

# A fact finding Report on Police Brutality and Election Mismanagement in Zanzibar

## Zanzibar Wave of Violence

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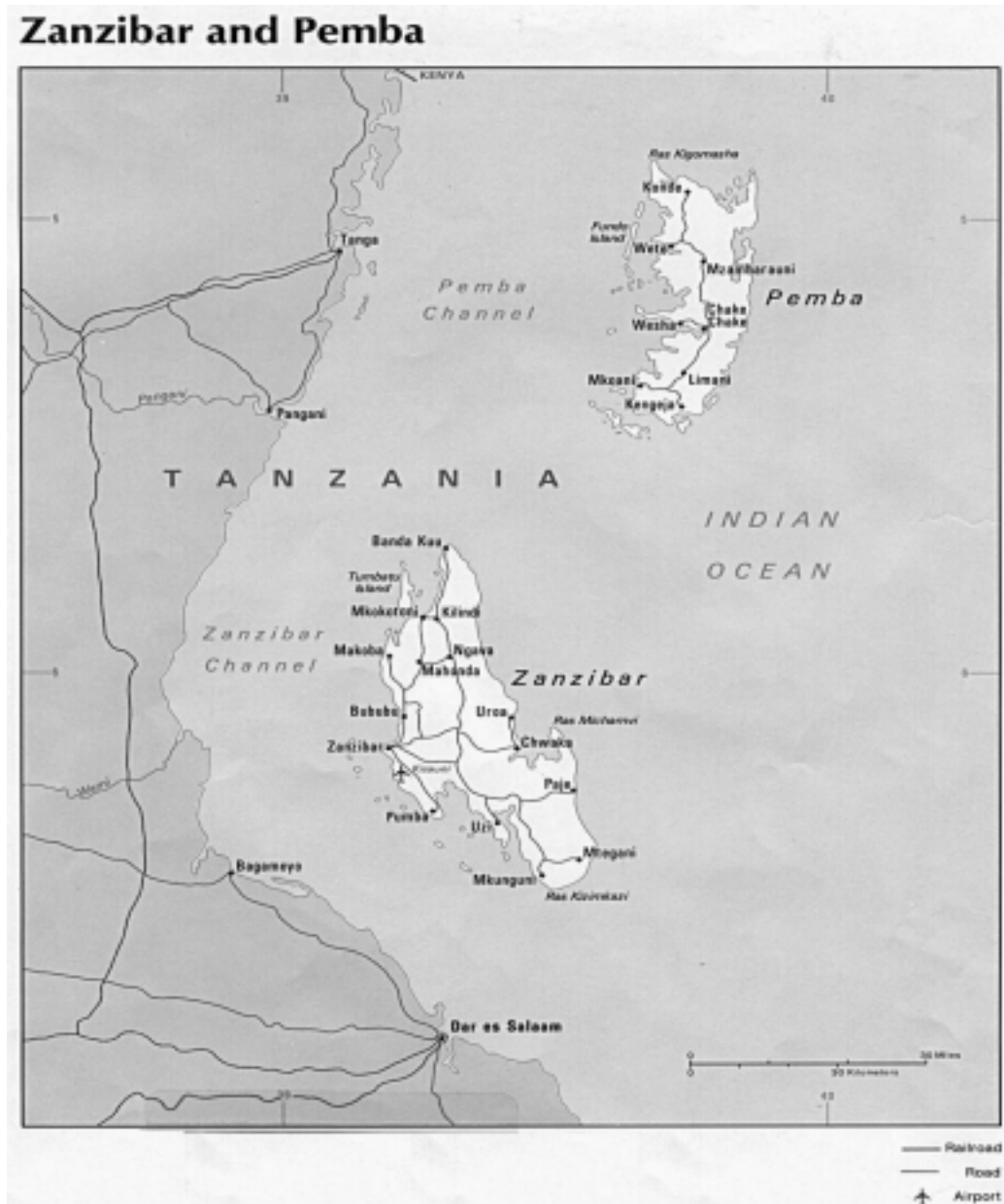
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## ABBREVIATIONS

<b>ASP</b>	- Afro-Shiraz Party
<b>CCM</b>	- Chama cha Mapinduzi (Revolutionary Party)
<b>CUF</b>	- Civic United Front
<b>IGP</b>	- Inspector General of Police
<b>JKU</b>	- Jeshi la Kujenga Uchumi (Economic Development Army)
<b>KMKM</b>	- Kikosi Maalum cha Kuzuia Magendo (Anti smuggling special squad)
<b>NGO</b>	- Non Governmental Organization
<b>MP</b>	- Member of Parliament
<b>OCD</b>	- District Commanding Officer Police
<b>TEMCO</b>	- Tanzania Electoral Monitoring Committee
<b>UDSM</b>	- University of Dar-Es-Salaam
<b>TANU</b>	- Tanganyika African National Union
<b>TLP</b>	- Tanzania Labour Party
<b>ZEC</b>	- Zanzibar Electoral Commission
<b>ZPPP</b>	- Zanzibar & Pemba, Peoples Party

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### MAP OF ZANZIBAR



Zanzibar comprises of two islands - Unguja and Pemba which are situated in the Indian Ocean east of the African continent. Unguja Island is 86 km long and 39 km wide and covers an area of 3354km. The Island is about 37km from the coast line of Tanzania, 73km from Dar-Es-Salaam port, and 219km from Mombasa, Kenya. Pemba Island is 40km north east of Unguja Island and has three major towns, namely, Wete, Chake Chake and Mkoani. It is 68km long and 22.75km wide, and covers an area of 1537km.<sup>1</sup>

1. (Idara ya Habari (MAELEZO), Zanzibar, 1998: Idara ya Upigaji Chapa, Zanzibar.

## ABOUT THE AUTHORS

**The Legal and Human Rights Center (LHRC)**, is a local non-governmental Organization headquartered in Dar es Salaam, with a branch in Arusha. It was registered as a company limited by guarantees, under Companies Ordinance Cap 212 in 1995. The LHRC's main purpose is to contribute to the efforts made in Tanzania to create a just and equitable society. It therefore embarks on programmes that aim at creating awareness in legal and human rights issues, and empowering the general public with a focus on the rights, of underprivileged section of the society, through the provision of legal Aid, civic education, Conducting research and following up on human rights violations.

The LHRC undertakes training programmes to the law enforcement officials i.e. police and prison officer, local government leaders, parliamentarians, civil society leaders, local government leaders, and village land workers. It runs three legal aid clinics, two in Dar es Salaam and one in Arusha town. LHRC has carried legal researches in a number of legal and human rights areas. It enjoys Observers Status with the African Commission on Human and People's Rights. The LHRC's Board of Directors is composed of Bishop Elinaza, Sendoro (Chairperson), Dr. R. W. Tenga (Vice chairperson), Dr. Sengondo Mvungi, Dr. Palamagamba Kabudi, Martin Saning'o, Azaria Peter Mbuguni, Ananilea Nkya, and Rose Camil.

**The International Federation for Human Rights (FIDH)** is an international non governmental organization for the defence of human rights enshrined in the Universal Declaration of Human Rights of 1948. Created in 1922, it includes 114 affiliated member organizations throughout the World. To date, the FIDH has undertaken more than 1000 missions of investigations, trial observations, mediation or training in some 100 countries. FIDH enjoys consultative status with the United Nations, UNESCO, the Council of Europe and observer status with the African Commission on Human and Peoples' Rights. The International Board is composed of: President: Sidiki Kaba; General-secretaries: Catherine Choquet, Driss El Yazami, Anne-Christine Habbard, Claude Katz, Francois Xavier Nsanzuwera; Treasurer: Philippe Vallet, Vice-Presidents: Dobian Assingar (Chad), Akin Birdal (Turkey), Cheikh Saad Bouh Kamara (Mauritanie), Hafez Habu Saada (Egypt), Karim Lahidji (Iran), Lucie Lemonde (Canada), Siobhan Ni Chulachain (Ireland), Vilma Nunez de Escorcia (Nicaragua), Jose Rebelo (Portugal), Francisco Soberon-Garrido (Perou), Raji Sourani (Palestine), Thierno Sow (Guinea), Alirio Uribe (Colombia), Michel Tubiana (France), and Vo Van Ai (Vietnam).

## CHAPTER I : INTRODUCTION

### A. Objectives and Methodology

The International Federation for Human Rights (FIDH), and its member in Tanzania, the Legal and Human Rights Centre (LHRC), are concerned about the events of election mismanagement and the use of coercive force by the state powers, in particular police brutality, in Zanzibar (Unguja and Pemba). The following report documents the recent human rights abuses in October 2000 and January 2001, with an examination of the elections in October 2000 (with a comparative reference to the elections in 1995). Recommendations are formulated for the Government of Tanzania and the Revolutionary Government of Zanzibar, the European Union, the Organization of African Unity (OAU) and the United Nations.

This report is based on extensive field work carried out by two researchers, namely, Kaleb Lameck and Clement Mashamba, from information extracted from primary and secondary sources such as NGOs, Government agencies, resource persons, victims, political, party leaders and church leaders collected randomly between 9 - 17 January 2001 and 16 - 23 February 2001. The report was edited by Projectus Rwehumbiza, Ezekiel Massanja, Helen Kijo-Bisimba, Simia Ahmadi, Michael Ellman, and Emmanuelle Duverger.

### B. Background

**Zanzibar's political structure** Zanzibar (Unguja and Pemba) is a semi-autonomous part of the United Republic of Tanzania, having merged with Tanganyika on 26 April 1964 under the Articles of Union of 1964. Zanzibar - Tanganyika Union became unique in that Tanganyika government had to be resolved to be succeeded by the Union government, while Zanzibar retained its government headed by the President of Zanzibar, its own legislature (House of Representatives and Judiciary). As such, a number of specific areas are under exclusive jurisdiction of Zanzibar while others are dealt with as union matters, and governed by the government of the United Republic of Tanzania. This is provided under article 4 (3) of the Constitution of the United Republic of Tanzania and its second schedule.

**History of Violence** After two centuries of Omani rule (during the slave trade), in 1890 Zanzibar became a British protectorate. The first election in Zanzibar was held in 1957, though the

poor and illiterate were ineligible to vote, and only 40,000 voters were registered, instead of 100,000 expected. The 1950's was the turning point for Zanzibar when the Zanzibar Nationalist Party (ZNP) was formed in 1954 and the Afro Shirazi Party in 1957. Splitting tendencies led to Zanzibar and Pemba Peoples Party (ZPPP) and from ZNP the Umma Party was born. These were the main players in the Zanzibar political scene.

Popularly elected representatives sat on the legislative council for the first time, and in 1961, they were given a majority of seats. The 1961 June Violence was an open manifestation of hatred that was already growing between political parties believed to support the sultanate and the other one inclined towards supporting African ruling.

In 1963, the sultanate regained its independence and was accepted as a member of the United Nations. Zanzibar, together with Pemba, became independent, with Sultan Jamshid ibn Adbullah as head of state and Prime Minister Muhammed Shamte Hamadi, also an Arab, as the leader of government.

In January 1964 the sultanate coalition government ZNP and ZPPP was violently overthrown by a revolution lead by John Okello of Pemba. A Republic was declared, with Abeid Karume of the Afro-Shirazi Party (ASP), as its president and head of the Revolutionary Council (the country's chief governmental body). The sultan was forced into exile, thousands of Arabs and Indians were killed and many forced into exile. All land was nationalised, the Isle's constitution was nullified, and all political parties were banned, leaving ASP the only active political party. In April 1964, Zanzibar's ASP and Tanganyika's Tanganyika Africa Union (TANU) agreed to merge: the resulting republic was named Tanzania in October 1964, with Julius Nyerere as the President, and Abeid Karume as his Vice-president. Together they formed the Revolutionary Party of Tanzania (Chama Cha Mapinduzi - CCM).

In 1990 the elections were boycotted by the majority of people of Zanzibar who demanded a referendum to decide on the status of the union. The emergence of political pluralism in 1992 was to be a repetition of political violence and hatred that was the trend in 1950's and 1960's. The fact that many political actors of those years were still around in command in all the political parties made this occurrence easy. To further



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aggravate the situation, the necessary constitutional and judicial changes were not made to facilitate a multi-party system.

Although there was discontent amongst Zanzibaris, particularly from Pemba, on power-sharing between Mainland and the Isles, the Kizota Conference in Dodoma expelled the then powerful Zanzibar politicians from the CCM. That expulsion led to the formation of the Civil United Front (CUF), led in 1992 by Seif Sherif Hamad. CUF gained formidable support in Pemba and Zanzibar, creating a major opposition party.

In 1995, free elections were held for the general and presidential multi-party elections for Zanzibar and for the Union of Tanzania. The narrow victory for President Salmin Amour has been questioned by both CUF and international observers, leading to the European Union's sanctions of the Isles.

