

Managing Diversity through Territorial Autonomy: Experiences from Iraqi Kurdistan and Zanzibar with the Åland Example as a Point of Reference

Jaakko Virkkunen
Lotta Valtonen





Lotta Valtonen wrote this essay as the final course essay for the e-course “Territorial Autonomy as a Tool for Diversity Management – Lessons from the Åland Example” held in cooperation with the Åland Island Peace Institute. The course is part of her studies in the Masters Degree Programme in Peace, Mediation and Conflict Research administered by the University of Tampere. Valtonen has a previous masters degree in political sciences from the Åbo Akademi University. Valtonen worked in Tanzania in 2013–2015.



Jaakko Virkkunen is a post-graduate student in International Relations at the University of Tampere, Finland. His research interests lie in constitutional aspects of building sustainable peace including power-sharing arrangements and management of societal diversity. Jaakko participated in the ÅIPI E-course “Territorial Autonomy as a Tool for Diversity Management” in the spring of 2016.

**Managing Diversity through Territorial Autonomy:
Experiences from Iraqi Kurdistan and Zanzibar with the Åland Example as a Point of Reference**

Jaakko Virkkunen
Lotta Valtonen

Rapport från Ålands fredsinstitut
Report from the Åland Islands Peace Institute
No. 2–2016

ISSN 1797-1845 (Printed)
ISSN 1797-1853 (Online)
ISBN 978-952-5265-83-5 (Print)
ISBN 978-952-5265-84-2 (Online)

Published by the Åland Islands Peace Institute
PB 85, AX-22101 Mariehamn, Åland, Finland
Phone +358 18 15570, fax +358 18 21026
peace@peace.ax www.peace.ax

This report can be downloaded from www.peace.ax

© Jaakko Virkkunen & Lotta Valtonen, 2016.

Printed in Mariehamn, Finland by the Åland Islands Peace Institute 2016.

Preface

The Åland Islands have been used as a point of reference and as a source of inspiration in conflict resolution and in debates on territorial autonomy and management of diversity for a long time. The notion of the Åland Example is more recent. The concept of the Åland Example tries to capture the three main components involved in the status and management of the islands. The Åland Islands are demilitarised and neutralised; the territorial autonomy of the islands is combined with a comprehensive system of protection of the Swedish language and local culture as a part of an internationally entrenched arrangement and as part of the Finnish constitutional system.

In the past ten years, the Reports from the Åland Islands Peace Institute have contributed to the understanding and analysis of the Åland Example as well as to issues of conflicts and efforts for peaceful solutions and societies. The two articles included in the present report (No. 2–2016) have their origins in the e-course on “Territorial Autonomy as a Tool for Diversity Management” which is offered annually by the Åland Islands Peace Institute.

Jaakko Virkkunen looks at Iraqi Kurdistan and argues that problems arise when solutions neglect the complex diversity of the centre as well as that of the region. Dispute resolution systems between centre and periphery are bound to be needed, sooner or later, he finds. Lotta Valtonen explores the experiences of Zanzibar as an autonomous solution created following the merger between Tanganyika and Zanzibar into the new state called Tanzania (1964). Valtonen highlights insightfully the relevance of politics and democratic legitimacy at times of constitutional reform against the theoretical framework of territorial autonomy. The two authors contribute in new ways to our deepened understanding of territorial autonomy, constitutional arrangements and the further mapping of the various usages of the Åland Example.



*Sia Spiliopoulou Åkermark
Head of Research, The Åland Islands Peace
Institute, Associate Professor*

Table of contents

1. The Åland Example and the case of Iraqi Kurdistan	7
1.1. Introduction	7
1.2. The Kurds in Iraq.....	8
1.3. The federal constitution of 2005	9
1.4. The Kurdish region	9
1.4.1. Autonomy after the Gulf War	9
1.4.2. The Kurdish federal region after 2005.....	10
1.5. Critique of the constitution.....	10
1.6. The Åland Example	11
1.7. The Åland Example as a suggestion for Kurdistan	13
1.8. The applicability of the Åland Example to Kurdistan	13
1.8.1. The nationalism question	14
1.8.2. Resources, security and ethnicity.....	14
1.8.3. The Åland Example and the current system.....	15
1.9. Conclusions.....	16
References	17
2. The autonomy of Zanzibar today – an outdated framework?	
A critical review of the autonomy arrangement with political	
history and the Ålandic experience as points of reference	21
2.1. Introduction.....	21
2.2. The autonomy of Zanzibar.....	22
2.3. The emergence of conflict on Zanzibar	23
2.4. A union is agreed	23
2.4.1. Institutional arrangements	24
2.4.2. The 1977 constitutional reform.....	25
2.5. From a single party state to multiparty democracy?.....	25
2.5.1. The Muafaka accords	26
2.5.2. The return to CCM rule	26
2.6. Shortcomings of the union setup –	
a comparison to the Ålandic example	27
2.6.1. Loss of sovereignty – less jurisdiction.....	27
2.6.2. No clear dispute settlement mechanism	28
2.6.3. Unclear financial jurisdiction.....	29
2.6.4. No international cooperation is possible.....	29
2.6.5. Lack of popular say on autonomy.....	30
2.6.6 Flexibility to allow a dynamic arrangement.....	30
2.7. The constitutional review	30
2.8. Concluding remarks.....	32
References	33

1. The Åland Example and the Case of Iraqi Kurdistan

Jaakko Virkkunen

1.1. Introduction

In 2003 following a US intervention, the decades long reign of the Baathist regime came to an end in Iraq. In the wake of the regime change came the framing of a new constitution in 2005, which sought to provide a tool for balancing the interests of different Iraqi groups – namely the Shia and the Sunni Arabs, the Kurds, and a number of small minorities. The new constitution established a federalist system that divided the country into regions and governorates, while maintaining Baghdad as the federal centre. In this connection a federal region of Kurdistan and a significant degree of self-governance was granted to the Kurds. This can be seen as a major achievement for the Kurds who had been pushing for stronger recognition, self-governance and even independence for decades.

The constitution has been, however, criticized for destabilizing the country and for failing to mitigate tensions between e.g. the Kurds and the Arabs.¹ One major critique has been that the constitution reflects Kurdish aspirations for strong self-governance while leaving the central government weak and potentially short of hydrocarbon revenues if more federal regions are established in the future. Additionally, the rise of Shia nationalism, the birth of Shia militia-groups and the expansion of the Islamic State²

have only exacerbated the tensions. One of the proposed solutions to the negative build-up is amending the current constitution, which is also the focus of this essay.

Several proposed amendments have sought to address the instability that is seen as inherent to the current system.³ One of these is the model of territorial autonomy inspired by the example of the Åland Islands in Finland – an example, which has gathered increasing attention as a tool for conflict and diversity management.⁴ In this essay, I will assess the proposal of Anderson and Stansfield who suggest granting Åland styled autonomy to Iraqi Kurdistan as a means to a more stable Iraqi society. I will compare this to other proposed amendments, which seek to maintain the current constitutional federalism and I will do this with two aims in mind. First, I seek to understand what benefits the Åland autonomy arrangement could provide in comparison to the current federal model, and secondly, identify elements of the Åland Example that could be supplementary to the existing system and conducive to peace in the context of Iraqi Kurdistan. I will also seek to provide further depth to the analysis on the Åland Example that was initiated, but left somewhat cursory, by Anderson and Stansfield.

1 See Anderson & Stansfield 2010; ICG 2006, i–iii.
2 Freeman (2014, vii) defines Islamic State as a transnational Sunni Islamist insurgent and terrorist group that has expanded its control over areas of northwestern Iraq and northeastern Syria since 2013.

3 See e.g. Anderson & Stansfield 2010; McGarry 2007; Cameron 2007; Danilovich 2016.

4 See e.g. Ghai 2011; Anderson and Stansfield 2010; Gross 2003.

The essay proceeds as follows. I first provide a brief history of the Kurds in Iraq focusing on the tensions with the central administration. Next I describe the current constitutional order in Iraq, the specific features of the Kurdish autonomous region, and list some of the critiques towards the constitution. I then discuss the suggested model of territorial autonomy and highlight the characteristics of the Åland Example. In the subsequent discussion, I assess the applicability of the autonomy model to Kurdistan, reflect on the current constitutional solution, and identify elements of the Åland Example supplementary to the current order.

This essay will argue that understanding the tensions in Iraq as being mainly between the Kurds and the Arabs does not provide the full picture. It also argues that while applying the full package of the Åland Example might not be possible or even desirable, its elements can provide avenues for supplementing the current system in order to consolidate peace in Iraq.

1.2. The Kurds in Iraq

The conundrum of Kurdistan is one of many by-products brought on by war and the colonial practice of drawing country borders with disregard of ethnic divisions.⁵ The Treaty of Sevres (1922) that divided the Ottoman Empire between the Central Powers included a promise of independence to the Kurds, but was replaced by a Treaty of Lausanne (1923), which scrapped the idea of an independent Kurdistan.⁶ Following these divisions, Iraq and the Kurdish areas within it fell under British administration until the independence of Iraq in 1932.

The relations between the Kurdish minority and the Arab majority were tense in Iraq throughout the 20th century.⁷ The relations were marked by the Kurdish aspirations of independ-

ence and resistance to the centralized Sunni rule in Baghdad, which brought about assimilationist and integrative policies favouring the Arab culture, especially under the rule of Saddam Hussein.⁸ The 1960's and the 1970's saw the rise of the Arab Socialist Baath Party (ASBP), and two wars between the Kurds and the central government.⁹ The ASBP came to be dominated by the Sunni Arabs, most notably at the expense of the Shia Arab majority, and in 1979 Saddam Hussein's ascendance to presidency cemented the Sunni rule over Iraq.¹⁰ The war between the US and Iraq in 2003 brought an end to what had become over three decades of rule by the ASBP and Saddam Hussein.

The US invasion in 2003 opened new opportunities for various groups in Iraq to push for inclusive power-sharing and self-rule, which were introduced by the adoption of a new federal constitution in 2005. The Sunni leadership, which had been in power until then, was in disarray as both the ASBP and its former members were banned from taking part in politics by de-Baathification campaigns.¹¹ The Sunnis also boycotted the constitution drafting process, which minimized their influence on the system of governance that was to be adopted.¹² The state building project after the 2003 invasion has been largely Shia-centric with participation of the Kurds on the drafting of the constitution.¹³ Despite the seeming initial consensus among the Shias and the Kurds around the constitution, relations between the federal government in Baghdad and the Kurdish Regional Government (KRG) in Erbil have deteriorated, which is partly due to the constitutional ambiguities especially regarding the use of natural resources.¹⁴

5 Danilovich 2016, 4.
6 Yildiz 2012, 8–11.
7 Danilovich 2016, 4.

8 Ibid.
9 Yildiz 2012, 14–20.
10 Ibid.
11 Mansour 2016, 6.
12 Ibid., 5–6.
13 See e.g. Haddad 2016; Anderson & Stansfield 2010.
14 Danilovich 2016, 8.

