed organs, subscription of oath or affirmation by members of the Commission and the Secretariat,

and other procedural matters of the Secretariat. This Part also makes provisions for adherence to and sanctity of certain matters of national values and ethos. Further, it provides for submission of a report by the Commission to the President. Furthermore it make provisions for immunity of members of the Commission and the Secretariat and expenses of the Commission chargeable on the Consolidated Fund.

Part IV deals with and specify in broad sense the mode under which the Commission will discharge its duties. It further specifies powers of the Commission. Further more, the Part lay downs the procedure for collection of public opinions by involving the Ward Development Committee or Mtaa Assembly or a Village Assembly and Shehia Assembly, in the case of Tanzania Zanzibar and participation of Tanzanian nationals living outside Tanzania. Finally, it makes provisions in relation to inviolability of the Commission and the prohibition by any person to interfere with a member of the Commission or the Secretariat in performance of, or exercise of their functions and powers, as the case may be.

Powers of the President to establish a Constituent Assembly, and powers of the Constituent Assembly to enact provisions for a new constitution by way of Bills are provided under Part V. In effect, the President will consult the President of Zanzibar and by proclamation published in the Gazette proclaim the National Assembly to resolve itself into a Constituent Assembly.

The procedure for conduct of business by the Constituent Assembly will, without further assurance, be as stipulated under the Constitution of the United Republic of Tanzania, and the Standing Orders of the National Assembly. It also makes provision for Acts of the Constituent Assembly and the manner under which the powers of the Constituent Assembly will, after the completion of the review process, abate.

Part Six provides for validation of the Constitution through a Referendum to be conducted and supervised by the National Electoral Commission.

MADHUMUNI NA SABABU

Muswada huu, ambao umegawanyika katika Sehemu Sita, unapendekeza kutungwa kwa Sheria ya Mabadiliko ya Katiba ya Nchi ya Mwaka 2011. Muswada huu unakusudia kuweka masharti ya uanzishaji wa Tume, pamoja na Sekretarieti kwa madhumuni ya kuendesha na kusimamia mchakato wa mabadiliko ya Katiba ya Jamhuri ya Muungano wa Tanzania. Mchakato wa mabadiliko ya Katiba pamoja na masuala mengine utaangalia chimbuko na mahusianano ya Katiba iliyopo kwa kuzingatia uhuru wa wananchi, mfumo wa siasa, demokrasia na utawala bora. Utaratibu wa kisheria unaopendekezwa utawahusisha na kuwashirikisha wananchi wa Jamhuri ya Muungano wa Tanzania katika mchakato wa mabadiliko ya Katiba ya Nchi.

Pindi Muswada huu utakapopilishwa na kuwa Sheria, kutakuwa na utaratibu wa Kisheria utakaomwezesha Rais kuunda Tume ya kukusanya maoni kuhusu Katiba na kuunda Bunge la Katiba kwa madhumuni ya kutunga Katiba mpya.

Muswada huu umegawanyika katika Sehemu Sita.

Sehemu ya Kwanza inaweka masharti ya Utangulizi ambayo yanajuisha jina la Sheria inayopendekezwa, tarehe ya kuanza kutumika na matumizi ya Sheria inayopendekezwa. Inaendelea kutoa tafsiri ya baadhi ya misamiati, vyeo na maneno yaliyotumika katika Muswada.

Sehemu ya Pili inaweka masharti yanayohusu madhumuni ya Muswada. Sehemu hii inaainisha kwa undani madhumuni ya chimbuko ya mchakato wa mabadiliko ya Katiba, ikijumuisha viapo na uthibitisho wa wajumbe wa Tume na Sekretarieti na utaratibu kwayo mchakato wa mabadiliko ya Katiba utafanywa.

