



**PRELIMINARY STATEMENT OF NDI'S ELECTORAL
OBSERVATION MISSION TO
ZANZIBAR'S 2005 ELECTIONS**

*Stone Town, Zanzibar, United Republic of Tanzania
November 1, 2005*

This preliminary statement is offered by the National Democratic Institute's international election observation delegation to Zanzibar's October 30, 2005 presidential, parliamentary and local councilor elections. National elections were scheduled to take place concurrently with elections in the semi-autonomous islands of Zanzibar, though this delegation focused only on the Zanzibar elections. The delegation was led by: Pius Anyim, former president of the Senate of the Federal Republic of Nigeria; Nora Owen, former Minister of Justice of the Republic of Ireland; and Lawrence DeNardis, former member of the United States House of Representatives. The delegation, totaling 20 observers from Africa, Europe and the United States, also included elected officials, electoral and human rights experts, regional specialists and political and civic leaders from 11 countries.

The purposes of the delegation were: to demonstrate the international community's continued interest in and support for a democratic election in Zanzibar; and to provide Zanzibaris and the international community with an impartial and accurate assessment of the election process and the political environment surrounding it to date. The delegation conducted its assessment in accordance with Tanzanian law, Zanzibari electoral law, and on the basis of international standards for election observation found in the Declaration of Principles for International Election Observation.

The delegation wishes to emphasize that NDI does not intend to render a conclusive assessment of the process at this time, because votes are still being tabulated and any electoral complaints that may be lodged remain to be processed. NDI does not seek to interfere in the election process. The Institute recognizes that, ultimately, it will be the people of Zanzibar who determine the meaning and validity of these elections.

I. SUMMARY OF OBSERVATIONS

Zanzibar's 2005 presidential, parliamentary and local councilor elections were a marked administrative improvement over past elections. However, problems related to the permanent voter register (PVR), election day violence, and in some instances, the excessive use of force by security personnel, may have undermined citizens' confidence in the electoral process and could have impaired the integrity of the vote in some polling stations.

Changes made to the Zanzibar constitution, electoral law and the Zanzibar Election Commission (ZEC) as a result of the Muafaka II peace accord, reached following violence that resulted from the 2000 elections, have helped to improve the transparency and accountability of the 2005 electoral process. By-and-large: polling stations opened on time; electoral materials were in place; party agents were active and engaged, and voters turned out in high numbers – many of whom waited patiently for hours in long lines to vote in these important elections. In many parts of the country, particularly in rural areas of Unguja and Pemba, voting was peaceful and orderly. The counting process throughout Unguja and Pemba was administered in a transparent manner, with the full participation of political party agents and observers.

However, in several constituencies in Stone Town and its environs, violence erupted between voters and other individuals who were alleged to be from outside the area and not registered to vote at these polling centers; security forces in some instances used excessive force such as tear gas and

water cannons. Irregularities, such as underage voting and double voting, were witnessed. Most significantly, many voters in the urban areas expressed distrust in the accuracy of the final PVR, which was not available to the public or political contestants until election day.

Having improved the administrative management of Zanzibar's elections, there are now opportunities to make further improvements that will instill a greater sense of confidence in the people of Zanzibar immediately and in the longer term.

The delegation offers the following immediate recommendations:

- All sides should respect the rights of others and refrain from the use of violence.
- Security forces should be ordered to refrain from using excessive force in the course of maintaining public safety.
- Allegations of the excessive use of force on election day should be investigated and addressed in order to provide redress for those whose rights were infringed and to bring to account those responsible for any such violations.
- The ZEC should make available to the public, all polling station level results simultaneously with its release of accumulated electoral results.
- All electoral complaints that may be filed should be processed properly and in an expedited manner, with immediate redress and effective remedies provided.