1.3. The federal constitution of 2005

Federalism is often seen as a possible solution for hostile communities locked in inescapable political relationships.¹⁵ The current constitution promulgated in 2005 establishes Iraq as a single federal republic in which the system of government is republican, representative, parliamentary and democratic, and legislation is based on the principles of democracy and Islam.¹⁶ It creates a structure where the federal government is in Baghdad and otherwise the country consists of federal regions and administrative governorates.¹⁷ Currently, Kurdistan is the only federal region in Iraq. However, the constitution mandates the creation of additional federal regions if the governorates, which are generally under the central government, decide to do so.¹⁸ As Cameron points out, the 2005 constitution did not create federalism as such but set the federal process in motion, which is yet to produce a functioning federal system once other federal regions and federal institutions take shape.¹⁹

The constitution gives a significant degree of self-determination to the regions, something which is often attributed to successful Kurdish negotiating during the drafting stage of the constitution.²⁰ It lists fairly few exclusively federal powers and exceptionally places paramountcy on regional legislation in cases of discord over shared powers.²¹ In addition, the residual powers of the regions are wide. Together these render the current system relatively asymmetrical as Kurdistan is the only formal region. The constitution also included a transitional arrangement that established a three-membered Presidential Council, which provided an element of power-sharing

15 Cameron 2007, 153.

16 Iraqi Constitution 2005, articles 1 & 2.

17 Ibid., article 116.

18 Ibid., article 119.

19 Cameron 2007, 154.

20 Anderson & Stansfield 2010, 221–224.

21 Cameron 2007, 157.

on the executive level between Iraqi groups before being phased out after four years.²²

The constitutional order established by the 2005 constitution differs significantly from the one that was in place during the ASBP rule. The rule of the ASBP started with a coup in 1968, which vested the ASBP-run Revolutionary Command Council (RCC) with the highest authority in the country.²³ The RCC promulgated an interim constitution in 1970, which established Iraq as a people's democratic republic that aimed at achieving a unified Arab state and a socialist system.²⁴ The constitution granted the RCC wide authority to promulgate laws and regulations, to deal with defence and security matters, to approve the budget, and to declare war and conclude peace.²⁵ Acting as the executive of the RCC the president was the chief executive of the state and the commander in chief of the military.²⁶ The interim constitution hence effectively established a firm one-party control over the executive and the legislative organs of state, which was in place until the fall of the Baathist regime in 2003.²⁷

1.4. The Kurdish region

1.4.1. *Autonomy after the Gulf War*

The decades long pursuit for regional self-governance for the Kurdish region in Northern Iraq finally produced results in 1991 in the aftermath of the Gulf War. After the war the Kurdish front announced the establishment of executive and legislative council for regional self-government for Kurdistan.²⁸ This move spun from the weakened state of the Iraqi army that had been defeated by the US forces and had its capacity stretched by the Shia-led rebellion against

22 Pildes 2011, 187.

23 Marr 2012, 138.

24 Ibid., 140.

25 Ibid., 141.

26 Ibid., 141.

27 Ibid., 141.

28 Ibid., 230.

the central government in Southern Iraq.²⁹ The Kurdish forces were, however, defeated by the Iraqi army, which led to a massive flow of Kurdish refugees who feared renewed chemical weapon attacks.³⁰ The reaction of the international community to the situation spun a humanitarian operation that was mandated to provide humanitarian aid and a safe return for the Kurds that had fled.³¹ This included a US imposed no-fly zone and later a safe-haven under the UN control.³² Later the same year a cease-fire agreement was reached between the Kurds and the Saddam administration by which much of the territories that the Kurds had wished to control were left to them for the first time – although excluding the area of Kirkuk.³³

The newly established Kurdish Regional Government (KRG), however, fell apart when a local war broke out between two rivalling Kurdish parties, namely the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK) in 1994.³⁴ The war ended in 1998 having involved several outsiders including the Iraqi and the Iranian forces as well as the US that had led the mediation efforts.³⁵ After the war the Kurdistan region was divided into two separate areas governed by the KDP and the PUK.³⁶ In the wake of the US intervention in Iraq in 2003 the two parties finally formed one Kurdish administration to further Kurdish aspirations for self-governance in the new political landscape.³⁷

1.4.2. The Kurdish federal region after 2005

According to Danilovich, the successes of the Kurdish federal region are remarkable – the Kurds have e.g. achieved high political status

²⁹ Marr 2012, 230.

³⁰ Ibid., 232.

³¹ Ibid., 233.

³² Ibid., 233.

³³ Ibid., 233–234.

³⁴ Ibid., 245.

³⁵ Ibid., 247.

³⁶ Ibid., 247.

³⁷ Ibid., 271.

domestically and internationally and the economic growth was strong until recently.³⁸ They also have a significant degree of self-determination and their own regional governmental institutions – a parliament, a cabinet, and specialized departments that include foreign relations, defence and security, among others.³⁹ In addition, federalism has provided the region with a context in which it has been able to develop its economy and linkages with governments and businesses worldwide.⁴⁰ The KRG also has an active international agenda and several representational offices around the world.⁴¹

The economic foundation of the Kurdish autonomous region relies heavily on fossil fuels.⁴² The 2005 constitution expects full submission of the currently existing developed regional oil reserves under the control of the federal government, but seemingly provides regions with the freedom to develop new oil resources for their own use, which the KRG has also been actively doing.⁴³ Another aspect providing stability to the region is the Peshmerga – the Kurdish security force – that has in recent years successfully defended against the expansion of the Islamic State, which has led to a flow of refugees to the areas under the Kurdish protection.⁴⁴

1.5. Critique of the constitution

The current constitution of Iraq has been widely criticized with some pointing to it as creating possibly the weakest federalism in the world.⁴⁵ Much of the critique points to the division of competencies between the federal government and the regions, and to some embedded ambiguities that leave too much room for interpre-

³⁸ Danilovich 2016, 175.

³⁹ Danilovich 2016, 3.

⁴⁰ Ibid.

⁴¹ Ibid., 7.

⁴² Wing 2016.

⁴³ Danilovich 2016, 8.

⁴⁴ Meservey 2015.

⁴⁵ Horowitz 2005.

tation.⁴⁶ Although these contemplations have relevance towards any federal region that might come about in the future, they bear specific significance to Kurdistan, as it is the only region currently existing.

Cameron lists three challenges stemming from the constitution and they include rectifying the power imbalance between the centre and the regions, especially pertaining to the distribution of natural resource revenues. He also stresses the importance of establishing the federal institutions that are stipulated in the constitution, such as the Federation Council (upper house of the parliament), and clarifying the not-so-clear distinction between regions and governorates.⁴⁷

Solving the revenue issue is crucial for solving the deadlock in Iraq as over 90 percent of public revenues derive from the oil and gas industry, which is currently largely placed in the hands of the regions.⁴⁸ Ambiguities in the constitution allow differing interpretations concerning these resources, which has led to the KRG making international oil deals, while Baghdad demands central distribution of all national revenues based on population sizes.⁴⁹ The dispute over the status of the area of oil-rich Kirkuk is closely related to this equation as the central government has been unwilling to lose its revenues to the Kurdish region.

Danilowich, on the other hand, also stresses the importance of revenue sharing but adds security and diplomacy to the list of key outstanding issues between Baghdad and Erbil.⁵⁰ The current constitution allows the existence of regional security forces, but the existence of Peshmerga has raised concerns about Kurdish aspirations for independence.⁵¹ Another source of similar concern is the active Kurdish engage-

ment in foreign affairs despite the KRG's arguments that it engages in international relations rather than in foreign policy.⁵² In addition, there are concerns regarding the possibility of forming new regions, which could lead into the formation of three large ethno-culturally defined regions (namely Sunni, Shia and Kurd). This could potentially exacerbate sectarian tensions, challenge inter-regional resource distribution even further, weaken the central government, and weaken the representation of multiple identities on regional and central level.⁵³ Next I will turn to the Åland Example as a potential tool for dealing with some of the concerns described above.

1.6. The Åland Example

The Åland Example is often seen as a promising approach to settling territorial and ethnic disputes through carefully designed autonomy arrangements. The Åland Islands were annexed by the Russian Empire from Sweden in 1809 along with Finland, and later fell under Finland's sovereignty when Finland gained its independence in 1917.⁵⁴ This led to a dispute between Finland and Sweden over the ownership of the islands with many of the islanders wanting Åland to join Sweden. The dispute was eventually settled peacefully by the League of Nations, which affirmed that the islands should stay under Finland but enjoy considerable degree of autonomy and cultural and linguistic protection.⁵⁵ Since then, the Åland Example has become one of the most enduring autonomy arrangements in the world.⁵⁶

According to Stephan, the Åland Example consists of three main components, namely autonomy, linguistic and cultural safeguards, and demilitarization and neutralization of the archi-

46 For critique see e.g. Anderson & Stansfield 2010; Cameron 2007; McGarry 2007.

47 Cameron, 159–160.

48 Ibid., 157.

49 Danilovich 2016, 8.

50 Ibid., 9.

51 Ibid., 7.

52 Ibid., 174.

53 Cameron 2007, 158.

54 Jääskinen 2005, 91.

55 Suksi 2013, 62.

56 Ibid.

pelago.⁵⁷ The arrangement seeks to safeguard the distinct identity of the Swedish-speaking Ålanders and guarantee them a sufficient level of self-determination and autonomy from the control of the government of Finland. Legally the Åland autonomy is based on the Constitution of Finland, which notes that Åland islands shall have self-governance in accordance to what is stipulated in the Parliamentary Act of Autonomy of the Åland Islands.⁵⁸ The Act of Autonomy stipulates that Åland should e.g. have regional legislative and administrative institutions, namely the Legislative Assembly or the Parliament as well as a Government. It hence lays out the institutional design of the autonomy arrangement.

The Legislative Assembly of Åland has, in addition to the concurrent competencies, also exclusive legislative competencies, which means that the constitution of Finland applies to Åland but the State laws under the Ålandic legislative competencies do not.⁵⁹ The competencies of the Legislative Assembly are wide extending from health care and education to trade and public order and security, although not all of these are exclusive competencies. In turn, due to the wide legislative powers of the Assembly, the Government of Åland has wide administrative competencies, which are managed by the Prime Minister and six ministries.⁶⁰

The Åland Islands are well connected to the State of Finland. The President of Finland formally acts as a guarantor of the allocation of competences implied in the Act on Autonomy and has thus been seen among Ålanders as a guarantor for Åland's self-government towards the State.⁶¹ The President also appoints the Governor of Åland who is the highest representative of Finland in Åland. This appointment is decided in consensus with the Legisla-

tive Assembly or from candidates chosen by the Assembly, which guarantees that the person has a good knowledge of Åland. Åland also has one seat in the Parliament of Finland.

