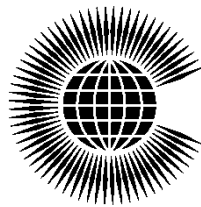


Report of the Commonwealth Observer Group

TANZANIA GENERAL ELECTIONS

31 October 2010



COMMONWEALTH SECRETARIAT

Letter of Transmittal

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Chapter 1

Introduction

At the invitation of the National Electoral Commission (NEC) of Tanzania the Commonwealth Secretary-General, Mr Kamalesh Sharma, constituted an Observer Group for the 31 October General Elections. In line with usual practice, the Secretary-General sent an Assessment Mission to Tanzania to assess the prevailing situation as well as the pre-electoral environment, prior to his final decision on whether to constitute a Commonwealth Observer Group. The Assessment Mission was in the country from 13-19 September 2010.

The Commonwealth Observer Group for the 31 October General Elections was led by The Rt Hon Paul East QC, who is a former Attorney General of New Zealand, and comprised fifteen eminent persons. The Observer Group was supported by a six-person staff team from the Commonwealth Secretariat. A full list of members is at Annex 1.

Terms of Reference

"The Group is established by the Commonwealth Secretary-General at the request of the National Electoral Commission of Tanzania. It is to observe relevant aspects of the organisation and conduct of the General Elections which are scheduled to take place on 31 October 2010, in accordance with the laws of Tanzania.

The Group is to consider the various factors impinging on the credibility of the electoral process as a whole. It will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which Tanzania has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.

The Group is to act impartially and independently and shall conduct itself according to the standards expressed in the International Declaration of Principles to which the Commonwealth is a signatory. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. In its Final Report, the Group is also free to propose to the authorities concerned recommendations for change on institutional, procedural and other matters as would assist the holding of future elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Tanzania, the National Electoral Commission of Tanzania, the Zanzibar Electoral Commission, political and civil society organizations and thereafter to all Commonwealth Governments."

Activities

The Observer Group was present in Tanzania from 24 October. During four days of briefings, the Group met with the National Electoral Commission, political party representatives, civil society groups, women's groups, youth representatives, media,

Commonwealth High Commissioners, national and international observer missions. In addition, the teams deployed to Zanzibar met with the Zanzibar Electoral Commission and political parties there.

The Observer Group was deployed on 28 and 29 October. The Group's deployment plan is at Annex 2. Three teams covered Dar es Salaam and others travelled to Mtwara, Dodoma, Bukoba, Mwanza and Arusha on the mainland. In addition, teams also covered Unguja and Pemba islands in Zanzibar. All teams co-ordinated with other observers, building up a comprehensive picture of the conduct of the process in their respective areas.

On 25 October, the Group issued an arrival statement outlining its terms of reference (Annex 3). Subsequently, on the basis of the Group's initial findings and observations, the Chairperson issued an Interim Statement on 2 November (Annex 4). The Group's Report was completed in Dar es Salaam prior to departure and transmitted to the Commonwealth Secretary-General on 6 November 2010.

Chapter 2

Political Background

Background

The modern Tanzanian state is formed from the former colony of Tanganyika, on the mainland, and the former Protectorate of Zanzibar. Tanganyika was first a German colony, then a League of Nations mandated territory under British administration and later a UN trust territory, remaining under British control.

In 1954, Julius Nyerere founded the Tanganyika African National Union (TANU), which became the focus of African nationalism, eventually leading Tanganyika to independence in December 1961.

In 1956 the United Tanganyika Party (UTP) was formed by some unofficial members of the then Legislative Council. It drew its support from Europeans, Asians and Africans. It stood for multiracialism, equal representation in the Legislative Council for all racial groups and a qualified franchise based on property and education. In 1958, the African National Congress (ANC), a breakaway from TANU, was formed. The All Muslim National Union of Tanganyika (AMNUT) was the fourth party to be established in Tanganyika.

Tanganyika became independent on 9 December 1961 (from British-administered UN trusteeship), and became a Republic in December 1962 with Mr Nyerere as the first President.

Between 1962 and 1963, three more political parties were formed in Tanganyika. These were the People's Convention Party (PCP), the African Independence Movement (AIM) and the People's Democratic Party (PDP).

An early African/Arab/Persian trading centre, with commercial links stretching as far as South-East Asia, Zanzibar fell under Portuguese control in the 16th and early 17th centuries. By the end of the 17th century the Portuguese had been supplanted by Arabs from Oman. However, within 100 years they concluded an alliance with Britain. Zanzibar declared its independence from Oman in 1856 and following the Anglo-German agreement of 1890, the British Government established a formal Protectorate over both Unguja and Pemba. Britain continued to rule Zanzibar through a Sultan, until 1963.

Elections in 1957 had been preceded by the formation of several political parties, notably the Zanzibar Nationalist Party (ZNP) and the Afro-Shirazi Union, which by the time of the poll had become the Afro-Shirazi Party (ASP). The former created in 1955 from a merger of the Nationalist Party of the Subjects of the Sultan of Zanzibar and the Arab Association, was broadly identified with the Arab population while the latter, formed by a union of the African Association (AA) and the Shirazi Association (SA) was identified with the African population. The ASP won the 1957 elections. Further Legislative Council elections were held in January 1961, producing no clear result, and again in 1961, which were won by the ZNP, in alliance with the Zanzibar and Pemba People's Party. In June 1963 Zanzibar won internal self-government and on 10 December 1963 it became an independent sultanate. A fourth party, the Umma Party, was formed by a breakaway group from the ZNP after independence.

Post-Independence Politics

The largely Arab ZNP government of the new sultanate did not last long: it was overthrown in a bloody armed uprising one month later, in January 1964, triggered by African anger that the ASP had actually secured more votes (but had lost because of the distribution of seats), resentment at what was seen as 'Arab rule' and allegations regarding the role of the former British colonial government. The Constitution was annulled. The Sultan (whose family had governed Zanzibar since the eighteenth century) was expelled and many of Zanzibar's Arab population fled the country. Zanzibar was proclaimed a People's Republic.

The leader of the ASP, Sheikh Amani Abeid Karume was installed as President at the head of the Revolutionary Government of Zanzibar. The new government subsequently banned all parties except the ASP and established close links with Cuba, China, East Germany, Bulgaria and the Soviet Union.

Formation of the United Republic of Tanzania

Tanganyika united with Zanzibar on 26 April 1964 to form the United Republic of Tanganyika and Zanzibar with Julius Nyerere as President and Sheikh Karume as Vice President. This was renamed United Republic of Tanzania on 29 October 1964. In 1965 the Constitution was amended to establish a one-party system.

In February 1977, the two ruling parties (TANU and the ASP) merged to form the Chama Cha Mapinduzi (CCM), or "Movement for the Revolution". All other parties remained proscribed and the distinction between the CCM and the state effectively disappeared.

Mr Nyerere remained President until 1985. He was a pioneer of the African one-party state, a leader of the Non-aligned Movement, a staunch supporter of liberation struggles in Southern Africa against minority rule, and a strong advocate of African socialism. After stepping down he remained an influential figure as Chairman of the CCM. His successor, Ali Hassan Mwinyi, started a gradual process of economic liberalization and democratic reform. A constitutional two-term Presidency rule has been upheld since 1985.

Restoration of Multi-Party Politics

In 1991 President Mwinyi appointed a Commission under the Chairmanship of the late Chief Justice of Tanzania, the Honourable Francis L. Nyalali. The task of that Commission was to collect public opinion as to whether or not to continue with the one-party system.

Following the recommendations by the Nyalali Commission, Article 3 of the Constitution of the United Republic of Tanzania, 1977, and that of Zanzibar were amended in 1992 to make Tanzania a multi-party state, although parties founded on religion, ethnicity, race, colour or gender were still not allowed.

The 1995 Elections

The ruling CCM maintained its dominant position on the mainland. President Benjamin Mkapa was elected with 62% of the vote in Tanzania's first multi party elections in 1995. CCM also won a substantial majority in the parliamentary elections.

The first multi-party elections for the Zanzibar Presidency and the House of Representatives were held in October 1995, a week before the Union elections. They proved to be a straight contest between CCM, led by Dr Salmin Amour, and the newly formed Civic United Front (CUF), led by Seif Shariff Hamad.

In the presidential election the Zanzibar Electoral Commission announced that the CCM candidate had won by a margin of 0.4 per cent (50.2 per cent against 49.8 per cent for the CUF candidate), while CCM won 26 seats in the Zanzibar House of Representatives to CUF's 24.