In addition, the delegation recommends the following actions be considered by the ZEC and other stakeholders in order to ensure peace and prosperity for the people of Zanzibar in the longer term:

- The PVR should be made available to all citizens and political parties in an appropriate timeframe for verification and remedy if necessary.
- The PVR and related voters' lists should be consistent in order to ensure that all eligible citizens can exercise their right to vote.
- The changes in district and constituency delimitation be fully explained and constituency maps be provided to all interested stakeholders.
- Libel laws which may discourage media houses from airing or publishing political party advertisements should be changed or corrected to protect the media.
- ZEC officials and polling administrators should be provided ongoing training of their roles, responsibilities and ZEC regulations.
- The eligibility for registration of non-resident government officials, particularly the military and other security forces, should be re-evaluated. Once eligibility is decided, distinct voting procedures, including the location of polling stations and the number of eligible voters from this class, should be made public.

II. THE ELECTORAL CONTEXT

Over the course of the delegation's visit to Tanzania, various briefings were provided about the pre-election period. The following observations are based on these briefings and those provided NDI's staff members who have followed the election process over the past nine months.

Since the reintroduction of multiparty politics across Tanzania in 1992, Zanzibar held general elections in 1995 and 2000. Both elections were criticized by domestic and international observers as being poorly managed and lacking transparency and accountability. The results of neither election were accepted by all political parties, and not all parties were willing to take up their seats in the legislature. Following the 2000 Zanzibar polls, demonstrations calling for new elections resulted in

violent clashes with the security forces and tragically in the loss of life and the fleeing of hundreds of Zanzibaris to Kenya seeking asylum.

Importantly, there have been attempts after each election to reduce political tensions and promote elections that will be seen as credible to all parties. In 1999, a first peace agreement known as Muafaka I, was signed, but not fully implemented prior to the 2000 Zanzibar elections. In 2001 a second peace accord, referred to as Muafaka II, was agreed to and has been implemented under the Joint Presidential Supervisory Commission (JPSC). In 2003, by-elections were held on Pemba for 17 constituencies under an electoral system that included many of the reforms called for in the Muafaka II agreement. While the 2003 elections were not completely free of problems, domestic and international observers praised the conduct of by-elections on Zanzibar and all parties accepted the results and took up their seats in the legislature.

The 2005 elections represent the first general elections to take place under the Muafaka II electoral reforms.

A. Legal Framework

On Zanzibar, there were to be both Union (national) and Zanzibari elections. The former are for the Union President and Parliament (Bunge) while the latter are for the Zanzibar President, House of Representatives, and local councilors. Given the death of one of the vice-presidential candidates four days before the election, Union elections were postponed until December 18, 2005.

There are separate legal frameworks for the two sets of elections with the Union Elections governed by the Union Constitution and the Union Electoral Act, and the Zanzibar elections governed by the Zanzibar Constitution and the Zanzibar Electoral Act. This report and analysis refers only to the electoral framework governing Zanzibar.

Both the Zanzibar Constitution and Electoral Act were amended in 2002 as part of the Muafaka II agreement. These amendments served to alter the composition of the electoral commission; introduced a permanent voters register; limited the involvement of local government officials, or *shehas*, in the election process (in particular voter registration); and provided polling agents with an official copy of the results from the presiding officer after counting occurred at the polling station. These changes are positive steps intended to enhance the transparency and accountability of the electoral process.

B. Election Administration

The Zanzibar Election Commission (ZEC) is responsible for managing Zanzibar elections. In the past, the ZEC has organized both the Union and Zanzibar elections on the Isles. For 2005, however, the NEC had planned to separately conduct the Union elections on Zanzibar. Given the greater historical confidence in the NEC's technical capacity to organize elections and because the political tensions on the Isles center almost entirely on the Zanzibar elections, the greater autonomy given to the ZEC administration will likely enhance the legitimacy of the Union elections.

The composition of the ZEC commissioners has also been changed. In the past, the ZEC has been accused of only representing the interests of the ruling party. While all seven members, including the chair continue to be appointed by the Zanzibar President, two commissioners are now recommended by the Leader of Government Business and two by the Leader of the Opposition. While this does not guarantee the independence or autonomy of the ZEC it has helped to ensure that the commission takes into consideration the interests of the major political contestants in determining how elections are conducted.

