

Religion and the State in Tanzania*

LA RELIGION ET L'ETAT EN TANZANIE

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Abstract: For the first two decades of independence Tanzania² enjoyed an apparently tolerant and cordial religious climate. But since the departure of the father of the nation, Julius Nyerere from active politics in 1985 deepening religious tensions and strains began to emerge not only between the state and major religions in the country but also inter and intra-religious strife became common. Since then the country has witnessed deepening state-religious tensions and inter- and intra-religious schisms and conflicts. This paper outlines the contentious relations between the two main religious faiths (Islam and Christianity) vis-à-vis the state since colonial times (German and British) to the seemingly tranquil ujamaa period and the more contentious post-liberalisation era.

Key words: Tanganyika; Tanzania; German; British; Colonial; Religion; State; Relations; Christianity; Islam

Resum é Pour les deux premi ères d écennies de l'ind épendance, la Tanzanie a connu une atmosph ère religieuse apparemment tol érate et chaleureuse. Mais depuis le d épart du P ère de la nation, Julius Nyerere des politiques actives en 1985, des tensions et des souches religieuses ont commenc é à émerger. Les aggravations sont apparues entre l'Etat et les grandes religions dans le pays, et les conflits inter et intra-religieux sont devenu communs. Depuis, le pays a été témoin de l'approfondissement des tensions états-religieuses, des schismes et des conflits inter-et intra-religieux. Le présent article décrit les relations controvers ées entre les deux principales confessions religieuses (Islam et christianisme) vis-à-vis de l'Etat depuis l'époque coloniale (Allemagne et Angleterre) jusqu'à la période apparemment tranquille d'Ujamaa et l'ère post-coloniale la plus controvers ée.

Mots-cl és: Tanganyika; Tanzanie; Allemagne; Angleterre; Colonial; Religion; Etat; Relations; Christianisme; Islam

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INTRODUCTION: RELIGION-“PART AND PARCEL OF STATE AFFAIRS”

The paper begins with an introduction on the place of religion in the Tanzanian social milieu to the extent that according to a PEW Foundation survey (2010, p. 29), 93% of 1,540 people interviewed countrywide, said religion was a very important part of their lives. Not only on a personal level but there are numerous illustrations demonstrating how religion has become part and parcel of Tanzanian society. These are the national anthem, the opening prayer of the Legislative Assembly sessions, taking of oaths (Bible or Quran) of allegiance and faithfulness to the constitution in discharging their duties, by holders of major public positions, the national radio, Tanzania Broadcasting Corporation (TBC) begin and close with prayers of both Christian and Islam religions, the existence of a ministerial portfolio dealing with religious

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² Tanzania came into being in April 1964 when two sovereign states Tanganyika and Zanzibar united

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affairs (Policy, Coordination and Parliamentary Affairs) under the Prime Minister's Office, religious education being part of school curriculum, examinable and recognized by the National Examination Council of Tanzania and the recognition of some important Muslim and Christian observances as public holidays. The entrenchment and expression of religiosity in Tanzania has been depicted by prominent political scientists in the country and abroad. Thus Prof. Rwekaza Mukandala, the current Vice Chancellor of the University of Dar es Salaam, asserts that religions in Tanzania are, "... pervasive, useful and seemingly powerful" (Mukandala 2006, p. 1). Tim Kelsall (2005, p. 37) of the University of Newcastle describes Tanzania as, "a deeply religious society [as] ...many Tanzanians use a religious idiom to account for their day-to-day actions". An American Emeritus Professor writes about the saliency of religion in Tanzania as follows, "...Religion has become a salient issue, [...] people at the grassroots level advance religious identities in pursuit of their interests in regard to spiritual, material, and political interests all across Tanzania" (Glickman, 2011, p. 3). It is pertinent to continue the discussion by looking at the overall relations between the state and religion in the country.

RELIGION VIS-À-VIS THE STATE

Whereas a nation-wide survey conducted in 2000 by the University of Dar es Salaam's Research and Education for Democracy in Tanzania (REDET) found that 86% of the people interviewed believed that relations between their religion and the state were positive (Heilman et al, 2002, p. 692), Liviga (2006, p. 328) states that, "...the role of religion in governance issues (state vis-à-vis religion) has been one area of contention for both politicians and religious leaders". And a renowned historian in the country claims "...in recent times religion has re-emerged as a major issue in Tanzanian national politics...at the heart of this is the struggle between the Muslim and Christian establishments for pre-eminence in national affairs [which] has entailed competition between them for control of the secular nation-state... [that]...the ruling party strove to build as part of its national unity project" (Luanda, 1996, p. 109). An extreme view depicts the situation as follows, "...the conflict in Tanzania is not between Muslims and Christians but between Muslims and the government. The problem is neither inter-religious nor horizontal but political and vertical". In the final analysis it is a question of competition to state resources" (Njozi, 2000). This paper highlights the various areas of controversy between the two main religions in the country, Islam and Christianity and the state, starting with a historical backdrop dating back to the pre-European colonization period, starting with the former.