Today The fact that one particular party feels it has the right to lead and the others not because of the historical phenomenon has turned things quite bitter. What has made things even worse is the fact the CCM as a state party has used all state powers to ensure the opposition is suppressed, seeing them as 'second-class' citizens. The resistance from the opposition has been bitter and hence causing the clash between CUF members and the state's ruling party CCM.

### C. International and Regional Human Rights Instruments

It is necessary to seek fortification in major human rights instruments namely the International Bill of Rights, and the African Charter on Human and People's Rights. As part of the International Bill of Rights both Universal Declaration of Human Rights of 1948 and the International Covenant on Civil and Political Rights of 1966 guarantee the right to peaceful assembly and association under articles 20 and 21 and 22 respectively. The same guarantees are enshrined in the African Charter on Human and People's Rights, article 11. This right and freedom of expression, are to be primarily emphasized as this report dwells on the incidents leading to their violations.

The Government of Tanzania, under international law, has the obligation to respect human rights, as it has ratified the following treaties:

- In 1976: the International Covenant on Economic Social and cultural rights of 1966
- In 1976: the International Covenant on Civil and Political Rights of 1966
- In 1976: the International Convention on all forms of Racial Discrimination of 1966

- In 1972: the International Convention on the Suppression and Punishment of the Crime of Apartheid of 1973
- In 1985: the International Convention on the Elimination of all Forms of Discrimination Against Women of 1979
- In 1991, the International Convention on the rights of the Child of 1989.

The Government of Tanzania has yet to sign or ratify the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the Optional Protocol to the International Covenant on Civil and Political Rights, which allows individual complaints to be heard at the United Nations Human Rights Committee.

International human rights standards regarding security are based on customary law and should be reflected in domestic law. "The Code of Conduct for Law Enforcement officials" and the "UN Basic Principles on the Use of Force and Firearms" are international human rights standards which allow the security force to carefully use force in prescribed circumstances.

### D. The Constitution of the United Republic of Tanzania

Freedom of Assembly and public expression is provided by the Constitution of the United Republic of Tanzania of 1977 as amended from time to time. Vide Article 20 (1) the Constitution provides as follows:

*"Subject to the laws of the land, every person is entitled to freedom of peaceful assembly, association, and public expression that is to say the right to assemble freely and peaceably, to associate with other persons and in particular to form or belong to organizations or associations formed for the purposes of protecting a furthering his or any other interests".*

Article 18 (1) of the same Constitution provides for freedom of expression by enacting as follows:

*"Subject to the laws of the land every person is entitled to freedom of opinion and expression that is to say the right to freely hold and express opinions and to seek, receive and impart information and ideas through any media and regardless of frontiers and freedom from interference with his correspondence."*

## CHAPTER II : TREND OF ELECTION MANAGEMENT IN ZANZIBAR

### 2.1. The 1995 General Elections

The 1995 general elections were the first multi-party elections ever held in Zanzibar since 1963 when the Coalition Government of ZPPP (Zanzibar People's Party) and ZNP (Zanzibar Nationalist Party) formed Government. During 1995 elections when in Zanzibar, the ruling party, CCM, won the presidential elections with a very narrow margin as its candidate, the incumbent former president Dr. Salmin Amour won the presidency with 50.2% of all votes against 49.08% for Seif Sharrif Hamad, the opposition Civil United Front, CUF, candidate.<sup>2</sup>

Nonetheless, these elections were contradictory as there were several allegations leveled against either the Zanzibar Electoral Commission (ZEC) or the ruling party, CCM, that they had either jointly or severally colluded and rigged the election results in their favour. These allegations were so serious that the opposition CUF boycotted the said presidential results leading to a boycott of the CUF Representatives attending the House of Representatives sittings, the resignation of the Chairman and Vice-Chairman of the ZEC, expulsion and / or transfer of civil servants, police crackdown against CUF supporters, death and damage of property of some people, detention of 18 CUF members allegedly for treason, and the signing of the memorandum of agreement (MUAFKA) between CCM and CUF. International observers from the United Nations agreed that there was evidence of serious irregularities, but the ZEC refused to hold a re-count. Research done by these fact-finders attributed the political problems resulting from the 1995 general elections partly to the legal framework of the Zanzibar Electoral Commission. The following section throws some light on the legal framework of ZEC.

### 2.2. The Legal Framework of the Zanzibar Electoral Commission (ZEC)

The Consultants Reports on Constitutional Electoral and Judicial Reform in Zanzibar (submitted to the Inter-party committee of CCM and CUF, Zanzibar, 6 February 2000) observed in the introduction that:

*"Free and Fair elections are an important part of a stable and democratic Government. Among the essential ingredients of multiparty democracy are an impartial elections management body, adequate resources to support election organization and well trained election staff that understand the need for*

*impartiality. Free and fair elections thrive on transparency of actions in election organization... [A] level playing field for all the contesting political parties which fosters confidence in the electoral process. Transparent actions in the preparation for elections enhances the perception of the freeness and fairness of elections and make the election results readily acceptable to the parties".*

From this observation, emphasis is placed on the principle that for any elections to be free and fair there needs be a very effective elections management body, that is legally framed to enhance democratic advancement in any democratic Government.

In Zanzibar the election process is managed by the Zanzibar Electoral Commission, ZEC, which is established under sections 119(I) of the Zanzibar Constitution of 1984 along with section 4 of the 1984 Zanzibar Electoral Act.<sup>3</sup> The commission was launched on 26 March 1993. Under section 119 of the constitution, the Chairman, who is the head of the commission, is appointed by the President of Zanzibar together with six other members in his sole discretion. The same person "will be eligible for appointment according to qualifications that the Honourable the President will decide to be fitting".<sup>4</sup> The Vice - Chairman is elected by the commissioners who are nominated by the President.<sup>5</sup>

With the exception of the Chairman who enjoys fulltime tenure, the other six members are part-timers who hold office for five years. According to one renowned scholar<sup>6</sup> "ZEC members enjoy a much more reliable security of tenure than that of the High Court and Court of Appeal judges". He goes on to observe that:

*"The Zanzibar constitution enjoins the President, when he desires to sack a ZEC member, to appoint a special commission consisting of not less than three members which, after looking into the President's case against anyone member would recommend to the President whether the member concerned should be removed or not".<sup>7</sup>*

From this legal framework, the composition of ZEC makes doubtful whether it can perform its required functions of enhancing free and fair elections. In so far as all members of the

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commission are presidential appointees it is likely that they owe allegiance to their appointing authority which may affect the discharge of their duties. Furthermore, the President has power to cause the removal of any member who disgraces the president, through appointing the special commission to inquire into such member's alleged misconduct.

In essence, the main functions of the commission are set out in section 119 of the Constitution of Zanzibar<sup>8</sup>. In relation to this report, only the following functions are noted as follows:

- (a) The commission is responsible for overall supervision of the general conduct of all presidential, members of House of Representative, and local elections in Zanzibar.
- (b) *Not applicable.*
- (c) To divide Zanzibar into constituencies with definite boundaries - so division has to get presidential approval.
- (d) To be in charge of voters registration and elections for a president, member of the House of Representatives and elections for local authorities.
- (e) To exchange ideas from time to time with the National Electoral Commission.

A quick glance at these functions suggests that there are serious legal and practical impediments for ZEC to make free and fair elections in Zanzibar as will be analysed in the section below.

According to the Electoral Act,<sup>9</sup> eligibility to voting is qualified under such stringent conditions as the mandatory requirement for a voter to show domicile within the particular constituency for five consecutive years<sup>10</sup>. However, those who fail to prove satisfactorily their five consecutive year residence in their respective constituencies are not eligible to vote for candidates in presidential, representative to house of Representatives and local councillors elections. Gravely, those under by this requirement are compelled to prove their case before the Sheha.<sup>11</sup>

However, the existing law does not set out legal conditions to be used as standard unit for proof of residence of a prospective voter, hence leaving very wide discretionary powers to the Shehas to give out their decisions as to residence of the respective people basing on their political leanings.

### 2.3. Consequences of ZEC's Election Management: Examples of 1995 and 2000

#### A. Resignation of Top Leaders of ZEC

As pointed out in 2.2 above, the weak legal composition of ZEC started to crumble on 21 March 1999 when the then Chairman and Vice-Chairman resigned<sup>12</sup>, following several allegations

leveled against the commission by both the opposition parties and some human rights groups. This tendency rendered the entire commission doubtful in both its composition, structure and legal functions. As observed by some consultants:

*"The electoral system is the determinant of a given electoral structure and framework. It may dictate the method of representation in Parliament, the method of voting and procedures governing the major processes of elections".<sup>13</sup>*

As such, going by the functions of ZEC as set out in 2.2. above, there are several shortcomings recorded both in the 1995 and the 2000 elections. The most remarkable shortcoming is pertaining to ZEC's function as overall supervisor of the general conduct of all presidential elections and elections for members of the House of representatives and local authority elections in Zanzibar. In 1995, ZEC generally failed to discharge the function properly required by law, in that the elections were grossly mismanaged leading to CUF boycotting them and both local<sup>14</sup> and international observers denouncing the same. All this started from registration, campaign, printing of ballot papers, voting, counting of votes, and announcing the results processes.

#### B. Voting and Vote Counting

It is interesting to note that as the exercise of counting of votes was drawing to an end, both CCM and CUF, the major contesting political parties announced that they would not accept the election results, both alleging that the whole elections process was tainted with election mismanagement. However, at the end of the day CCM accepted the same results as they were announced in its favour.

On the other hand, in the year 2000 general elections, ZEC once again revealed its customary weakness when at the end of the polling<sup>15</sup> the said elections were, as international observer groups dubbed it, shambles. This state of affairs was a culmination of a very weak and an uncoordinated election management system arising from registration of voters, campaigns, voting, counting and announcing of the results. It is however, disappointing to note that voting was nullified in all 16 constituencies in Western Urban Region, on the lame excuse described by one journalist in the following terms:

*"On polling day itself, the Zanzibar Electoral Commission official responsible for Urban and West Districts absconded, not reporting in until the following day. As a result many polling stations opened hours late<sup>16</sup> due to lack of ballot papers. Several did not open at all and so did not record a single vote. Both parties immediately issued a series of statements*

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*containing a raft of allegations, from tampering with ballot boxes to people voting more than once<sup>17</sup>. Polling in 16 Zanzibar's 50 constituencies had to be annulled after disastrous organization and possibly deliberate political sabotage turned the process into a farce<sup>18</sup>. From the experience recorded in the 1995 general elections, few people expected the year 2000 general elections to go smoothly in Zanzibar, which in fact proved futile".*

CUF boycotted the Zanzibar's re-run election for only 16 out of 50 constituencies conducted on 5 November 2000, the CUF having asked for a re-run in all constituencies.

### C. Division of Constituencies

In discharging the function of dividing Zanzibar into constituencies with definite boundaries, ZEC has found itself bowing to political whims, especially when such division has to be approved by the President of Zanzibar. This has recently manifested in form of a move to set up two more constituencies in Unguja and 'erase' two constituencies in Pemba, a move which most people interviewed see as a deliberate intention to reface CUF's political strength in its stronghold in Pemba and in the process increase CCM's strength in both Unguja and Pemba.

ZEC is also vested with another function of being in charge of voter registration and elections for the Zanzibar President, member of the House of Representatives and elections for local authorities, a function which is tainted with many problems. These problems range from the process and procedure governing voter registration, campaigns, printing of ballot papers, voting to counting of results. Indeed, the report of ZEC on the general elections held on 22 October 1995 listed a number of allegations and complaints made about the registration exercise by individuals and political parties.<sup>19</sup>

### D. Electoral Act of 1984 as amended in 1995

According to the report by consultants, one of the complaints is centred on the question of residence. This problem emanates from the amendment to the electoral Act of 1984 made in 1995<sup>20</sup> which came up with a requirement whereby a prospective voter could only be eligible to register and vote in a constituency if he had resided in that constituency for a period of five years consecutive. This legal requirement has resulted into a number of profound side effects such as those who could not prove five years residency in a constituency, "could not vote for a constituency candidate for a seat in the House of representatives or for a councilor, or in the Presidential elections for the president of Zanzibar"<sup>21</sup>. As noted earlier, under s. 17(1)(d) of the Regional Administration Authority Act, No. 1 of 1998, proof of residence is

done by the Sheha who has power to grant or deny the prospective voter such right. There is also a requirement that the prospective voter, aggrieved by the Sheha's decision, appeal to the Regional Magistrate who has complete discretion to hear or not to hear any evidence. This provision, in effect, prevented many people from Pemba living in Unguja from registering and voting and people from Unguja resident in Pemba could not register and vote there, both in the 1995 and 2000 elections.