The Commonwealth Observer Group present said that the elections had been peaceful and that the election day procedures had been followed, but it noted delays in the count and tallying. The results were not announced until four full days after the poll which, together with the closeness of the poll, led to suspicions and allegations of fraud. The CUF claimed the result had been rigged, rejected the outcome and decided to boycott the House of Representatives, leading to a political impasse in Zanzibar. Subsequently, substantial amounts of Western development aid to Zanzibar were suspended.

Commonwealth Initiative

The then Commonwealth Secretary-General, Chief Emeka Anyaoku decided to intervene personally by travelling to Zanzibar for talks with the two main parties in Zanzibar, the CCM and CUF. He appointed a Special Envoy, Dr Moses Anafu, to continue this work and, with the financial support of several donor countries, the Special Envoy was able to negotiate a formal mechanism for inter-party consultation and negotiation, known as the Inter-Party Committee, composed of seven members from each party. This Committee's mandate was to draft an Agreed Memorandum to provide for reform, which in turn would facilitate the resumption of normal political activity in Zanzibar.

The Agreed Memorandum, also referred to as Muafaka (Swahili for Accord), was signed in Zanzibar in June 1999. It provided for two new CUF deputies to the House of Representatives, the creation of a new Electoral Commission "to ensure that all future elections are transparent, credible and free of controversy in all important aspects", compilation of a credible voters register, equal access to publicly owned media and balanced coverage of political activities. It also provided for guaranteed freedom for all political parties to propagate and canvass support for their views, a review of the Constitution and electoral legislation, reform of the Judiciary and various other reconciliation and reconstruction measures.

In return, CUF agreed to end its boycott of the House of Representatives and to recognize the legitimacy of the CCM's tenure. The arrangements for the implementation of the Agreed Memorandum were agreed by the Inter-Party Committee in September 1999, but implementation did not proceed as envisaged. By the time of the 2000 Elections, the reform initiative had effectively collapsed.

The 2000 Elections

The 29 October 2000 Elections were the second multi-party elections in Tanzania since independence. They were for the Presidency and National Assembly of the United Republic of Tanzania and, in Zanzibar, the Presidency and House of Representatives. In the Union elections, the ruling CCM once again maintained its dominance, with President Mkapa being re-elected with 71.7% of the vote and the CCM retaining a substantial majority in Parliament.

The Zanzibar elections fell far short of minimum standards. In many places polling stations opened very late and there were serious delays in the delivery of materials; some polling stations did not open at all. ZEC eventually annulled the elections in 16 of the 50 constituencies – home to 42% of the eligible electorate – and in the remaining 34 the voting or counting was suspended, and resumed on 5 November when the elections in the 16 constituencies were re-run.

The 12-person Commonwealth Observer Group recorded that “in many places this election was a shambles” due to “either massive incompetence or a deliberate attempt to wreck at least part of this election” and that “the outcome represents a colossal contempt for ordinary Zanzibar people and their aspirations for democracy”. It went on to say that “only a properly conducted and fresh poll, throughout Zanzibar, undertaken by a commission reformed in line with international good practice, with its independence guaranteed in both law and practice and a restructured and professional secretariat, can create confidence in and give credibility to Zanzibar’s democracy”. It added that “in this context, the need to review relevant constitutional and legislative provisions, as well as electoral arrangements, should be addressed”. Other Observer Groups made similar statements and none observed the re-run elections.

Rather than helping to move the political process on, the elections deepened the political impasse between CCM and CUF. CUF which refused to contest the re-run and to recognize the results, called for fresh elections under an interim government and refused to take up its seats in constituencies it had won on 29 October. The CUF also refused to recognize the new President of Zanzibar, Amani Abeid Karume. At the end of January 2001, some 30 demonstrators were killed by the security forces during an opposition demonstration on Pemba island.

The Muafaka II

Reconciliation talks between the CCM and CUF culminated in the signing of the Muafaka II between CCM and CUF on 10 October 2001. The Commonwealth was accorded the role of moral guarantor. The key points of Muafaka II were as follows:

- the parties reaffirmed the provisions of the June 1999 CCM-CUF Agreement, and committed themselves to the implementation of its provisions;
- they agreed to the formation of an independent Joint Presidential Supervisory Commission (JPSC) comprised of equal numbers of members from both parties and appointed by the President;

- the JPSC's function would be to supervise the implementation of the Accord and promote mutual trust and understanding between the two parties; funding for the Commission would be from a Special Presidential Fund set up for that purpose;
- by-elections for the vacant seats in the Union Parliament and the Zanzibar House of Representatives would be held "upon completion of the implementation of the Accord";
- the parties to the Accord agreed on the role and impartiality of state bodies during elections, the retraining of the armed forces on their duties in a multi-party system, the holding of a review into procedures for recruitment to state bodies (to eliminate political or other favouritism) and the prohibition of *shehas* (state appointed community officials) from any role in the recruitment of public officials, and civic education to promote the citizen's right of redress against state officials;
- the establishment of an independent Commission of Inquiry into the events of 26-27 January 2001, together with withdrawal of charges against those charged in connection with incidents during that period;
- the formation of an Inter-Party Consultative Committee to enable regular consultation and the achievement of consensus on major issues among leaders of all political parties in Zanzibar.

Pemba By-Elections, Zanzibar 2003

A three-person Commonwealth Expert Team supported by two Secretariat staff was constituted to observe the Pemba by-elections, Zanzibar, on 18 May 2003. The Team concluded that the elections should be considered a credible expression of the will and intention of the people of Pemba. The Team commended the Zanzibar Electoral Commission for its efforts in ensuring that the arrangements for the elections went smoothly. The Team was concerned about spoiled ballots in some constituencies where favoured candidates had been barred, and expressed the hope that in future elections, the people would have a full choice of candidates. Six CUF candidates were prevented from standing as a result of legal action brought by a small opposition party on the grounds that the CUF candidates were not eligible to stand because they had previously been expelled from the House of Representatives as a result of their boycott.

2005 Elections

From late 2004 onwards, political party activity increased markedly as parties prepared for the creation of a permanent voter's register and the 2005 elections. During this period, relations between the ruling CCM and the opposition CUF in Zanzibar deteriorated and formal channels of communication were suspended. The Commonwealth and other members of the international community were able to successfully encourage a resumption of formal dialogue between the Secretaries-General of CCM and CUF in Zanzibar. In addition, a wider Inter-party Consultative Committee, chaired by the then Secretary-General of CCM, Mr Philip Mangula, involving the leadership of all political parties, was created.

One important issue particularly in Zanzibar in the run-up to the 2005 elections was the debate on the nature of the Union, with the CCM adhering to the established policy of two

governments while CUF advocated three governments – independent governments in Zanzibar and mainland and a Federal Government including representation of both. In the debate concerning the nature of the Union, CCM alleged that the position of CUF would lead to the break-up of the Union. The CUF denied this, arguing that the CCM wanted to end Zanzibar’s autonomy.

A second major issue revolved around proposals for the formation of a Government of National Unity after the election. The CUF pledged to implement this if it won the election, while the CCM only agreed to consider it. In their manifestos, the major parties also attempted to engage in debate on other concrete issues such as economic development, health, education and jobs.

In the 2005 Zanzibar Election, President Amani Abeid Karume of the CCM won the election with 53.2% of the vote, while his main challenger, Seif Sharif Hamad of CUF obtained 46.1% of the votes. In elections for the House of Representatives the ruling CCM won 30 seats while the CUF won 19 seats.

A Commonwealth Observer Group was present for the 2005 elections. The Group was originally sent to observe the elections for the President of the United Republic of Tanzania, the National Assembly of the United Republic of Tanzania and the local council elections on the mainland as well as the elections for the President of Zanzibar, the Zanzibar House of Representatives and the local councils in Zanzibar. The first three of these elections were postponed, to 14 December 2005, following the death of one of the Vice-Presidential candidates on 27 October 2005, so the Group observed the last three only – the elections in Zanzibar.

Once again, there were significant shortcomings in the conduct of the elections casting serious doubts on the reliability and legitimacy of the results. The Group concluded that “the voting and the counting of the votes on 30 October took place in conditions which were such as to enable the electors to freely express their will. However, we found that the Zanzibar media was biased towards the ruling party and the collation process was not sufficiently transparent or robust. You will see that we call on the Zanzibar Electoral Commission to publish the results sheet from the count at each polling station, in order to remove suspicion”.