ISLAM PRIOR TO EUROPEAN COLONISATION

The following lengthy quotation testifies to the arrival of Islam in East Africa as early as the 9th century and its subsequent spread in what is now Tanzania.

"The earliest concrete evidence of Moslem presence in East Africa is the foundation of a mosque in Shanga on Pate Island where gold, silver and copper coins dated AD 830 were found during an excavation in the 1980's. The oldest intact building in East Africa is a functioning mosque at Kizimkazi in southern Zanzibar dated AD 1007. It appears that Islam was widespread in the Indian Ocean area by the 14th century. When Ibn Battuta from Maghreb visited East Africa in 1332 he reported that he felt at home with fellow Moslems in the area. The coastal population was largely Moslem, and the whole of the Indian Ocean seemed to be a "Moslem sea". Islam was spread mainly through trade activities along the East African coast, not through conquest and territorial expansion as was partly the case in West Africa, but remained an urban littoral phenomenon for a long time. When the violent Portuguese intrusions in the coastal areas occurred in the 16th century, Islam was already well established there. In the end of the 17th and beginning of the 18th centuries the coastal Moslems managed to oust the Portuguese with the help of Omani Arabs. These Arabs gradually increased their political influence until the end of the 19th century when European conquerors arrived at the coast of East Africa. During Omani dominance of the coast politically, the spread of Islam intensified also in the interior of East Africa. Trade contacts with peoples in the interior, especially the Nyamwezi, gained importance and places like Tabora in Nyamwezi territory and Ujiji at Lake Tanganyika became important entrepôts in the ever-increasing trade in slaves and ivory. Many chiefs converted to Islam and cooperated with the coastal Moslems. Trade served to spread not only Islam, but also the Swahili language and culture. Before the establishment of German East Africa in the 1880's the influence of the Swahilis or coastal people was mainly limited to the areas along the caravan routes and around their destinations" ("Islam in Tanzania" <http://www.imamreza.net/eng/imamreza.php?id=4514>)

ISLAM AND GERMAN RULE

German control began in Tanganyika in 1884 under the German East India Africa Company (Deutsche-Ostafrikanische Gesellschaft, or DOAG) and the great expansion of Islam in the interior of today's Tanzania began during the German colonial era. After having conquered the coastal area the Germans started hiring literate coastal people (Swahilis) in

administering the colony who became an important part of the explanation of why Islam spread so much faster in the areas controlled by the Germans than in other territories occupied by the British (Kenya and Uganda). According to Nimtz (1980, p. 8) the Germans did not officially support or discourage the spread of Islam but due to particular policies the religion made significant gains.

First, the German colonial state had recruited Sudanese Muslims in defeating the Abushiri uprising who later remained as policemen or labourers.

Secondly, when the Germans came they found Muslims already literate, could read and write using the Arabic script and they were employed as teachers, interpreters and administrators (jumbes and akidas), artisans and writers.

Thirdly, the ideology of the Maji Maji war³ suffered after its defeat and Islam came to fill the vacuum created by the disillusionment of its failure.

Fourthly, though a new and different belief system, Islam represented a system of values quite different from those of the German colonizers.

On the other hand, Iliffe (1979, p. 208) in explaining the rapid adoption of Islam along the coast during this time notes that there were men willing to learn western skills, serve western masters and create a place for Muslims in colonial Tanganyika. In particular he underscores the role of the Omani aristocracy who had served the [sultan] Sayyid, "especially Suleiman bin Nasor, Liwali of Pangani, Bagamoyo and Dar es Salaam, Wissman's friend and agent regarded by fellow Arabs as, "more German than the Germans". To be sure Islam was propagated through proselytising but Iliffe (1979:214) lists the circumstances which influenced positive response to Islam then:-

1. Islam was not only a faith but a culture and a legal code, so that adherence meant gradual assimilation into an existing Islamic community-e.g. traders trusted fellow Moslems

2. Islamic culture to a certain extent represented modernity/civilisation (u-staarabu) as opposed to u-shenzi (uncivilised).

3. "Enlargement of scale"-embracing traders and migrant workers, contact with the nearby coast, political leaders who were often Muslim pioneers with dealings with the wider world.