### E. The 1995 Election Management

In 1995, for example, registration of voters commenced on 6 August 1995, however, on this first day the turn out at polling stations was very big and every one was eager to be registered first. There ensued a serious commotion that led to the adjustment of the registration timetable<sup>22</sup>. Indeed, this was, as ZEC once conceded, a bad start for the exercise, and it did foretell the coming election registration problems. Things were even worse during campaigns for elections, as the police intervened many times regularly in the opposition (especially CUF) campaign rallies throughout Zanzibar. For example, on 14 October 1995, a CUF political campaign meeting was disallowed by the police on the grounds of Umoja ni Nguvu at Mkoani, Pemba, for security reasons. CUF did not agree with the order and proceeded with the meeting and the police used tear gas bombs to disperse the rally<sup>23</sup>.

This kind of police intervention in the opposition political campaign meetings shows that either the police force does not know exactly its duty of protecting and providing security at the said meetings or they are simply used as instruments of the rulers.

As a matter of fact, in 1995 there were many problems during the voting exercise few of which had been documented due to failure to appreciate their magnitude and political significance in democratizing the system of governancy. A good illustration is what which happened at Mtambwe constituency in Pemba where people had to cast their votes on 23 October 1995 because of logistical problems caused by heavy rains<sup>24</sup>.

The 1995 general elections were also tainted with malpractices in counting of votes<sup>25</sup>. Disputes arose, for example, as to summing up of the total votes for Mlandege, Kikwajuni and Bumbwini constituencies. These disputes led to recounting of the votes until the 25 October 1995<sup>26</sup>, in the presence of the external and internal observer, i.e. votes were recounted three times<sup>27</sup>.

In general terms, the conduct of the 1995 general elections, as highlighted above, was so cumbersome that it led to total rejection by the opposition Civic United Front CUF.

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### F. The 2000 Election Management

Following the 1995 elections, the exercise of voters' registration became even more cumbersome in the year 2000 general elections in Zanzibar<sup>28</sup>. Our findings show that a good number of the prospective voters were denied universal enfranchisement i.e. right to vote owing to a number of reasons, such as the requirement of five-year residence and proof thereof, cumbersome and uncertain appeal procedure against denial of registration, etc. Despite the fact that there were a good number of voters who failed to meet these requirements, there are allegations that a large group of young men were brought from Unguja as JKU (Jeshi la Kujenga Uchumi) youths to vote even though they did not meet the conditions<sup>29</sup>.

According to TEMCO<sup>30</sup>, voters registration was poorly managed. For instance, a number of problems were revealed from the voter lists postage like people having registration certificates without having their names in the posted lists. Although CCM objected against 2000 voters in Pemba and 500 in Unguja, ZEC disregarded the objection and proceeded to announce that all people with only voter registration certificates would be allowed to vote. This shortcoming later became a cause for ensuing allegations that some unregistered voters had been brought to vote on the Election Day.



Most of the voters here (Stone Town) never casted their votes! October 2000, when the elections were clearly mismanaged.

### G. CUF's Response

On its part CUF alleges that ZEC failed to manage the entire general elections in 2000, which therefore were not free and fair. For instance, the wide discretionary powers vested in the Shehas as to proof of five year residence of the prospective voters caused fierce exchanges of words and sometimes use of force between CUF supporters on the one hand and Shehas on the other. According to CUF officials and supporters interviewed, the campaign process was tainted with malicious and deliberate police interruptions of the opposition CUF's political campaign meetings in every constituency in Zanzibar. They further allege that it was surprising to see a CCM political campaign meeting being held without police interruption. However, according to the police officials interviewed, police interruptions were necessary to calm down CUF supporters who allegedly were too violent during and after such meetings, a situation which posed a dangerous threat to people's life and property within reach of live bullets. Consequently civilians who gathered around such meetings were injured. For instance, one Mohamed Hassan (38 years) and five others residents of Kwamtipula constituency, West Urban Zanzibar, on the 11 October 2000, were shot by the police and were severely injured while attending CUF's campaign meeting held at Kilimahewa.

### H. CCM & Government's Reaction

Needless to say, the election mishaps depicted above presuppose that the whole scene in Zanzibar was planned by some authorities higher than ZEC and the police<sup>31</sup>. In effect these mishaps had the following consequences: after ZEC failed to manage the 1995 first general elections effectively, CUF resorted to boycotting them and declined to recognize the president of Zanzibar. CUF representatives to the House of representatives also boycotted the House's sittings, a situation that led to signing of the memorandum of understanding between CCM on one hand and CUF on the other<sup>32</sup>. This memorandum, briefly, aimed at ending the existing political impasse which if properly effected would assist first in reforming the Zanzibar Electoral Commission, secondly in promoting human rights and good governance, thirdly in reforming the judiciary, and fourthly in amending the constitution of Zanzibar<sup>33</sup>.

In order to effect these resolutions, a team of consultants was appointed to review the constitution of Zanzibar, electoral laws, the Zanzibar Electoral Commission, and the Judiciary<sup>34</sup>. Their recommendations, if properly followed and effected, would guarantee the achievement of the resolutions of the Memorandum which in turn would promptly lead to fair and free elections in 2000. But things were markedly different

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resulting in serious election mismanagement in the 2000 general elections in Zanzibar. In a nutshell, ZEC's election management manifested itself in such forms as registration of voters, disruption of campaigns owing to police interruptions at the opposition CUF's political campaign rallies, nullification of voting and hence re-run of the voting exercise in 16 of Zanzibar 50 constituencies and various forms of excessive use of police powers against CUF supporters at Darajani in the week between the main polls and the re-run in those 16 constituencies; and later police crackdown on CUF demonstrators on 27 January 2001.

However, the Government has categorically rejected these allegations; saying that it was CUF which was the root cause to the said elections problems. Delivering the Government stance on the present political mayhem in Zanzibar in a speech read to the Parliament on 1 February 2001, the prime Minister said that CUF disrupted the process of voter registration and campaign by setting fire to at least 13 residential houses belonging to CCM supporters. Shehas offices were also set on fire at Malindi, Unguja. CUF supporters also were alleged to have assaulted the police at Mtangani, Pemba, Tumbatu and Mwanakwerekwe area. They also allegedly assaulted and destroyed 2 cars belonging to CCM's Parliamentary candidates of Makunduchi, Hon. Abdisalaam Issa Khatiba and his fellow candidate for House of Representatives. CUF supporters also were allegedly walking with knives and injured several officials of ZEC. They also were alleged to have killed one PC Haji at Juakali store, and later bombed and severely injured one ZEC official, Masoud Mohamed Ally. The Government also alleges that CUF were involved in 12 bomb blast incidents which wrecked several Government buildings in Zanzibar especially at Wete, a warehouse store belonging to Bizanje, Kilimandege Wete, etc.

This litany of unproved accusations against CUF, is denied by the CUF which maintains that the government is bent on tarnishing the image of CUF by presenting it as a terrorist party in order to justify atrocities made to CUF supporters and leaders. Yet that notwithstanding the overt police crackdown on CUF supporters cannot have convincing reason. The whole episode provides inference that the police force has plunged in politics, whereby CCM pays the piper and the police dances to the tune.

### Footnotes :

2. Projectus Rwehumbiza: Police Brutality in Zanzibar, in The Human Rights Observer, Vol. 3, October 2000, p. 1, and Kaleb Lameck: "Police Brutality in Tanzania" A Critical Analysis of the Legal Framework and Observation on Human Rights, A paper presented the Workshop of Police at Brutality, held in Johannesburg, South Africa in September 2000.
3. No. 11 of 1984
4. The Five Years Report for the Zanzibar Electoral Commission; 26 March 1993

to 25 March 1998, ZEC, 1998 pp 1-2.

5. Ibid

6. Dr. Harrison George Mwakymbe: 'The YEAR 2000 GENERAL ELECTIONS: A Critical Process', A paper presented at the TLS Half - Annual General Meeting, held at Bagamoyo from July 28 - 29, 2000.

7. Ibid, p. 9.

8. Also see the Ectoral Act, 1984 No. 11.

9. No. 11 of 1984, as amended from time to time.

10. Section 12(6) © of Act No. 11.

11. Under s. 17(1) (d) of Act No. 1 of 1998 (under sections 2 and 15 of the Regional Administration Authority. Act, No. 1 of 1998, a Shehia is defined as an officer appointed by the Regional Commissioner with the advice of the District Commissioner of that region in which that Shehia is situated to head such a Shehia. A shehia is defined under section 2 of Act No. 1 refer to all area a jurisdiction formerly known as Chama Cha Mapinduzi branch, or as may be prescribed by the concerned authority.

12. These were the Honourable Mwyniwesa Idarous and Honourable Ussi Khamis Haji, respectively.

13. Consultants' Reports on Constitutional, Electoral and Judicial Reform in Zanzibar, Submitted to the Inter-Party Committee of CCM and CUF, Zanzibar on 6 February 2000, Team 2, P. 11.

14. Zanzibar Elections Monitoring Committee, ZEMCO.

15. Of 29 October 2000.

16. Our on spot fact finding interview with some voters in the said constituencies reveal that in some areas polling stations were opened four to six hours late.

17. The allegation which fact finders have verified to be true.

18. Roger Dean, The **Winning Team**, in "BBC Focus on Africa", January to March 2001, Vol. 12 No. 1.

19. As discussed in 2.2. above.

20. Ibid.

21. Ibid pp 11 - 12.

22. Made under s. 20 of the Electoral Act.

23. Op. Cit, p. 14.

24. Ibid, p. 16.

25. Which was done under s. 78 Act. No. 11/1984.

26. Three days after the elections.

27. Ibid.

28. It was not easy to get the actual number of the victims of this requirement as there is lack of central and organized data bank open to the public.

29. Several people interviewed in Zanzibar who preferred anonymity, pleaded that the allegations were true. See also TEMCO's Interim Statement on the Elections in Zanzibar, released on 31 October 2000.

30. TEMCO Fortnightly Bulletin of 15-19 October 2000.

31. This view was also shared by one human rights activist working with one NGO in Zanzibar, who however preferred anonymity. See also TEMCO's Interim Statement on Elections in Zanzibar, op. cit.

32. Signed on 9 June 1999.

33. Consultants' Report, op. cit. Annexure 1, pp. 1 - 5.

34. The team was composed of team A, Issa G. Shivji and Mr. B. Pollard; Team B, Mr. Mark D. Bomani and Mr. Carl Dundas; and Team C, Prof. G. Mgongo Fimbo and Justice T. Doherty.

## CHAPTER III : OBSERVATION OF HUMAN RIGHT IN ZANZIBAR: POLICE BRUTALITY AND OTHER FORMS OF HUMAN RIGHTS ABUSE

### 3.1. Introduction

The political environment conducive for free and fair elections in the semi-autonomous archipelago of Zanzibar<sup>35</sup> in the period between the processes of registration of voters, campaigns, voting, and rerun of polling has been greatly compromised by the political violence prevailing in most parts of the Islands. Some political analysts observe that the presence of Moslem majority in both Unguja and Pemba has been used by some as a pretext to attribute Islamic fundamentalism in Zanzibar. The fact that Pemba (which is mostly pro-CUF) is almost exclusively Muslim, has prompted the government to play a religious card as a justification for the crack down towards Muslim dominated CUF. By the date of the completion of this report, 32 people believed to be CUF supporters had reportedly lost their lives<sup>36</sup> during the countrywide CUF demonstrations held on Saturday 27 January 2001. In the weeks between the main polls and the re-run in the 16 constituencies, the farce descended into violence. At Darajani, police officers in full riot gear fired tear gas, rubber bullets and live ammunition at the demonstrators gathered on Creek Road, right in the center of Zanzibar town. They also heavily beat civilians. According to one journalist, anyone caught by the police was badly beaten, including one elderly woman who was simply in the wrong place at the wrong time<sup>37</sup>. At least 16 people were detained. The police alleged that they were forced to use such excessive force as the CUF supporters had thrown stones at a police car.

### 3.2. The Command of the Executive

A factor which accelerates police brutality in Zanzibar is the command of the executive. Although the executive is vested with a sacrosanct function of controlling the state security agencies in order to enhance peace, security and order in a democratic state like Tanzania, it sometimes abuses this function. Instead, the executive in Tanzania has of late been using the state security agencies in order to thwart down CUF's lawful political activities. This trend has been rampant during and after the multiparty general elections since 1995.

This factor is given impetus by the utterances publicly given by the top brass. For instance, immediately after the Darajani police crackdown on CUF supporters, President Mkapa<sup>38</sup> on 2 November 2000 issued a statement applauding the state

security agencies for the good job they did during the election period. The same acclamation was made by the current Zanzibar President, Amani Abeid Karume<sup>39</sup>. Recently, the Prime Minister, Hon. Frederick Tluway Sumaye, issued a statement<sup>40</sup> to reporters in Dar-Es-Salaam to the same effect. The Premier further warned in Kiswahili:

*"Chama cha CUF kisijaribu kuchokoza au kupambana na Polisi au chombo chochote cha usalama kwa lengo la kupata huruma kutoka kwa watu kutoka nje ya nchi. Uchokozi wowote utajibiwa kwa nguvu inayostahili".*

In English: "CUF should not try to incite and confront the police or any other state security agency for the purpose of winning international sympathy. Any provocation will be met with all due forces of the state."