Once again, the CUF claimed vote rigging and refused to recognise the election of the CCM presidential candidate, Amani Abeid Karume. They also announced an indefinite boycott of the Zanzibar House of Representatives.

In Union presidential elections held on 14 December 2005, President Jakaya Kikwete won with 80.28% of the vote, with Prof Ibrahim Lipumba coming second with 11.68% and Freeman Mbove of CHADEMA coming third with 5.88% of the vote. Seven other candidates shared the rest of the vote.

In National Assembly elections held on the same day for a total of 232 contested seats, the ruling CCM gained 206 seats, CUF 19 seats, CHADEMA 5 seats, while the Tanzania Labour Party and the United Democratic Party each won one seat.

Other Political Developments

On 7 February 2008, President Kikwete dissolved his Cabinet following a corruption scandal which forced the then Prime Minister, Edward Lowassa, Energy Minerals Minister Nazir Karamagi and Ibrahim Msabaha – then East African Community Minister (and former Energy Minister) to resign. A parliamentary committee set up to investigate an energy deal revealed that the government was losing more than \$100,000 a day to the US-based electricity company that was awarded the contract. The parliamentary committee recommended that those implicated in the scandal be prosecuted.

In early October 2010 the Chief of Staff of the Tanzanian People's Defence Forces, Lt Gen Abdulrahman Shimbo issued a statement cautioning the Tanzanian people that the armed forces and security organs of the country were well prepared to contain any instances of violence during the forthcoming elections. The statement also reportedly alleged that the security organs had received intelligence indicating that some elements in political parties were preparing for violence and urged political parties to accept the results of the elections. On 4 October, Prof Mwesiga Baregu, Chair of the Chadema 2010 presidential campaign team wrote to diplomatic missions and presidential candidates expressing concern that such a statement had been issued by the Chief of the Defence Forces and that the army was unconstitutionally usurping the role of the police, was intimidating voters, and should remain outside political debates.

Zanzibar Maridhiano

In November 2009 the CUF ended its boycott of the Zanzibar's House of Representatives ahead of the 2010 elections, following talks, over 14 months between 2007 and 2008, with the ruling CCM party. A new power sharing agreement in Zanzibar, known locally as the Maridhiano, was reached. Formal agreement was delayed for two years over disagreement on some key issues, including the procedure of its implementation. The Maridhiano does away with the 'winner takes all' system of government and provides for a formal Government of National Unity. The Referendum Act No.6 of 2010 was enacted by the House of Representatives and assented to by the President on 30 April 2010. The referendum question put to Zanzibaris on 31 July 2010 was "if they agree or disagree with the establishment of the Government of National Unity after the 2010 General Elections". It was approved by 66.4% of the electorate. The Zanzibar Constitution was amended on 10 August 2010 to accommodate this new dispensation.

Chapter 3

The Electoral Framework and Election Administration

Article 3 of the Constitution defines the United Republic of Tanzania as a democratic, secular and socialist state which adheres to multi-party democracy. The same principle applies to the Revolutionary Government of Zanzibar, which is an integral part of the Republic. Zanzibar has a semi-autonomous status, with its own Constitution. A dual principle of power is in place - for mainland Tanzania and for Zanzibar, consisting of Unguja, Pemba and some smaller islands - with parallel sets of institutions each vested with legislative, executive and judicial powers¹.

The President of Tanzania and the members of the National Assembly are elected for a five-year term, through the First-Past-The-Post (FPTP) system. The Presidential office is limited to a maximum of two terms. For the purpose of the National Assembly the country is divided into 239 single-member constituencies, of which 189 are on the mainland and 50 are in Zanzibar. The country is also divided into a series of wards for the purposes of local elections, with each ward electing a representative for local councils.

In addition, there are 102 reserved seats for women, with seats allocated to political parties on a proportional basis depending upon their share of the vote.

The President of Zanzibar and the Zanzibar House of Representatives are also elected through a FPTP system for a five-year term of office and, as for the Union, the President is limited to a maximum of two terms. There are 50 single-member constituencies for the Zanzibar House of Representatives. In addition, the Zanzibar Constitution provides for reserved seats for women, allocated to political parties on a proportional basis to ensure that 30% of the total membership of the House of Representatives must be women.

For the October 2010 elections, on the mainland, voting was for the President of the Union, National Assembly and local councils. On Zanzibar, there were five polls: President of Zanzibar, House of Representatives, President of the Union, National Assembly and local councils.

¹ Article 4 of the Constitution states: "All state authority in the United Republic shall be exercised and controlled by two organs vested with executive powers, two organs vested with judicial powers and two organs vested with legislative and supervisory powers over the conduct of public affairs. The organs vested with executive powers shall be the Government of the United Republic and the Revolutionary Government of Zanzibar; the organs vested with judicial powers shall be the Judiciary of the United Republic and the Judiciary of the Revolutionary government of Zanzibar; and the organs vested with legislative and supervisory powers over public affairs shall be the Parliament of the United Republic and the House of Representatives."

International Commitments and Legal Framework for the Elections

Tanzania has signed a series of international and regional commitments relating to the conduct of elections in the country. These include:

- International Covenant on Civil and Political Rights
- Convention on the Elimination of Discrimination Against Women
- International Convention on the Elimination of Racial Discrimination
- African Charter on Human and People's Rights
- SADC Principles and Guidelines Governing Democratic Elections
- Commonwealth Harare Declaration

Basic rights and freedoms relating to the conduct of democratic elections are generally provided for. In terms of national legislation, the key legal instruments for the conduct of elections are:

- The Constitution of the United Republic of Tanzania 1977 (as amended)
- Elections Act No 1 1985 (as amended)
- The Elections (Presidential and Parliamentary) Regulations 2010
- Local Government (Urban Authorities Act) 1982
- Local Government (District Authorities) Act 1982
- Election Expenses Act 2010
- Newspaper Act 1976

For Zanzibar, the key instruments are:

- The Constitution of Zanzibar 1984
- Election Act 1984
- Zanzibar Municipal Council Act 1995
- District and Town Councils Act 1995

In addition, both NEC and ZEC have a developed series of 'Codes of Conduct', relating to the election campaign and coverage by public media, including:

- NEC Code of Conduct for the Presidential, Parliamentary and Councillors' Elections 2010
- NEC Media Code of Conduct 2010
- ZEC Guidelines on the Code of Ethics for Political Parties Participating in the 2010 General Elections
- Media Code of Conduct for Election Reporting in Zanzibar 2010

National Electoral Commission and Zanzibar Electoral Commission

Article 74 of the Constitution of the United Republic of Tanzania provides for the establishment of the National Electoral Commission (NEC) and provides for its independence from other state structures, though the President of Tanzania has the power to appoint the Chairperson of the Commission and the Vice-Chairperson. NEC comprises

seven members in total, serving a five-year term, renewable indefinitely. The current Chair is Justice (Retd.) Lewis Makame, and he has held the position for some 15 years.

Under the Constitution the President may remove a member of the Electoral Commission from office only for "failing to discharge his functions either due to illness or any other reason or due to misconduct or loss of the qualifications for being a member".

The Chair of NEC must be a Judge of the High Court or the Court of Appeal or a lawyer who qualifies for such a position and has 15 years experience. Among the other members, there is to be one appointed from among the members of the Tanganyika Law Society and four others possessing relevant experience in the conduct of elections or for the duties of the Commission.

The NEC is responsible, among other things, for the supervision and coordination of voter registration; the delimitation of constituencies; the supervision and coordination of elections; and, to declare elected Members of Parliament and councillors for women's special seats. NEC is also responsible for voter education throughout the country and for declaring the final results for the Union presidential election.

The NEC is responsible for Union presidential, parliamentary elections, as well as local elections, throughout the Union. Zanzibar has its own Electoral Commission (ZEC), responsible for Zanzibar presidential, legislature and local elections only, and the Constitution requires that the two bodies consult with one another.

A Director of Elections of the NEC is appointed by the President on the recommendation of the commission, and heads the Secretariat. The Director is the chief operating executive of the Commission. The current Director of Elections is Mr. Rajabu Kiravu, who also served in this position for the 2005 polls.

The ZEC has seven members who are appointed by the President of Zanzibar. However, it differs from the NEC in that two members are appointed on recommendation of the leader of government and two on recommendation of the opposition leader in the House of Representatives. Thus, in effect, four of the seven are political party appointees, with two nominated by the ruling CCM and two by the main opposition party CUF. There is also a Director of Elections of ZEC, who at present is Mr Kassim Ali, and ZEC's general functions reflect those of NEC except that it is responsible for elections to Zanzibar institutions only.