Concerns continue, though, regarding the autonomy of the ZEC. Questions have been raised about the timing of the release of funds from the government to the ZEC to conduct the 2005 general elections. Most disconcerting, however, were the actions of the Attorney General to void a contract the ZEC had entered into with a firm to conduct an audit of the voter register. While there were some concerns about both the nature of the contract and the technical specifications of the audit, the manner in which the issue was handled by the government seemed to undermine the perception of the ZEC as an autonomous body in the eyes of many citizens.

C. Voter Registration

Given that some, but not all Tanzanians are defined as Zanzibaris and hence eligible to vote in Zanzibar's elections, voter registration is an important and sensitive issue. As part of the Muafaka II agreement a new permanent voter register (PVR) for Zanzibar was produced in advance of the 2005 elections. Registration of voters began in November 2004 and ended in April 2005. While all parties have seen the introduction of a new PVR as a positive step for this and future elections, concerns remained after the voter registration exercise about the accuracy of the PVR.

Public confidence in the PVR may have been undermined when a contract to conduct an audit of the voter register, an exercise intended to enhance confidence in the PVR, was cancelled by the Zanzibar Government. Ultimately, the audit did go forward after significant delays and extensive behind the scenes negotiations.

However, the final voter register was only prepared days before voting and did not allow for a final inspection period for the public or the political parties. Thus an important benefit of transparency and confidence building was lost.

In the past concerns have been raised about the role of local government officials, *shehas*, in the electoral process. They have been accused of interfering with both the registration of voters as well as voting and counting on election day. Under Muafaka II the formal involvement of *shehas* in the election process was reduced. Nonetheless, complaints persisted this year that *shehas* continued to play a role in voter registration and that they continued to impede the registration of eligible voters.

Concerns also continued to be raised about the eligibility of civil servants and members of the security forces to register to vote in Zanzibar elections without meeting the 36 month continuous residency requirement. Tensions over this issue led to violence on Pemba during the voter registration exercise and as a result, voter registration was suspended for a week until tensions had diminished. In addition, concerns were raised about voters from Pemba registering and potentially also voting on Unguja.

D. Delimitation of Constituencies

Following the 2002 census a new delimitation exercise was conducted by the ZEC. As a result, the number of constituencies on Pemba was reduced by three, while three were added on Unguja. Given that Pemba has historically voted overwhelmingly for the opposition and that hundreds of Zanzibaris from Pemba fled the island after violence following the 2000 general elections, the shifting of constituencies from Pemba to Unguja may have affected voters' confidence in the electoral process. It was reported that ZEC did not fully explain to the citizens the reasons for these changes.

In addition, concern was expressed that new constituency maps were not produced or distributed. The lack of such maps may undermine the transparency and accountability of the election and hampers the efficient management of the election process by the ZEC.

E. Campaign

A number of incidents of violence involving supporters from opposition and ruling parties were reported during the campaign period. Nevertheless, all parties agree that the level of tension was lower than in previous elections, and leaders from both ruling and opposition parties made public statements calling for calm among their supporters and for peaceful elections.

An incident that occurred on Unguja near Donge constituency, in which a clash occurred between supporters of the opposition party and the security forces, raised concerns about violence during the campaign period. Nearly 20 opposition supporters were seriously wounded when the security forces fired on them. The security forces claim that they used tear gas and rubber bullets while independent media reports state that tear gas and live ammunition were employed by the security forces. This is particularly disturbing given the lethal response by security forces to demonstrations organized by the opposition in 2001 that resulted in more than 20 fatalities.

Access by political parties to public fields for campaign rallies has reportedly been limited by government and election officials. The violent clash between opposition supporters and the security forces near Donge constituency occurred after the ZEC declared that the scheduled rally could not take place at the designated field.

F. Media

State-owned electronic and print media is dominant on Zanzibar. The only independent daily newspaper was closed by the Zanzibar Government in 2003 for violating the code for professional ethics and there is no independent television or radio on Zanzibar. Media monitoring by the Media Institute of Southern Africa – Tanzania (MISA-Tanzania) has consistently shown a clear bias by state media in favor of the ruling party. Opposition parties have also complained that their free-to-airtime segments have been edited to the point of changing their content before being aired by state broadcasters. Media houses claim that this action was taken to prevent libel suits that could potentially be brought against them. As a positive sign, in the final weeks of the campaign weekly meetings between representatives of the media and political parties were initiated on Zanzibar to promote more equitable coverage and reduce tensions.