In addition, the Act of Autonomy established the Åland Delegation, which is an expert body consisting of equal number of representatives appointed by Åland and Finland.⁶² The Delegation's initial duty was related to financial administration of Åland, but the duties have expanded to include roles in legislative process – in drafting, reviewing and supervision. It also functions as an expert on the Autonomy Act and has power in settling some controversies between Ålandic and Finnish officials and is heard by the Supreme Court of Finland in cases of conflict of authority between Åland and Finland.⁶³ The Delegation hence functions as a coordination and dispute settlement organ in addition to its expert duties.

The status of Åland is well entrenched in Finland's legislation. Although the Autonomy Act is 'only' on a level of State law, it may only be amended or repealed by corresponding decisions of the Legislative Assembly and the Parliament of Finland, which guarantees that the alterations cannot be made unilaterally.⁶⁴ Initially the autonomy arrangement was also guaranteed internationally by the supervisory function of the Council of League of Nations, but after its demise this guarantee ceased to exist. However, the autonomy is still considered as a case of public international law due to the virtue of the decision by the League.⁶⁵

Although lacking formal competence in foreign policy, Åland has been active in international affairs and has e.g. a saying on Finland's international treaties that touch upon its competencies.⁶⁶ Åland also entered the EU along with

57 Stephan 2011, 28.

58 731/1999, section 120.

59 Stephan 2011, 32.

60 Ibid., 38.

61 Ibid., 40.

62 1144/1991, section 55.

63 Stephan 2011, 41–42.

64 Ibid., 37.

65 Ibid., 32.

66 Ibid., 44.

Finland following a regional referendum on the islands, but under a specific protocol that enables it to maintain some of the key safeguards of its autonomy even under EU treaties.⁶⁷ Åland also plays an active role in the Committee of Regions in the EU and in the Nordic Council, which supports its influence in regional politics.

1.7. The Åland Example as a suggestion for Kurdistan

In an article published in *Ethnopolitics* in 2010, Anderson and Stansfield suggest that granting Iraqi Kurdistan autonomy modelled after the Åland Example could provide a solution to rising ethnic tensions in Iraq.⁶⁸ They note that there is a growing disapproval of the considerable influence the Kurds exercise under the constitution. Making Kurdistan a federacy would remove the ethno-federalists (the Kurds) from the federalism debate leaving it up to the Iraqi nationalists (the Arabs) to decide what kind of system of government they would prefer to have for the rest of Iraq.⁶⁹ This could enable both stronger and well-protected autonomy for the Kurds as well as respecting the general movement towards more centralized and ethnically neutral central governance.

This idea means changing what is now a federal region into a federacy. According to O'Leary's definition:

“federacy is a federal arrangement that is not part of a system-wide federation ... it creates a division of powers between federacy and the central government that is constitutionally entrenched and cannot be unilaterally altered by either side, and which has arbitration mechanisms, domestic and international, to deal with difficulties that might rise from between the federacy and the central government”.⁷⁰

67 Ibid., 46.

68 See Anderson & Stansfield 2010.

69 Anderson & Stansfield 2010, 220.

70 O'Leary 2003.

Federacy hence differs from a federal state by not being a part of a symmetric federal structure as well as being generally more protected from central rule than a legally pluralistic asymmetric federation.

The key features of the Åland Example that Anderson and Stansfield highlight, are the strong self-governance of a federacy and the international recognition of Åland in international customary law, which offers an extra layer of protection in addition to constitutional guarantees.⁷¹ However, they do not go into detail on other applicable elements of the Åland Example. This is partly understandable as they seem to assume that a Kurdish federacy would maintain at least the existing level of e.g. cultural, educational and lingual protection granted under the current constitution. However, the article does not offer much for assessing the overall feasibility of the suggestion. This is because most of the issues that would be of crucial relevance and possibly under renegotiation if a federacy was to emerge, are not touched upon, such as natural resource revenues or the future of Kirkuk. The suggestion is nevertheless interesting and merits further scrutiny.

1.8. The applicability of the Åland Example to Kurdistan

There are several facets that merit consideration when assessing the applicability of the Åland Example to the case of Kurdistan. First and foremost, the fundamental question is what benefits would a federacy bring over a federal state status for Kurdistan. I will take the proposition by Anderson and Stansfield as a starting point who see it primarily as a way to mitigate ethnic tensions. I will then assess if Åland styled federacy arrangement could tackle some of the challenges that stem from the current constitution. I aspire to do this keeping in mind both the fact

71 Anderson & Stansfield 2010, 230–231.

that the Åland Example should not be seen as only applicable as a full package – applying only the most context-relevant elements is possible – and the situational reality in Iraq to avoid making unrealistic assertions about possibilities of drastic system-level changes.

1.8.1. The nationalism question

The main assumption behind the argument put forward by Anderson and Stansfield is that the conflict of interests in Iraq is primarily between the Arabs and the Kurds. Based on this, they suggest that the country might be better off if it was left in the hands of the Arabs, who could develop the country towards more centralized state based on majoritarian democracy. The Kurds, on the other hand, would be removed from the equation by granting them a territorial autonomy possibly backed by the international community. This is an attractive idea in a sense that it seemingly provides what the different parties are after – strong guarantees of self-governance for the Kurds and more centralized Iraq for the Arabs. Unfortunately, however, it seems that the situation is not this simple.

Firstly, the Arabs are not united. At the moment there is considerable polarization within the Arab camp between the Sunnis and the Shias. The Shias are relatively united behind the Arab nationalist cause initially pushed forward with questionable methods by the hardliner ex-president Nouri al-Maliki.⁷² The current president al-Abadi, also a Shia, has softened the approach, but the power in the government still rests securely with the Shias.⁷³ Political exclusion of the Sunni leadership after deBaathisation has continued by e.g. the measures taken by the al-Maliki administration that directly undermined Sunni participation in the government leaving the Sunnis effectively powerless.⁷⁴

⁷² Mansour 2016, 6–7.

⁷³ Ibid., 10.

⁷⁴ Ibid., 6–9.

This exclusion in turn fostered tolerance and even support among some of the Sunnis for the Islamic State, which still occupies large areas in the traditional Sunni areas in Iraq.⁷⁵ Hence, it could very well be argued that rather than being a tug of war between the ethno-federalists (the Kurds) and the nationalists (the Arabs) as Anderson and Stansfield see it, the situation could be better characterized as an attempt by religion-based-majoritarianists (the Shias) to consolidate their power at the expense of the other groups in Iraq.

In this situation it is unclear how the Kurds would be better protected in a federacy, if the arrangement would otherwise severely limit their influence within the central government. To exaggerate by generalizing, it currently seems that the Kurds might be the one thing that is keeping the federal administration from being even further dominated by the Shia leadership. Another question is how much tolerance would constitutionally centralized Shia-led Iraq show towards autonomous Kurdistan even if the autonomy was backed by similar constitutional guarantees as the Åland Islands. This is naturally strictly hypothetical, but demonstrates that the level of uncertainty is high.

1.8.2. Resources, security and ethnicity

Control over the natural resource revenues is one of the key sources of tensions in Iraq. As Åland does not possess natural resources of key interest to Finland, I will not include assessing Åland's resource management mechanisms in this essay. What seems clear, however, is that the resource-related disagreements would have to be addressed before an understanding on a federacy arrangement could be reached between the central government and Kurdistan. This is important because a federacy arrangement that would grant stronger autonomy to Kurdistan could also potentially move area's hydrocarbon resources

⁷⁵ Ibid., 1.

further away from the reach of Baghdad, which would likely to be unacceptable to the central government.

Reaching a resolution for the resource distribution issue between the central government and the KRG has been closer in recent years. In the end of 2014 both agreed in principle on a deal where Kurdistan stops independent oil production and hands it over to Baghdad in exchange for a share of the country's national budget.⁷⁶ Neither party was, however, able to stick to their commitments and the deal operated below the agreed parameters before collapsing entirely.⁷⁷ There has been recently renewed interest on a similar arrangement although no formal agreement has been reached so far.⁷⁸ Consolidating this type of agreement could have stabilizing effects for Iraq as a whole. As Anderson and Stansfield argue, national distribution of resource revenues would also be appealing to the Sunnis that generally live in oil-poor areas.⁷⁹ Combined with political inclusion this could strengthen the perceived legitimacy of the political system for the Sunnis and provide more stakes for participating in it. This kind of deal would seem to be possible in both federal and federacy contexts, however, which means that the choice between the types does not necessarily depend on the resource sharing mechanisms.

In addition to resource management, Kurdistan differs from Åland with regards to demilitarization and neutralization of Åland contra the Kurdish Peshmerga forces. Given that the Peshmerga is essential in the on-going fight against the Islamic State and has functioned as a safeguard for the Kurds in the past, neutralization of Kurdistan is hardly an option in the short or in the medium term. In the long term regional armies may not generally be conducive to stability, but it seems that currently Kurdistan would not

be able to trust the central government with security arrangements similar to the ones between Åland and Finland, in which Finland guarantees Åland's borders, but stays militarily out of the area during peacetime.⁸⁰ This is e.g. due to the fact that the Popular Mobilization Force (PMF) that largely consists of Shia militias is backed by Shia leadership including al-Maliki and al-Abani.⁸¹ According to some estimates, the fight against the Islamic State may currently in fact act as a buffer between the PMF and the Peshmerga, which highlights the uncertainty of the relations between Kurdistan and the central government in a post-IS Iraq.⁸²

What is not exactly in the scope of this essay, but still an important observation to make, is the ethnic and religious diversity of Iraqi Kurdistan. Besides Kurds, there are also e.g. Arabs, Turkmen, Assyrians, Chaldeans, Yazidis, Christians, Zoroastrians and Baha'is in the area of Kurdistan.⁸³ Growing voices have recently drawn attention to cases of discrimination towards minorities in Kurdistan that are now lobbying for better protection of their rights and representation.⁸⁴ Largely mono-ethnic Åland's system of majoritarian democracy would not necessarily correspond optimally with the diversity of Kurdistan, which might benefit from a system with stronger proportional representation of minorities.