Hirji (1980, p. 201) highlights the way the Islamic apparatus assisted in ensuring the functioning of the [German] colonial state at the administrative level, noting that it was a classic example of how an emergent social formation can modify and adjust the super-structural elements of a previous social formation to suit its own needs. This was done by utilising three aspects of the Islamic ideological apparatus, namely personnel, political institutions and language (Kiswahili). He also points to the fact that these issues were to be the areas of conflict with regard to the relations between the German colonial government and Christian missionaries (see below). It should also be noted that after World War I, when the British took over control of Tanganyika, the growth of Islam decreased somewhat because the British system of local government ("Indirect Rule") favoured local chiefs rather than Moslem administrators from the coast. The British came with the Roman script and abrogated Muslim literacy and the ever-increasing missionary activities as well as the establishment of Christian schools promoted the employment of Christians while Moslems were gradually alienated from the administration and the political scene (Liviga & Masabo, 2006, p. 125).

CHRISTIANITY AND THE GERMANS

When the Germans occupied Tanganyika in 1884 they found missions already established (e.g. CMS and UMCA). Hasu (1999, p. 111) has summed up the aim of Christian mission in the colony as to Christianise but not Germanise, in that, "the heathens (sic) were to be Christianised to remove the heathen darkness of superstition and reconstruct and recreate their entire way of thinking, their hearts and souls but unnecessary imposition of European customs had to be avoided while Christianising them". In the first years of the German colonial period (1885-1914), some German missionaries, the Benedictines in particular, were identified with the German government by those fighting it. This cost some of these missionaries their lives during the numerous uprisings. Otherwise the Church developed an independent identity from the colonial government. In those areas where missions had been operating for some time before the advent of colonial rule, the Germans forces found it relatively easier to establish their authority for the demands made on them were not completely new. Missions derived some benefits from alliance with colonial administration, for example when in conflict with local chiefs and in cases of land alienation by missions; in some cases the administration utilised missionaries to do surveys and vaccinations and even allowed to preach to prisoners, while in some districts work on missions' properties

³ Maji Maji was a violent African resistance to colonial rule in the German colony by several indigenous communities in German East Africa against the German rule in response to a German policy designed to force African peoples to grow cotton for export, lasting from 1905 to 1907. The name Maji Maji refers to powerful water (Sw. maji = water) which was thought to give protection against the German weapons. The traditional African ideas of Kinjikitile, the leader of the uprising, were to an extent intertwined with Sufi ideas.

(e.g. land) was considered a substitute for paying taxes. Under the protective umbrella of German colonialism, missions and missionary activities grew rapidly and their influence too spread proportionately. But contradictions existed. One such area of conflict was on the political power of missionaries. Colonial authorities could not tolerate unlimited authority of some missionaries in their stations. Iliffe (1979, p. 201) notes that the post-Maji Maji period, was one of rapid Christian expansion in Tanganyika, because of the spectacular demand for education offered in mission schools. Though forced attendance of mission schools was cited as a factor in the Maji Maji War, mission education apparatus experienced a rapid growth and for the German missions the school was the most single important means of conversion. On the other hand the Maji Maji served to underscore an important historical truth: the necessity to complement physical repression by ideological obfuscation in order to perpetuate exploitation. It revealed that the ideological apparatus, especially the missionary one, had not functioned in vain. The ideological impact of the missionaries can be discerned by noting, first, that missionaries in affected areas, were, generally, spared during the uprising and two, "several mission educated groups refused to participate in the struggle (Hirji, 1980, p. 212). Predictably, after World War I, German missionaries were interned and deported only to return in 1924. What can be said of the German colonial rule generally facilitated the work of Christian missions, though relations between them were problematic on a number of issues for example on the issue of language in which the missions preferred use of vernaculars to get more converts, while Kiswahili was the language of colonial administration. Though many Protestants missionaries suspected Kiswahili to be a language of Islam, the Roman Catholics utilised this lingua franca without problems.

PHENOMENAL GROWTH OF CHRISTIANITY UNDER THE BRITISH

The growth of Christianity after World War 1, was striking. While in 1914 adherents formed only 2% of the population, by 1938 they accounted for about 10%. The causes of such phenomenal expansion are unknown but according to Iliffe (1979, p. 543) one reason could be growing complexity in the territory and great differentiation and competition between religions and individuals. He argues, "...as an apparently modern religion Christianity could appeal both to the beneficiaries of change and to the deprived who sought equality". Campbell (1999, p. 11) deduces that Christianity witnessed a phenomenal growth between 1914 and 1944, "stemming from the growing demand for education which only the missions provided [as] state education was slow to develop and limited in scope". This high point of mission activity and influence in the territory has also been attributed to the introduction of a new policy by the British that is "Indirect Rule"⁴. In addition the British colonial administration emphasised cooperation not only between missions but with the government as well. As was the case during the German period education was a major means of advancing Christianity during British rule. Christianity was seen as a literary movement, and Christians were called wasomaji ("those who can read"). When World War II broke out in 1939 again German missionaries were interned or deported and their church work disrupted and in some areas (southern highlands and Kilimanjaro) left without leadership; the orphaned churches being taken over by Swedish, Danish and American churches. As such both wars strengthened missionary cooperation and increased the internationalisation of foreign mission involvement. They also strengthened the Tanzanian churches and development of indigenous leadership. For example Lutheran cooperation further developed after the war such that in 1955 the Lutheran church of northern Tanganyika (LCNT) was organised and a Tanganyikan president was elected in 1958 and latter ordained a bishop. The independence campaign had no anti-missionary flavour for the nationalist movement, Tanganyika African National Union (TANU) wanted to mobilise all available forces for the common goal of attaining independence. Its leader, Julius Nyerere praised the role and achievements of the missions and in 1959 one of the prominent church leaders, Rev. Kisanji, called on Christians to take part in the independence (Uhuru) struggle and the Roman Catholic called for the creation of a free and pluralist Tanganyika and expressed its willingness to help build the new nation. TANU was supported by some missionaries (e.g. Johansson, a Swede and Fr. Walsh a British) though many others regarded the movement with suspicion and mistrust.