From such statements, the state security agencies have no option but to implement the stand of their bosses<sup>41</sup>. For example, when on 2 April 2000 the police invaded a CUF in-house meeting at a party branch office in Magomeni Constituency and following a farce which descended into violence that left four police officers injured by CUF supporters, the Inspector General of Police (IGP) went to Zanzibar, talked to the President of Zanzibar and then addressed the police officers in Zanzibar. In his speech, the IGP urged the police to be tough and rough with rioters in order to restore the fading esteem of the police forces in Zanzibar<sup>42</sup>.

### 3.3. Police and the Civilian Ignorance of the Law and General Fear

Reports on most of the police brutality cases in Zanzibar reveal that there is a serious problem of ignorance of the law among both civilian and police personnel. As just observed, the police have been brutalizing members of the public, in the name of restoring their fading esteem following a challenge given to them by the IGP. In justifying this challenge, the police have just been carrying out the orders of their commanders without due regard to universal standards of human rights. On the other hand, the population is overwhelmed by apathy so that even the civilian victims of police brutality simply agonise with great pain without taking any legal actions against their tormentors. For

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instance, none of the victims of police brutalisation at Darajani took any legal action against the police's excessive use of force. A good number of them are being now treated in house at the CUF Zanzibar head office, along Mtendeni street. Worse still, they fear to report to the government hospitals as they feel that the hospital officials are under order not to treat them, so they expect no service from them.

Meanwhile, the CUF supporters who were the victims of the police atrocities fear to report to the police for fear of being arrested and charged with criminal offences, especially loitering and vagrancy.

### **3.4. Lack of Human Rights knowledge and Legal Skills among the Police**

A good number of police officers, especially those in the low ranks, have very low education standard and worse, they have no legal and human rights literacy at all. Our random research shows that the majority of the policemen and women are either ex-form four or form six qualifiers, most of whom have a very limited legal knowledge<sup>43</sup>. Very unfortunate to the human rights world, they are responsible for direct contact with the suspects and victims of police arrests and crackdowns before they are taken to the high-ranking police officers for prosecution in courts of law. With this weakness, it is unlikely that such police men and women apply human rights standards while executing the orders of their commanders.

### **3.5. The Role of the Commanding order and Discipline of the Police Force**

The police officials are trained and coached to respect the high ranking or commanding order, irrespective of human rights standards. As such, a prevailing rule along the police corridors of all ranks is that you execute the order and reason afterwards. Therefore, when a high command has given an order what the low-rank policemen and women have to do is to carry out the order, in most cases, at the expense of human rights.

### **3.6. The Legal Framework Governing Police Powers**

The police in Zanzibar, just as in Tanzania mainland, discharge their statutory function under the police Force Ordinance<sup>44</sup>, whereas the daily functions and orders of the police are guided by the Police General Standing Orders provided for by the Inspector General of Police<sup>45</sup>. Execution of penal offences in Zanzibar is regulated and guided by the Penal Decree<sup>46</sup>,

Criminal Procedure Decree<sup>47</sup>, and the Evidence Act<sup>48</sup>. All these pieces of legislation provide enormous powers to the police such as powers to stop and search, arrest and detention, bail, investigation and interrogation and prosecution of the suspects. The research carried out in Zanzibar reveals that all these powers are being grossly abused. Practical examples will be outlined in the following part of this report.

### **3.7. Political Fanaticism**

Another major force behind police brutality in Zanzibar is the provocation invoked by political fanaticism amongst police officials. In the period from the last election campaigns to date both parties' leaders have been heard uttering provoking statements like "jino kwa jino" (tooth for a tooth) "ngangari" and "ngunguri" (force by force) . Worse, certain CUF leaders went as far as to threaten during their last political campaigns that there would be bloodshed if CCM rigged the elections. Furthermore, some CUF leaders were variously reported to have been ordering their supporters to combat the policemen and women squarely whenever the latter wanted to intervene with the former.

On the other hand, the ruling party leaders have also been uttering such politically provocative phrases as the current allegations that CUF is a "terrorist political party". They have also recently been reported by the media to be urging the police to "combat the demonstrators severely". They have, moreover, gone as far as to congratulate the police for the job done on 26, 27 and 28 January 2001<sup>49</sup>. In the final analysis, political fanaticism stimulates the police to react emotionally and crackdown excessively on civilians who are alleged to be dissidents. The result is twofold. On one hand, many people are brutalized to death or seriously injured. On the other hand, the police officers concerned are praised by their political bosses and sometimes promoted<sup>50</sup>.

### **3.8. Recent Incidences of Police Brutality in Zanzibar**

In Zanzibar, police brutality against CUF supporters manifested itself in various forms and was carried out by such agents as the police force, Jeshi la Kujenga Uchumi, JKU and Kikosi Maalum cha Kuzuia Magendo, KMKM - the last two being the Zanzibar quasi - military units. According to CUF officials interviewed in Zanzibar, the police commenced brutalizing CUF supporters as early as the registration period when several CUF supporters were arrested and detained in police cells. These arrests were, according to CUF officials, on "trumped up charges" made following CUF supporters' challenge against the arbitrary and



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discretionary decision of Shehas to deny registration to most CUF members. The CUF supporters detained in police cells were subjected to many forms of torture, including being kept without food in crowded, ill-ventilated cells at Mwembe Madema, Ng'ambo station and Kiinua Miguu central Prison under squalid conditions.

This fact finding mission noted allegations of sexual abuses including rape perpetrated by police officials against women in Pemba. These allegations were confirmed by the preliminary findings of Amnesty International mission to Tanzania (AI Press Release of 1 March 2001).

It is regrettable to note here that, even the Tanzania Peoples' Defence Forces were called into play to assist the police in calming down unarmed CUF supporters who were asserted by the state security forces to be rioters. This was justified by the Chief of the Defence Forces, General Robert Mboma who reportedly sent armed personnel carriers to Zanzibar to assist the police to ensure peace and order. The presence of these combined forces was considered by most CUF officials and supporters as a deliberate intention by the ruling party to create fear amongst the voters in Zanzibar.

As political campaigns were going on, matters worsened as the police increased their stance against CUF supporters. The police and other quasi - military units regularly interrupted CUF political campaign meetings. According to several people interviewed in Zanzibar, these police interruptions led to several injuries and sometimes death. For example, Mohamed Hassan, 28 years old, resident of Kwamtipula Constituency; Mohamed Ally Alley, 30 years old, resident of Bububu Mfenesini; and two others were shot by the police officials in the stomach, another in the thigh, the other on both legs; and the last one in the heels, when attending a CUF campaign meeting held in Kilimahewa Constituency.

Khatib Mathal, Khalid Abdallah; Masoud Salum; Omar Juma; Abdi Adam Salum; Suleiman Hamad Abeid; Seleman Fadhil Makame; Mohamed Khamis Juma; and Mkubwa Haji Fom, all residents of Kianga Dole had their houses burnt down on 27 October 2000 - two days before elections. All these are members and supporters of CUF. However, reports from CCM had it that the burnt down houses in the said area belonged to CCM supporters. Nonetheless, the above- mentioned victims confirmed before the researchers that they are members of CUF and not CCM, and they all asserted that this allegation by CCM was a calculated act intended to turn things up side down.

On the other hand, Mohamed Khamis, alias Sergei, 55 years old, a retired militiaman and resident of Kidongochekundu, Jang'ombe Constituency, Unguja, had his house searched in his absence on 8 November 2000 by police with dogs, who took away with themselves his former military uniforms, a matchet, and party documents. On 7 January 2001 he was arrested, detained and harshly interrogated by the police who, on 10 January 2001, charged him in Court with several criminal offences associated with bombing incidents now rampant in the two islands. His case is now pending in Court.

Parallel to these specific incidences of police brutality in Zanzibar, there is a good number of similar cases which occurred in Zanzibar now pending in Court despite clemency issued by the current president of Zanzibar on the inauguration day to all political dissidents whose cases were pending in Courts<sup>51</sup>.

The media was not spared from police brutality. After reporting exactly these events in Zanzibar, CCM responded by lashing out at its accusers, issuing a statement condemning the international journalists for misinterpreting events on Zanzibar. The same day, 30 October 2000, Ally Salleh, BBC correspondent in Zanzibar, was arrested, detained, harshly interrogated and charged with kidnapping and indecent assault. He had just broadcast an interview with two women who claimed to have witnessed electoral fraud. He was held overnight and then released. Meanwhile, another BBC journalist spent a night in hiding before fleeing from Zanzibar after learning that he was also on the 'wanted' list<sup>52</sup>.

Such police intimidation of journalists is still prevailing in Zanzibar. The researchers witnessed the journalists' fear of the state security agents: one seasoned journalist, who had said that he would refuse to grant an interview to the fact finders unless his name was withheld, stood up and quietly left the fact finders when he spotted plain clothes policemen entering the room where the interview was being held.

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Tanzanian Police beating a civilian (one of many) at Darajani in Stone Town, Zanzibar, 27th January 2001, during the nation-wide CUF peaceful demonstrations



Tanzanian Police attacking a civilian (one of many) in Stone Town, Zanzibar, on 27th January 2001.

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### 3.9. Police Crackdown on CUF Peaceful Countrywide Rallies

Confrontations between the police and supporters of the Civic United Front, CUF, ensued in both Zanzibar and Dar-Es-Salaam on Friday 26 Saturday and 27 January 2001, and during the two succeeding days in which at least thirty people had been reported dead. However the death toll according to the government stood at 23 according to the opposition CUF officials, at least 32 of their supporters had been killed in these bitter days,<sup>53</sup> as demonstrations across Zanzibar calling for a re-run of the controversial elections turned violent. The media earlier reported that among these dead, two were members of the security forces, one of whom had been killed in Unguja and the other in Pemba who was decapitated<sup>54</sup>. Scores of other people were reported to have been seriously injured and CUF officials told reporters that the police had sunk two canoes (Majahazi) in the Indian ocean which had carried at least 60 seriously injured CUF supporters who were shipped from Pemba Island to Mombasa, Kenya, for treatment as they either feared arrest or were simply denied treatment in Government hospital in the Island. However, the Police Forces denied these allegations<sup>55</sup>. These people were victims of the said police - civilian clash which occurred in Pemba and Unguja following a government ban over the intended countrywide CUF demonstrations.

However, according to the Union Government<sup>56</sup>, they were CUF supporters who caused this fiasco as the said demonstrators allegedly carried with them such dangerous weapons as knives, matchets, acid and arrows which threatened the lives of the personnel of the security forces. Speaking at a press conference held at the famous Idara ya Habari (News Division), Maelezo Conference Room, State Minister in the Prime Minister's Office responsible for information and politics, Omari Mapuri<sup>57</sup>, said that the CUF demonstrators disguised their faces by wearing black masks in the "ninja style", a situation that allegedly provoked the security forces who reacted accordingly. He further alleged, without disclosing the sources, that the demonstrators committed the alleged breach of peace with much bravery as men who had received some training in sabotage, and gallantly escaped without being arrested by the police. He said that the death of ten people in Pemba occurred after the demonstrators tried to attack several police stations at Micheweni and Wete in order to steal guns and rounds of ammunition. The Minister, therefore, said that only 19 people were killed, one being a policeman and 82 others were seriously injured including 10 policemen. He largely blamed CUF for instigating the violence.

Earlier, CUF had called for a "peaceful rally" to be held

countrywide on 27 January 2001 to manifest CUF's protest against the bungled Zanzibar general elections of October 29 2000, demanding the reconstitution of the Zanzibar Electoral Commission; calling for fresh elections in the Islands, and for radical constitutional amendments to both the Zanzibar and Union Constitutions. However, the government banned the protest rallies, saying that they were intended to instigate chaos in the country. The Prime Minister, Frederick Sumaye told reporters in Dar-Es-Salaam, during a press conference convened in his office on 25 January 2001, that the Government had banned them and said further that Tanzanians should not dare to demonstrate as the police were already well prepared to combat squarely with the demonstrators in whatever manner the situation would require them to act. The premier alleged that CUF had trained terrorists in a foreign country, and that the government was tracking them down. He said that these terrorist elements in the CUF ranks and files were bent on causing destruction of property and harming innocent Tanzanians for political expediency (for further elaboration see Chapter V).