1.8.3. The Åland Example and the current system

Institutionally Åland and Iraqi Kurdistan resemble each other as both e.g. have parliamentary and governmental structures and significant power to decide about their own affairs. By many standards the competences and influence at the centre currently enjoyed by Kurdistan seem

76 Mills 2016, 37–38.

77 Ibid.

78 PressTV 16/2/2016; PressTV 17/2/2016.

79 Anderson & Stansfield 2010, 224.

80 For Åland's security arrangements see Spiliopoulou Åkermark 2011, 50–52.

81 Mansour 2016, 10–11.

82 Van Wilgenburg 2015.

83 Behn 2016.

84 Ibid.

however wider than those of the Åland Islands although it also seems that this has come with the price of continuing instability. As weakening of Kurdish influence at the centre is likely to be an unacceptable outcome to the Kurds in the current situation, it is interesting to look into possibilities for making use of elements of the Åland Example in the context of the current system. The following observations are not meant to be exhaustive – they rather highlight the potential of the Åland Example as a tool for consolidating peace.

Establishing something like the Åland Delegation between Kurdistan and the central government could e.g. be conducive for stability especially with regards to natural resource management. It could function as an expert mechanism between the administrations and mitigate lower-level disputes and provide the Federal Supreme Court with its considerations. Establishing the body could help building trust between the parties by providing a framework for dialogue and cooperation and bring them closer to solving more fundamental questions regarding the nature of competences over natural resources. Once the agreement on resource use is reached the body could have a supervisory function over the resource production and the distribution of revenues. Another important quality of the Åland Example is the legal entrenchment of the system that prevents unilateral changes. Once an acceptable balance is found between Erbil and Baghdad that addresses the current constitutional reservations described earlier, Åland styled entrenchment could provide increased trust and security especially to the Kurds, who are now fearful of possible unilateral amendments by the centre.⁸⁵

Kurdistan and Åland have also both been skilled actors on the international arena. Although Kurdish representation offices around the world do not constitute a similar interna-

tional entrenchment that the League of Nations decision provided for Åland, the case of Kurdistan is well known internationally. Similar international backing in a federal context does not seem likely however and even a federacy arrangement would be likely to require the consent of the State of Iraq to gain an international endorsement. Nevertheless, if the consent was acquired, international guarantees could provide an extra layer of legal entrenchment for Kurdistan as well.

1.9. Conclusions

In this essay I have sought to scrutinize the prospects of the Åland Example that could be beneficial in the context of Kurdistan region in Iraq. What has become obvious is that there is no simple solution to the current turmoil in Iraq and even granting further autonomy to Kurdistan would provide mere first steps towards a horizon that is by no means clear of trouble. Federacy model advocated by Anderson and Stansfield does not seem to provide a direct answer to ethnic tensions as the Kurd-Arab tension is more faceted and possibly better described as a push towards a Shia Arab dominated Iraq at the expense of other groups. Hence, the strength of Åland Example lies elsewhere.

The current situation being as volatile as it is, any arrangement that reduces Kurdish influence in the centre and tips power towards the Shia leadership seems unlikely to be acceptable, unless there are real prospects of e.g. growing political participation of Sunnis and general return to constitutionality by the Shia leadership. Through examining the particular case of Kurdistan it seems that it is more fruitful to identify certain applicable elements from the Åland Example rather than seeing it as a monolithic package only to be wholly applied. The most promising aspects that could supplement the current system of federal regions and help stabilize Iraq could e.g. be Åland Delegation-like body deal-

85 Anderson & Stansfield 2010, 228–229.

ing with natural resource management as well as Åland-like constitutional entrenchment once otherwise agreeable balance between Kurdistan and the central government has been found. The situation in Iraq is in constant movement, however, which makes it also hard to pinpoint, which institutional design would be most beneficial in the future. It may well be that the Åland Example could have more to offer than what was identified in this essay since new situations and opportunities will arise in the future.

It remains to be seen whether Iraq will form a symmetric federation with several equal regions, an asymmetric federation with legal pluralism or perhaps a system consisting of a centralized government and federacies. Formation of new federal regions could take considerable pressure off from Kurdistan on the central level, where currently the question of status of the regions seems to get mixed with the Kurdish question. An increased number of regions could also facilitate the establishment of the Federation Council that would provide an additional platform for finding political consensus in Iraq. All in all, it seems that the question of how the people should govern themselves is just one piece of the puzzle in the search for sustainable peace in Iraq. It is also worthwhile to remember that constitutions cannot solve everything – they provide mere guidelines that can be either followed or not.

References

- Anderson, Liam and Stansfield, Gareth, "Avoiding Ethnic Conflict in Iraq: Some Lessons from the Åland Islands", 9(2) *Ethnopolitics* (2007), 219–238.
- Behn, Sharon, "Minorities in Iraq's Kurdistan Push for Greater Political Voice", *Voice of America* (10 August 2015), at: <http://www.voanews.com/content/minorities-in-iraq-kurdistan-push-for-greater-political-voice/2910051.html>.
- Cameron, David, "Making Federalism Work", in: Bouillon, Markus, Malone, David and Rowswell, Ben (eds.), *Iraq: Preventing a New Generation of Conflict* (International Peace Academy, Boulder, 2007), 153–168.
- Danilowich Alex, *Federalism Studies: Iraqi Federalism and the Kurds: Learning to Live Together* (Ashgate, Farnham, 2016).
- Freeman, Liam, *Islamic State and ISIS Crisis: An Examination* (Nova Science Publishers, New York, 2014).
- Ghai, Yash, "Åland's Autonomy in Comparative Perspective", in: Spiliopoulou Åkermark, Sia (ed.), *The Åland Example and Its Components: Relevance for International Conflict Resolution* (The Åland Islands Peace Institute, Mariehamn, 2011), 88–112.
- Gross, Andreas, "Positive Experiences of autonomous regions as a source of inspiration for conflict resolution in Europe", *Parliamentary Assembly Report Doc. 9824* (3 June 2003), at <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=10177&lang=EN>.
- Haddad, Fanar, *Shia-centric State Building and Sunni Rejection in Post 2003 Iraq*, (Carnegie Middle East Center, 2016), at http://carnegieendowment.org/files/CP261_Haddad_Shia_Final.pdf.
- Horowitz, Donald, "The Sunni Moment", *The Wall Street Journal* (14 December 2005), at <http://www.wsj.com/articles/SB113452228580321836>.

- International Crisis Group, “The Next Iraqi War? Sectarianism and Civil Conflict”, Middle East Report N°52 (27 February 2006), at http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Iraq/52_the_next_iraqi_war_sectarianism_and_civil_conflict.pdf.
- Iraqi Constitution (adopted on 15 October 2005), at http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf.
- Jääskinen, Niilo, “The Case of the Åland Islands: Regional Autonomy in the European Union of States”, in: Weatherhill, Stephan and Berniz, Ulf (eds.), *The Role of Regions and Sub-national Actors in Europe: Essays in European Law* (Hart Publishing, Oxford, 2005), 89–101.
- Mansour, Renad, *The Sunni Predicament in Iraq*, (Carnegie Middle East Center, 2016), at <http://carnegie-mec.org/2016/03/03/sunni-predicament-in-iraq/iusn>.
- Marr, Phebe, *The Modern History of Iraq*, (Westview Press, Boulder, 2012).
- McGarry, John, “Liberal Consociation and Conflict Management”, in: Bouillon, Markus, Malone, David and Rowswell, Ben (eds.), *Iraq: Preventing a New Generation of Conflict* (International Peace Academy, Boulder, 2007), 169–188.
- Meservey, Joshua, *The Other Refugee Crisis*, (Heritage Foundation, 28 October 2015), at <http://www.heritage.org/research/commentary/2015/10/the-other-refugee-crisis>.
- Mills, Robin, “Under the Mountains: Kurdish Oil and Regional Politics”, OIES paper: WPM 63, (Oxford Institute for Energy Studies, 2016), at <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2016/02/Kurdish-Oil-and-Regional-Politics-WPM-63.pdf>
- O’Leary, Brendan, “Multi-national federalism, federacy, power-sharing and the Kurds”, Key-note address, Cafritz Foundation Conference Center, George Washington University, (12 September 2003), as quoted by Anderson, Liam and Stansfield, Gareth in: “Avoiding Ethnic Conflict in Iraq: Some Lessons from the Åland Islands”, 9(2) *Ethnopolitics* (2007), 219–238.
- Pildes, Richard, “Ethnic Identity and Democratic Institutions: A Dynamic Perspective”, in: Choudhry, Sujit (ed.), *Constitutional Design for Divided Societies - Integration or Accommodation*, (Oxford University Press, Oxford, 2008).
- Press TV, “Deal With Iraq Easy if Salaries Paid: Kurdish Leader”, (PressTV, 16 February 2016), at <http://www.presstv.ir/Detail/2016/02/16/450686/Iraq-Kurdistan-Talbani-KRG>
- Press TV, “Iraqi Kurdistan Agrees to Baghdad’s Oil-for-Wages Deal”, (PressTV, 17 February 2016), at <http://www.presstv.ir/Detail/2016/02/17/450822/Iraq-Kurdistan-KRG-Haider-Abadi>
- Spilipoulou Åkermark, Sia, “Åland’s Demilitarization and Neutralization: Continuity and Change”, in: Spiliopoulou Åkermark, Sia (ed.), *The Åland Example and Its Components: Relevance for International Conflict Resolution* (The Åland Islands Peace Institute, Mariehamn, 2011), 50–71.
- Stephan, Sarah, “The Autonomy of the Åland Islands”, in: Spiliopoulou Åkermark, Sia (ed.), *The Åland Example and Its Components: Relevance for International Conflict Resolution* (The Åland Islands Peace Institute, Mariehamn, 2011), 28–49.
- Suksi, Markku, “Prosperity and Happiness Through Autonomy: The Self-government of the Åland Islands in Finland”, in: Ghai, Yash and Woodman, Sofia, *Practising Self-Government: A Comparative Study of Autonomous Regions* (Cambridge University Press, Cambridge, 2013), 62–90.
- Van Wilgenburg, Wladimir, “Kurdish-Shi’a Tensions in Iraq Amid the Struggle Against the Islamic State”, 13(10) *Terrorism Monitor* (The Jamestown Foundation, 2015), at <https://james->

town.org/program/kurdish-shia-tensions-in-iraq-amid-the-struggle-against-the-islamic-state/#!

Wing, Joel, "Collapse of Iraqi Kurdistan's Oil Economy", Ekurd Daily (12 April 2016), at <http://ekurd.net/collapse-kurdistan-oil-economy-2016-04-12>.

Yildiz, Kerim, *The Future of Kurdistan: The Iraqi Dilemma*, (Pluto Press, London, 2012).