MARGINALISATION OF MUSLIMS

After World War I, when the British took control of Tanganyika, the growth of Islam decreased somewhat because the British system of local government of Indirect Rule, favoured local chiefs rather than Moslems from the coast. However, the dual system of government and mission schools introduced during the German period was inherited and maintained by the British. But it became even more skewed with a high preponderance of mission schools. Thus whereas in 1923 there were 4,907 pupils in public schools as opposed to 115,000 in mission-funded schools by 1935 the gap had widened further to 8,105 and 217,736 respectively. Unlike their Christian counterparts it was difficult for Muslims in Tanganyika to build and finance their own schools. By mid-1950s a more significant distinction in access to education in the territory had emerged between Christians and Muslims in which according to one estimate Muslims were outnumbered by a factor of

⁴ Indirect rule is a type of European colonial policy in which the traditional local power structure was incorporated into the colonial administrative structure. Basically it is the opposite of "direct rule".

three to one (Morrison, 1976, quoted in Mbogoni (2004, p. 107). Mbogoni (ibid) notes that, not only were Muslims forced to compete for fewer places in the few public schools but that competition was eschewed in favour of Christians, adding that, this inequitable access to education opportunities did not only result in social and class differentiation, but also created a schism between Christians and Muslims whose effects continue to be felt today. He writes "...The marginality of Muslims in education became evident in the 1958 parliamentary elections. The conditions for voting or contesting were an annual income of 200 sterling pounds, standard VII education and employment in a specific post conditions which many of the voters and aspirants could not meet and so many of those fielded were Christians...Muslim leaders feared this could be carried on to the post-independence period and blamed the British being doubly unfair allegedly for colluding with Christians to deny Muslims access to western education and jobs that came with such qualifications ...in 1959 the All Muslim National Union Of Tanganyika sought the delay of granting independence until Muslims were adequately educated..." (Mbogoni, 2004, p. 116)

INDEPENDENCE AND THE FIRST PHASE GOVERNMENT

The role of religion in the nationalist struggle has been summarised as follows, "...on the one hand leaders of the nationalist movement were indebted to [catholic] Christian education but it seemed to acquire momentum from Muslim leadership" (Liviga, 2006:327). Liviga (op cit) also informs that religion played a major role in Tanzania's quest to build a socialist society in the 1960s and 1970s. Julius Nyerere challenged religions to support or be involved in the country's socialist policies. This is what Westerlund calls the paradox between 'Don't mix religion and politics'-addressed to Muslims, and "Play your part"-aimed at Christians. Rasmussen (1980:86) notes how Nyerere often criticised the Christians for being...too preoccupied with life after death and how in had quipped some young Christian students as follows] "...what about living today? The church should give us time to live longer, and then we can go to heaven at a later stage". Liviga (op cit) notes how religion and religious institutions have had an outstanding contribution in the political dimension of governance not only in supporting the country's socialist ideology but also in the provision of social services, the Muslims through their organisation, the East African Muslim Welfare Society (EAMWS) and Christian churches in the provision of education and health services. Yet even with the first phase government the state-religion partnership was not always cordial (Liviga, op cit 330). This was evidenced by the strained relations between Nyerere's regime and the EAMWS as the following account testifies.

