

# TANZANIA

## Prisoners of conscience face treason trial in Zanzibar

*A treason trial of opposition party leaders and members could take place soon in Zanzibar. The 18 defendants in prison, all from the Civic United Front (CUF) party, include four members of parliament, two women and several senior civil servants. Most of them have been detained for over two years in poor conditions. Similar charges have also been drafted (but not so far formally presented) against a further ten CUF party leaders. The charges carry a mandatory death penalty. No date has been set for the trial but Tanzanian and Zanzibar officials keep on saying it will start soon.*

*Amnesty International is concerned that these 18 prisoners are prisoners of conscience, imprisoned on account of their non-violent opinions and political activities. It is extremely unlikely that they would receive a fair trial in the Zanzibar judicial system. Amnesty International is calling for their immediate and unconditional release. It is also concerned about their ill-health in prison and is calling on the Zanzibar authorities to provide them with adequate medical treatment.*

### Background

This treason trial and the pattern of human rights violations against CUF activists needs to be viewed in the context of the recent history of human rights in Zanzibar and the special status of Zanzibar within the United Republic of Tanzania.

Zanzibar, a semi-autonomous part of Tanzania, has moved at a much slower rate to multi-party democracy and greater respect for human rights than the rest of the country. The mainland-based Tanzanian government has exercised minimum interference in Zanzibar, partly out of fear of exacerbating political tensions between the mainland and the islands. The new multi-party constitution in Tanzania in 1992 permitted the formation in Zanzibar of the Civic United Front (CUF) opposition party challenging the Zanzibar government (the Zanzibar Revolutionary Council) and the ruling Chama Cha Mapinduzi (CCM), Party of the Revolution, which is also the ruling party on the mainland.

In the last presidential and parliamentary elections held in Zanzibar in October 1995, Dr Salmin Amour of the CCM was re-elected as President of Zanzibar by a narrow margin, with results announced giving him 50.2% of the vote compared to 49.8% for the CUF candidate, Seif Sharif Hamad. The parliamentary election results announced for the Zanzibar House of Representatives (parliament) were equally close, with the CCM gaining 26 seats compared to the CUF's 24 seats.

Several election observers as well as foreign diplomats did not accept the elections as having been fairly conducted and believed the result to have been rigged to

keep President Salmin Amour and the CCM in power. There was widespread intimidation and violence against CUF supporters, particularly by the CCM youth wing. Donor governments refused to recognize President Salmin Amour's government and suspended aid to Zanzibar. CUF protested by instructing its MPs, after taking their seats in parliament, to boycott the proceedings.

The CUF parliamentary boycott caused a political crisis between the two parties which continued through to 1999. After the tense 1995 elections and even up to 1998, numerous CUF supporters were arrested on trumped-up criminal charges, tortured in police stations and jailed by magistrates who never questioned the prosecution and police account. Hundreds of CUF supporters were dismissed from their jobs, homes were demolished, their children were barred from schools, and many fled to the mainland. CUF supporters were harassed, sometimes violently, and were frequently denied permits to hold meetings and rallies. CUF leaders appealed to their supporters not to react violently and maintained the party's commitment to peaceful political activity. They frequently criticised the detention of the 18, abuses against their supporters, unfair police and court practices, and violence by a CCM militia-type unit (known as *Maskani*) composed of youth wingers and former soldiers.

Both the Commonwealth Secretary General and the United Nations Secretary General have been involved in an attempt to settle the potentially violent political crisis in Zanzibar. The next elections are due in October 2000. These and other diplomatic initiatives gradually led by 1998 to a reduction of abuses against CUF members. The Commonwealth talks finally, after many frustrating delays, led to a Commonwealth-mediated agreement between CCM and CUF in April 1999.