731/1999 The Constitution of Finland (adopted 1 March 2000), at <http://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>

1144/1991 Act on the Autonomy of Åland (16 August 1991, entered into force in the beginning of 1993), at <http://www.finlex.fi/fi/laki/kaannokset/1991/en19911144.pdf>

2. The autonomy of Zanzibar today – an outdated framework?

A critical review of the autonomy arrangement with political history and the Ålandic experience as points of reference

Lotta Valtonen

2.1. Introduction

With its pristine beaches and eternal sun, Zanzibar most often evokes images of a perfect holiday destination. However, few people are aware of the more sombre side of these autonomous islands. In Tanzania, often regarded as the home of peace in Africa, Zanzibar is a source of political instability. There are two unresolved conflicts on Zanzibar: ethno-racial politics and the relationship with the mainland. The two conflicts are difficult to distinguish from one another, and party politics, both on mainland and on Zanzibar play a significant role. Conflicts within Zanzibar are not marginal, but they have become “an issue of national importance for Tanzania”.¹ Internationally, it has been shown – for example in the case of the Ålands Islands – that autonomy can be used as a tool for transforming a conflict from crisis to an institutionally stable success story. What role does the autonomy arrangement play in the Zanzibar conflict? In what ways has the autonomy construction contributed to, or undermined the peaceful transformation of the underlying conflicts?

In this essay, I will discuss the emergence and structure of the Zanzibar autonomy, a potential tool for diversity management, and its short-

comings. The first part of the text will give an overview of the historical and political background of the conflict. In sections two to four, I will outline the history of the ethno-racial conflict on Zanzibar as well as the origins of the Union, which are necessary for understanding the demands made on the Union. In section five, I will discuss the main political features of Tanzania and its recent elections.² The second part of the text will give an overview of the institutional arrangements and its defects. The autonomy of the Åland Islands will be used as a point of reference and comparisons will be made throughout the text, when relevant. However, section six is specifically designated to review the shortcomings of the framework of autonomy on Zanzibar through a comparison with the criteria for an autonomy as developed by Hannikainen and with close reference to the Åland Island experience.³ In section seven, I will consider how the recent

2 The background review is mainly based on analysis by Yash Ghai, Gaudens Mpangala, Thomas Burgess and David Throup

3 Among the various criteria of an autonomy discussed by Hannikainen, I have chosen to focus on those, which I find the most relevant in the case of Zanzibar, i.e. incorporating the status of the autonomy in the constitution, having representatives from the autonomy in the national parliament, having a substantial say in matters pertaining to education, culture, land policy and natural resources among others, as well as the establishment of a special organ for dispute settlement. For further information see. Hannikainen. 1998. 91–93.

1 Burgess 2009, 3.

constitutional review process could have restored many of the flaws in the autonomy framework on Zanzibar. My final concluding remarks are presented in section eight.

2.2. The autonomy of Zanzibar

The Zanzibari autonomy is unique in many ways: it is the only current autonomy arrangement in Africa and it was founded through aggregation, through voluntary merger by two independent states, Zanzibar and Tanganyika into the United Republic of Tanzania.⁴ The new polity was to have a two-tier construction - one government for newly formed United Republic on the mainland and another government on Zanzibar. However, this inception of the Union was done in secret and the population has never had a chance to give its opinion on it. There had been hopeful expectations that the recent constitutional review would change this, but the process was never finalized. The writing of a new constitution proved contentious, mainly because of the structure of the Union. A three-tier proposal with one government for Zanzibar, one for the mainland and a federal Union government, was not accepted by the ruling party, Chama Cha Mapinduzi (CCM).⁵ The constitutional review and the battle between Unionists and secessionists was one of the contentious issues during the 2015 Presidential elections, accused of being rigged on Zanzibar.⁶

Little is known about the negotiations that led to the merger and several questions are still open concerning the formation of the union.⁷ Among the scholars, Ghai suggests that there were in fact no real negotiations. It seems that neither the presidents of Zanzibar nor of Tanganyika consulted their respective cabinets, but instead the documents were drafted hastily by foreign advisors in Dar es Salaam.⁸

4 Ghai 2013, 258.

5 Anyimadu 2016, 14.

6 Ibid., 11.

7 Ghai 2013, 259.

8 Ghai, 2013 261.

During the first years of the Union not much changed, and Zanzibar continued its relationship with Tanganyika as if it was an independent state. For example people from the mainland needed a visa to visit Zanzibar and it controlled its own finances and armed forces.⁹ An example of the lingering tensions between the mainland and Zanzibar is the fact that the requirement of having a passport when traveling to Zanzibar was abolished for the mainlanders only in 1999. This discrimination had at that point continued for over 30 years causing resentment.¹⁰

2.3. The emergence of conflict on Zanzibar

In contrast to the mainland, Zanzibar had a much more diverse ethnic and racial mixture and was ruled by Omanis since the late seventeenth century. Although the Omani rule lasted until the independence of Zanzibar, in practice the Islands were under British control since the late nineteenth century. Today there are differing views regarding the revolution of 1964. Was it a revolution for African Unity ending the oppression and exploitation of Africans by a wealthy minority or was it a revolution that ended a cosmopolitan era through massive human rights abuses?

The anti-colonial feelings were at their height in the 1950s and this is when Zanzibar nationalism raised its head. Four nationalist political parties were formed: the Zanzibar Nationalist Party in 1955 (ZNP), the Afro-Shirazi Party in 1957 (ASP), the Zanzibar and Pemba People's Party in 1959 (ZPPP) and the Umma Party in 1963 (UP). The first elections were held in Zanzibar already during the British rule in 1957. The ruling sultan and his party ZNP, backed by the British, contested the polls against ASP, who won the elections with a narrow majority of votes. In the elections of 1961, thanks to a coalition formed by

9 Burgess 2009, 1.

10 Ghai 2013, 270.

the two opposition parties, ZNP and ZPPP, the opposition now won the majority of the seats, angering ASP who accused the coalition of manipulation supported by the British Colonial Government. As a result, riots erupted and 8 people were killed, 400 were injured and 1000 arrested.¹¹

This scenario was repeated in the 1963 elections organized after Zanzibar was granted independence from the British. The coalition of the sultan's party ZNP and ZPPP again won the majority of the seats in the Legislative Council although the ASP had won more than half of all votes. This led ASP to contest the results accusing the coalition of rigging them. The ensuing riots led to nearly 70 people dead and hundreds of injured. ZPPP together with ZNP formed the government.¹²

While the elections erupted into violence, it is not multiparty competition that was at the root of the conflict, but rather a legacy of ethnic and racial politics during the colonial era. The parties that had been founded largely followed ethnic and class lines: ASP was associated with the Africans coming from the mainland, who formed the working class, ZNP was identified with the Arab landowning aristocracy while ZPPP was formed by the Shiraz people, the clove-producing peasantry.¹³

In January 1964, less than a month after independence, the sultan's rule was overthrown by a coup led by Abeid Karume, leader of the ASP. Karume became the president of Zanzibar and the leader of the Revolutionary Council. His new regime was constituted mainly of Africans although left wing Arabs from the UP also participated in the new government. The revolution became violent and mass killings of between 5000–15000 people took place. Together with the people who fled, this represented 20% of the population of the islands.¹⁴ One third of

the Arabs were killed or forced into exile. For Burgess, "January 1964 was the climax to years of growing racial, ethnic, and partisan tension in the islands and a violent rejection of Zanzibar's cosmopolitan heritage".¹⁵

2.4. A union is agreed

In 1964 two separate states, the newly independent Tanganyika (1961) and Zanzibar (1963) decided to merge and form a joint state called Tanzania. This happened only a few months after the revolution on Zanzibar during tumultuous times. The two presidents, Julius Nyerere of Tanganyika and Abeid Karume of Zanzibar, jointly signed and announced the agreement.¹⁶

One of the explanations for why the Union emerged, is the concern by both East African nations as well as the West of the Marxist communist orientation of the new revolutionary government of Zanzibar. It is claimed that USA put pressure on Nyerere to take over Zanzibar in order to prevent a new Cuba in Eastern Africa. The Western fears were magnified by the rapid establishment of Chinese, Russian and East German diplomatic ties with the new regime as well as the violence and Marxist rhetoric.¹⁷

On the other hand, it is maintained that Zanzibar, or rather its leader Karume, had an interest in the union because of the deteriorating political and administrative situation on Zanzibar. As minorities were harassed and killed, cleavages appeared within the Revolutionary Council. Karume was afraid of losing power and sought the military support of Tanganyika that had backed the ASP during the colonial times. In order to calm the situation and avoid the communist ideology to penetrate his socialist project, it is believed that Nyerere suggested a merger of the two countries under a federal system. This merger was interpreted by many Arabs on Zan-

11 Mpangala 2006, 2.

12 Ibid., 3; EISA 2006, 1.

13 Mpangala 2006, 3.

14 Ghai 2013, 259.

15 Burgess 2009, 1.

16 Ghai 2013, 259.

17 Ibid., 259.

zibar as a means to marginalize them.¹⁸

It is debated whether the treaty was ratified by the Revolutionary Council on Zanzibar, but it is probable that it was not. In the Parliament in Tanganyika the agreement was ratified without much debate due to the dominant status of Nyerere. Ghai believes the agreement was negotiated in such a haste and secrecy in order to avoid any opposition to it. On Zanzibar the mass killings of minorities ensured their silence.¹⁹

Comparing with Åland

The merging of Tanganyika and Zanzibar contrasts starkly with the establishment of the Åland Islands autonomy, originally proposed by the Finnish State as a response to popular demands for reunification of Åland with Sweden, and later affirmed by the League of Nations.²⁰ The similarity between the inception of autonomy on Åland and on Zanzibar is the lack of consultation of the population. In the case of Åland, the autonomy arrangement was in fact implemented against the will of the Ålanders themselves. Despite this initial resistance to the autonomy on Åland, it has developed into a well-accepted mechanism, whereas the current arrangement on Zanzibar faces severe opposition.

2.4.1. Institutional arrangements

The Union agreement provided for a two-tier institutional setup in Tanzania: a United Republic Government headed by the President with the responsibility for Union matters, and a government on Zanzibar headed by a President, in accordance with its own constitution, with the responsibility for non-Union matters. Selected members from the Zanzibar Revolutionary Council were nominated as representatives to the Union Parliament and the Zanzibar President was appointed ex officio as the First Vice Presi-

18 Ghai 2013, 260–261.
19 Ibid.
20 Stephan 2011, 29–30.

dent of the Union. A small number of Zanzibaris were appointed to the Union cabinet. The public services and the judiciary remained separate.²¹

Comparing with Åland

This institutional arrangement compares well with the Åland Island arrangement, which is similar in structure in some aspects but also demonstrates important differences. Åland has its own government, landskapsregeringen, and its own legislature, lagtinget, dealing with matters within their competencies. The Government of Finland and the Finnish Parliament again adopt legislation and play the executive role respectively on issues pertaining to mainland Finland and also to the Åland Islands in areas within their competences.²² It should be noted that “[t]he [Ålandic] legislative assembly has exclusive legislative competences, i.e. its competences are not concurrent with those of the Parliament of Finland.