THE EAST AFRICAN MUSLIM WELFARE SOCIETY SAGA

Originally formed in 1945 in Mombasa, the East African Muslim Welfare Society (EAMWS) transferred its headquarters to Dar es Salaam in 1961 and seemingly, "...its leadership and executive committee took a national face in Tanzania" (Liviga & Masabo, 2006, p. 155). In 1962 EAMWS embarked on a territorial campaign to promote Islam and Muslim welfare services especially the building of schools. In 1964 a nine-man strong delegation led by its chairman (a cabinet minister) toured Islamic countries to solicit funds for building an Islamic University, which would have been the first University in East Africa owned wholly by a Muslim religious group. This incident was allegedly, "not well received by the government, heavily dominated and led by Christians" (Liviga & Masabo 2006, p. 153) and this was evidenced by the reshuffling of the cabinet and appointment of the EAMWS chairman to ambassadorship in China, incidentally because the tour had been interpreted as an attempt to open Tanzania to increased contact and influence from the Islamic world (Mbogoni, 2004, p. 135). In addition EAMWS was riddled with factionalism, separatist dependencies and irritation of the Aga Khans' continued patronage. However what sealed the society's fortunes in Tanzania was its ambivalence, if not hostility, to the policy of ujamaa which had led to the nationalisation of capitalist interests most of which were owned Indian Muslims who had a prominent commercial stake in society. During its national congress (12.12.68), the Zanzibar President, Abeid Karume openly accused EAMWS of being anti-TANU/ASP and against the ruling party's policies in his opening address and when closing the same, the Vice President, Rashid Kawawa praised the delegates for their nationalist stance. EAMWS was deemed to be dominated by non-Tanzania Muslims and perceived by the government as a threat to national unity and was eventually banned. The government assisted in the formation of a National Council for Muslims (BAKWATA) which was assigned, apart from religious matters, the task of preaching and convincing Muslims that ujamaa was a viable policy and did not contradict the teachings of Islam. In conclusion we see that the EAMWS saga was a rare confrontational encounter between the state and a religious organization in Tanzania. But Nyerere's exit from the political scene in 1985 led to an era of liberalization in almost all fields of Tanzania society. The religious sphere witnessed deepening state-religious strife and inter- and intra-religious schisms and conflicts. A Tanzania historian wrote in 1996 that "religion had emerged as a major issue in Tanzania national politics" and that "at the heat of the re-emergence of religion as an important factor in Tanzanian politics is the struggle between the Muslim and Christian establishments for pre-eminence in national affairs. This struggle has entailed competition between them for control of the secular national state. The remainder of this paper will highlight some of the areas of conflict between the state and religion(s) in Tanzania starting with explaining why there was such a drastic change.

THE POST LIBERALISATION ERA

Bakari and Ndumbaro (2006) list the following factors to explain the situation.

1. **Ujamaa ideology** and its welfare policies had appealed to the majority of Tanzanians, particularly the vulnerable sections; its collapse left an ideological vacuum not filled by the “free market economics” that ensued. A neo-liberal economic system could not sustain the egalitarian values enshrined in the Arusha Declaration, which was some how diluted in the Zanzibar resolution of 2001, “...as a result of the disintegration of the national value system, the inequalities and injustices that were once viewed through a class lenses under ujamaa and self reliance ideology are now being viewed through religious and ethnic lenses...this has considerably contributed to the rising tension between the state and religion in Tanzania”.
2. Worldwide resurgence of **religious militancy** and **revivalism** in the 1980s partly contributed to the rise of tensions in Tanzania also. As elsewhere in the world such revivalism, “...provided alternative views or solutions to emerging socio economic problems...the emergence and increase of open air preaching as well as the growing number of mosques and churches (particularly Pentecostals) since the 1980s attest to this resurgence. Some of those who were negatively affected by socio economic changes since the mid-1980s sought refuge in religious revivalism”
3. **Economic liberalization** which began in the mid-1980s brought with them not only economic restructuring but also implications on class, religious and ethnic relations.
4. The regime **change from single-party to multi-partysm** gave room for dissenting views suppressed during single party system came to the fore as the avenues of socio-economic and political expression were eased. This led to the revival of the role of religion in both private and public spheres. Established churches were challenged by emerging groups and losing some members to more vivacious new sects such as Pentecostals while in Islam youths were gaining a foothold as they devote their time more to religion than before.

UNDERLYING RELIGIOUS TENSIONS

The following section will highlight some of the issues that have led to a, “... struggle by Muslims against the state” (Makaramba, 2006:381).