The Commonwealth Agreement signed by both CCM and CUF declared that both parties would "work together in the spirit of national reconciliation to consolidate democracy in Zanzibar, promote human rights and good governance and ensure that the elections scheduled for the year 2000 and all other subsequent elections are free of controversy and in which the will of the electorate will be respected". They agreed a "Programme of Action" to be implemented by an Inter-Party Commission of their members of parliament, to include particularly:

- an independent electoral commission, voter and civic education, a review of the Constitution and electoral laws "to enhance harmonisation with the requirements of a modern, multi-party democracy as well as a general review of the laws of Zanzibar with a view to removing or amending those laws which detract from the cause of democracy"
- promotion of human rights and democracy, including equal access to the media and free political activity
- reform of the judiciary "to enhance its independence, its professionalism and its standing in the eyes of the community as the fount of justice"

- an Independent Assessor to examine claims of destruction of property, unfair dismissals from government employment, withdrawals of student scholarships, with allegations of human rights abuses to be taken to the courts
- restoration of normal political life, with CUF agreeing to resume normal parliamentary activities, while CCM agreed to give CUF two more seats in parliament. Both agreed on the obligations of all citizens to refrain from inciting ethnic hatred, hostility and political intolerance.

The Inter-Party Parliamentary Commission was formed in September and CUF has resumed normal parliamentary activities. Progress is still slow in the implementation of other key elements of the Programme of Action.

The question of the 18 CUF prisoners charged with treason was not formally part of the Commonwealth talks or the agreement. However, numerous informal representations were made to the Zanzibar authorities about the case, and it was widely expected that the prisoners would be quickly released after the agreement. On the contrary, the prisoners were not released and the Zanzibar government is now pressing ahead with the trial and appears bent on convictions.

### **Status of Zanzibar within the Union**

Zanzibar, with its capital in Zanzibar town, consists of the two islands of Unguja (better known as Zanzibar island) and Pemba. It has semi-autonomous status within the United Republic of Tanzania, which was formed in 1964 through the Union of Zanzibar and mainland Tanganyika, shortly after independence from the United Kingdom and the violent revolution in Zanzibar a month later which overthrew the Sultan.

Zanzibar has its own separate Constitution (1985), President, Ministers (who are members of the ruling Zanzibar Revolutionary Council), House of Representatives (parliament) and legal system, including its own judiciary, penal code, police and prison administration. The Union (Tanzanian) government has overall responsibility for foreign affairs and national defence and security, and final authority over the Zanzibar police (who are under the Tanzanian Inspector General of Police). Defendants in Zanzibar have the right to appeal to the Tanzanian Court of Appeal (under the Tanzanian Chief Justice). In principle, cases referring to rights under the Union constitution can be pursued through the Union court system, although there have been no such cases yet. The Vice-President of Tanzania is from Zanzibar, as are some other Tanzanian ministers, and the Tanzanian parliament includes elected members from Zanzibar, both from CCM and CUF.

However, despite its constitutional responsibility to ensure respect for human rights in Zanzibar, the Union government has often shown a reluctance to involve itself in the affairs of Zanzibar. The Tanzanian President Benjamin Mkapa has on occasion claimed that he has no mandate to intervene in Zanzibar. Tanzania has ratified the International Covenant

on Civil and Political Rights (ICCPR) and other international and regional human rights treaties but in its reporting to the UN Human Rights Committee in 1998 of its implementation of the ICCPR, there was hardly any mention of human rights in Zanzibar.

On the Tanzanian mainland, there is now considerable freedom to debate about constitutional and legal reform and engage in multi-party political activity. There is a vigorous civil society, with several non-governmental organizations (NGOs), independent media and human rights organisations, including a long-established Amnesty International section in Tanzania based in Dar es Salaam. The Tanzanian government is preparing a National Human Rights Commission in consultation with NGOs.