The Constitution of Finland applies on Åland but State laws in the areas of Ålandic legislative competence do not”.²³ Like Zanzibar, Åland is also represented in the Parliament of Finland through one Member of Parliament elected by the Ålanders.²⁴ One of the differences in the case of Åland in comparison with Zanzibar is the role of the President. The President of the Republic of Finland has limited appointing powers also on the Åland Islands and appoints the Governor of Åland, who is the highest representative of the Government of Finland on Åland and represents the President of the Republic.²⁵ Unlike in Tanzania, the judiciary in Finland remains centralized. In Tanzania, Zanzibar has a separate, independent judicial structure, ranging from the primary court level to the High Court of Zanzibar.²⁶

21 Ghai 2013, 263.
22 Stephan 2011, 33.
23 Ibid., 35.
24 Ibid., 37.
25 Ibid., 39–41.
26 Ibid., 33.

2.4.2. *The 1977 constitutional reform*

A new Union constitution of 1977 reduced the initial autonomy of Zanzibar. It is viewed by Ghai as the “high water mark of single party domination, inherently antithetical to autonomy”.²⁷ It established the House of Representatives, the Zanzibar legislature, and tasked the Zanzibar government with non-Union matters. The Zanzibar President was removed from his position as the First Vice President of the Union and instead became a member of the Union cabinet. The constitution also created the post of Prime Minister who leads the executive and was to be the chief assistant to the president. It can be argued that the creation of the post of Prime Minister and the ‘downgrading’ of the position of the Zanzibar president in the Union, affected the internal hierarchies of the leadership of the Union with Zanzibar losing.²⁸

On the Åland Islands, institutional development played a strong role from the beginning of the autonomy. This diverges from the development of the Tanzanian Union, which in the early days was ruled by one party and where the main avenue for policy was the authoritarian rule. This impeded the development of strong institutions to govern the Union, as precise legal arrangements did not matter so much. Thus little attention was put on the legal institutions and so “the Union has been managed purely as a political system rather than as a constitutional one, and [this] political system undermines the checks and balances that would have led to a better managed Union”.²⁹ Comparing the inception of the Zanzibar autonomy with that of the Åland Islands, it can be noted that the forming of the autonomy and its components is important and can have profound consequences for its later functionality and legitimacy.

27 Ibid., 265.

28 Ghai 2013, 264.

29 Ghai 2013, 276.

2.5. From a single party state to multiparty democracy?

The independence struggle from the British in Tanganyika was led by the Tanganyika African National Union (TANU) under Julius Nyerere, who later became the country’s first president. He was a strong president, who managed to integrate the country despite its ethnic diversity. Contrary to Zanzibar, Tanganyika never faced serious ethnic divisions. The one-party constitution provided for a strong central power with limited decentralization to the provinces.³⁰

After the establishment of the Union in 1965, the United Republic of Tanzania was established as a one-party state with two parties: TANU on the mainland and ASP on Zanzibar. The role of the single party increased over the years and in 1975 a constitutional amendment placed state organs under the tutelage of the single party. Before the constitutional renewal of 1977 the two parties, TANU and ASP merged into Chama Cha Mapinduzi (CCM). Some commentators regard this merger of the two parties as a loss of autonomy for Zanzibar.³¹

Multiparty democracy was officially introduced in Tanzania in 1992 based on a liberal capitalist model. All multiparty elections on Zanzibar have been threatened by or have experienced violence, and have demonstrated that the revolution did not manage to reconcile tensions. The main reason for the conflicts has been the disharmonious relationship between the ruling party CCM (Chama Cha Mapinduzi) and the main opposition party CUF (Civic United Front). All elections have also been accompanied by claims of election rigging. Burgess convincingly argues that CCM was afraid of losing Zanzibar if CUF won the elections and that this fear was the main reason for “national CCM leaders to rig elections repeatedly and intervene militarily in island affairs”.³²

30 Ghai 2013, 258.

31 Ibid., 263.

32 Burgess 2009, 14.

2.5.1. *The Muafaka accords*

The first multiparty elections in Tanzania, held in 1995, led to a conflict between the ruling CCM and CUF. On Zanzibar CUF complained of irregularities during the counting and tabulation, as the Zanzibar Electoral Commission only after a delay of two days declared the CCM presidential candidate as the winner by a very narrow margin. CUF did not accept the results of the elections and did not participate in the House of Representatives, all of which exacerbated the conflict between the two parties.³³ In order to settle the situation, CCM and CUF agreed to negotiations and in 1999 they signed the Muafaka I Accords to restore peace. The Accords contained i.a. agreements in relation to the Electoral Commission, the judiciary, constitution, electoral laws and more.³⁴

Despite the 1999 peace agreement, the elections in 2000 repeated the scenario of the elections of 1995, largely due to the failure to implement the agreed actions of Muafaka I.³⁵ International observers gave critical reports of the quality of the elections, which had been postponed by some days in 16 out of 50 districts. CUF, who lost the elections to CCM, organized protest marches and called for new elections. The situation escalated and broke into violence in January 2001 and at least 30 people were killed and hundreds injured by the police during demonstrations.³⁶ Over 2000 persons fled the violence to Kenya. Due to the violent conflict CCM and CUF agreed to negotiate and concluded the Muafaka II Accords. In order not to repeat the failure of Muafaka I, a joint monitoring commission was set up to oversee implementation, and by 2004 most of the agreed actions had been implemented. The political situation had been normalized and the conditions for peaceful elections created and in-

deed the 2005 elections were orderly and without violence.³⁷

A constitutional referendum allowing the formation of a coalition government led after the 2010 elections to a power-sharing coalition on Zanzibar, the Government of National Unity, formed between CCM and CUF. It strengthened Zanzibar's position vis-à-vis the mainland and reduced political tensions, but it did not address the fundamental divisions and did not prevent the escalation of the conflict during the following elections in 2015.³⁸ Throup points to three factors that increased the tensions: i) the debate about the new constitution, where CUF advocated for a three-government system, ii) discovery of natural gas outside Zanzibar increasing the conflict within the Union about control of revenues, and iii) the rise of Islamist influence on Zanzibar, particularly among disadvantaged youth. These same factors also exacerbate the relationship between Zanzibar and the mainland.³⁹

2.5.2. *The return to CCM rule*

Already after the first multi-party elections in 1995, CCM politicians used methods of manipulation of memory and identity to create fear among the population. In 1997 Omar Mapuri, a high-ranking politician opined that “had CUF won the [1995] elections, they would have massacred people with impunity in revenge”.⁴⁰ The intent to unite Zanzibaris behind Islam has led CCM to repudiate CUF, which they claim sectarian and possibly supportive of extremist Islamic terrorism.⁴¹ This same rhetoric is used even today and during the elections in 2015 CCM hardliners portrayed CUF as a party of Islamists claiming that CUF would demand independence for Zanzibar, which in the end would

33 EISA 2006, 2.

34 Mpangala 2006, 7.

35 Mpangala 2006, 7.

36 EISA 2006, 2–3.

37 Mpangala 2006, 5–8.

38 Ghai 2013, 276.

39 Throup 2016.

40 Omar Mapuri, cited in Burgess 2009, 5.

41 Burgess 2009, 14.

weaken the position of CCM on the mainland.⁴²

The elections on Zanzibar in October 2015 were annulled three days after the vote, although all international observers regarded the elections as orderly. The annulment is by most observers viewed as a move by CCM to prevent the opposition from winning the elections as the Zanzibar Electoral Commission failed to produce evidence to prove the irregularities. CCM on Zanzibar was not prepared to give up the Zanzibar presidency with its vast appointing powers, and was backed up by CCM on the mainland. Military vehicles and personnel were deployed to prevent violence and more than 100 CUF members were arrested.⁴³ CUF boycotted the re-run in March 2016 and CCM thus won an overwhelming majority. The new government lacks, however, legitimacy due to the boycott and the concerns over independence of the Zanzibar Electoral Commission. This scenario is likely to provoke violence on the islands during the coming years as the return to single-party rule after five years of Government of National Unity might exacerbate the tensions between unionists and secessionists.⁴⁴

2.6. Shortcomings of the union setup – a comparison to the Ålandic example

Although this essay focuses on the shortcomings, the Union between Zanzibar and Tanganyika has had some merits as well, which should not be forgotten. Mpangala attributes the following four successes to the Union: i) it has endured for over 40 years, ii) the historical cultural ties between the mainland and Zanzibar have been strengthened, iii) economic interaction between the two has increased and benefited both Zanzibar and Tanganyika, and iv) the joint defence

and security system as well as international relations have benefited both parties.⁴⁵ Nevertheless, one should note that the economic growth of Zanzibar has not kept pace with the mainland since the mid-1990s.⁴⁶

Comparing with Åland

Hannikainen defines criteria that autonomous regions should encompass for establishing meaningful internal self-determination. These include having a substantial say in matters pertaining to education and culture, land policy and natural resources among others, and the establishment of a special organ for dispute settlement.⁴⁷ The Åland Island autonomy framework realizes these criteria, but in the case of Zanzibar several important criteria are not satisfied. Some significant benchmarks are fulfilled also on Zanzibar, including having a constitutional status for the autonomy and having representatives in the national parliament. It is for example important that the framework for the Zanzibari institutions and their competences are enacted in the constitution, whose most important parts require a two thirds majority of both the members of Parliament from mainland as well as of those from Zanzibar to be changed.⁴⁸ On the other hand, there are other criteria, which have yet to be materialized in the case of Zanzibar, and which seem to be the cause of current friction. By adapting more of these criteria, it would be possible to strengthen the framework of the autonomy, without necessarily having to alter the Union structure.

2.6.1. Loss of sovereignty – less jurisdiction

Despite their political rivalries, most Zanzibaris share the view that their autonomy has been eroded and long for more self-determination. The most frequently cited issue diminishing

42 Throup 2016.

43 Ibid.

44 EIU 2016.

45 Mpangala 2006, 11.

46 Burgess 2009, 24.

47 Hannikainen 1998, 91–93.

48 Constitution of Tanzania.

the sovereignty is the increase of Union matters from the original 11 to 22 today.⁴⁹ The constitution lists Union-matters, which are decided by the Union Parliament and non-Union matters, which on Zanzibar are decided by the House of Representatives. On the mainland, non-Union matters are decided by the Union Parliament.