Sehemu ya Tatu ya Muswada inaweka masharti ya kuanzishwa kwa Tume, ambayo itaratibu na kukusanya maoni ya wananchi kwa azma ya kufanya mabadiliko ya Katiba. Sehemu hii pia inahusu wajumbe wa Tume na sifa zao pamoja na Hadidu za Rejea na namna ambavyo zitatolewa na Rais; mamlaka ya vyombo vinavyopendekezwa kuazishwa, viapo au uthibitishaji kwa wajumbe wa Tume na Sekretarieti na masuala mengine ya Sekretarieti. Pamoja na hayo, Sehemu hii pia inazungumzia mambo ambayo yanapaswa kuzingatiwa na kulindwa katika mchakato wa kukusanya maoni kutokana na uzito wake katika Taifa letu na inaweka masharti ya utaratibu wa Tume kuwasilisha taarifa ya Tume kwa Rais na kuainisha masuala yanayohusu gharama za Tume zitakazotolewa toka Mfuko Mkuu wa Hazina na kinga kwa wajumbe wa Tume na Sekretarieti.

Sehemu ya Nne inazungumzia kwa undani utaratibu wa utendaji kazi wa Tume. Inazungumzia mamlaka ya Tume na utaratibu wa ukusanyaji wa maoni ya wananchi kwa kuhusisha Kamati ya Maendeleo ya Kata au Mtaa au Mkutano wa Kijiji na Shehia, kwa upande wa Tanzania Zanzibar na ushiriki wa Watanzania wanaoishi nje ya nchi. Mwisho, inaweka masharti yanayohusu kutoshtakiwa kwa Tume na kuzuiwa kwa mtu yeyote kuingilia masuala ya Tume au Sekretarieti katika kutekeleza kazi na majukumu yake.

Mamlaka ya Rais kuunda Bunge la Katiba, na mamlaka ya Bunge la Katiba kutunga Katiba Mpya kwa utaratibu wa Miswada yanaainishwa chini ya Sehemu ya Tano. Kwa mantiki hiyo, Rais atashauriana na Rais wa Zanzibar na kuteua wajumbe wa Bunge la Katiba kutoka pande zote mbili za Jamhuri ya Muungano kwa kulitamka Bunge la Jamhuri ya Muungano kuwa Bunge la Katiba.

Utaratibu wa utekelezaji wa majukumu ya Bunge la Katiba utainishwa, bila ya uhakika wa kuendelea kuwepo, katika Katiba ya Jamhuri ya Muungano na Kanuni za Bunge. Sehemu hii pia inaweka masharti ya sheria za Bunge la Katiba na namna ambavyo mamlaka ya Bunge la Katiba baada ya kumaliza mchakato wa mabadiliko ya Katiba, yatakavyosita.

Sehemu ya Sita inahusu uhalalishaji wa Katiba kwa kura ya Maoni itakayoendeshwa na kusimamiwa na Tume ya Taifa ya Uchaguzi.

Dar es Salaam,
8 Machi, 2011

CELINA KOMBANI,
Waziri wa Katiba na Sheria

4.0 ORODHA YA WASHIRIKI

Na.	JINA	ANWANI
1.	Rogers Simon	ITV
2.	Ahmed Segulle	ITV
3.	Emmanuel Bohohela	Radio One
4.	Julius Rachel	UDSM
5.	Mchele K. Kisheri	IFM –DSM
6.	Sophia Mwakagenda	TWYDS
7.	Bashiru Ally	UDSM
8.	Onesmo Michael	UDSM
9.	Basili Zihata	TIVEN
10.	James John	UDSM
11.	Fadhili Haule	Capital Radio
12.	Rashidi Idrissa	EATV
13.	Noah Laltaika	EATV
14.	Esther Mwanri	ORPP
15.	Labia Martin Lissu	UDSM
16.	Christopher Mbusule	UDSM
17.	Hussein Kabwe	UDSM
18.	Hassan Saidy	DSM
19.	Dr. W. P. Slaa	CHADEMA
20.	Hashimu Bakari	CUF
21.	Thomas D. C. Malima	CUF
22.	Khadija Shabani Tekka	TAWLA
23.	Jacob G. Mwenga	Student
24.	Juma Ilunga	TAYOA
25.	Lawrence Kilimwiko	Dar es Salaam
26.	Hilari Daudi	TIA - Kurasini
27.	Filorge Anthony	TYVA
28.	Mwakalikamo Christina	P. O. Box 4047 Dar es Salaam
29.	Michael Nipael	UDSM
30.	Sanga Salome	UDSM
31.	Kabamanya Eliud	UDSM
32.	Buberwa Ntamilyango	CCSSS
33.	Stephen Aloys	EACYO
34.	Fredrick Bomani	CETA
35.	Aloyce Ndelelo	Kulikoni/This Day News Paper
36.	Hamisi Kibari	Kulikoni News Paper
37.	Chris Maina Peter	LLSC
38.	Geofrey Andrew	Tumaini University
39.	Raymond Kamunyoge	Mwananchi News Paper
40.	Florence Mugarula	The Citizen
41.	John A. Makori	IFM