G. Women's Participation

Women continue to be underrepresented in positions of political leadership on Zanzibar. Women represent only 10.5 percent of the total number of candidates for 50 elected seats in the House of Representatives. On a positive note, the number of special seats reserved for women in the House of Representatives was increased from 10 to 15. Monitoring by MISA-Tanzania showed that women's voices received little coverage by the media.

III. ELECTION DAY

NDI deployed ten observations teams throughout Zanzibar, which visited over 400 out of the total of 1,617 polling stations on both the islands of Unguja and Pemba. Eight teams were based on Unguja, while the other two covered Pemba Island. The teams observed polling centers across all the six districts in Unguja, and all the four districts in Pemba, and observed voting and counting in 35 out of the 50 constituencies.

Based on the reports of NDI delegates, the following observations were made:

A. Positive Elements of the Election Day Process

A number of positive elements of election day processes were observed by the delegation, including the following points.

Election administration

Overall, the Zanzibar elections were administered in an efficient manner by ZEC. In general, polls opened on time, voting materials were in place and polling officials were prepared prior to the opening of polls at 7:00 am. Most voters found their names on the register, and the secrecy of their ballot was respected. Throughout the day, the delegation witnessed relatively few administrative problems in the voting process. While some administrative procedures were not followed consistently – such as the procedures for voters whose names were not found on the voters' list; the marking with indelible ink on voters' left thumb; and confusion over which of the three ballot boxes was intended for presidential, parliamentary and local councilor ballots – the application of ZEC regulations appeared to be enforced in general.

The counting process, notwithstanding several polling stations that began counting hours after the polling stations closed, went relatively smoothly. Party agents, domestic and international observers were able to observe the process; the counting was carried out in a transparent manner; and most parties agreed to the counting of ballots and the number of votes cast at polling stations. While the delegation heard complaints that reporting forms were not made available to all party agents at the conclusion of counting, in the polling stations observed by this delegation, final reporting forms were provided to all party agents present.

The ZEC should be commended for the generally professional administration of elections – a marked improvement from past polls. However, the administration of election procedures was not performed consistently throughout the Isles, and further training for polling officials appears to be needed. Officials and poll workers must clearly understand all ZEC procedures to ensure electoral integrity and public confidence.

Voter turnout and women's participation

The polls were well attended by Zanzibari voters. Across the Isles, the delegation noted that voters turned out in large numbers, early on election day. In many constituencies and polling centers, large numbers of voters were seen at the opening of the polls. Often hundreds, if not thousands, of voters were in line prior to the opening of the polls. In some cases citizens reported that they had been in line as early as 4:00 am or 5:00 am. This level of participation reflects a genuine desire among Zanzibaris to engage in this important democratic process and citizens should be commended for their active interest. In particular, the delegation noted a high level of female voters at the polls.

Role of party agents

The delegation noted the strong presence of political party poll watchers at almost all polling stations. Most of the party representatives understood their role in the process and remained actively engaged throughout the voting and counting stages of election day. Most importantly, party agents were able to verify the counting of ballots at each polling station, a significant improvement from past elections. However, the delegation heard mixed reports about whether party agents were able to observe the tabulation of votes at various collation centers.

B. Problems and Irregularities

Despite the apparent high turnout of voters and the relatively positive administration of the voting and counting process, several problems were noted, particularly in the Urban district, which includes Stone Town, and the West district.

Problems with the voter register

As mentioned above, Zanzibaris may have lacked confidence in the PVR prior to the elections. The audit of the voter register was fraught with problems and delays. Ultimately, the final PVR was not provided to citizens and the political contestants until election day. This process meant that Zanzibari citizens were unable to verify that their names were on the list prior to election day, and they did not have an opportunity to remedy the situation had their names not been on the list. This produced election day problems.