The original list of Union matters included external affairs, defence, police, citizenship, external trade and borrowing and tax, but in consecutive years additional issues were added to the list, such as currency, higher education, air transport, oil products, research, and registration of political parties.⁵⁰ Particularly the adding of oil and gas as a Union matter caused friction, as many oil and gas finds were situated in the Zanzibari waters.⁵¹ Natural resources is one of the issues Hannikainen specifically mentions that should be under exclusive jurisdiction of the autonomy, as it is for example on Åland or Greenland.⁵² Issues left to Zanzibar are i.a. agriculture, industry, trade, health, land, education.⁵³ The list of Union matters should be reviewed and more autonomy reverted back to the islands to lessen the tensions, as proposed by the recent constitutional review.

2.6.2. *No clear dispute settlement mechanism*

Currently in the Union there is no clear organ, composed of representatives from both parties, to settle disagreements between the Union and Zanzibar. This is one of the criteria listed by Hannikainen and seems to be one of the main weaknesses of the arrangement in Tanzania. It also differs from the Åland Island example, where the Åland Delegation is one such institution.⁵⁴ The Åland Delegation, a sui generis expert organ, comprises of two members elected by

the Ålandic legislature and two members elected by the Finnish government, and has important duties in the legislative process and is advising both the Governments of Finland and Åland as well as the judiciary.⁵⁵ In fact, Ghai identifies the different dispute resolution mechanisms as one of the success factors behind the Åland autonomy as he believes that “the success of autonomy depends on a rigorous securing of boundaries that divide the jurisdictions of the centre and the region, and that ultimately the courts have to police these boundaries.”⁵⁶

The Tanzanian framework is remarkably weak in terms of arrangements for settlement of disputes or creation of consensus. In the beginning of the Union there were no formal institutions for dispute settlement. While a few Zanzibaris were selected to the Union Parliament and government, they were a minority that did not belong to the ruling party. In some specific, technical issues committees have been set up and have been able to make progress on issues such as customs, oil and energy, deep-sea fishing and merchant shipping, but this does not apply to more fundamental disputes regarding interpretations of the constitutions. The constitution of 1977 established a court to deal with disputes between the governments of the Union and Zanzibar. This Special Constitutional Court has members equally from the mainland and from Zanzibar, but it “has not played any role in the resolution of disputes or in constitutional interpretation” as it has never convened. While the Tanzania Court of Appeal has the jurisdiction to hear appeals from both the mainland and Zanzibar High Courts, it has avoided taking a stance on the relationship between the mainland and Zanzibar. This has in practice meant that there is no instance to resolve inconsistencies between the two constitutions.⁵⁷

49 Ghai 2013, 271.

50 Ibid., 270–271.

51 Ibid., 277.

52 Hannikainen 1998, 91–93.

53 Ghai 2013, 270–271.

54 Hannikainen 1998, 91–93.

55 Stephan 2011, 41–43.

56 Ghai 2011, 106.

57 Ghai 2013, 273–274.

In 1977, when the country officially became a one-party state as ASP and TANU merged into CCM, the settlement of disputes occurred within the party rather than in open political processes as “[i]nter-government issues were turned into party issues”.⁵⁸ In such a setting it is natural that the mainland wing of CCM became dominant. However, as the role of the party changes, and in order to allow for a transparent and law-based mechanism for negotiation and mediation, some dispute mechanism should be created if the autonomy arrangement is to survive. Zanzibar must not be treated only as an internal issue of the CCM party in an era of multi-party democracy. In short, rules concerning relevant checks and balances should be followed transparently. Discussing the Åland islands, Ghai mentions as one of the factors in its success the “[r]espect for constitutional norms, including those for autonomy, [which] has protected Åland from interventions by the centre and has facilitated co-operative relations with Helsinki”.⁵⁹

2.6.3. *Unclear financial jurisdiction*

According to Hannikainen, it is not of great importance if the autonomy receives a fixed annual sum from the State or has jurisdiction over regional taxation, but it is important that the system is clear and transparent. In terms of financing, the Åland autonomy is financed through a lump sum equalling 0.45% of the State income of one year, which is transferred to Åland. This financial arrangement is inscribed in the autonomy law.⁶⁰ In the case of Zanzibar the financial jurisdiction is unclear and this is an aspect that needs urgent attention for the autonomy to continue receiving popular backing. In addition, as Hannikainen notes, for the fixed annual system to work properly, the autonomous region needs to be satisfied with the amount received.⁶¹

58 Ibid., 276.

59 Ghai 2011, 105.

60 Stephan 2011, 36.

61 Hannikainen 1998, 91–93.

The Zanzibaris complain of the centralization of the Bank of Tanzania, of taxation and customs union arrangements. At the same time, they feel they do not get their fair share of donor or government funding and feel left outside of the information regarding oil and gas finds outside Zanzibar.⁶² One of the challenges is that there is no proper mechanism for the distribution of finances, as it was not originally contemplated in the Acts of Union. An interim arrangement has been agreed that Zanzibar would receive 4,5% of the national revenue, but it is uncertain if this formula is being used.⁶³ Some mainlanders again argue that Zanzibar is favoured economically and subsidized by the mainland.⁶⁴ A Joint Financial Commission, set up in 2003, has as its tasks to determine the rules for collection and distribution of revenue, but its impact seems to be limited in practice.⁶⁵

2.6.4. *No international cooperation is possible*

An autonomous region “should have the right to co-operate with regions and entities in neighbouring States especially in economic and cultural matters”.⁶⁶ In comparison with Åland, which is an autonomous territory that is part of an international organization, the Nordic Council, Zanzibar has no autonomy in deciding on its relations with international organizations. Zanzibaris have long lamented the fact that they cannot take a decision to join the Organization of Islamic Cooperation.⁶⁷ Giving Zanzibar a right to decide upon its cooperation with international organizations, particularly in economic, cultural and religious matters, is an issue that would merit further consideration on the part of the Union.

62 Mpangala 2006, 10.

63 Ghai 2013, 272.

64 Mpangala 2006, 10.

65 Ghai 2013, 272–273.

66 Hannikainen 1998, 93.

67 Mpangala 2006, 10.

2.6.5. *Lack of popular say on autonomy*

As noted earlier, the population of neither Zanzibar nor Tanganyika had any say in the merger negotiated by their leaders. It is therefore curious that the population so readily accepted the merger, and that secessionist voices have not been more vocal during the history of the Union. This low level of participation of the people to decide on the union is a cause for concern. The support of the population is important for the legitimacy of the autonomy arrangement. On Åland this support was created over time, although the population of Åland initially opposed the merger with Finland.⁶⁸ On Zanzibar, it seems that the trend has been the opposite: an initially indifferent population has grown to resent the Union and demand secession. It is thus important that the people are given the opportunity to participate in the formulation of the autonomy. The constitutional review process was one attempt to remedy this, but the process encountered serious complications and came to a halt.

2.6.6. *Flexibility to allow for a dynamic arrangement*

The Åland Example shows that it can be good to be flexible and pragmatic and allow changes to the autonomy arrangement, and that it is important to write down these changes in law, transparent and accessible to all. Adaptability of the relationship ensures sustainability in a changing world and is a way to keep the autonomy arrangement alive. As the Åland Example has shown, it is important to develop the instruments, also the legal ones, to consider and reflect the change of times, in order to avoid the autonomy becoming a dead letter without meaning. In the case of Åland, “[a]daptability and flexibility are prerequisites for enduring the changes brought about in European integration and

68 Joenniemi 2014, 85.

globalisation”.⁶⁹ One must not therefore pay too much attention to the original Act of Union, which established the merger of Tanganyika and Zanzibar, but should instead ensure that the constitution and necessary legislation reflect the current situation as well as the will of the people. Also from this perspective, a constitutional review might be merited.

2.7. The constitutional review

A new constitution, which consolidated the advances made by the single parties and added some innovations, was adopted in 1977. The constitution for the first time set a framework for the Zanzibar institutions in the Union but restricted some of the original powers given to the Zanzibar president. The preparations were undertaken within CCM and no public consultations were organized.⁷⁰ Thus one could claim that the autonomy arrangement once again did not receive popular blessing.

The Tanzanian constitution has been contested since its early days. National unity has often been used as an excuse for not renewing the 1977 constitution, although many feel that the Union structure from the outset was unsustainable. In fact, tensions between the mainland and Zanzibar have usually driven requests for reform.⁷¹ In 2011 president Kikwete launched a new constitutional review process.

Katundu and Kumburu found five reasons for launching the constitutional review process in 2011: i) the 1977 constitution, despite 14 amendments, did not address all modern concerns, such as an independent electoral commission, ii) the constitution had been adopted without popular participation, iii) the constitution gave excessive powers to the president, iv) the structure of the Union was not efficient and caused controversies, and v) mounting pres-

69 Stephan 2011, 48.

70 Ghai 2013, 263–264.

71 Branson 2015.

sure from the opposition to review the constitution.⁷² Others believe that the constitutional review process was an attempt by president Kikwete to increase the support for CCM, which had dropped to a record low in the 2010 elections. For the Zanzibaris this was an opportunity to further demands for increased autonomy through a three-tier government, which has featured in the election campaigns of CUF since 1995.⁷³ A poll from April 2014 shows that 80% of Zanzibaris and 43% of the Mainland respondents support a three-tier government structure.⁷⁴

The idea of a three-tier government was introduced (and rejected by CCM) for the first time already in 1992 by the Nyalali Commission, which was tasked with setting the framework for a multiparty democracy. It re-appeared (and was again rejected by CCM) in 1999 through the proposal of the Kisanga Committee, a new constitutional reform committee.⁷⁵

The 2011 Constitutional Review Commission was headed by judge Warioba and undertook extensive consultations all over Tanzania. In the draft constitution it presented, it proposed a three-tier government based on public consultations. Arguments in favor of the three-government proposal included:⁷⁶

- the current model undermined Zanzibar politically, because the Union government, deciding over Union matters and non-Union matters for the mainland, might unfairly prioritize the mainland;
- the increase in union matters demonstrated a reduction in autonomy for Zanzibar thus eroding its identity;
- Zanzibaris felt they were not sufficiently consulted on economic matters of the Union.

The Constitutional Review Commission also identified grievances on the part of the mainland arguing for a three-government system:⁷⁷

- Zanzibaris had overstepped the limits of the Union by enacting a new constitution in 2010 that talked about the islands as ‘sovereign’, by having an own anthem, flag, constitution and government;
- the Zanzibaris get to vote on national legislation before it is passed as law on the islands.