THE MWEMBECHAI CRISIS

The Mwembechai incident of February 1998 in a suburb of Dar es Salaam, was the culmination of events which pitted Muslims against Christians, Muslims against other Muslims and Muslims against the state which led to the police shooting two people dead, wounding many others and arresting scores is the most recent and often quoted conflict between the state and religion(s) in Tanzania (Tambila and Rubanza, 2006, p. 210). Aziz (in Njozi, 2004) claims that, “...12th and 13th February 1998, will probably go down in the history of Tanzania as one of the most revolting demonstrations of the misuse of state power to intimidate and silence Muslims from a free propagation of their religion, in violation of their God-given and constitutional rights...”. The Mwembechai riots began with the arrest of members of Khidmat Daawat Islamiya on the 10th February 1998 and their leader apprehended on 12th February 1998. The Mwembechai Mosque loud speakers were used to announce the arrest of a prominent Islamic preacher (Sheik Magezi) and calling for everything possible to be done to have him released. As time went on more people joined the fracas which turned into a riot in which the target was widened to include passers-by and their properties in which 57 public and private vehicles were damaged, a car completely burned, 525 crates and 40 cartons of beer stolen, 14 civilians and 6 policemen injured. Teargas was used to disperse the rioters and 136 people arrested. The following day the riots resumed again during which 35 vehicles were again damaged, 5 police posts, the Ward Executives Officers’ Office in the neighbourhood and a CCM branch office vandalized and 20 people injured, including 4 policemen, 2 people being shot dead and 6 injured by police bullets. The Police force claimed that the use of live ammunition was in self-defence, which is allowed according to Police Force Regulations. A total of 131 people were arraigned in court on 16th February 1998. Tambila and Rubanza (2006) provide an account of the build up to the Mwembechai episode by listing the long-term and immediate short term causes ranging from government refusal to set up kadhi courts to the anger of Muslims against the state which was seen to favour Christians.

THE DIBAGULA CASE

On August 24, 2001 Muslims in Dar es Salaam and other parts of the country took to the streets in protest against a magistrate's court ruling in town of Morogoro (200 kms east of Dar es Salaam) sentencing a Muslim named Hamisi Dibagula to 18 months imprisonment. He had been accused of instigating chaos by uttering, that "Jesus is not God", words said to have been deliberately intended to "wound the religious feelings" of Christians. The demonstration turned riotous as and the protesters were beaten by the police; some remanded and charged. Several people were injured and property damaged as well as two offices of the ruling party, CCM, bombed. Following the demonstration the High Court in a rather unusual move and in record time (Makaramba (ibid), summoned the case file for review after which Dibagula was released from jail because the sentence given was apparently too severe. Makaramba (ibid) writes, "in this rather unprecedented judicial wisdom, the High Court reasoned that the trial magistrate had misdirected himself in sentencing the accused without considering all the surrounding circumstances of the case and that the sentence of 18 months was illegal by reason of being contrary to statutory law", fro the case fell into the realm of a mere misdemeanour. Dibagula went further to the Court of Appeal in which according to Samatta (then Chief Justice), the merits of the case were uncomplicated for they hinged on section 129 of the Penal Code which provided *inter alia*: "Any person who with the deliberate intent of wounding the religious feelings of any person, utters any word, or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, is guilty of a misdemeanour, and is liable to imprisonment for one year". The appellatant protested his innocence and denied having preached against the Christian religion and his witness told the court that Dibagula had "urged non-Muslims to embrace the Islamic faith and pronounced that Christ was not the Son of God. The appeal court judge pointed out that as stated by the appellatant's advocate, Dibagula was merely repeating what the Quran unequivocally states in several suras (or chapters). He cited, for example, sura 19, verse 75 that reads:

Christ the son of Mary
Was no more than
A Messenger: many were
The messenger that passed away
Before him..."

He concluded that the provisions of section 129 of the penal code, "were not intended to, and do not, frown upon sober and temperate criticisms of other persons' religions even if those criticisms are made in a strong or powerful language", adding, "what is regarded a truth in one religion may not be so in another. Even if some sections of society consider the spreading of certain religious messages, in an area where those are taken to be unwanted, as being irresponsible, insensitive or provocative action it would not constitute a violation of section 129...if the deliberate intention was to propagate his religion or religious views, and not to wound the religious feelings of those hearing him". The Appeals' Judges found that the prosecution had failed to prove the requisite *mens rea* and therefore allowed the appeal.

KADHI COURTS

Majamba (2007, p. 19-23) has provided a succinct history of the kadhi courts issue in mainland Tanzania. He points out how at independence in December 1961 the then Tanganyika (today mainland Tanzania) government inherited the whole corpus of colonial legislations and institutions of adjudication, including those that applied to Islamic law. In 1962 reforms were introduced aimed at unifying the systems of courts along a single tier system. These culminated with the Magistrate's Court Act (MCA) Ordinance which led to the setting of an integrated judicial system and the demise of the Kadhi courts which had been operational since the German colonial era. However the secession of the Kadhi court did not do away with the role of the Kadhi altogether because the Law of Marriage Act continued to recognise his position in officiating Islamic marriages and defined a Kadhi as, "a Muslim priest or preacher, or a leader of the Muslim community who has been licensed to perform marriages in Islamic forms". It also recognised a Kadhi as a minister for religion. The issue of establishing the Kadhi court resurfaced in 2005 when the ruling party, CCM, issued its election manifesto in which it promised that if elected its government would strive to work on finding a solution to the issue. Since then incessant debates have been witnessed in the National Assembly (Bunge), the media and interested stakeholders on this sensitive question. According to Majamba (2007, p. 22) proponents in favour of the Kadhi Court hold that issues of Islamic law are enshrined in the Holy Book⁵ and therefore a court system needs to be put in place, by the Constitution, to interpret these laws according to the scriptures of the Book. Divergent views on the other hand argue that the establishment of such courts modelled on religious lines is not only unconstitutional but could also divide the people in an