Another key difference is that ZEC directly recruits its staff and officials, whereas NEC uses government officers as election officers. This means that while both institutions may use government officers to varying degrees, ZEC enjoys a higher level of authority over its officials as it has directly recruited them.

For the October 2010 general elections, a total of eight Election Committees were established by NEC, to provide for co-ordination between the election management bodies and political parties. These included a Code of Conduct Committee to consider complaints and also a Campaign Scheduling Committee to set the timetable for campaign events.

Voter Eligibility and Voter Registration

To be eligible as a voter a person must be a citizen of Tanzania and be at least 18 years of age. A person can only be registered in one polling district.

Following the 2005 elections Tanzania, with support of UNDP and its Elections Support Programme, initiated a new system for voter registration. This led to the creation of a Permanent National Voter Register in order to capture new voters and two updates took place between the 2005 elections and the 2010 elections. In addition, the newly created database enabled the checking for double entries and other such anomalies. The new systems were established separately by both NEC and ZEC for their respective elections.

Following the various updates and cleaning of the registers, the final figures for the respective elections were: 20,137,303 voters on the list for the Union elections and 407,658 voters in Zanzibar, qualified to vote in the Zanzibar elections. The new registers include a photo of the voter and the voter is also issued with a voter card containing a photo. These figures compare with some 507,000 on the register in Zanzibar in 2005 and 15.9 million for the Union elections.

There were some 44,400 other persons on Zanzibar who qualified as a voter for the Union elections but did not fulfil the residency criteria to qualify for the Zanzibar elections. Further discussion of the issues of voter identification and qualification are discussed below.

Candidate Eligibility and Nomination

Union Elections

For presidential elections, political parties must submit two names, one as presidential candidate and one as vice-presidential candidate. If a presidential candidate comes from one part of the United Republic then the running mate must come from the other part.

In order to be eligible as a presidential candidate a person must be, among other things:

- A citizen of the United Republic of Tanzania
- At least 40 years of age
- Proposed by a registered political party

Other criteria include the signed support of at least 200 registered voters from at least 10 regions, out of which at least two are in Zanzibar. In addition, there is a financial deposit of one million Tanzania Shillings (TS 1 million).

For the parliamentary elections, candidates must also be a citizen; be at least 21 years of age; be proposed by a registered political party; submit signatures of 25 registered voters from that Constituency; and, pay a deposit of TS 50,000.

During the nomination process for the Union presidency, NEC rejected two nominees for not meeting eligibility criteria, leaving a total of seven competing candidates. None of the presidential candidates were women. For the parliamentary elections there were 1,036 candidates in total. The ruling CCM was unopposed in 20 Constituencies. NEC informed the Observer Group that less than 200 of the parliamentary candidates were women.

A number of nominated parliamentary candidates were rejected by Returning Officers on the basis of ineligibility. However, NEC did overturn a small number of these upon appeal.

Zanzibar Elections

For the Zanzibar presidency, candidates are also submitted on a joint ticket and, again, must also be proposed by a registered political party. The nomination must be supported by the signed support of 200 voters registered for the Zanzibar elections, from each of the five regions in Zanzibar. Candidates must be at least 40 years of age.

For the Zanzibar House of Representatives a candidate requires support of 25 registered voters from the Constituency and must be at least 21 years of age.

In total there were seven registered presidential candidates and 142 for the House of Representatives.

Complaints and Appeals

Objections and complaints regarding voter registration are submitted to the registration officer in the first instance, and this decision can be appealed at the relevant District Court.

Objections and complaints regarding candidate nomination are submitted to the relevant Returning Officer, and decisions can be appealed to NEC. Decisions of NEC cannot be appealed against.

There is a Registrar of Political Parties, appointed under the Political Parties Act and who is part of the government under the Ministry of Justice. The Registrar is responsible for supervision and administration of election expenses under the Election Expenses Act. In case of the Registrar finding an irregularity in this regard, he/she must inform the Director of Elections².

During the campaign, Electoral Code of Conduct Committees are established. These comprise a Ward Committee, Constituency Committee and National Committee, as well as an Appeal Committee. These Committees can hear and rule on complaints of violations of the Code of Conduct. Appeals against decisions are heard at the next level. For instance, complaints to the Ward level can be appealed at the Constituency level.

Key Issues

1. Appointment of the National Electoral Commission

According to Article 74 of the Constitution the Electoral Commission of the United Republic shall be appointed by the President. Further, the Director of Elections is also appointed by the President on recommendation of the Commission.

There is no requirement for such an appointment to be supported by a decision of Parliament and no requirement for the President to seek input from parliament with regard to potential appointees. Such a provision does not reflect good practice because it does not adequately provide for consultation and political confidence in a vital body which needs to

² There is also a Prevention of Crime and Corruption Board, which may also receive complaints or investigate matters which can impact on a candidate's eligibility

be impartial and inclusive. Further, the ability to continually renew a Commissioner's mandate can impact on the independence of the body.

This concern is compounded by the fact that on the mainland election officials are drawn from among government officials. Further, the Regional Election Coordinator, appointed by NEC, is marginalised and lacks authority vis-a-vis the Returning Officers.

2. Voter Registration

The respective requirements for registering as a voter on the mainland and in Zanzibar are quite different, and both raise concerns in different ways.

The procedures to register for the Union elections, via NEC, are fairly lax. Since there is no national ID card and no reliable national civil register, the process may be open to abuse. For instance, the Observer Group was told that some non-Tanzanians may have registered in order to secure a Voter ID, which is also useful for proving one's identity for undertaking many of the transactions needed for daily life.

On Zanzibar, conversely, the requirements are overly stringent. In order to qualify to register to vote a person must have permanent residency for a period of 36 months in a given constituency, thereby excluding Zanzibaris who may have been residing abroad during that period.

Further, on Zanzibar, voters had to produce an ID card in order to prove identity, which required a formal application procedure and payment of costs equivalent to some US\$20. In cases where documentation was required then a person would need to get assistance from a *Sheha* (a local government leader) whose powers in this regard, though circumscribed by the Constitutional amendments governing the 2010 elections, remain controversial.

Reflecting these quite different procedures, Observers are advised that NEC acknowledged that the total number of voters on the register for the Union elections was probably too high, representing a capture rate of 96% of persons 18 or older according to figures provided by the National Bureau of Statistics.

Conversely, the number of voters on Zanzibar had decreased by 20% compared to the 2005 election. This decrease follows a cleaning of the register. However, it likely also reflects the more stringent procedures, because in addition to the requirement for proof of residency and payment of procedural costs for the ID, there is also the discretionary authority of the *Shehas*, which may deter or prevent some persons from presenting themselves.

Overall, while the voter registration is improved from the 2005 elections, it remains an on-going process to develop even cleaner and more reliable register, including a more efficient process of identification and registration. There were also concerns regarding management of the production and distribution of registers and these are discussed in Chapter 5.

3. Election Expenses Act and Code of Conduct

The Election Expenses Act (June 2010) and the NEC Code of Conduct (August 2010) were both positive additions to the electoral framework. There is still work to be done on ensuring

full compliance and implementation, but they constitute a good contribution to the strengthening of the democratic process.

The Election Expenses Act, provides for the disclosure of campaign funds and declaration of campaign expenses. It also lists a series of prohibited practices, including providing inducements, illicit funding and voter conveyancing.

The late introduction of the law may have meant parties and candidates were not fully conversant with it and the responsible organs not able to fully implement all levels of scrutiny and accountability. However, such an Act is a positive feature as it potentially increases the level of transparency and accountability of the political campaign and overall good governance.

The Code of Conduct relates to the actions of political parties, candidates, the government and the NEC. As such it addresses issues including the conduct of the campaign, role of government employees and their need to refrain from political activity, and responsibilities of electoral officials with regard to impartiality.

Ethics Committees were established at the national, constituency and ward levels to deal with issues raised and complaints. These Committees did not hear a large number of cases. Those that were brought before them related to violation of campaign rules, disruption of campaign events, use of abusive language during campaign speeches, tearing down posters, and campaigning after hours. The use of such a mechanism can create a constructive and collaborative working relationship between election management and political parties and is a good electoral practice. If utilised fully, such a mechanism can help as an effective conflict prevention and conflict resolution tool.