However, CUF leadership defied the ban and speaking at the press conference, the CUF national Chairman, Prof. Ibrahim Lipumba, appealed to CUF supporters all over the country to "march on" Saturday as planned. Prof. Lipumba said he himself would lead the rally in Dar-Es-Salaam along with the top CUF echelons. He insisted in lucid terms that the demonstrations were lawful basing his appeal on the encouragement by the Chief Justice who told parliamentarians in Dodoma some time last year that all political parties have the right to call for and conduct peaceful rallies and assembly, a right which he categorically said is enshrined in our Bill of Rights as well as in other International Instruments. Lipumba further said that to show that the demonstrations were peaceful, CUF supporters would rally with nothing dangerous but with only harmless placards delivering their three-tier themes of the rally. He thus insisted that even the police had been notified of the same adding that CUF did not need to confront with the police but wanted the police to protect the demonstrators in order to ensure security<sup>58</sup>.

After the press conference, Prof. Lipumba and the entire CUF leadership proceeded to Mbagala Zakheem, where the Kigamboni CUF's MP, Mr. Frank Magoba, convened a rally, which the police described as illegal and subsequently broke it up. As a result, Prof Lipumba and many of his supporters were arrested and later charged before the Resident Magistrate's Court of Dar-Es-Salaam<sup>59</sup> for allegedly convening an unlawful meeting<sup>60</sup>. Prof. Lipumba suffered a broken left arm allegedly from a police beating, while others limped their way into court. They were all remanded in police custody for failing to meet bail conditions. Meanwhile, still on 25 January, the police broke up another rally

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held in Zanzibar soon after the Friday Muslim prayers, shooting dead two CUF supporters<sup>61</sup>.

These confrontations particularly threaten peace efforts which have already been initiated between the opposition CUF and the ruling Chama cha Mapinduzi. According to newspaper reports<sup>62</sup>, the CUF leadership says "it is bitter over the deaths and the subsequent arrests", a stance which renders the peace negotiations being coordinated by the Mwalimu Nyerere Foundation "extremely difficult now" to undertake<sup>63</sup>. Accordingly, a breakthrough is now difficult to attain, unless all sides withdraw from their hard line positions, which of late have led to these police atrocities. While CUF wants senior party officials, including President Benjamin Mkapa, CCM Chairman, to hold peace talks, CCM on its part wants CUF to first recognize Amani Karume as the bona fide Zanzibar president, "saying the other issues can then be negotiated"<sup>64</sup>. CUF also seeks to have the Zanzibar Electoral Commission disbanded and the entire elections annulled and fresh ones called.

### A. Social Abuse

As observed earlier, the Zanzibar community is grounded in a highly complicated socio-political and economic streak. As such, given the existing political tension, it is now a common phenomenon to find CCM supporters in the open. In Zanzibar's few social clubs and bars, it is now common ground to find CCM chanting highly abusive and provocative words, and sometimes songs, in front of their opponents<sup>65</sup>. Such insults are not only rampant in social clubs and bars, they also are a commonplace wherever there is a social gathering, especially in Unguja. In most cases, supporters and members of the opposition Civic United Front do find themselves avoiding direct social contact with their opponent CCM supporters; hence there is a gradual denial of their right to associate and cooperate with others.

### B. Quasi - Political groups

Quasi - political groups like the maskani youths have been playing quite an unpleasant role in human rights abuses in Zanzibar. Several people interviewed at Kitope; Kwamtipura, Kidongochekundu<sup>66</sup> and Dole constituencies in Unguja, attribute the various incidents of intimidation and torture to political parties' supporters, especially CUF members, to the Maskani youth groups which are supporters of CCM. These groups have been associated with such unlawful acts as conspiring with and aiding the police to set on fire several CUF members' residential houses in areas like Dole and Kitope.

Research conducted shows that these youths do not get directives from party leaders, but in most cases they embark on

their aggression against their victims on their own volition. On the other hand, CCM officials interviewed in Zanzibar<sup>67</sup> said that CUF has a band of young men who have been trained to sabotage various CCM targets which result in various attacks on the police and incidents of bomb blasts now common in Zanzibar. But CUF officials do not agree that they have such a band, nor do they give directives as to their sabotage activities. All in all, these quasi-political groups in Zanzibar wittingly or unwittingly undertake their sabotage activities against each political front to the detriment of democracy in general and observance and protection of human rights in particular. As such, they are as serious agents of terror against the basic human rights as the police forces are in Zanzibar.

## 3.9.1. Response of Various Institutions

### A. The General Public's Reaction

Although it was generally taken for granted in the past that the Tanzania general public is apathetic and stoical regarding police crackdown on civilians, the trend is changing fast now that such police atrocities have led to loss of innocent people. Following the police brutalities on CUF supporters at Darajani back in October 2000, the general public decried the state security agencies and the Government for such violence against its own citizens. The reaction was kindled by the media, both local and foreign, which sent the pictures of such brutality beaming around the world. The situation that was revealed by the media suddenly appealed to the general public, which urged both the Union and Revolutionary Governments to end such viciousness.

Some even went as far as to forewarn, for instance, that the recent police slaughter of innocent CUF demonstrators in Zanzibar puts the long-held peace in Tanzania at the crossroads. Speaking at her home village, Butiama, a day after the killings, the widow of the late father of the Nation, mama Maria Nyerere, decried the police for their inhumane manhandling of the innocent civilians. She said that the Government ought to have allowed CUF supporters to enjoy their constitutional right of demonstrating peacefully, adding that by the Government resorting to use police forces our peace we are proud of has started to wane and we will soon find ourselves in the Rwanda, DRC or Burundi's situation<sup>68</sup>. Former Prime Minister, Joseph Warioba said that if the Government had allowed the demonstrations the reported deaths would not have occurred.

### B. Civil Society's Reaction

Civil society, emergent as it is, has always been at the frontline to decry police brutality against immaculate Tanzanians. The

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media forewarned the stakeholders in the 27 January 2001 CUF rallies to refrain from using threatening phrases which would lead to violence. A columnist in a popular weekly, RAI, queried:

*"Kwa nini polisi wanakosa hekima ya kufanya kazi yao kulinda uhai na mali za watu bila kuwakera watu walewale. Nashindwa kuelewa kwa nini polisi wanadhani wao wapo tu kuwalinda wale tu wasiopingana na CCM ... hata kama polisi wameamua kukitumikia chama kinachotawala, maandamano na mikutano ya CUF vitaipunguzia nini CCM?"<sup>69</sup>.*

In English: "Why is the police lacking the wisdom to do its job of ensuring security of people's lives and property diligently without harassing the same people. I fail to understand the police; why do they think that they are there to protect only those who do not oppose CCM. Even if the police have decided to serve the ruling party, what will the CUF demonstrations take from CCM?"

In its editorial, Mwananchi<sup>70</sup> condemned the Government as the cause of the killings. It observed that the said deaths have aggravated hatred which will take a very long time to erase. It said that the situation in Zanzibar is now very dangerous because the only available opportunity for a peaceful dialogue has been expunged.

On the other hand, a number of other local civic bodies have been taking an active role in criticizing the ruling party and the state security agencies against their inhumane manhandling of innocent citizens. The Legal and Human Rights Centre, for example, has not only gone as far as sending its staff to investigate the conduct of the affairs down in Zanzibar, but also has always been issuing press releases (see Annex II) condemning the tormentors and urging them to abide by the Bill of Rights as enshrined in our Constitution and other international human rights instruments. Following the 27 January violence, the LHRC issued a statement supporting freedom of assembly, maintain further that banning the rally was a breach of the International Covenant on Civil and Political Rights of 1966 and the Union Constitution of 1977. It further said that government ban on political gatherings was a denial of their right to express their views publicly to their supporters members and the general public. It thus urged the police to allow peaceful demonstrations thereby providing protection and security.

### C. Religious Leaders' Reaction

Various religious leaders have reacted accordingly. Mostly, they all blamed the CCM government for the recent police atrocities in Dar-Es-Salaam and Zanzibar. Reverend Kakobe of the Full Gospel Bible Fellowship Church blamed the CCM Government

and the security forces and observed that the problem of the government leaders is that purport that Tanzania is still under single party rule. He said, for example, that the Government should not expect to see the opposition supporters demonstrate in favour of the ruling party as was the case during single party politics.

### D. The Opposition Parties' Reaction

Tanzania's leading opposition party, CUF, has expressed serious disappointment with the way the union government and the police handled the situation in Zanzibar from registration of voters and campaigns to polling and re-run in Zanzibar. This was also the feeling of the other main opposition political party, the Tanzania Labour Party, TLP, whose National Chairman, Augustine Mrema Lucidly excoriated the Government ban of the CUF demonstrations which resulted in the deaths of innocent CUF supporters. Just as CUF did, TLP also announced a one month mourning period during which all its party branches throughout the country would fly their flags at half mast.

### E. Reactions of the International Donor Community

After Zanzibar's controversial elections in 1995, the donor community cut off all aid to the island and as one foreign journalist puts it, they will most probably do so again<sup>71</sup>. Already the European Union issued a statement on 26 January 2001, saying it was "deeply concerned by the recent actions of the authorities in Dar-Es-Salaam and Zanzibar against the leaders of CUF chairman Prof. Lipumba, and other widespread arrests and beatings by the Police". The statement further intimated that "the right of assembly is a fundamental human right." It thus urged the ruling party and the opposition to resort to dialogue with a view to working out a framework which will bring about a solution acceptable to all parties. Several diplomatic missions in the country share the same view as the European Union, namely the Netherlands, Sweden, the United Kingdom, United States, and Japan.

As the media had properly once queried, the glaring question is whether the donor community will sanction both Zanzibar and the Mainland, as it had done after the 1995 election mismanagement. However, this seems difficult to achieve, given how much money and credibility the international community has invested in Tanzania over the past few years, "citing it as the new 'model country' in Africa"<sup>72</sup>. Neither will the donor community hit Zanzibar too hard since that could force it to look elsewhere for partners and "perhaps pave the way for an increase in Islamic influence in East Africa"<sup>73</sup> As the international

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media had once warned, the donor community's discomfort at an unsatisfactory elections and the aftermath thereof is tempered by a sense of relief that, with CCM still ensconced the mainland and on Zanzibar, the union is secure.

### F. Reactions of the Observer Groups

While both international and local observers were happy with how the National Electoral Commission, NEC, managed and controlled the elections in Tanzania mainland, their colleagues on the islands were far from happy. While the international observer groups boycotted the re-run in Zanzibar following the Zanzibar Electoral Commission's (ZEC) failure to do as its counterpart in the mainland did, the Tanzania Election Monitoring Committee, TEMCO, commented that:

*"Those state instruments responsible for managing the elections in Zanzibar have let down the people and the multiparty democracy which we are trying to nurture in Tanzania and Africa"<sup>74</sup>.*

Unheard in quasi-diplomatic circles, the Commonwealth Observer Group issued a statement describing the elections in Zanzibar as a 'shambles' the outcome of which represented a "colossal contempt for the Zanzibar people and their aspirations for democracy". Whereas TEMCO said conclusively that:

*"Looking at the election process as a whole, from registration of voters to the Sunday 29th voting fiasco in the Urban West Region and other parts of the Isles; and considering the degree of distrust of state authorities<sup>75</sup> TEMCO believes that the solution is to cancel the elections in Zanzibar in totality and to organize fresh elections in order to begin a process of national healing and reconciliation. A rashly solution may create more problems than it solves"<sup>76</sup>.*

To start with, TEMCO'S Interim Statement on the Elections in Zanzibar emanated from collection of TEMCO observers' reports from various parts of the Isles. These observers were placed by TEMCO to monitor the campaigns, voting and vote counting in some parts of Zanzibar.

The Interim statement, nonetheless, reports the general overview of the political situation in Zanzibar during voters registrations, campaigns, voting and vote counting by just raising such pertinent issues as:

1. That ZEC's unilateral action in nullifying the election in 16 constituencies and stopping the counting process in Zanzibar was a total breach of the Zanzibar electoral law.

2. That the postponement of elections in the 16 constituencies to 5 November 2000 as the new date for polling in these constituencies lacks a clear basis. The Interim statement queries, "is this the time required to get new materials printed or misplaced material recovered or an attempt to beat the retirement date of the incumbent president Salmin Amour" (P.2)

3. That "some legal requirements have been violated by ZEC action, for example the participating parties, candidates and their agents have been denied their legal right to ensure that the ballots remain secure until the votes are counted"

4. That there was lack of legal and political consensus between ZEC and the political parties involved in the elections.

5. That there was a tendency of the state instruments of law and order to carry out vengeance on CUF supporters rather than performing their ordinary arrests, as the CUF supporters were marching unarmed and peaceful.

6. That this incident did not only show a high degree of disrespect for the basic political and civil rights of the people of Zanzibar but also showed clearly that those running the state of Zanzibar have not fully accepted the multi-party system

7. That there was failure or refusal by ZEC to release an authoritative figure of eligible voters for the Isles as a whole, an act which seems to suggest that the registration exercise was not done transparently and competently enough.

8. That campaigns were full of targeted police actions aimed at disrupting campaign meeting of the opposition parties.

9. That there are looming allegations that a big group of young men were brought from Unguja as JKU youths to vote there even though they were not residents of those areas<sup>77</sup>.