⁵ But an expert on Islamic law with respect to Tanzania asserts that, "As it is with waqf, the kadhi institution is not a creature of the Holy Koran. It could not have existed during the time of the Prophet either because at that time there was no distinction between temporal and religious authority (Makaramba, 2000)

affirmed secular state. Tabling the 2009/10 budget estimates for the Ministry of Justice and Constitutional Affairs, the minister responsible said that some aspects of Islamic law would be incorporated into statutes instead of enacting a separate law for a kadhi court, a move rejected by BAKWATA which castigated the government for, "treating Muslims as second-class citizens" (The Citizen, July 7, 2009) and cautioned that the Government's action might cost the ruling, CCM, dearly. "If the decision to introduce Kadhi's courts is scrapped altogether, Muslims won't vote for Chama Cha Mapinduzi in the forthcoming (2010) General Election," declared the head of the organisation, Mufti Issa bin Simba, adding

"Muslims are not treated fairly in this country; why should we keep on demanding what is our right for over 20 years and still, there is no indication that the Government is listening?... Muslims have been tolerant and waited for so long to be granted their right to form the Kadhi's courts, but it seems the Government is not ready for it; it should be remembered that we can use other means to achieve our goal but that option is not good," added Mr Simba without elaborating what those other means could be (The Citizen, July 3, 2009). The issue has so far stalemated and in Majamba's (ibid) view, "Kadhi Courts should be seen in the context of the judiciary and the legal system and not as a religious issue or an issue for Muslims alone". He points out that those opposing the Kadhis Courts and making allegation of bias for Muslims by making reference to the CCM Election Manifesto are politicizing the issue which may result in creating unnecessary tension and disharmony between citizens, and hastens to caution that, ". . . the establishment of the courts should be conducted in a manner that would not lead to, or have the elements of the State according prominence to one religion".

ORGANIZATION OF THE ISLAMIC CONFERENCE (IOC)

The other contentious issue is the question of Tanzania joining the Organization of the Islamic Conference (OIC), an international organization grouping 57 states, "...which have decided to pool their resources together, combine their efforts and speak with one voice to safeguard the interests and secure the progress and well-being of their peoples and of all Muslims in the world" (<http://www.infoplease.com/oic/states-viewed> 15/09/2010). On 10th January 1993 it became public that the autonomous part of the Union, Zanzibar had joined the OIC, a news item which was refuted by the government of the United Republic of Tanzania, only to be upheld later by the Zanzibar revolutionary government itself. Later on the Chief Minister of Zanzibar met a Christian Churches delegation to enlighten on the reasons for Zanzibar's OIC membership. Among the reasons, he explained that the OIC was an example of South-South Cooperation and therefore there were economic benefits. Secondly, he pointed out that the Islamic Development Bank (IDB) an organ of the OIC allegedly had more funds than those of International Monetary Fund (IMF) and World Bank combined. The outcome of the OIC controversy is that it brought into the open divisions in Tanzania society which took a discrete religious line with the Muslim population generally supporting Zanzibar's action while Christian denominations always leading the opposition to Zanzibar or Tanzania joining OIC. This issue assumed a central position in domestic politics and had been converted into a religious issue, putting to the test the union between Tanganyika and Zanzibar. It was only resolved, albeit temporarily, by the intervention of the first phase government president and father of the nation, the late Julius Nyerere whose intervention led to Zanzibar government in August 1993 announcing that it had decided to withdraw its membership from OIC thus succumbing to the fact that being part of the union, it had no mandate to join international organisations unilaterally. Matters rested there until in July 2009 when the Minister for Foreign Affairs and International Relations made the unexpected announcement that the union government had been convinced that there was nothing wrong with Tanzania joining the OIC, a statement which enraged Christians clerics who called for the Minister's resignation claiming that the proposal would violate the country's constitution which spelt that Tanzania was a secular state. One of the clerics quoted the OIC revised charter (March 2008) whose Section 1 (11) states: "to amend, promote, and preserve Islamic teachings and values based on modernisation and tolerance, promote Islamic culture and safeguard Islamic heritage". In the end the minister backtracked and said the government would seek the peoples' consent before deciding on the issue.