Several of the delegation's teams witnessed problems concerning the PVR, resulting in instances where voters with proper identification were not allowed into polling stations. Many polling centers had a voters list posted outside the polling center, which identified the voters for that center. However, at some centers, if a voter's name did not appear on the list, or their name was misspelled, that individual was not permitted inside the polling center. Such persons could not verify if his or her name appeared on the PVR and were therefore denied the opportunity to vote.

Irregularities in election administration

As mentioned above, the administration of election procedures was not uniform across the districts and the constituencies. Several election officials, including presiding officers, administered voting procedures in different ways, particularly issues concerning the identification of eligible voters. In addition, polling stations were missing forms or did not open on time, thumbs were marked prior to identification of the voter and were marked in the wrong place, ballot boxes were not adequately marked, polling agents were not familiar with their roles and were not permitted to ask the presiding officers questions, and election officials were sometimes confused about voter eligibility, inadequate number of ballot papers (for councilors), and misdistribution of materials.

Eligibility of voters

In certain places voters were disturbed about the possibility of outsiders being allowed to vote illegally. At Forodhani School in Mji Mkongwe constituency and at Mtoni School in Mtoni constituency for example, the delegation heard complaints that individuals not residing in the *shelia* were being permitted to vote, including large groups of young men and security forces who came to the polling centers by trucks. The delegation also observed and confirmed that under-aged voters were given the opportunity to vote in many instances. However, it is important to note that these under-aged voters and groups of men had the proper identification and their names appeared on the PVR.

Large numbers of security personnel

Large numbers of security personnel were seen around several polling centers, including Bwahani Hotel, Forodhani School, Haile Selassie School, and Kiwanja cha Madawa in Mji Mkongwe constituency, Biashara School in Dimani constituency, and Mtoni School in Mtoni constituency. In addition, delegates witnessed security personnel being driven in large numbers to several polling stations to vote. This occurred in the afternoon, when most registered voters had

already voted. For example, at Mtoni School, security personnel were dropped off by trucks and were permitted to vote after a cursory check of their identification and the PVR, even though their thumbs contained indelible ink indicating they had already voted.

The use of force

While police officials worked well with election officials to assist with the administration of the elections at the polling centers in most places observed by the delegation, the delegation was concerned about instances of violence. Some delegation members witnessed security forces using excessive force to control the process. At Haile Selassie School and Kiwanja cha Madawa in Mji Mkongwe constituency, security personnel fired water cannons to disperse a crowd. At Mtoni School in Mtoni constituency, security personnel dragged individuals out of the surrounding homes that had allegedly blocked road access to the polling center. The delegation observed violent actions by security forces against these individuals. Tear gas was used to disperse those blocking the road. The source of the disturbances appeared to originate with citizens' concern that outsiders were voting illegally.

IV. THE DELEGATION AND ITS WORK

NDI is an independent, non-governmental organization that has conducted more than 100 impartial pre-election, election-day and post-election observations around the world. NDI recognizes that elections cannot be separated from the broader political process of which they are a part. The Institute's methodology for assessing elections is based on the premise that all aspects of the election process must be considered to accurately understand the nature of an election. Considerable weight must be given to the pre-election periods, as well as to the resolution of the complaints and disputes following elections.

The delegation arrived in Tanzania on October 24th and held meetings in Dar es Salaam and Stone Town with representatives of presidential candidates and political parties; the National Election Commission (NEC) and the Zanzibar Election Commission (ZEC); representatives of the media; civic leaders; domestic election observers including TEMCO and REDET; heads of international election observation missions including the African Union (AU), the Southern Africa Development Community (SADC); the SADC Parliamentary Forum; the Electoral Institute of Southern Africa (EISA); the Electoral Commission's Forum of Southern Africa; the Commonwealth Observer Group; the international election observer mission organized by the UNDP; and other representatives of the international community who are concerned with supporting a democratic election process.

Delegates divided into teams and were deployed to all six administrative districts in Unguja and all four districts in Pemba for meetings with government, electoral, political and civic leaders in their respective localities. On election day, the teams observed the voting, counting and tabulation processes in over 400 polling stations. Delegates reconvened in Stone Town to debrief and develop this statement. The delegation expresses its gratitude to all whom it met.