However, these rights and freedoms have in general not been extended to Zanzibar, where human rights have been extensively violated. Mainland human rights defenders are concerned that Zanzibaris do not their rights protected in the same way as the rest of Tanzania's citizens and that they are subjected to inferior standards of human rights protection. A recent attempt by Zanzibaris to register a Zanzibar Human Rights Organization was denied by the Zanzibar government. Tens of thousands of Zanzibaris and Pembans live in exile in Dar es Salaam, unable to return safely to their original homes. Many had fled there from the 1964 revolution in Zanzibar and the mass killings of people of Arab descent. Others fled political persecution by the brutal regime of Zanzibar President Abeid Karume (1964-1972) and the reprisals against government opponents following Karume's assassination in 1972.

### **The arrests in Zanzibar**

The first arrests in the treason case were made at the end of November 1997 on the eve of an important by-election on Zanzibar island, which CUF nevertheless won. 14 CUF members and supporters were initially arrested and charged with sedition, but on 22 December 1997 the charge was changed to conspiracy to commit treason, which is a capital and non-bailable offence. A further four CUF members were later charged with the same offence, including **Juma Duni Haji**, the winner of the November 1997 by-election, who was arrested on 11 May 1998. Most of those arrested had been previous victims of harassment or arrest by the police.

Four members of the Zanzibar House of Representatives are among the accused: **Juma Duni Haji**, a former senior civil servant and opposition candidate for the vice-presidency of Tanzania; **Hamad Rashid Mohamed**, former Deputy Finance Minister for Tanzania; **Hamad Masoud Hamad**, director of the CUF human rights committee, and **Soud Yusuf Mgeni**, former deputy Chief Minister of Zanzibar. Their parliamentary immunity was not lifted through any proper procedure. The first two of these four prisoners had been members of the CUF delegation in the Commonwealth mediation talks.

Six of the defendants are members of the CUF central committee. Other defendants include CUF officials, such as its deputy secretary general, **Nassor Seif Amour**, senior civil servants, and two women, **Zulekha Ahmed Mohamed** and **Zeina Juma Mohamed**. Several defendants, like other CUF officials members prior to the legalisation of multi-party politics in 1992, were formerly CCM members or Zanzibar government officials, and two were members of both the Tanzanian parliament and the Zanzibar Revolutionary Council. (*For a full list of the 18 defendants, see the Appendix.*)

Treason charges were also drafted in early 1999 against a further ten CUF members, including **Seif Sharif Hamad**, vice-chairperson of CUF, former Chief Minister of Zanzibar and the opposition presidential candidate in 1995, **Shaban Mlo**, secretary general of CUF, **Mohamed Juma Khatib**, a CUF member of the Tanzanian parliament, and **Mussa Haji Kombo**, a CUF member of the Zanzibar parliament. Seif Sharif Hamad had earlier in July 1998 been ordered to report to the police or "face the consequences". He had been previously imprisoned as a prisoner of conscience from 1989 to 1991 on a charge of illegal possession of government documents, which was finally withdrawn in 1993. He reported to the police but was not arrested or questioned. In September 1999 the Attorney General told reporters that he had issued warrants for the arrests of the extra ten people, but police refused to carry out the arrests - as they had on previous occasions. There are evidently divergent views on the trial among the Zanzibar authorities, but the threat of arrest hangs over these ten CUF members against whom charges have been drafted (*see list in the Appendix*) and they could eventually be tried with the other 18 defendants.

### **Trial delays**

Soon after the first arrests, pre-trial hearings (or 'mentions') began to take place at two-week intervals in the magistrate's court. These hearings continued for over a year. The prosecution persistently argued that the case could not be committed to the high court for trial while there were other treason suspects abroad. The presiding magistrate continually granted the prosecution further time to investigate. At no point, however, did the prosecution name these exiles or specify any accusations against them. The prosecution failed to meet several deadlines for the submission of a detailed file of its evidence to the Zanzibar Attorney General. When the problem arose of lack of judges in Zanzibar competent to judge a treason trial, the government recruited nine judges from Nigeria in 1998, one of whom, Mr Garba Tumak, was appointed Deputy Chief Justice. Local lawyers protested that there were competent Tanzanian judges already available from the mainland. Later on, officials claimed that they lacked funds to proceed. Throughout, there seemed to be numerous delaying tactics, designed to intimidate government opponents and exiles and also to conceal the apparent lack of concrete evidence against the accused.