POLITICAL MANIFESTOS, PASTORAL LETTERS AND MUSLIM GUIDELINES

As Tanzania approached the 2010 general elections yet another controversy between the state and religions erupted. First it was the Roman Catholic(RC) church which issued it's the so-called Pastoral Letter on civic education of which according to one columnist far from being a pastoral letter it was in effect a manifesto not dissimilar to those produced by political parties during elections titled as it is "Our proposals for national priorities" comprehensive and complete with a time-table of action in the span period of 2009-2011 (Kuhenga, Daily News, July 24, 2009). Kuhenga raises a fundamental question also raised by a long standing stalwart of the ruling party Kingunge Ngombale-Mwiru that is, "... for any religion to politically sensitise people especially when an election is due is potentially nationally divisive and prone to sectarianism". Kingunge requested the RC to withdraw their pastoral letter to no avail. He had feared that other religions would also issue similar policy statements. Other Christian denominations did not follow suit but the council for

Islamic organisations and institutions in Tanzania, called Shura ya Maimamu, issued their own guidelines aimed at guiding Muslims on electing "good leaders, who will emancipate [them] from oppression". The document directed Imams, "to do everything possible to direct their followers to vote for the candidates who will promote interests of Muslims". The Supreme Muslim Council of Tanzania (Bakwata) on the other hand distanced itself from the document, saying they had no role in its drafting. The Minister of State in the Prime Minister's Office, responsible for religious affairs Mr Marmo, advised Muslims to avoid anything that could create disunity. "Religious leaders should keenly weigh and consider the possible effects before launching such documents," he said. President Jakaya Kikwete himself warned that issuing circulars based on religious groups on the conduct of the elections, could divide the nation ahead of the polls – and so wanted them stopped. The president also urged religious and political leaders not to make any further public utterances that would cause stormy exchanges and breed unhealthy differences at the expense of the nation, which he described as being collectively at the crossroads. "It is a shocking move by our religious organizations and the problem is that it has come ahead of 2010 ... it's likely to create a scenario where Tanzanians may go to the elections to vote under directives or inspirations of their religions," he warned. As he moved to assert authority by calling on religious groups not to issue any more circulars, the president assured the public that the government would meet religious leaders in his administration's bid for an amicable solution (Daily News, September 10, 2009). Indeed the elections were conducted peacefully and without religious overtones and Jakaya Kikwete, a muslim won with a two thirds majority.

CONCLUSIONS

This paper started by showing how religion is part and parcel of state affairs in Tanzania. Going back to the colonial era the paper detailed how the colonial state offered protection to religious institutions, who on their part they strove to train functionaries needed by the state and provided critical social services. This situation continued after independence but there arose areas of conflict pitching the post-colonial state with the two main religions, Islam and Christianity, but more so with the former⁶. The following conclusions sum up the state vis-à-vis religion relations in Tanzania. Loimeier (2007) cautions that the perceptions of Muslim marginalisation in contemporary Tanzania, "should not be accepted at face value", and that public debate over religion in Tanzania is characterized by "a general desire to reach consensus, even at the cost of suppressing historical truth and justifiable [...] aspirations." Bakari and Ndumbaro (2006, p. 357) have also observed that, "...religion and governance are very topical issues in Tanzania ... they need to be accorded their due weight in both intellectual and political discourse". They argue that since religion is related to good governance and its basic components (rule of law and justice, representation, participation, accountability and transparency), the state is obliged to address the governance problem emanating from state-religion relations so as to harmonize them as they foretell the emergence of conflicts between Muslims and Christians which would be detrimental to the tenets of state and nation building.

Almost ten years ago, Heilman and Kaiser (2002, p. 697) explained why Tanzania was not a religious battleground, unlike many other poor and culturally diverse countries, in spite of a seeming 'Islamic revival'. The reasons, they argued, were, the existence of other cross-cutting identities, the lack of consensus within religious groups, and the relative equal strength of Muslims and Christians as 'raw materials for social peace'. Lunn (2008) applauds Tanzania's relative success in containing religious tensions reflected as it in the fact that the state, "... has sought to play the role of umpire between competing communities and regions and has never been—or been seen as—'captured' by any one group. It also has a pretty strong record of delivering 'public goods', or 'development' to people without major religious or ethnic bias". A situation which is likely to continue into the future.

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ACRONYMS

- ASP =Afro Shirazi Party
- BAKWATA=Baraza Kuu la Waisalamu Tanzania
- CCM =Chama cha Mapinduzi MCA=Magistrate's Court Act
- CMS Church Missioanry Society
- EAMWS=East African Muslim Welfare Society TANU-Tanganyika African national IOC=Organization of the Islamic Conference
- LCNT=Lutheran Church of Northern Tanganyika Union
- REDET=Research and Education for Democracy in Tanzania
- UMCA Universities Mission to Central Africa
- RC=Roman Catholic