It was believed that such a three-tier government would reduce the frailties of the Union and “ease the historical tensions between Tanzania Mainland and Zanzibar, and strengthen [the] iconic political union”.⁷⁸ Nonetheless, the suggestion of a three-tier government proved to be problematic for CCM as it could undermine the power of CCM on Zanzibar. Thus the draft that was finally presented to the parliament in 2014 differed from the Warioba draft and no longer talked of a three-tier system.⁷⁹ CCM argued that a three-tier system would be costly and that it was a misunderstanding to believe it was supported by a majority of Tanzanians.⁸⁰ The referendum, scheduled for April 2015, was postponed due to the controversies. However, Anyimadu suggests that the newly elected Tanzanian president Magufuli, is under pressure to organize the referendum soon.⁸¹ As the aborted constitutional review process is a source of tension in Tanzania between the mainland and Zanzibar as well as between CCM and the opposition, it is expected that CCM might cede to limited decentralization of power in the face of the opposition, but larger reforms are not to expect.⁸²

Despite their political rivalries, most Zanzibaris are united on the issue of sovereignty. Many

72 Katundu and Kumburu 2014, 111–112.

73 Anyimadu 2016, 13.

74 Twaweza 2014, 7.

75 Anyimadu 2016, 13.

76 Ibid.; Minde 2014.

77 Anyimadu 2016, 14.

78 Minde 2014.

79 Anyimadu 2016, 14.

80 Katundu and Kumburu 2015, 106.

81 Anyimadu 2016, 14.

82 EIU 2016.

feel that the current Union set-up marginalizes the sovereignty and identity of the people of Zanzibar.⁸³ Although both CCM and CUF politicians on Zanzibar prefer a three-government model for the autonomy, the recent 2015 election irregularities might increase the resolve of CUF to push for full independence.⁸⁴

On the mainland on the other hand, the constitutional review process highlighted resentments towards Zanzibar as people felt that it had overstepped its limits of autonomy by having its own flag and anthem.⁸⁵ Such emblems of identity have, however, not provoked protests in Finland and Åland has its own flag, its own postal stamp, its own car license plates and an internet suffix.

Ghai notes that “[t]he system of two governments has been a source of considerable tension, much resented by Zanzibaris, who see it as a device for the Mainland to dominate the Republic”.⁸⁶ Due to the large difference in size, the mainland ends up dominating the parliament and government and public services. It has thus a larger say than Zanzibar on Union matters. Zanzibaris feel that the Union parliament, when deciding on non-Union matters on the mainland blurs the line between Union and non-Union matters.⁸⁷ Thus, although there could be other mechanisms for solving the grievances of the Zanzibari, such as the establishment of dispute settlement mechanisms, and agreeing on the financing formula, it seems that the two-tier government mechanism has such negative symbolic value for Zanzibar that a three-tier solution might be the only sustainable option for Tanzania. It should, however, be noted that a new kind of Union structure would not solve the internal ethnic-racial conflicts on Zanzibar, which need other reconciliation mechanisms.

83 Ghai 2013, 277.

84 Troupe 2016.

85 Joenniemi 2014, 85.

86 Ghai 2013, 269.

87 Ibid.

2.8. Concluding remarks

The Zanzibari as well as the mainland politics is intertwined with the issue of autonomy and there are no easy solutions to the Zanzibari grievances. In order to solve the conflict, it seems that the only sustainable solution is to adopt a three-tier government system, which has been a long-time objective of the Zanzibaris. The current autonomy framework is not able to guarantee a peaceful transformation of the conflict or the use of autonomy as an effective tool for diversity management. However, a change of the government system alone does not solve all of the grievances, and therefore it is important to pay particular attention to the rule of law. Dispute settlement mechanisms and mechanisms for revenue distribution need to be set up and recorded transparently, as they are for Åland, where both the Åland Delegation and the financing are inscribed in the law.

In the case of Tanzania, the desire of CCM to hold on to power on Zanzibar has been put before what is best for the Union and this is likely to have added to the ethno-racial conflict. It is therefore important that the independence of the Zanzibar Electoral Commission be ensured, because rigged elections only add up to the resentments and the opposition to CCM. Although the problem is very political, there seems to be opportunities to solve the conflict and possibilities to improve and strengthen the autonomy of Zanzibar. Even without accepting a three-tier solution, advances could be made to improve the sustainability of the autonomy. The Åland Island example shows that meaningful self-determination can be established for an autonomy as long as the autonomy arrangement fulfils criteria that give the autonomy appropriate status and power. Renewed institutional arrangements appear critical and necessary for the autonomy of Zanzibar and for solving the conflict. Such a reform would ensure that Tanzania continues to be the home of peace in Africa also in the future.

References

- Anyimadu, Adjoa, "Politics and Development in Tanzania: Shifting the Status Quo", Research paper Chatham House (2016), at https://www.chathamhouse.org/sites/files/chathamhouse/publications/research/2016-03-18-politics-development-tanzania-anyimadu_1.pdf
- Branson, Nick, "Party rules: Consolidating power through constitutional reform in Tanzania", 1501 Briefing Note, Africa Research Institute (2015), retrieved 18 May 2016, <http://www.africaresearchinstitute.org/publications/constitutional-reform-tanzania-2/>
- Burgess, G., Thomas, Race, revolution, and the struggle for human rights in Zanzibar: the Memoirs of Ali Sultan Issa and Seif Sharif Hamad (Ohio University Press, Athens Ohio, 2009)
- Constitution of Tanzania, 1977 as amended, retrieved 20 May 2016, <http://www.judiciary.go.tz/downloads/constitution.pdf>
- Economist Intelligence Unit, "Tanzania Outlook 2016-2020" (EIU, 2016)
- EISA, "Election Observer Mission Report, Zanzibar, Presidential, House of Representatives and Local Government Elections, 30 October 2005", (2006), retrieved 27 May 2016, <https://www.eisa.org.za/pdf/zanomr05.pdf>
- Ghai, Yash, "Ålands Autonomy in a Comparative Perspective", in: Sia Spiliopoulou Åkermark (ed.), *The Åland Example and its Components. Relevance for International Conflict Resolution* (The Åland Islands Peace Institute, Mariehamn, 2011), 88 - 112
- Ghai, Yash, "Zanzibar in Tanzania: From sovereignty to autonomy?", in Ghai, Yash and Woodman, Sophia (eds.), *Practising Self-government: a Comparative Study of Autonomous Regions*, (Cambridge University Press, Cambridge, 2013), 258-280.
- Hannikainen, Lauri, "Self-Determination and Autonomy in International Law", in Suksi, Markku (ed.), *Autonomy: Applications and Implications*, (Kluwer Law International, The Hague, 1998), 79 - 95.
- Joenniemi, Pertti, "The Åland Islands: Neither local nor fully sovereign", 49(1) *Cooperation and Conflict* (2014), 80-97
- Katundu, Mangasini Atanasi and Kumburu, Nema Penance, "Tanzania's Constitutional Reform Predicament and the Survival of the Tanganyika and Zanzibar Union", 8(3) *The Journal of Pan African Studies* (2015), 104-118
- Minde, Nicodemus, "A Beleaguered Political Marriage: The Tanganyika-Zanzibar Union and the Constitution Process in Tanzania", Social Science Research Council, Kujenga Amani (2014), retrieved 18 May 2016, http://forums.ssrc.org/kujenga-amani/2014/05/20/a-beleaguered-political-marriage-the-tanganyika-zanzibar-union-and-the-constitution-process-in-tanzania/#.V0qqglc6_8s
- Mpangala, Gaudens P, "The Zanzibar Conflict: a Search for Durable Solutions", in Rupiya, Martin, Lwehabura, Johathan and le Roux, Len (eds.), *Civil Security Relations in Tanzania – Investigating the Relationship Between the State, Security Services and Civil Society* (128 ISS Monograph Series, 2006), 63-76
- Stephan, Sarah, "The Autonomy of the Åland Islands", in Spiliopoulou Åkermark, Sia (ed.), *The Åland Example and Its Components – Relevance for International Conflict Resolution*, (Åland Islands Peace Institute, 2011), 28-49
- Thrup, David, "The Political Crisis in Zanzibar", Commentary 18th March 2016, Center for Strategic and International Studies, retrieved 20 May 2016. <https://www.csis.org/analysis/political-crisis-zanzibar>
- Twaweza, "What do people really think of the constitution? Findings of a nationally representative survey", 11 Sauti za Wananchi Brief (April 2014), retrieved 18 May 2016. <http://www.twaweza.org/uploads/files/SzW2014%20R2%20Constitution-EN-FINAL.pdf>

REPORT FROM THE ÅLAND ISLANDS PEACE INSTITUTE

Rapport från Ålands fredsinstitut

The Åland Islands Peace Institute conducts projects and research into peace and conflict issues in a broadly defined sense from the vantage-point of Åland and the special status that Åland enjoys under international law. It focuses on autonomies, minorities, demilitarisation and conflict management.

The Åland Islands Peace Institute has consultative status with the UN Economic and Social Council, ECOSOC.

The Peace Institute's researchers and guest researchers focus on three subject areas:

- Security
- Autonomy, including the "Åland Example"
- Minorities

The Institute regularly publishes books and reports in these areas. By arranging seminars and conferences and through a growing library that is open to the public, the Institute serves as a meeting-point for Åland, the Nordic countries and the Baltic Sea region.

Autonomy and conflict management seminars are arranged with groups from conflict-ridden regions around the world.

REPORT FROM THE ÅLAND ISLANDS PEACE INSTITUTE
RAPPORT FRÅN ÅLANDS FREDSINSTITUT

Published by the Åland Islands Peace Institute
PB 85, AX-22101 Mariehamn, Åland, Finland
peace@peace.ax www.peace.ax

No 2–2016

Managing Diversity through territorial autonomy: Experiences from Iraqi Kurdistan and Zanzibar with the Åland Example as a Point of Reference

ISSN 1797-1845 (Print)

ISSN 1797-1853 (Online)

ISBN 978-952-5265-83-5 (Print)

ISBN 978-952-5265-84-2 (Online)



REPORT FROM THE ÅLAND ISLANDS PEACE INSTITUTE
RAPPORT FRÅN ÅLANDS FREDSINSTITUT

No. 1–2016

EU-rätten och behörighetsfördelningen mellan riket Finland och landskapet Åland
Anna-Lena Sjölund
ISBN 978-952-5265-81-1 (Tryckt)
ISBN 978-952-5265-82-8 (Online)

No. 2–2015

The Åland Example Applied – a Case Study of the Autonomous Region of Muslim Mindanao
Gustav Blomberg
ISBN 978-952-5265-79-8 (Print)
ISBN 978-952-5265-80-4 (Online)

No. 1–2015

Conflict Regulation through Self-Rule: Success factors for Territorial Autonomy Systems
Felix Schulte
ISBN 978-952-5265-75-0 (Printed)
ISBN 978-952-5265-76-7 (Online)

The reports can be downloaded from www.peace.ax or ordered (10 euro + postage) from the Åland Islands peace Institute, PB 85, AX-22101 Mariehamn, Åland, Finland, phone +358 18 15570, fax +358 18 21026

No. 2–2016