It is important to note that, had the proposed TEMCO solution of conducting the re-run throughout Zanzibar been heard, the atrocities of 27 January 2001 would have been avoided.

### G. The Ruling Party's Response

On its part, the ruling Chama Cha Mapinduzi blames CUF for instigating chaos in Zanzibar. Delivering a speech to the Parliament on the Government's position, the Prime Minister, Hon. Frederik Sumaye<sup>78</sup> said that CUF has been propelling violence since they were defeated by CCM in the 1995 general elections. He particularly blamed CUF for fuelling violence and bloodshed if CCM rigged the elections by use of such words as "Ngangari"<sup>79</sup> and "jino kwa jino"<sup>80</sup>. He also blamed CUF for sabotaging CCM's property, setting fire to CCM; Maskani, flags and CCM supporters' residential houses. CUF supporters also, according to him, assaulted police personnel at Mtangani, Pemba, Tumbatu, assaulted 5 policemen at Mwanakwerekwe area Unguja, and Shehas such as that of Kojani. He further said that during last campaigns, CUF supporters destroyed voters'

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registration books and threw away several ballot boxes. According to the Premier, CUF supporter also set fire to 11 residential houses; 2 cars were destroyed irreparably<sup>81</sup>; 4 tourist hotels were set on fire, plus the house in which Link Bank money was accommodated, one residential house of the Mkoani District OCD was destroyed; serious injuries of one askari at Kengeja, and Mchanganis and Vikokotonis Shehas who later died. The Premier also blamed CUF for the bomb blast incidents now rampant in the isles. He generally blamed CUF for all the recent atrocities and congratulated the police for saving further losses of lives.

For his part, the national Chairman of CCM, President Benjamin William Mkapa, also blamed CUF for the atrocities and he further said that CCM does not fear CUF in the political arena or in their terrorism<sup>82</sup>. He blamed the donor community, international agencies, and local media and non-governmental organizations for unfairly blaming his Government. He also commended the police for doing a fine job.

### Footnotes :

35. Comprising the Islands of Unguja and Pemba.
36. According to CNN news report, Sunday, 28 January 2001, 10hrs GMT, at least 24 people were reported dead on the 27 January 2001 CUF demonstrations countrywide; The Guardian of Sunday 28 January, 2001 reported 15 people, including two members of the security forces were killed in Zanzibar during the said demonstrations.
37. Roger Dean, BBC Focus on Africa, January - March 2001, Vol. 12 No. 1. Note: a video of the police beatings the civilians is available upon request.
38. The third phase Union President.
39. For further information, refer to his speech on the 37th Anniversary of the Zanzibar Revolution 12 January 2001 - delivered at the Amani Stadium Zanzibar.
40. On 25 January 2001.
41. The Executive.
42. Projectus Rwehumbiza, op. cit.
43. Few of them have attended official police training with certificates in law.
44. Cap. 322.
45. Ibid.
46. Cap. 13 of the Laws of Zanzibar.
47. Cap. 14.
48. Cap. 5.
49. These are words used interchangeably by both CUF supporters and police to show readiness of every sight to confront the other side squarely. See for instance, premier Sumaye's Speech in the Parliament on delivered Thursday 1 February 2001, Sumaye's Speech by President Mkapa to the Nation, delivered on Saturday 2 February 2001.
50. Refer recent police officers promotion, which however the Government refuses to have been a result of January 27's "good police conduct" -Majira, 1 February 2001.
51. Nonetheless, the researchers were not able to secure the complete list and the actual number of these cases owing to lack of cooperation from the Courts to the researchers and lack of proper documentation of the same by respective authorities.
52. BBC Focus on Africa, op. cit.
53. Mwananchi, 29 January 2001. This number had increased as the security forces had increased their crackdown on the civilians believed to be CUF supporters on Friday Saturday, Sunday and Monday morning
54. See the Sunday Observer, 28 January 2001, CNN News Report, 10hrs GMT, Sunday 28 January 2001.
55. See Alasiri, Monday 29 January 2001. According to the BBC Swahili News Bulletin broadcast on Monday 29 January 2001 at 18:30, ten seriously injured people from Pemba island were admitted at Msambweni Hospital, just near the Border between Kenya and Tanzania. One of these victims told the BBC reporter that while they were in the canoe from Pemba, along with another boat carrying fellow victims, police helicopters poured down into them live ammunition, and the other boat disappeared, leaving theirs surviving by sheer good luck.
56. The Union Government is one vested with the function of controlling the security forces in this rather controversial form of union!
57. Who hails from Unguja, Zanzibar.
58. The Mwananchi Newspaper, of Friday 26 January 2001 quoted him saying in Swahili that "CUF hatuhitaji polisi kupambana na umma tunataka polisi walinde umma" which is a literal translation of the latter statement.
59. To Kisutu.
60. At least 16 CUF supporters were arrested along with Lipumba and Magoba.
61. The East African, 29 January - 4 February 2001.
62. For instance, see the East African, Ibid.
63. Ibid - quoting Prof. I. G. Shiviji
64. Ibid.
65. These researchers happened to be at several social clubs and bars, where they usually heard people when drunk a little singing: "aah aah haiwezekani! Rais kutoka kule (Pemba)? Haiwezekani! Waziri kutoka kule? Haiwezekani!. Literally translated the song would mean: It is impossible for the President and Ministers to hail from Pemba).
66. In jang'ombe Constituence.
67. Also reference should be made here to a recent statement by Premier Sumaye, refer part 3.4.0 above.
68. Mwananchi 29 January 2001.
69. Ansbet Ngurumo, RAI, 25-31 January 2001.
70. 29 January 2000.
71. BBC Focus on Africa, op.cit.
72. Ibid.
73. Ibid.
74. TEMCO Interim statement of the Elections in Zanzibar, 31 October 2000, P. 1.
75. ZEC, police state media, and the Salmin Amour administration while then in power.
76. Ibid, p. 4.
77. Most sources did not wish to be disclosed, from fear of government, class, position, etc.
78. Ibid.
79. Staunch or unwavering or sturdy,
80. Tooth by tooth.
81. One belonging to CCM and the other private
82. Refer his nationwide speech on state TV and Radio, on 3 February 2001.

## CHAPTER IV : POLICE CRACKDOWN IN PEMBA AND UNGUJA ON 27TH JANUARY, 2001

### 4.1 Widespread violence

On 27 January 2001, a number of CUF members staged demonstrations in Zanzibar and Dar-Es-Salaam. Prior to those demonstrations the police force had banned them for fear of breach of peace. This position was supported by the government leaders including the prime Minister and the Vice President.

The CUF leadership however were determined to demonstrate as they argued that they had a right to do so under the Constitution. Their basic demands were a re-run of the general election in Zanzibar under a newly established Zanzibar Electoral Commission, and a more democratic Union and Zanzibar Constitution.

On the eve of 27 January 2001 two people were killed in Zanzibar by the state police, allegedly for attacking them having defied the order to disperse. Moreover on the material day a score of CUF members did demonstrate but attracted police wrath and two of them were shot dead by the police, in an effort to prevent them from demonstrating; several hundreds were arrested and to date they stand charged with taking part in staging unlawful demonstrations.

The aftermath of CUF demonstrations has witnessed an influx of refugees flocking from Pemba to seek refuge in Mombasa in Kenya. This is the first time the world has witnessed Tanzanians joining other nationals with refugee status. Currently there are more than 2000 refugees at Shimoni Mombasa, Kenya. Nonetheless, the Government is of the opinion the said refugees are a result of CUF deliberate move to create an impression that the Zanzibar political sphere is tense and torture by the state police in Pemba, which have allegedly become the order of the day, after the demonstrations.

While in both Unguja and Pemba, the fact finders had the opportunity to interview a number of eye-witnesses, victims and family members of the deceased. The mission also managed to tour various spots which were the battle fields of police and civilian clashes. The findings detailed in this report are based on the information available from these sources.

It is imperative to note that gathering information on human rights abuses in Zanzibar to date is an extremely dangerous

undertaking. This is the case in that, first there is fear amongst Zanzibaris themselves and few witnesses dare to come forward. Second, the security forces are currently undertaking a stern operation aiming at uncovering the "wrongdoers"; an operation which makes it very difficult to get correct information. Third, the cultural set up of the Zanzibar community - Pemba in particular - is built on suspicion and distrust on "foreigners"<sup>83</sup>. And lastly, Zanzibar and the Union Government are uncompromising and relentless about the actual number of death cases.

Despite this atmosphere, the fact finders have achieved their mission and the following is an account of what happened in Zanzibar.

### A. Unguja

Two CUF supporters were killed in Unguja on 26 January 2001 as the police were trying to break up a rally held soon after the Friday Muslim prayers. According to eye witnesses and according to a report released by CUF<sup>84</sup> only one person's name was identified as Juma Mohamed Hamis. The other deceased's name could not be identified, despite concerted efforts made by the fact finders to identify him.

According to several eye-witnesses' accounts, seven more people were killed during the demonstrations that took place on 27 January 2001 in Unguja Town District. These were identified as Hamad Said; Abdallah Said Mohamed; Gharib Salim Hamad Baalawy; Mwalimu Nassoro Mwalimu; Mdungu Ally; Kombo Rashid; and Juma Hamad Faki.

Other several people, believed to be CUF supporters, were either arrested while still in bed at about 3:00 a.m., tortured, or seriously injured on the 27 January 2001. These people include Mr. Maulid Makame a member of the Central Committee of CUF, and Mr. Mohamed Ali Yusufu, Director of Human Rights Department. Others who were arrested from early in the morning include: Mr. Said Miraji, Deputy CUF Youth Director, Mr. Rashidi Nyange, Mr. Duni, and Hajjy Sadifa. These were later sent to Madema Police Station where they were subjected to torture; and most of them were charged in the Mwanakwerekwe Primary and District Courts.



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This young man, Gharib Salim Said of Hurumzi, Zanzibar, had his life terminated by Tanzanian police officers who shot and killed him on 27 January 2001.



A victim of police shooting during the January 27, 2001 nation-wide CUF demonstrations. This victim, Rashid Bakari, had to flee to Kenya after he was denied medical treatment in Pemba. Here he is being examined at Msambweni Hospital in Kenya by officials from the Commission for Human Rights for Justice (CHRI), awaiting amputation of his left leg.

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### B. Pemba

#### 1. Mkoani

In Mkoani people were not killed, but incidents of police brutality were recorded as Riot Police and other security forces from Unguja and Tanzania Mainland tried to crackdown and to break up the demonstrations. Being a CCM stronghold, Mkoani witnessed a minimal extent of police brutality. Accounts obtained from eyewitnesses, CUF officials and victims have it that 18 people were injured, 14 of them being severely wounded by police ruthlessness. These were admitted at Mkoani Referral Hospital, where most of them recovered and were discharged.

The fact finders managed to meet family members of several of these victims including Ms. Tamasha Abdi Sheria, resident of Utaani Wete, who had been shot and severely wounded by the police. The bullet had damaged her buttocks and private parts and she is still languishing in a hospital under critical condition, along with Bakar Salum whose urinary bladder had been impaired.

Reliable sources from the Mkoani Hospital confirmed the fact that until 28 January 2001 the hospital had admitted 22 victims of police aggression, having received four other seriously wounded people referred from Chake Chake and Wete, Pemba.

#### 2. Chake Chake

According to CUF officials<sup>85</sup>, Chake Chake town witnessed 17 deaths of CUF supporters who died on 27 January 2001 during the demonstrations. 55 others were injured and treated, 120 injured but not treated, and 16 others were said to be raped and / or their property looted.

Nonetheless, accounts by eye witnesses who participated in the demonstrations have it that the demonstrators gathered at Machomanne CUF branch offices at 6:30a.m. and started marching toward Gombani stadium, which was their destination. But they only managed to walk the first hundred metres when they met the police at Miembeni area and tried to break up the demonstrators. The demonstrators persisted, only to face the music. The police instantly started shooting at the demonstrators and as the procession broke up and the demonstrators started running into different directions. Three people fell, two of whom left for dead and the other died at Chake Chake Hospital.

Several other people, whose number was very difficult to ascertain, got killed while hiding at their homes as the police mounted a cruel manhunt aiming at bringing to custody the

suspected demonstrators. For instance, a father of a deceased young man at Machomanne, Wawi constituency, alleged that his son was beaten to death by the police at home, though he had not participated in the demonstrations. The poor young man was a cripple who normally stayed at home. His father accounted that in their neighborhood at least 26 people were killed at their homes by the security forces, including members of JKU (Jeshi la Kujenga Uchumi).

Another account by an eye-witness is to the effect that the victims of these incidents, though admitted at the Chake Chake Government Hospital, were given limited medical treatment. The fact finders were not allowed to visit and interview the victims who are still at the said hospital for security reasons. Therefore, CUF statistics may or may not be accurate. But they seem to be a sufficient proof of the extent of the suffering inflicted on innocent civilians by our security forces.