In March 1999 the prosecution submitted its evidence and the 18 defendants were committed to the Zanzibar High Court for trial. The prosecution initially attempted to prevent the defence lawyers from seeing the evidence file on the grounds that it contained material threatening to national security. After protests, the defence lawyers were allowed to see the file but were not given copies of it to take away for their own use. The prosecution case has not been made public and it is still not clearly known to Amnesty International. It is said to be based on the statements of 61 witnesses but no statements were taken from the defendants. The defendants strongly deny the charges and assert their innocence of any violent conspiracy. Defence lawyers claim that there is nothing in the prosecution witnesses' statements that provided evidence of treasonable activities.

No date has yet been set for the High Court trial. The Zanzibar Chief Justice said in mid-1999 that the trial could not take place before 2000 because the High Court sessions were already booked for the hearing of other cases. Fears have been expressed that the trial could be further delayed so as to restrict opposition campaigning for the October 2000 elections. However, in September 1999, Tanzanian and Zanzibar officials who were challenged about this on a visit to Sweden said that the trial would proceed soon since funds for it had been obtained.

There is serious concern about the proposed trial within the diplomatic community in Tanzania, particularly those belonging to the Commonwealth. European Union embassies have been monitoring the trial by sending an observer, on account of their dismay at the conduct of the 1995 EU-funded elections. They have been pressing for the trial to take place and not be continually delayed, so that the defendants would be able to respond to the charges.

Amnesty International's investigations have led the organization to conclude that the defendants are prisoners of conscience, imprisoned on account of their non-violent opinions and peaceful political activities. On the available information about the case and the political situation in Zanzibar, including details obtained by Amnesty International representatives during a visit to Zanzibar in June 1998, Amnesty International believes that there is no substance to the allegations of a violent conspiracy by the defendants to overthrow the Zanzibar government. From the proceedings against the prisoners, the state of the judiciary in Zanzibar and the defendants' treatment in court so far, the organization believes it is extremely unlikely that they could receive a fair trial according to recognized international standards, particularly the right to be tried by an independent and competent court. The Zanzibar government appears to be determined to keep them in prison in order to try them and have them convicted. It has not succeeded in convincing the international community that they would receive a fair trial.

### **The death penalty**

The charges of conspiracy to commit treason carry a mandatory death penalty, even if (as is the case) they are not charged with any actual act to overthrow the government (no such act had taken place).

If convicted, defendants will be sentenced to death. They will have the right of appeal to the Tanzanian Court of Appeal, which would be a long process, leaving them on death row possibly for years, and then the right to petition the President of Tanzania to exercise clemency if their judicial appeals failed.

Tanzania retains the death penalty but there have been no executions since 1994, or under President Mkapa's government (since 1995). Courts continue to impose death sentences for murder, although the government does not disclose any statistics

In a previous treason trial in Zanzibar in 1973-1974, the defendants were convicted of involvement in President Karume's assassination. However, all 34 death sentences were eventually commuted by the succeeding Zanzibar President Aboud Jumbe. All those convicted were released by 1978, largely as a result of international campaigning by Amnesty International and others against the unfairness of the trial. Defendants had been tortured and their statements were used to convict them. They were not allowed legal representation, according to Zanzibar's then unique judicial system, which was subsequently changed to bring it more into line with international standards.

There is a growing movement in Tanzania (though unable to make much headway in Zanzibar due to government restrictions on basic freedoms) for the abolition of the death penalty, especially among NGOs, lawyers and religious organizations.