4. Provision of Election Disputes Adjudication

With regard to the presidential poll, the courts have no jurisdiction to handle election-related disputes that may arise from the conduct of the election. This effectively prohibits presidential candidates from challenging results as announced by NEC. By excluding the possibility of judicial review, the fundamental rights of candidates and those of the electorate to hold NEC accountable for the conduct of presidential elections are curtailed.

For parliamentary elections, section 108 of the National Election Act 2010 makes provision for petition to the High Court. However, this appears to be inadequate in dealing with election irregularities. There is therefore need to strengthen this provision with a view to making it more explicit and applicable to handling election irregularities that may occur. While the current provision in section 108(b) refers to "non-compliance with the Act's provisions relating to the election, if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election" it does not make clear reference to holding NEC accountable for its actions, unlike section 108(a) which specifically refers to acts by candidates.

5. Independent Candidates

At present only persons being a member of and being proposed by a political party are able to stand as a candidate for the election. This applies to the presidency and parliament of the Union as well as the presidency and House of Representatives in Zanzibar. Such a restriction unreasonably limits the ability of citizens to participate as candidates in the election.

6. Deadline for Announcing Results

There is no fixed timeframe for the announcement of results by NEC. For these elections this has caused uncertainty, suspicion and tension, as the announcement of results has been extremely drawn out. For instance, the final result for the Union presidency was only announced on 5 November, five days after polling.

7. Delineation of Constituencies on Zanzibar

Under the Zanzibar Constitution of 1984 (Section 120-1), Zanzibar can be divided into Constituencies, which shall have about the same number of residents as estimated by ZEC. But ZEC is not bound by this condition and is allowed a degree of flexibility to reflect various factors such as differences between urban and rural areas, means of communication and administrative boundaries.

ZEC did not undertake any boundary delimitation exercise for these elections, so the last demarcation of Constituencies in Zanzibar was June 2005. During this exercise the number of constituencies in Pemba, which is a CUF stronghold, was decreased from 21 to 18. Concerns were raised to the COG in 2005 by CUF, and were raised again in 2010, that the boundary changes were politically motivated and designed to unfairly decrease CUF's level of representation.

8. Role of the Registrar of Political Parties

The Registrar of Political Parties is responsible for registering political parties and also for supervising and administering the Election Expenses Act. Thus, the Registrar is integral to granting and/or denying participation on behalf of parties and candidates. However, the Registrar is a government official and therefore not an independent office. On this basis there is a potential for an actual, or at least a perception of, a conflict of interest as the Registrar deals with ruling and opposition parties and candidates alike.

Recommendations

- In order to enhance the independence and credibility of NEC, appointment of members should be more consultative and should not be the sole prerogative of the President. The process of appointment should include parliamentary scrutiny, to ensure wider political support. A fixed, non-renewable, tenure for Commission members can also help to enhance independence.

- The use of government officials as NEC election officials needs to be reconsidered. If it is necessary to utilise local government officials for such a purpose, then the terms of their appointment under NEC need to clearly stipulate that they are under NEC's sole authority for the period of their electoral duties.
- Work on improving the voter registers needs to continue. Existing identification requirements on the mainland and Zanzibar should be reviewed to ensure that they are adequate and reasonable for the purposes of facilitating universal suffrage while at the same time providing safeguards against illicit registration.
- It should be possible for a person to stand as an independent candidate and not have to be a member of a political party or be nominated by a political party. Such a provision should relate to all levels of election: local, parliamentary and presidential.
- There needs to be an established timeframe for the announcement of results, which ensures a suitable balance between the need for rigour and the need for transparency and a timely announcement. This will help to diffuse tensions as political parties will know what to expect, and when, and will not lose confidence or resort to rumour and speculation.
- Responsibility for registering political parties and supervising the Election Expenses Act should reside with an independent office or body, possibly the election management body.
- It is good practice to hold elections management bodies answerable for the conduct of elections in order to satisfy the requirements of transparency and accountability. There is therefore the urgent need for the law to be appropriately amended to ensure that election-related disputes for presidential, parliamentary and local council elections are subjected to the jurisdiction of the courts or independent Election Tribunals which may be established for this purpose. Such new legislation should explicitly cover all the aspects of the electoral process including its management.

Chapter 4

Election Campaign and Media

Pre-election Campaign Environment

The election campaign commenced on 20 August 2010 following the nomination of candidates, and ended on 30 October, the day preceding the elections. The following developments significantly influenced the campaign environment:

- The issue of corruption featured high on the campaign agenda. Some of the cases which surfaced included the dismissal of the Central Bank Governor in January 2008 after an international audit found the Central Bank made improper payments to the tune of £60million to local companies. Other cases included, the energy deal scandal in February 2008 which led to the dissolution of President Kikwete's Cabinet, and a 1999 contract between UK defence Contractor BAE Systems and the government of Tanzania under which BAE supplied Tanzania with a military air traffic control system. The BAE case relates to substantial irregular payments to two former senior government officials.
- The selection by the CHADEMA party of Dr Willibrod Slaa as its presidential candidate energised the opposition and the campaign. Notably, Dr Slaa challenged the ruling party in Parliament on the issue of corruption, making a number of allegations and promising to wage a war on corruption in his campaign messages. His campaign and that of CHADEMA generally appeared to attract support from younger Tanzanians.
- The October 2010 statement by the Chief of Staff of the Tanzanian People's Defence Forces which warned politicians against inciting violence, previously highlighted, also influenced the campaign mood. Some opposition parties and other stakeholders were concerned about this development.

Main Campaign Issues

In their campaign manifestos and messages, the three leading political parties, CCM, CHADEMA and CUF, promised to improve the economy, access to education, healthcare and other social services, and also promised to invest in agriculture and the tourism sectors, as well as tackle unemployment.

On 15 September 2010, it was reported that the 2010 Tanzania Media Election Coverage Report for August, conducted by Synovate Tanzania, had indicated that peace, corruption and the economy were the dominant campaign issues, commanding 28%, 21% and 15% of total media coverage respectively. Education commanded 12% of media coverage, agriculture 7%, while healthcare and marginalised groups took 6% each. Other issues covered included tourism 3%, unemployment 1% and human rights 1%. The same report also indicated that the CCM received 59% of total media coverage, followed by Chadema 19%, and CUF 16%. The Sauti ya Umma party received 3% of media coverage, while the NCCR Mageuzi and the Tanzania Labour Party only received 2% of media coverage respectively.

The Candidates and Political Parties

On 19 August 2010, the National Electoral Elections Commission announced that seven candidates would contest the Union presidency. They were, in alphabetical order:

- Fahma Dovutwa of the United People's Democratic Party (UPDP);
- Jakaya Kikwete, the incumbent President running for a second and final term in office on the platform of the ruling Chama Cha Mapinduzi Party (CCM);
- Ibrahim Lipumba of the Civic United Front (CUF), who was contesting the presidency for the fourth time;
- Mutamwega Mugahywa of the Tanzania Labour Party (TLP), who replaced the long-time contestant Augustine Mrema;
- Peter Mziray of the African Progressive Party of Tanzania (APPT);
- Hashim Rungwe of the National Convention for Construction and Reform Party (NCCR); and
- Willibrod Slaa of the Party for Democracy and Progress (Chama Cha Demokrasia na Maendeleo, CHADEMA).

In Zanzibar the ruling CCM leadership chose Dr Ali Mohammed Shein as its Presidential flagbearer. Dr Shein hails from Pemba, the smaller of the two islands which together constitute Zanzibar, and which is totally dominated by the opposition CUF. No native Pemba politician had ever held the presidency in Zanzibar. Thus the selection of Dr Shein as the CCM flagbearer in the Zanzibar presidential election was viewed as a positive sign of commitment to the power-sharing agreement, and also a sign of reconciliation with Pemba. CUF's Zanzibar presidential candidate Seif Sharif Hamad, who was standing for the fourth time, is also a native of Pemba.

Election Campaign

During the election period political parties campaigned in both urban and rural areas around the country and enjoyed freedom of movement, speech and assembly. The campaign was generally peaceful and rallies were conducted in a festive and jubilant manner. Women and youth were highly visible during the campaign but played a vital, but more supportive role during the elections.

CCM, CHADEMA and CUF were the parties with the most visible campaigns. Their presidential candidates participated in orderly and lively televised discussions with members of the public. Observers however noticed the dominance of CCM among these three; CCM posters and campaign materials overwhelmingly eclipsed that of other parties. Observers also found that the incumbent party had significant advantage. The level of logistical and financial resources available to the ruling CCM clearly provided it with a high level of visibility.

