Though still in its early stages, an amendment made to the Standing Orders in 2012 has introduced a new model that is hoped will help improve the oversight function of the Zanzibar House of Representatives over the government, and strengthen the tradition of giving feedback to the House through its standing committees writes its Chief Legal Counsel.

Mr Mussa Kombo Bakari, in Zanzibar City
Mr Bakari is the Chief Legal Counsel of the House and Head of the Department of House Business at the House of Representatives of Zanzibar, posts he has held since May 2012. He was previously the Head of the House’s Legal Division and he had served various committees. He has been an advocate of the High Court of Zanzibar since 2005.

Background
Zanzibar gained independence from the United Kingdom in December 1963, which lasted for about a month before the revolution took place in January 1964. It was one of the two countries which united to form the United Republic of Tanzania (URT) in 1964. The other country was Tanganyika which is now commonly referred to as Tanzania Mainland. Despite that union, Zanzibar which is a combination of the two major islands of Unguja and Pemba still retains its identity and some of its autonomy. The semi-autonomous islands of Zanzibar are located on the East African coast and, according to the 2012 census, have a population of about 1.3 million people. It has its own flag, constitution and an Executive headed by a directly elected President and assisted by a Cabinet, the latter of which is commonly referred to as the Revolutionary Council. It also has its own House of Representatives and Judiciary.

Upon unification, the two countries united on a range of matters which were initially 11 but over time, increased to 22. The list of union matters include foreign affairs, defense and security, citizenship, police, currency, immigration, posts and telecommunications, higher education, home affairs, registration of political parties and the court of appeal. The URT is now in the process of writing a new constitution which might affect the set-up of the union.

The Zanzibar House of Representatives
The House of Representatives is one of the two Legislatures in the URT; the other is the Parliament of the URT (National Assembly). The National Assembly exercises its mandate over union matters and non-union matters for Tanzania Mainland, while the House has the mandate over non-union matters for Zanzibar. The House was initially established in 1980 under the Constitution of
Zanzibar and is currently provided for under sections 63 and 64 of the Zanzibar Constitution (1984).

The House comprises a total of 82 members as follows:

- Fifty members elected from constituencies;
- Forty per cent of the total elected Members from constituencies which is equivalent to 20 Members shall be reserved as special women seats;
- Ten Members nominated by the President of Zanzibar whom at least two shall be nominated after consultation with a leader of opposition within the House or in consultation with political parties having representation in the House;
- The Attorney General who becomes member by virtue of his/her position; and
- The Speaker if elected from Members of the House.  

Like other Legislatures around the globe, the primary functions of the House are to enact laws, oversee conduct of the Executive, approve the national budget and represent the people of Zanzibar. These functions of the House are provided under sections 5A and 88 of the Constitution of Zanzibar, 1984.

One of the key tools in conducting oversight function is through parliamentary committees, which are delegated to perform the work of the Legislature and report and advise it accordingly. A key area of the work of committees is holding the Executive to account for undertakings made in Parliament. The House of Representatives has seven oversight Standing Committees, each of which is responsible for a number of government ministries, departments and agencies.

The Standing Orders of the...
House have, over the years, provided scope for Standing Committees to conduct oversight functions over government institutions. Specifically, through standing orders 109 – 118 (2012 edition), the Standing Committees scrutinize the working of ministries and other government agencies and submit their recommendations. Subsequently, the Standing Committees meet for oversight-related work for a minimum of two weeks, four times a year. The Standing Committees are required to submit reports to the House following their oversight of different government ministries, departments and agencies once a year. The March session is dedicated to Committees’ reports which are laid and debated by the Members before adoption.

Amendment of Standing Orders
Members expressed that increasingly over the years some of the Committees’ recommendations were not being effectively implemented. They argued there had been delays or sometimes even failure to implement some of the committees’ recommendations, a situation that compromised the House’s oversight mandate.

The government on the other hand, argued that it always implemented Committees’ recommendations. From the arguments offered by both government and backbenchers, it was evident there was a gap of communication between the two parties.

An emphasis by members of standing committees towards ensuring that their directives and recommendations were effectively and accordingly implemented, paved the way for an amendment of the Standing Orders. Consequently these were amended in 2012. It required every minister to present a report of implementation of directives and recommendations of the respective committees issued in the previous report each year. Following the amendment, during the March session when Standing Committees presented their reports before the House, ministers also presented their action-taken reports. It was a major milestone in the growing influence of the House on government business.
Anticipation of the amendments

One of the benefits anticipated from the amendment of the Standing Orders was the enhanced role of the House overseeing conduct of the Executive. Consequently, accountability was substantially improved.

The Standing Orders also placed responsibility for every Standing Committee to follow up on the directives and recommendations issued by that particular committee from the previous year. This provision, which had always existed, complemented the recent amendments. The improvement in accountability could be identified by the following aspects:

- Ministers were now required to systematically report on how they had implemented directives issued in the previous year by the respective committees;5
- There was now clarity of the role of ministers in reporting on the implementation of directives and recommendations of the committees; and
- Standing committees’ reports were clearer and more focused, and identified directives and recommendations which committees expressed their desire to see government implement accordingly.

As such, it was anticipated that the committees would identify directives and recommendations towards respective ministries in their reports. The amendment also broadened scope of the intervention of Members in discussing how ministries were implementing such directives and recommendations. It was clear that committees were now working on behalf of the House in conducting oversight of the Executive. Committees oversaw their respective ministries, and also monitored how they responded to the directives and recommendations issued by the committee and adopted by the House.

Initially this involved the particular committee understanding in-depth how such directives had been implemented. Under the amendments, the ministers now had to report to the entire membership of the House, who could access and debate the ministers’ reports accordingly.

A final observation to note was that since House proceedings were open to the public and the media, citizens had the benefit of following the discussions. In addition to increasing transparency of government business, this process could trigger improved representative constituent engagement as people became aware of the commitments made by the government as well as the implementation timeframes. It also ensured that people would be better prepared to engage their elected representatives on the performance of government ministries, departments and agencies on the ground. In similar fashion, the media were also able to access the Committee and ministerial reports through Hansard or on the House website: http://www.zanbarassembly.go.tz.

“Members of the House are quite optimistic that oversight of the government will be substantially improved as this mechanism takes root.”

Prospects of the amendments

The amendment of Standing Orders requiring ministers to report to the House on the implementation of directives and recommendations of Standing Committees have just started to be effectively implemented6. While it is too early to conclude on effectiveness of this new model of oversight, the debates which transpired during the presentation of such reports in March 2013 sessions justify the optimistic view that much will be achieved from the new provisions. During the March/April 2013 session, one minister while reporting the implementation of committee directives and recommendations assured the House that his ministry would accomplish the implementation before the budget session.7

Members of the House are quite optimistic that oversight of the government will be substantially improved as this mechanism takes root. The gravity of this exercise was indicated by the way in which members expressed their concerns on different issues during the submission of the reports; a move which might prompt ministers to be more prepared in the future.

Members expressed the view that the time allotted for the exercise was not sufficient and proposed that more time be allocated next year.

The Secretariat of the House is considering this matter before submitting to the Steering Committee of the House for its determination. In 2013, each Standing Committee was given one day to present its report on the current financial year and all ministries falling under its portfolio also presented their respective reports on directives and recommendations of that committee issued in the previous year.

Conclusion

There is hope that this new mechanism will work efficiently towards improving the oversight function of the House of the government. As this tradition has been formalized and become more systematic through incorporation in the Standing Orders, it has enhanced the tradition of giving feedback to the House through its standing committees recommended to the government.

Endnotes


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