42.	Mwakajila Emmanuel A.	CHADEMA
43.	Kihwelo Frederick M.	TGCL
44.	Elias Mhegera	CETA
45.	Victor P. Kimesera	CHADEMA
46.	Ludger Kasumuni	MEDIA
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55.	Justa Mwaituko	KIWOHEDE
56.	Saidi Jumaa	OTL
57.	Hans Koeppel	Germany Embassy
58.	Rama	Germany Embassy
59.	Selemani Rehani	TADIP
60.	Emmanuel Ismail	UDSM
61.	Fatuma Salumu	A.P.P.T Maendeleo
62.	Fidelis Felix	The Citizen
63.	Deogratias Munishi	Dar es Salaam
64.	Khalid Kanfuei	Dar es Salaam
65.	Josephat Lazaro	Dar es Salaam
66.	Justine	Dar es Salaam
67.	Christopher Wallace S.	Dar es Salaam
68.	Sam Ruhuzi	Dar es Salaam
69.	John Samwel	Dar es Salaam
70.	Chacha Heche Suguta	CHADEMA
71.	Paul C. Makuli	Dar es Salaam
72.	Alfred Emanuel R.	Dar es Salaam
73.	Anthony Komu	CHADEMA
74.	Michael Paul	Dar es Salaam
75.	Pascal Peter	Dar es Salaam
76.	Gaudence Anselem	Dar es Salaam
77.	Muhiri Jeremiah J.	Dar es Salaam
78.	Edward Kinabo	Dar es Salaam
79.	Habibu Mchange	Dar es Salaam
80.	David Gumbo	Dar es Salaam
81.	Njonanje Samweli	Dar es Salaam
82.	Victor Meena	Dar es Salaam
83.	Stefan Reith	KAS
84.	Richard Shaba	KAS
85.	Erasto Ndeuka	KAS
86.	Saskia Richter	KAS

MJADALA WA MAENDELEO

Demokrasia Tanzania

Katiba ya mwaka 1977, imebadilishwa mara 14. Si kwamba ina viraka tu bali kuna mapengo yanayopotosha mtiririko wake.

Hoja ya Katiba mpya ilijitokeza katika Uchaguzi Mkuu wa mwaka 2010 ambapo vyama vya siasa vilikuwa na Ilani za Uchaguzi zilizotoa hoja hiyo. Baada ya uchaguzi, Rais Kikwete alitamka haja ya kuwa na Katiba mpya baada ya miaka 50 ya uhuru hapa nchini.

Katiba zote zilizotangulia hazikuwashirikisha wananchi, ambazo ni Katiba ya Uhuru, 1961, Katiba ya Jamuhuri, 1962, Katiba ya Muungano wa Tanganyika na Zanzibar, 1965 na Katiba ya 1977 ambapo watu walewale waliunganisha vyama vya siasa TANU na ASP kuunda CCM ni haohao pia waliotunga katiba ya watanzania wote bila kuwashirikisha.

Ni muhimu wananchi waelewe muswada unahusu marekebisho ya Katiba na wala si Katiba mpya. Na kudhihirisha uharaka kwa marekebisho ni kwamba hata tarehe ya kuanza kutumika imependekezwa kuanza Juni 1, 2011. Tarehe tayari imetangazwa na inaelezwa kuwa maana ya Katiba ni pamoja na Katiba ya sasa.

Toleo Na. VIII, April 2011

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