### **Prison conditions and ill-health**

Although the 18 prisoners have not been tortured or physically ill-treated, Amnesty International has been concerned about the denial of adequate medical treatment and the poor conditions in Zanzibar Central Prison. These factors, aggravated by their prolonged detention, have caused constant ill-health among virtually all the prisoners, especially the two women and the older prisoners. In the earlier months, detainees were frequently strip-searched in front of each other, for the evident purpose of humiliating them.

In the initial months of their detention, when their conditions amounted to cruel, inhuman and degrading treatment, the prisoners were routinely refused medical treatment, despite urgent need. At a pre-trial hearing on 9 July 1998, at which **Machano Khamis Ali** was physically unable to stand up, the magistrate finally ordered that medical specialists should be sent to examine the defendants in prison. Some of the prisoners were subsequently examined in hospital in Zanzibar and commenced some

treatment back in prison. Their health and prison conditions have improved to some degree, but they are still denied treatment by medical doctors of their choice and the Zanzibar authorities have refused to allow them to be taken for treatment to better medical facilities in Dar es Salaam.

**Zulekha Ahmed Mohamed**, the CUF women's organization director, is probably the worst affected. A widow with two children aged 5 and 7, she suffers from diabetes, hypertension and heart disease. From the start of her imprisonment she has required a hernia operation. The prison authorities eventually allowed this in early 1999 but she has refused to have the operation in the government hospital, citing fears of intervention in the treatment and the poor and unhygienic state of the hospital. The government has refused to allow her to go to the mainland for the operation.

In September 1999 **Hamad Rashid Mohamed**, a former Tanzanian deputy minister, was admitted to Zanzibar hospital for an ear operation. He had earlier refused the operation because of the unhygienic conditions in the hospital.

Many of the other prisoners are also in poor health, such as deteriorating vision, loss of weight, nervous tension, high blood pressure, skin infections, and malaria (as a result of inadequate mosquito protection). In addition, **Machano Khamis Ali** is suffering from high blood pressure and a heart problem, and pain in the lower limbs, **Hassan Mbarouk Hassan** and **Mohamed Ali Maalim** from hernias which were recently operated, **Shariff Haji Dadi** from an ulcer, **Ramadhan Shamna Abdi** from an ulcer and hernia, **Soud Yusuf Mgeni** from asthma and an ear infection, and **Said Zam Ali**, **Pembe Ame Manja** and **Abbas Zam Ali** from heart disease. **Nassor Seif Amour**, **Abdallah Said Abeid** and **Hamad Rashid Mohamed** have been suffering from pain and swelling in knees and ankles. **Zeina Juma Mohamed** has very low blood pressure and has also suffered from gynaecological problems.

For the early part of their imprisonment the only medical treatment allowed was medicines bought by their relatives during visits, who were not allowed to bring their own doctors to examine them. This is still the main form of treatment, although as a result of international and local protests, the prisoners now have access to a prison doctor who can recommend hospital investigation, which the prison authorities now allow on an out-patient basis. Relatives are allowed to visit the prisoners once every two weeks and bring them food and medicine, and the two defence lawyers also have regular access to the prisoners. The International Committee of the Red Cross was allowed to visit the prisoners for the first time in June 1999.

#### **Amnesty International's recommendations**

##### **1. To the Government of Zanzibar**



- to release these 18 prisoners of conscience immediately and unconditionally
- to withdraw the charges against them (and not bring others into the trial) and not proceed with a trial which would be incompatible with international standards of fair trial, as set out in the International Covenant on Civil and Political Rights, to which Tanzania is a party
- to initiate a program of action on human rights reforms in Zanzibar in line with the Commonwealth reconciliation agreement, particularly to establish an expert committee on law reform to examine the administration of justice in Zanzibar so that it is made consistent with international standards
- while the prisoners remain in prison, to ensure they are treated humanely and receive all necessary medical treatment from medical doctors of their choice.