On the mainland, however, a clash between political party supporters in Shinyanga Region resulted in the unfortunate death of a party supporter and resulted in localised tensions, including an incident when security forces dispersed a crowd following the cancellation of a rally in Iringa Region.

In Zanzibar, the political atmosphere leading up to the Election Day was much improved from that of previous elections. This has been attributed to the overwhelming endorsement of the July 2010 Referendum which paved the way for the formation of a government of

national unity after the poll. Observers, however, received a complaint that CUF had been denied the opportunity of holding any campaign rally in Donge Constituency.

Complaints

The election regulations provided clear rules and guidelines for the conduct of the campaign. Under the National Elections Act CAP 343, the time for conducting campaign meetings was from 8.00am to 6.00pm. The Electoral Code of Conduct which was in place for the 2010 elections further stipulated that loudspeakers could only be used during the allocated time of 7.00am to 8.00pm.

Both the ruling party and opposition parties made counter allegations to Observers that the other's campaign advanced beyond the stipulated timeframes.

The Electoral Code of Conduct proscribed the use of abusive, defamatory and threatening language which could incite hostility during the campaign period. Again, both CCM and CHADEMA, in particular, made complaints about the use of abusive language against their presidential candidates. NEC reported it had received some complaints about campaigning after the allowable hours and use of inflammatory language.

More significantly, the Electoral Code of Conduct in its introductory page highlights the importance of a level playing field to the creation of competitive politics. The Code outlines a number of key responsibilities for the Government which include providing security for campaign activities of all political parties, and equal access to public-owned media for all political parties which have fielded presidential candidates to publicise their policies. The Code also proscribes ministers from using state resources to fund their election-related activities. Observers received complaints about the use of state resources including government vehicles.

The Electoral Code of Conduct Committee

The Electoral Code of Conduct Committee which is established by the Electoral Code of Conduct, is tasked with the implementation and supervision of the Code of Conduct, and for handling all complaints relating to the contravention of the rules, responsibilities and guidelines thereunder. A complaint can be lodged at the ward, constituency or national level branches of the Committee, within forty-eight hours from the occurrence of an event that caused the complaint. Complainants may also seek further redress from an Appeals Committee.

Observers were informed by both ruling and opposition parties that they had lodged separate complaints with the Electoral Code of Conduct Committee. However, some opposition parties complained that they were not completely satisfied with the manner in which their complaints against the ruling party's alleged contraventions, in particular allegations of campaigning beyond the allowable hours, had been addressed. In some instances, however, and especially at the constituency level, Observers found that some opposition party officials were unable to provide concrete facts and examples of some of these alleged contraventions of the Code.

The Electoral Code of Conduct, and the Electoral Code of Conduct Committee which is empowered to take specific measures against offending political parties including suspending the election campaign of offenders, is a positive and useful tool which must be further strengthened in future elections to ensure a level playing field.

Campaign Financing

Under the Elections Expenses Act, political parties are required to disclose the funds available to them for use as election expenses and to fund their candidates. Political parties are further required to disclose any donations they receive from individuals or organisations towards their campaigns. There is a limit on election expenditure which is based on the following factors: The size of the electoral constituency; categories of candidates; population size; and communication infrastructure. Although it is an offence to exceed this ceiling, the law gives political parties some flexibility by providing that in the event that funds spent are in excess of the prescribed limit, an explanation must be given to the Registrar of Political Parties.

Media Coverage

The importance of the media to the democratic election process in Tanzania is underlined by the fact that the state broadcaster must adhere to special requirements under the National Elections Act and that the rest of the media agree a Code of Conduct when an election is called.

Tanzania has over 50 newspaper titles, 60 radio stations, including community stations, and 25 television stations according to the Tanzania Media Institute of Southern Africa, MISA. The predominant language of media communication is in Kiswahili with a few English language newspapers and broadcast stations.

Newspaper readership is, however, low and confined for the most part to urban areas, especially Dar es Salaam. Only 5 per cent of Tanzanians have access to television, according to MISA. Radio is therefore the most important means of information with over half the population owning radios. Broadcast media are a mix of state owned, public service and private stations.

We were constrained by largely having to restrict ourselves to viewing or reading the English language media, though we also had access to some Kiswahili media. Our views on media performance were therefore also based on briefings from representatives of political parties, civil society, electoral officials, media professionals as well as reports of media monitoring conducted by private companies.

There was a general feeling that the media conducted itself with a reasonable degree of professionalism, objectivity and credibility during the 2010 election compared with any other elections since the introduction of multi-party democracy in the country.

Representatives from the three major political parties, namely CCM, CHADEMA and CUF, informed Observers that they were generally satisfied with the way the media had covered their campaigns and the issues they raised. The state broadcaster, Tanzania Broadcasting Corporation (TBC) was commended for largely following the legal requirement under the National Elections Act for equal allocation of free space and air time to both ruling party and opposition parties in near equal measure in the prescribed schedule for the campaign

period. Observers could not say the same about the private broadcasters though we were told some aired distinct preferences for one party or the other and so as a whole could be said to have put out a range of party messages.

A cursory content analysis of the items in the English language newspapers, namely, *The Guardian*, *Citizen* and *Daily News* showed that the papers devoted considerable space to covering issues of the campaign, highlighting and scrutinising manifestoes of the major political parties, as well as providing a forum for debate in the commentary and opinion pages.

It was suggested that the performance of media during the election period was partly due to adherence to the Media Code of Conduct for Election Reporting which was developed by Tanzania Editors Forum. The Code outlines a number of benchmarks for ethical practice ranging from ensuring objectivity, truth seeking and reporting, encouraging free speech, promoting democratic values and objecting to hate speech and incitement of violence.

The development of the Code of Conduct was produced in line with the objectives of the self regulatory Media Council of Tanzania. The MCT is the main non statutory body established to ensure that journalist, editors, broadcasters, producers and directors, and all those involved in the media industry in Tanzania adhere to the highest professional standards.

There was concern however, that in the mainstream news reporting, the ruling CCM party took the lion's share of visibility due to the fact that party activities were not easily distinguishable from government duties. The CCM also dominated paid for advertisement space in both print and broadcast media, due to its strong financial position. One other concern noted by Observers was that media coverage did not adequately cover women candidates and did not devote attention to gender and youth issues.

Both private and state owned media showed a reasonable level of commitment to the promotion of voter education. This is a positive development. However, given the limited outreach of newspapers, this reduced their role in providing voters with sufficient information for them to make informed choices on polling day. Radio was by far the most widely used medium for voter education and information.

Media Freedom

Whereas the Constitution of Tanzania provides in Article 18, for freedom of expression including freedom of the press, there are a number of laws on the statute books of the country that could easily be used to restrict these freedoms. For example, The Newspaper Act of 1976 provides for a number of grounds upon which the Government can de-register a media house for publication of seditious stories that incite disaffection against the government.

In the 2010 elections, freedom of speech in the media was largely respected. However, in one reported case, a leading Swahili newspaper, *Mwananchi*, was threatened with closure and deregistration by the Director of Tanzanian Information Services. The newspaper was accused of allegedly offering negative coverage of the government and tarnishing its image. While the newspaper continued publishing even after these threats, it is the view of Commonwealth Observers that such threats serve the purpose of instilling fear among journalists and media owners, which often results in self censorship, a dangerous act that

runs contrary to freedom of information which is particularly essential during election campaigning.

Observers also benefited from a briefing by a representative from Synovate, a media monitoring company. Their findings indicated that the ruling CCM party enjoyed more favourable coverage from both the print and electronic media than all the other parties.

The Observer's conclusion is that the media played a key role in informing the citizens of their civic responsibilities commendably, and that any attempts to stifle media freedoms should be discouraged.