The fact finders witnessed massive police patrol in Chake Chake, especially during the night. Several police vans carrying riot police were doing frequent "round ups" in the town throughout the night.

Several people interviewed in Chake Chake and its outskirts said that police arrests and torture still persist against the alleged radical CUF supporters, especially young men. The arrests are normally carried out in form of house to house ambush of marked CUF supporters homes.

Most of the CUF branch offices in the town and its precincts were still locked until the 23 February 2001 and several of them totally damaged, together with the party documents housed therein.

Chake Chake, by the time the researchers were leaving, was full of young and fresh graduates from the Moshi Police College. These young police men were patrolling in groups of 5 to 10 throughout the town in civilian dress during day-time while during the nights they were patrolling the whole town armed with rifles.

#### 3. Wete

Wete town is situated at the north end of the Pemba Island. This is the stronghold of the CUF, and as such it witnessed intense policing at the 27 January 2001 demonstrations. At least 21 people were killed that day by security forces, while one policeman was beheaded by a demonstration and 44 others were severely injured and treated; and 100 others were injured but not treated. All these victims, except the decapitated policeman, are alleged to be CUF supporters<sup>86</sup>.

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Eye witnesses recounted that the demonstrations were scheduled to proceed from Bomani CUF branch office, Kilimandegge area, Ole and Bokwe Mtemani area, so that the demonstrators from all these areas would meet at Four Ways area. From Four Ways the procession would head towards Mnazi Mmoja grounds where the demonstrators would convene and speeches would be made by various party leaders.

However, when the procession was beginning the demonstration at Bomani area was about to start marching, several members of the security forces<sup>87</sup> intervened in the gathering and fired live bullets which killed one student by the name of Abeid Ally, who was studying at Utaani Secondary School, Wete. Several people were seriously injured, so that the demonstrators were forced to break up but re-gathered at Bokwe, Mtemani area.

When the demonstrators gathered at Bokwe, Mtemani area, the security forces were already there, lying under the banana trees at the road sides. As the procession was about to begin marching to Mnazi Mmoja grounds, the members of the security forces tried to use tear gas to break up the procession, but the demonstrators once again persisted, this time with unabated vigour<sup>88</sup>. This prompted the security forces to open fire at the demonstrators, who however did not break up instantly until a CUF supporter, one Omari resident of Shanjani, dropped dead. Mayhem followed and it soon descended into unprecedented firing. Commotion set in as the demonstrators dispersed into various directions. As the combat wreaked havoc over the entire community around the area, several people dropped down dead and most severally injured.

According to one CUF leader who was arrested along with the Utaani Constituency's Representative, Ahmed Seif Hamad, all those arrested of 27 January 2001 demonstrations in Pemba Island were remanded at the Wete Remand Prison. The result was atrocious. A single cell of 4 by 4 meters accommodated more than 30 people who were severely wounded as a result of remand police beatings. At the time the said leader was released, two weeks after being remanded, several CUF supporters, including Ahmed Seif Hamad, were still languishing in the said Remand Prison.

In another case, a father, mother and younger brother of one Kombo Ali Ngozi, who was killed by the security forces were arrested and remanded for burying their deceased family member. At the time of the interview, they were still languishing in remand. Their neighbour, one Fundi Salum, a citizen of Asian origin who used to own a garage right in the heart of Wete town, was arrested and sent to the police where he was subjected to torture and inhuman treatment. He later died from a heart

attack. He was also charged that he had participated in burying the said Kombo Ally Ngozi.

Incidents of women being harassed for hiding their men and sons are rampant; but due to insecure means of gathering information the number of these incidents is difficult to establish.

Most people interviewed in Wete alleged that a police helicopter shot at two dhows which were carrying at least 100 injured CUF supporters and killed them instantly, although no dead body could be discovered floating on the Indian Ocean shores. Yet this is one of unverified allegations which signifies importance of establishing an independent commission to probe into those allegations.

### 4. Micheweni

Micheweni is a district located on the north east part of the North Pemba Region. It is a one hour drive from Wete town. This is another stronghold of CUF and as at Wete, there was a severe clash between the security forces and CUF supporters on 27 January 2001.

According to CUF leaders and supporters who happened to be interviewed by the fact finders in both Unguja and Pemba, Micheweni was a 'dumping ground'. They claimed that police helicopters had bombed CUF supporters, killing and injuring dozens of them. They alleged that the police had been alleged to have buried dozens of CUF supporters in a collective grave at Vuma Mawimbi beach. The news also had it that the police had set up road blocks between Kilindini and Micheweni and between Wete and Chake Chake so as to deny journalists, independent persons and civic groups access to the said area. For instance, CUF leaders of Chake Chake and Wete warned the fact finders to refrain going to Micheweni or else they would be arrested by the police.

However, eye witnesses recounted that demonstrations were scheduled to end up at Micheweni primary school. Some demonstrators gathered from as far as Kilindi and Mchanga Mdogo area and marched across a 20 km forest heading to Micheweni. They were singing songs, as they approached the Micheweni police station. The police blocked the procession but the demonstrators persisted ignoring the armed policemen.

As the demonstrators were about to force their way across the police roadblock, the police threw live ammunition at the demonstrators. As the police advanced further toward the demonstrators, they wreaked havoc, and the demonstrators scattered all over the forest leaving at least 20 people shot dead

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by the police. Several others were injured, as everyone was trying to rescue his/her soul away from the mayhem.

According to the CUF Report, 21 people were killed at Micheweni and 74 got severely injured. Eye witnesses said that those injured were denied treatment at the Micheweni Government Hospital, thus had either to go to Mtambweni, Mombasa, Kenya or Chake Chake for immediate treatment. This assertion was confirmed by some of the members of staff of the said hospital.

After ten days of the tragedy, the ruling part CCM issued an official statement on what has happened in Zanzibar. In its statement the party, despite a number of deaths which had happened in Zanzibar, narrated and condemned CUF as a terrorist party. A party which is full of actionable threats; a

party which is trying to pivot the image of Tanzania into an intimidating country; and a party which is trying to destroy the national unit. The statement went on to say that up to 17 February 2001 only 26 people in total died both in Unguja and Pemba.

### Footnotes :

83. Which may well be interpreted as people from the mainland.

84. CUF's Report on Police Atrocities

85. Also see CUF Report, op. cit.

86. See, for example, CUF Report, op. cit

87. Kikosi Maalum cha Kuzuia Magendo, KMKM; Jeshi la Kujenga Uchumi; JKU; the Police Forces, and the armed forces.

88. Several people who took part in these demonstrations recounted that the tear gas used was already expired and so had no effect.



A group of refugees, including babies, children and women ponder their fate upon arrival at Shimoni in the Kenyan South Coast after fleeing the violence in Zanzibar and Pemba. Some 169 refugees including four Members of Parliament of the Civic United Front (CUF) fled to Kenya between 27 January 2001 on Jan 31, 2001.

## CHAPTER V : CONCLUSIONS AND RECOMMENDATIONS

### 5.1. Conclusions

We have generally observed, in this paper, that the semi-autonomous archipelago Zanzibar - comprising Unguja and Pemba - is currently under a very anarchical political situation, having undergone serious human rights violations. By the time of compilation of this report, political violence in Zanzibar had claimed at least 32 lives of innocent civilians. In a nutshell, we have observed the following:

1. There is mounting evidence of the police's brutal treatment of civilians - including beatings, rape, arbitrary arrests and detention, torture, killings. These civilians are alleged to be supporters of the opposition political parties. Police atrocities should not only be blamed on the police, but should be directly accountable to the political authorities currently in power.

2. That it has also been observed that the current political situation in Zanzibar is not only attributable to the above cause, but it is a direct result of a myriad of problems, in particular:

(a) Tyrannical tendencies of most of the political rulers who have happened to be in power against their subjects, especially dissidents. As such, most of the rulers of Zanzibar regard people with a different attitude towards their political ideology as agitators. Hence they tend to give the cold shoulder to intellectuals or such organizations or institutions as the local Newspaper reporters, civil society; international donor community; local and international observer groups; and opposition parties, just to mention a few. The latter are deemed by the former to be always against its undertakings, even when their arguments are progressive.

(b) Deliberate disregard for multi-partyism by the ruling party due to either ill-conception of the notion by the ruling party or rejection of the practical and side effect of multipartyism in Zanzibar; and

(c) Severe problems and loopholes in the existing legal framework governing elections and police powers in Zanzibar resulting in the existing election mismanagement and police brutality.

3. That there is no any autonomous body or organization vested with the power to provide for enforcement of human rights in Zanzibar, such as a Human Rights Commission.

4. That the existing government has no balance of power which

ensures proper ethnic or regional representation among the contending powers.

5. That the government in power is not transparent enough to ensure that the media can receive, or have easy access to government sources of information, and disseminate the same freely.

6. That both the Union and Revolutionary Governments tend to ignore the current political turbulence affecting Zanzibar by blaming the opposition parties as rioters and terrorists.

7. That the opposition political parties in Zanzibar, particularly the Civil United Front, tend to take obstructive steps, such as boycotting parliamentary sessions and therefore denying their supporters from exercising their right to enfranchisement.

8. In the fact finding exercise, the International Federation for Human Rights (FIDH) and the Legal and Human Rights Centre (LHRC) found that the state Security organ has subjected a number of citizens to torture, harassment, and indignity as a result of which a number of deaths have been registered.

## 5.2. Recommendations

### **Recommendations of the FIDH and the LHRC to the Union Government of Tanzania and Zanzibar:**

1. That the Union Government should without further delay form an independent commission of inquiry to probe into the human rights violations and promptly publicize the findings.
2. That violators of human rights be brought promptly to trial.
3. Having established the actual losses that were occasioned, the Government should work towards compensating the victims and those who suffered loss of property.
4. Based on findings of the independent commission, both governments should clear their houses by holding to account all who abused powers and public trust by committing human rights violations.
5. That electoral law be brought to international standard, in particular by eliminating the condition of five years residency in a constituency and ensuring the independence of the ZEC.
6. That the Union Government and the revolutionary Government of Zanzibar should work in close cooperation to review the legal framework of the constitution and the ZEC to ensure effective realization of constitutional rights including fundamental freedoms of assembly and opinion.
7. That both governments should step up efforts to improve policing in the country, through enhancing human rights education in the police training and in service courses and introducing policies aimed at democratic and accountable policing.
8. That high level dialogue, between the ruling party, opposition parties and the police force should be facilitated in order to achieve understanding and trust.
9. That the government should expedite the establishment of a national Human Rights Commission, and make legislative efforts to confer on it operational autonomy, which will enable it to provide a check mechanism for incidents of abuse of powers.
10. That the government, should appreciate its position as representatives of citizen ship, and heed the people's will in order to avoid similar disasters in future.
11. That the government should appreciate the shortfalls in the Union constitution and facilitate participatory processes, through which Tanzanians will reach a new constitutional consensus.

### **Recommendations by the FIDH and LHRC to the European Union, the OAU, and the United Nations:**

1. The EU's human rights policy in Tanzania should address the serious recent human rights violations of state-sponsored police killings, torture, arbitrary arrests and detentions, and demand accountability.
2. In view of the fact that the EU and the OAU did not fully heed to the conclusions of its own election observers and other election observers who declared the elections as faulty, and did not act accordingly, these bodies have a responsibility to press the Tanzanian Government for an independent commission to be set up with no further delay.
3. In relation to the Cotonou agreement, given the level of the recent human rights violations, the EU should implement fully the provisions of the agreement towards Tanzania.
4. The United Nations should play a supporting role in the establishment of an independent commission of inquiry into the human rights violations, and document the violations, using the established mechanisms.
5. The EU, UN, and the OAU should monitor future elections and follow the recommendations of the monitor.
6. The EU should as a long term strategy play a supporting role in coordinating peoples consensus in a new constitution.

## Zanzibar : Wave of Violence

### ANNEX I : Open letter To Hon. President of the United Republic of Tanzania, Hon. Benjamin William Mkapa, To the Hon. President of the revolutionary government of Zanzibar Hon. Aman Karume To The Inspector General of Police



International Federation for Human Rights

Paris, 31th January 2001

Your excellencies,

The International Federation for Human Rights (FIDH) has just been informed by the Legal and Human Rights Center, based in Dar El Salaam and member of the FIDH of the serious human rights violations which occurred in Zanzibar, Pemba, and in Dar Es Salaam on 26 and 27 January 2001.