## **2. To the Government of Tanzania**

- to acknowledge and fulfil its constitutional responsibilities to protect the human rights of all its citizens, including those in Zanzibar, and to fulfil its obligations under international human rights law, by intervening with the Zanzibar government to secure the release of the 18 prisoners of conscience and the withdrawal of the treason charges
- to ensure that Zanzibaris enjoy the same basic rights and freedoms as those prevailing throughout the rest of Tanzania
- to abolish the death penalty for all offences in Tanzania.

## **3. To the international community**

- for the Commonwealth -- through its Secretary General, its Special Envoy for Zanzibar, the Commonwealth Ministerial Action Group and member governments -- to ensure the implementation of the Commonwealth agreement between the CCM and the CUF and to encourage and closely support a program of human rights reform in Zanzibar, starting with the release of these 18 prisoners of conscience and the abandonment of the treason trial
- for donor governments, particularly those in the European Union who have long been involved with this human rights issue, to press for the release of the 18 prisoners of conscience and the withdrawal of the treason charges, and to actively support a human rights reform program in Zanzibar.

**APPENDIX**  
**List of the 18 prisoners of conscience**

NAME	DETAILS
<b>Ramadhan Shamna Abdi</b>	CUF security guard, 48
<b>Abdullah Said Abeid*</b>	Commander of the Marine Guard, 58
<b>Abbas Zam Ali</b>	Businessperson, reportedly arrested in mistake for his brother (next) , 48
<b>Said Zam Ali*</b>	Engineer, brother of Abbas Zam Ali, 42
<b>Machano Khamis Ali</b>	Member of CUF central committee, former senior police officer, former member of the Tanzanian parliament and the Zanzibar Revolutionary Council, 55
<b>Nassor Seif Amour</b>	CUF deputy secretary general, computer specialist, senior government statistician, MSc (UK), 59
<b>Shariff Haji Dadi</b>	Private secretary to the CUF secretary general, former deputy director in the Ministry of Labour, MA, 51
<b>Juma Duni Haji*</b>	CUF member of the Zanzibar parliament, former vice-presidential opposition candidate for Tanzania, former principal secretary in the Ministry of Trade, MSc (UK), 50
<b>Hamad Masoud Hamad*</b>	CUF member of the Zanzibar parliament, director of the CUF human rights committee, former director of water resources, MSc in hydrology, 42
<b>Hassan Mbarouk Hassan</b>	CUF security officer and local CUF branch chair, former army officer, 50
<b>Hamad Mmanga Khalfan</b>	Personal assistant to the CUF vice-chair, CUF security officer, former police officer, 50
<b>Mohamed Ali Maalim</b>	CUF security officer, 37
<b>Pembe Ame Manja</b>	Former army officer, 52
<b>Soud Yusuf Mgeni</b>	CUF member of parliament, former Minister for Education, Agriculture and Water (in turn) , former member of the Tanzanian parliament, 51
<b>Zulekha Ahmed Mohamed (female)</b>	Deputy director of CUF women's association, 46
<b>Hamad Rashid Mohamed*</b>	CUF member of the Zanzibar parliament, former Deputy Finance Minister and Deputy Home Affairs Minister of Tanzania, former member of the Tanzanian parliament, CCM national executive committee and Zanzibar Revolutionary Council, 49

<b>Zeina Juma Mohamed (female)</b>	Mid -20s
<b>Hamza Makame Omar</b>	Former navy commodore in the Coastguard and Anti-Smuggling Unit, 44

**Additional persons against whom charges have been drafted**

<b>Seif Sharif Hamad*</b>	CUF deputy chair
<b>Shaban Mlo</b>	CUF secretary general
<b>Mohamed Juma Khatib</b>	CUF member of the Tanzanian parliament
<b>Mussa Haji Kombo</b>	CUF member of the Zanzibar parliament
<b>Maulid Makame, Juma Othman, Juma Ngwali, Khatib Hassan -</b>	members of the CUF central committee
<b>Nassor Suleiman</b>	CUF member
<b>Salim Yusuf Mohamed</b>	CUF member

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*\*see photographs at end of document*