Recommendations

- Political parties must adhere strictly to the campaign rules, especially under the Electoral Code of Conduct; the ruling party should carry a higher responsibility for such adherence in view of the fact that state resources and enforcement agencies are at the disposal of the government. The Electoral Code of Conduct Committee must strictly address such reported contraventions in a transparent manner which will reassure all political parties of equal treatment and a level playing field.
- The complaints mechanism established under the Electoral Code of Conduct Committee is commendable as a conflict prevention and resolution tool. However, it needs to be strengthened. For instance, Observers received varying accounts on how often the Committee had met to discuss complaints and the manner in which they had been addressed. While political parties need to ensure that they follow through with complaints along the various stages of the process, the Committee also needs to maintain a level of consistency in its procedures and record keeping.
- The Elections Expenses Act can be a useful tool in ensuring all political parties are able to reach out, reasonably, to the electorate and send their political messages across even with modest resources. Compliance by political parties and implementation by the Registrar of Political Parties must be strengthened.
- There is a need to examine the relevant aspects of the Newspaper Act 1976 and repeal those provisions necessary to make the Act consistent with freedom of information, including the clauses which enable the de-registration of newspapers.
- There remains a need to develop programmes to build the capacity of the media in reporting effectively on elections need.
- The Media Code of Conduct for Election Reporting is a positive development but there remains a need to ensure greater compliance with it. Further, a greater diversity in media coverage, including highlighting issues affecting gender and youth, needs to be encouraged.

Chapter 5

Voting, Counting and Results

On 31 October 2010 elections were held for the President and National Assembly of the Union and the President and House of Representatives of Zanzibar. In addition, elections were also held for local councils in both parts of the Union.

For the purpose of voting there were 51,752 polling stations set up on the mainland and 1,294 in Zanzibar. In many instances, polling stations were grouped into polling centres, which were often public buildings such as schools.

Each polling station was staffed by polling officials under the authority of a Presiding Officer. Copies of the voter registers were supposed to be posted on the walls close by the polling station, so voters could check they were on the list and also which polling station they were supposed to attend. In addition, most polling centres had Direction Clerks to help advise voters on their correct voting location. Security was also present in the vicinity of the polling stations.

Opening and Voting

Polling was from 07.00 – 16.00. According to legislation and regulations, some of the key features and safeguards for the conduct of opening and voting were:

- Prior to opening, the ballot boxes were to be shown as empty to party agents and then sealed.
- The ballot boxes were individually numbered, as were the seals.
- Voters had to prove their ID by showing a NEC/ZEC-issued Voter Card, which included a photo.
- The voter registers contained photos of voters for ID verification purposes.
- A voter had to be on the voter register in order to be allowed to vote.
- Ballots had to be stamped with the official polling station seal.
- Voting had to be in secret.
- Voters had ink applied to their finger after having voted to prevent double voting.

Persons requiring assistance could be helped by a voter of their choice. Such persons were only allowed to help one voter, unless all were from the same household in which case one person could help more than one voter.

Party agents could lodge a formal complaint if they were dissatisfied during the voting.

Persons on election duty, such as security, election officials, party agents, were allowed to vote at any polling station in their designated constituency so long as they were in possession of a form signed by the Returning Officer confirming this.

Assessment of Opening and Voting

Overall, Commonwealth Observers reported that the opening and voting processes were conducted in a calm and orderly manner. The various safeguards, such as requirement for ID and application of ink, were in place for voting. Party agents were present in polling stations, though in the vast majority of cases only for CCM, Chadema and CUF on the mainland and CCM and CUF on Zanzibar.

In the majority of cases materials were present to enable the timely opening of polling stations, however there were problems in this regard in a limited number of areas, as discussed below. Voter turnout in the early hours of polling was quite high, but in the areas we observed this trailed off through the day, resulting in quite a low turnout; except in Zanzibar where voter turnout was far higher.

As mentioned, the overall assessment of opening and voting is positive, with Observers reporting that polling staff worked hard and diligently to ensure people could vote. However, some issues and incidents were also reported:

- There was a problem in the delivery of ballots for Union elections in four constituencies in Zanzibar and three on the mainland, as well as for a number of local elections, resulting in the cancellation of the poll in affected constituencies.
- While most voters did find their names on the voter registers, there were some problems reported. These problems varied from area-to-area, but included:
 - Parties having a different register from the one being used by the polling staff;
 - A difference in the registers posted on the outside of polling places and the registers being used by polling staff;
 - Some polling officials were not able to adequately direct people to their correct voting place or deal with questions and problems arising;
 - Some names of voters were missing from the registers despite their having registered and being in possession of a voter card.
- The processing of individual voters in the polling stations was slow, with observers noting it took up to five minutes in many instances. If turnout had been higher, polling staff, who in many cases appeared unfamiliar with the procedures, may have struggled to deal with the demand.
- In the lead up to the poll, some institutions of higher learning in Dar es Salaam were kept closed. On the day of the election it seems that this impacted negatively on participation by those students who had earlier registered to vote at these locations.
- The process went smoothly in most areas observed. However, some incidents were reported. For instance:
 - In Kinondoni, in Dar es Salaam, there was a clash between a crowd at the polling centre and police, involving the firing of tear gas by police and some skirmishes;
 - In a polling station in Nyamagana, Mwanza, there was tension after the ballot box for parliamentary elections arrived three hours late;

- In the same area there was also tension between party supporters and the police at the outset after a CCM agent was caught allegedly buying voter cards;
- There was an allegation of conveyancing in Mwanakwerekwe, Zanzibar-Unguja, where between 18 to 24 people wearing ZEC shirts were brought to the polling station by vehicles. They voted, possibly using some of the uncollected voter cards and then were transported away. This claim was validated by media, party agents and ordinary voters, but denied by police.

While the application of procedures was largely adhered to, there were also inconsistencies. But it was felt that in most instances practices were within the spirit of the law. Some of the general issues raised by the observers were:

- The layout of the voting booths, with the front of the booth facing the room, could compromise the secrecy of the vote.
- In some polling stations pregnant women and less-abled voters were specifically assisted, but in others they were not.
- In many instances staff did not appear to check the fingers of voters for ink prior to voting.

Counting and Results Aggregation

According to legislation and regulations, voting was scheduled to finish at 16.00, but persons waiting to vote at that time were allowed to do so. Counting was to take place in the Polling Station. Agents and observers were allowed to be present throughout.

During the count, a full reconciliation was required, including:

- Determining the number of persons voting
- Counting the number of unused ballots, including spoilt ballots
- Counting aloud the number of ballots in the ballot boxes
- Determining the number of ballots per candidate for each election type
- Cross referencing vote totals with the number of ballots found in the ballot box and the number of persons voting at the polling station

Party agents were entitled to lodge a formal complaint if they were dissatisfied during the count. In addition they could sign the results sheet to confirm their satisfaction with the process.

Upon completion of the count at the polling station, party agents could receive a copy of the result and the result was then to be posted at the place of voting. Following this, all materials, including the results forms and ballots were to be delivered to the respective Returning Officer.

The Returning Officer was to tabulate the results for their Constituency, announcing aloud the results of each polling station in the constituency. The Returning Officer was charged with tabulating and announcing the result for the parliamentary elections in that constituency. In addition, he/she should transmit the fully tabulated Constituency result for the Presidential election to NEC.

Agents were entitled to receive a copy of the parliamentary result for the Constituency and the result was also to be posted at the location. Transmission of the results to NEC was done by a mixture of scanning, faxing and physical delivery. NEC was then to announce the presidential results for each constituency and then final results for that election.

On Zanzibar, ZEC officials and the main ZEC HQ performed the same duties for their respective elections.

Assessment of Counting and Results Aggregation

The process for vote counting at the polling station appeared to be transparent and well conducted. While there were inconsistencies in the procedures followed, and a lack of full understanding of these procedures by polling officials, notably with regard to the final ballot reconciliation and completion of forms, there appeared to be an intention to do a proper job. In some cases the polling station count was slow due to a lack of light, which created difficulties for polling staff, notably for completing the numerous forms. Party agents were present and able to get a copy of the result and the results were posted at the polling place.

The tabulation at the constituency level maintained a degree of transparency and access, with party agents able to be present throughout, scrutinizing and receiving an official copy of the results. However, the results aggregation at the constituency level was drawn out, with some officials exhibiting a lack of familiarity with the new system. The requirement for scanning of polling station results and entering of data into a computer, while a good safeguard, did place a large burden on staff who sometimes struggled to deal with it. In addition the delivery of the polling station result and materials from some areas took quite some time, notably in more remote areas but even in some urban areas.

On Zanzibar the experience was somewhat different. At the constituency level it appeared that the expected procedures were not followed as results for the presidential election there were not tabulated but rather just scanned in and sent on to the central results centre. This caused tension and mistrust among party agents.