According to the information, the CUF opposition party in Zanzibar attempted to stage peaceful demonstrations across the country in order to demand the re-run of the elections in Zanzibar which were reportedly unfair, a renewing of the Constitution to enact a more democratic text, and a reconstruction of the electoral commission to render them more independent. Although articles 18 and 20 of the Constitution of the United Republic of Tanzania recognizes specifically the freedom of opinion and the freedom to peacefully assemble and/or demonstrate, both the head of the government, namely the Prime Minister and the Vice President and the police banned those demonstrations and warned that tough measures would be taken against anybody who would demonstrate. In response to these threats, the CUF supporters protested that the police orders were against their constitutional rights, and that the police had no legal mandate to deny them the right to assembly. The police committed violations despite appeals from lawyers; the media, and reputable CCM members.

On 26 January, on the eve of the demonstrations, a number of worshippers gathered outside the Mosque in Zanzibar, reportedly to discuss the situation in Zanzibar. A group of armed police official that was stationed nearby ordered them to disperse. While still questioning why that order was being given, the policemen attacked them and shot dead two.

This was the beginning of the unprecedented killings. On 27 January in Zanzibar and Pemba islands, a few CUF supporters attempted to demonstrate in defiance of the police interdiction order. Allegedly in an effort to prevent demonstrations the police forces killed 13 people and lost 2 police officials who were murdered by the demonstrators.

Apart from shooting, the police force used tear gas against unarmed demonstrators in Dar Es Salaam, Mwanza and Kagera regions, blocked the roads and prevented the injured from being taken to the hospital, which contributed to further losses of life.

More than 200 persons, mainly in Dar Es Salam, are now detained by the police for taking part in unlawful demonstrations. Part of these arbitrary arrests concern a number of CUF supporters including the National Chairman Professor Ibrahim Lipumba stand charged for conducting illegal meeting, though he was apparently released on bail on 30 January. Before being charged, the accused were reportedly severely beaten up and badly injured. Furthermore, the media related that they were undergoing torture.

As of 29 January, the death toll was reported at 37 people (24 in Pemba island), all of them died at the hands of police under the close commanding of the highest police chief in the country. However, today we were alarmed to learn that

## Zanzibar : Wave of Violence

the death toll rose to around 300 after reports that police had opened fire on people fleeing by boat to Kenya.

The FIDH and the Legal and Human Rights Centre severely condemn the excessive use of force and the mass killings. We urgently call upon the authorities of the United Republic of Tanzania and the Revolutionary Government of Zanzibar to:

- Immediately release all detainees and put an end to torture,
- fully investigate by an independent team, and publicly report the circumstances of killings, arrests and torture; and use of excessive force by the police; and work towards compensation for the loss occasioned
- take legal measures against those violators of human rights in particular unruly police officials
- respect the freedom of free speech and demonstration as provided by the articles 18 and 20 of the Constitution of the United Republic of Tanzania
- implement all the international instruments relative to human rights that Tanzania had accepted and ratified in particular article 20 of the Universal Declaration of Human Rights of 1948, article 21 of the International Covenant on Civil and Political Rights of 1966, article 11 of the African Charter on Human Rights and People's Rights.

We firmly believe that only once these measures are taken can there be some restoration of calm and peace in Zanzibar, Pemba, and mainland Tanzania.

Yours sincerely;



Sidiki Kaba  
President  
International Federation for Human Rights

Cc: The Inspector General of Police



## Zanzibar : Wave of Violence

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### ANNEX II : LCHR Press Release



#### LEGAL AND HUMAN RIGHTS CENTRE

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Ocean Road, Tulyer House, P.O. Box 75254. Dar Es Salaam, TANZANIA  
Telephone: 211 77 68, 211 8353, Fax::: 211 3177, E.mail: lrhctz@raha.com

25th January  
To: Media institutions

#### **Press Release** **STATE BAN ON PEOPLE'S DEMONSTRATIONS**

Since 1992, when multiparty politics were constitutionally ushered, Tanzanians have witnessed their government restricting their freedom to peacefully assemble for the purpose of expressing opinions on how their nation is being governed.

The right of people to freely assemble with a view to making critical comments in the ambit of law is one of the fundamental human rights which our government committed itself to promote and protect by accepting the Universal Declaration of Human Rights of 1948, ratifying the International Covenant on Civil and Political Rights of 1966 and by incorporating it in the Constitution of the United Republic of Tanzania, in the Bill of Rights in 1984.

It is disappointing to note that, despite accepting obligation to observe people's rights to freely assemble, associate and express opinions, our government is bending on barring people from expressing political opinions by way of demonstrations under the umbrella of opposition political parties.

The ongoing conflict between the Civic United Front (CUF) and the Police Force in which the latter is banning demonstrations intended to be staged by the former, for allegations of a likelihood of breach of peace, evidences state infringement on people's democratic rights. We are convinced that the police force is aware that the constitution articles 18 (1) and 20 (1) allows people to express their opinions which can be done in gatherings or processions in a peaceful manner.

Similarly, the police force should appreciate that the Political Parties Act of 1992 permits any registered political party to hold meetings with a view to mobilise people in various issues and that in these processes the role of the police is to maintain peaceful atmosphere to enable those gatherings to peacefully conduct their affairs.

That is the actual police role and not otherwise. It is indeed unfortunate to note that our police force always clings on a pretext of anticipating breach of peace to completely deny people of the opportunity to exercise one of their fundamental rights. We are inclined to conclude this, considering that for some time now the police force has bent on banning people's demonstrations and at times meetings, through political parties platforms. This trend is nothing short of avoiding their responsibility to guard people's meetings and demonstrations. To avoid that responsibility, the police force takes a short cut and bans those activities.

In light of this state of affairs, the Legal and Human Rights Center wishes to appeal to the police force to allow CUF to conduct peaceful demonstrations and meanwhile remain standby to net any criminal elements which it may prosecute later on. By conducting itself that way, the police force will be able to maintain respect in the society and avoid public accusations for towing lines of the ruling party.

Sincerely yours  
Ezekiel J. Massanja  
Ag. Executive Director

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Board of Directors: Bishop Elinaza Sendero Chairman Dr. Ringo Tenga, Dr. Sengondo Mvungi, Dr. Palamagamba Kabudi, Martin Saning'o, Ms. Rose Camil, Ms. Ananilea Nkya, Peter Azaria Mbughuni.

## Zanzibar : Wave of Violence

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### LEGAL AND HUMAN RIGHTS CENTRE

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Ocean Road, Tulyer House, P.O. Box 75254. Dar Es Salaam, TANZANIA  
Telephone: 211 77 68, 211 8353, Fax::: 211 3177, E.mail: lrhctz@raha.com

29th January  
To: Media institutions

### Press Release STATE OPPRESSION AGAINST CITIZENS

The series of events of the last couple of days, namely the government threatening CUF members with stern measures if they demonstrated, Police using excessive force against demonstrators and killing reportedly more than 30 Tanzanians, arresting and assaulting CUF members including the Party Chairman Prof. Ibrahim Lipumba, cannot be excused for preserving peace and order. During this period, the world has witnessed the state abusing its power by deploying anti-riot police unit (FFU), para-military troops by the name of KMKM and the Defence Forces all armed to teeth to crash its citizens who attempted to stage peaceful demonstrations. The reports abound show unprecedented brutality against the citizens. In the process a multitude has been tortured, maimed and more than 30 people murdered including two (2) members of the Police Force.

The episode is quite unfortunate as its occurrence was far from necessary. Indeed the validity of CUF's demands during the demonstration are not questionable. The very act of demonstrating and freedom of speech are provided in the Constitution of the United Republic of Tanzania which article 18(1) and article 20 specifically provide for the freedom of opinion and to peaceful assembly and or/demonstrate.

The same provisions are echoed in article 20 of the Universal Declaration of Human Rights of 1948, article 21 of the International Covenant on Civil and Political Rights of 1966, article 11 of the African Charter on Human and People's Rights, all of which Tanzania accepted (ratified the last two covenants) and undertaken to implement. Equally noteworthy, Tanzania has accepted the obligation to promote and protect human rights and democratic governance by signing the SADC Agreement and recently by signing the East Africa Treat let alone subscribing to the UN Charter.

Notwithstanding the influx of honest appeals from different groups, the media and even from reputable CCM members and long government serving personalities like Judge Wairoba to allow and guard demonstrations, the government blindly stuck to its guns and worse still proceeded to shed blood of the citizens. This is definitely a terrible blow to democracy and any effort to put in place good governance. We have noted with much concern the excesses of the police force and the loss of life subsequent thereto and say that the whole eventuality amounts to a gross violation of human rights. The least can be said that this is a shameful and barbaric act during this Millennium!

We however call upon the government to reflect on its actions and realise that people's pursuits cannot be suppressed by state might. The government should now ensure that police brutality cease, and seriously inquire into the said police lawlessness and work towards compensating the loss to the bereaved people in Zanzibar. Taking stock of what has happened, the government should come forward and address such pressing issues such as the constitution reform, and the democratisation of electoral processes. It is also high time our government parted with the outdated tendency of using the police forced as an instrument of violence and instead seek to embrace principles of democratic policing.

Projectus Rwehumbiza  
For the Executive Director

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Board of Directors: Bishop Elinaza Sendero Chairman Dr. Ringo Tenga, Dr. Sengondo Mvungi, Dr. Palamagamba Kabudi, Martin Saning'o, Ms. Rose Camil, Ms. Ananilea Nkya, Peter Azaria Mbughuni.

## Zanzibar : Wave of Violence

### ANNEX III

#### LOCAL NEWSPAPERS REFERRED

Alasiri Feb. 8, 2001 -	"Local Daily Newspaper" published by Guardian Ltd and printed by Print Afrique.
Alasiri Feb. 2, 2001 -	"Local Daily Newspaper" published by Guardian Ltd and printed by Print Afrique.
Alasiri Feb. 3, 2001 -	"Local Daily Newspaper" published by Guardian Ltd and printed by Print Afrique.
Dar Leo Jan. 31, 2001 -	"Local Newspaper" published and printed by Business printer Ltd.
Dar Leo Feb. 5, 2001 -	"Local Daily Newspaper" published and printed by Business printer Ltd.
Majira, Feb. 2, 2001-	"Local Daily Newspaper" published and printed by Business printers Ltd.
Majira, Feb.4, 2001 -	"Local Daily Newspaper" published and printed by Business printers Ltd.
Majira, Feb.2, 2001 -	"Local Daily Newspaper" published and printed by Business printers Ltd.
Mwananchi Feb.2, 2001-	"Local Daily Newspaper" published by Mwananchi Communication Ltd and printed by TANZAM.
Mtanzania Feb. 3,2001 -	"Local Daily Newspaper" published by mtanzania publication Ltd and printed by printech Ltd.
Mtanzania Jan. 31, 2001 -	"Local Daily Newspaper" published by mtanzania publication Ltd and printed by printech Ltd.
The East African -	(JAN. 29 TO FEB. 4, 2001) Local News paper, Published by the National Group, National Centre; kimathi streect. Printed by National group; registered at the general post office as a newspaper.

#### MAGAZINES REFERRED

BBC Focus on Africa -	Jan. - March, 2001 Printed in England by E.T. Heron Maldon.
The Human Right Observer -	Volume 3 October, 2000. Published by SAHRINGON Regional Office, Lusaka Zambia.



International Federation for Human Rights

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**The International Federation for Human Rights (FIDH)** is an international non governmental organization for the defence of human rights enshrined in the Universal Declaration of Human Rights of 1948. Created in 1922, it includes 114 affiliated member organizations throughout the World. To date, the FIDH has undertaken more than 1000 missions of investigations, trial observations, mediation or training in some 100 countries. FIDH enjoys consultative status with the United Nations, UNESCO, the Council of Europe and observer status with the African Commission on Human and Peoples' Rights.

The International Board is composed of:

President: Sidiki Kaba.  
General-secretaries: Catherine Choquet, Driss El Yazami, Anne-Christine Habbard, Claude Katz, Francois Xavier Nsanzuwera.  
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**The Legal and Human Rights Center (LHRC)**, is a local non-governmental Organization headquartered in Dar es Salaam, with a branch in Arusha. It was registered as a company limited by guarantees, under Companies Ordinance Cap 212 in 1995. The LHRC's main purpose is to contribute to the efforts made in Tanzania to create a just and equitable society. It therefore embarks on programmes that aim at creating awareness in legal and human rights issues, and empowering the general public with a focus on the rights, of underprivileged section of the society, through the provision of legal Aid, civic education, Conducting research and following up on human rights violations.

The LHRC undertakes training programmes to the law enforcement officials i.e. police and prison officer, local government leaders, parliamentarians, civil society leaders, local government leaders, and village land workers. It runs three legal aid clinics, two in Dar es Salaam and one in Arusha town. LHRC has carried legal researches in a number of legal and human rights areas. It enjoys Observers Status with the African Commission on Human and People's Rights. The LHRC's Board of Directors is composed of Bishop Elinaza, Sendoro ( Chairperson), Dr. R. W. Tenga (Vice chairperson), Dr. Sengondo Mvungi, Dr. Palamagamba Kabudi, Martin Saning'o, Azaria Peter Mbuguni, Ananilea Nkya, and Rose Camil.