The process for results aggregation from the constituency level and national level proceeded well in some areas, but raised more concerns among Observers than for other aspects of the process. In some cases this resulted in tension and confrontation:

- In Mwanza there were reports of clashes between party supporters awaiting the result and police
- In Arusha there was tension in the evening as party supporters awaited the results
- In Zanzibar, supporters of CUF gathered at the results centre heightening tensions, but ZEC's management of the central results process, its timely announcement and the manner of the concession by the second-placed candidate thankfully ensured a peaceful outcome
- In Dar es Salaam, which does not face the same infrastructure or geographic challenges faced in some other areas, the results were slow to reach NEC and to be announced

The final results were issued by ZEC in good time, but the process of announcement by NEC was extremely drawn out and lacked transparency. For instance, five days after the day of the election NEC was still announcing partial results by constituency, with no real picture of

the final outcome. Further, in announcing partial results NEC did not indicate all relevant figures, including total number of voters, making a full appreciation of the result harder.

Overview of the Countrywide Observation

Bukoba

- The team found major discrepancies in the voter register with voters in some cases not included, despite having a voter's card. Similarly, there were those that were on the register but were not able to vote. The proximity to Uganda, Burundi and Rwanda resulted in non-Tanzanians registering for a voter's card, which has been tied to the list of ineligible voters. This indicates a great need to streamline the list for future elections.
- Voter education appeared to be weak resulting in long processing times per voter. Additionally, there was an apparent deficit in civic education resulting in a low voter turnout. Political parties appeared to play a crucial role in civic and voter education, however NEC should play a more active role in voter education and training of polling staff to direct voters efficiently through the process. Civil society, local NGOs and other supporting organisations should endeavor to strengthen current civic education programmes.
- The collection and tabulation of the results was severely delayed, particularly as ballot boxes were collected from polling stations across rural terrain. The collection of ballots and the tabulation of results stages were viewed to be very slow and cumbersome. NEC should incorporate innovative strategies to improve the efficiency and speed of these stages to ensure timely release of election results.

Mwanza

- The pre-electoral environment in Mwanza was generally calm, although Observers were informed about some clashes in hotly contested constituencies where CCM and CHADEMA candidates were vying for parliamentary seats. The advantage of incumbency was more glaring in Mwanza City where CCM's posters and election materials were more prominent.
- On the eve of elections, Observers witnessed the orderly deployment of polling materials. On election day itself, while most polling stations opened on time and the process was generally smooth, there were temporary interruptions in some polling stations due to missing ballot boxes for the parliamentary elections and discrepancies between the voter register used by polling staff and that of CHADEMA polling agents.
- The results aggregation and declaration was not efficiently and transparently handled in Mwanza City District (for the Nyamagana and Ilemela constituencies). It appeared that the two technical staff trained to use the IT software in that district were not sufficiently familiar with it. Moreover, a decision had been taken to complete the electronic aggregation of results at the constituency level before announcing the parliamentary results. This resulted in long delays in declaring the results, which led to heightened tensions among opposition party supporters escalating into violence in and around the results centre; vehicles were torched and smashed with stones, and a CCM office was also burnt. However, the police reacted quickly in controlling the crowd, and calm returned following the announcement of the parliamentary results.

Arusha

- The presence of political party agents was critical in ensuring that the proper procedures were adhered to.
- The atmosphere in Arusha outside the tally centre was extremely tense due to a delay in releasing results. There was a heavy presence of well armed police at the tally centre, where a big crowd of opposition supporters had gathered.
- Harassment of opposition supporters was reported, in an area where an opposition party was gaining popularity and where its presidential candidate hailed from.

Dodoma

- Observers found that some polling officials were not adequately trained for the job. They were not able to solve simple operational problems, such as when to declare a ballot 'rejected', how to apply ink, and what role party agents were to play.
- Collation and posting of constituency results was delayed largely due to logistical constraints.

Mtwara

- There was no accurate figure available for the number of registered voters in Mtwara Municipal constituency. The Returning Officer issued one figure prior to election day, but the results of the presidential and parliamentary polls showed two other figures of about 2,500 more.
- The team found that election staff were transparent in their procedures even though they were not familiar with them.
- The atmosphere in polling stations was cordial and cooperative between election staff, party agents and security personnel.

Dar es Salaam

- Polling centers opened on time and proceeded in an orderly manner. Key challenges were problems associated with inaccuracies in the voter register. Many voters could not vote because their names were missing from the voter register used by officials in the polling station, even though they held a valid voters card and had their names displayed at polling centers by NEC prior to election day.
- Voting was very slow, in some cases averaging about 5 minutes per voter. The internal organization inside polling stations was somewhat confusing as it was difficult to identify election officials from party agents. In many polling stations, it was evident that election officials lacked familiarity with the voting procedure. This was manifest throughout the process from the opening through the voting to the counting.
- Security personnel were present in all polling centers and seemed to be professional in their conduct.

Zanzibar – Unguja

- At the ZEC results centre there were no complaints about the publicly announced results. These were accepted by all assembled to receive them.
- There was no aggregation of the presidential vote at the District Office (Magharibi). This could have been an island-wide issue.

- A significant number of Zanzibari residents remained disenfranchised apparently due to arbitrary application of residency requirements.

Zanzibar - Pemba

- Enthusiastic voter participation was observed at the opening of Madungu polling station in Chake Chake and at subsequent stations visited. However it was apparent, particularly early in the process, that some voters were confused by the array of boxes before them. That confusion would suggest a need for greater voter education. Despite the poor weather, turnout was high.
- A serious problem was observed at Ole, where it was alleged that 15 Union presidential election ballot booklets, one National Assembly ballot booklet and the NEC's voter register were missing. This resulted in some tension, with political activists advocating a boycott of the Union elections. The Presiding Officer claimed that "only" one hundred ballot sheets for Union presidential elections were missing. In addition, he stated that a printing error had resulted in just three of the four National Assembly candidates appearing on the ballot for that Constituency.
- Priority access was not provided to pregnant women or frail persons. It was noted that NEC guidelines provide for this while ZEC guidelines do not.

Presidential Election Results

- **Union Presidential**

Registered Voters	20,137,303
JM Kikwete (CCM)	5,276,827
WP Slaa (CHADEMA)	2,271,941
IH Lipumba (CUF)	695,667
PM Kuga (APPT)	96,933
HS Rungwe (NCCR)	26,388
MB Mgaywa (TLP)	17,462
YND Dovutwa (UPDP)	13,176
Total Valid Votes Cast	8,398,394
Invalid Votes	227,889
Total Persons Voting	8,626,283 (42.84%)

- **Zanzibar Presidential**

Registered Voters	407,658
AM Shein (CCM)	179,809
SS Hamad (CUF)	176,338
Others	8,777
Total Persons Voting	364,924 (89.52%)

Recommendations

- The drawn out Union results aggregation and the inordinate delay in announcement of final results for the presidential election, were the Observer Group's most serious concern. It is not clear that this aspect of the process enjoyed the same level of transparency and inclusiveness. NEC needs to consider how to improve this, providing clear results in a more timely manner. There also needs to be clear legal deadlines for the announcement of the results and mechanisms to ensure transparency and political confidence.
- Both NEC and ZEC need to improve the accuracy of voter registers. This could include improved processes for public verification. Further, it must be ensured that lists are properly posted in good time for the polls in all instances and that political parties receive a copy also in good time to ensure they are able to effectively utilise the registers.
- Training for polling staff needs to be improved to ensure greater familiarity with their duties, in order to prevent inconsistencies in the administration of voting. Further, there needs to be an increase in the level of voter and civic education to improve voters' understanding of the civic duty of voting and the practices therein, and thereby enhance participation.
- NEC's management of the preparation and distribution of materials needs to be improved, to ensure that ballots are correctly prepared and distributed in all instances, to prevent any delay in opening or the need for postponement of polls.
- The layout of polling stations and, notably, the positioning of voting booths, needs to ensure the secrecy of the vote. Booths should not be positioned in a manner that may compromise the secrecy.
- Party agents need to be more clearly identifiable. This should not be in the form of party colours, but rather the provision of unique accreditation could be considered.

Chapter 6

Conclusions and Recommendations

Conclusions

The 31 October General Elections in Tanzania were the country's 4th multi-party elections since the restoration of multi-party democracy in 1992. The elections represented a step forward for the country, with a largely peaceful campaign on both the mainland and Zanzibar, the development of an electronic permanent voter register and acceptance of the result for the Zanzibar presidency despite an extremely narrow margin of victory. However, some issues remain to be addressed as Tanzania continues to strengthen its democratic processes and institutions and build confidence among all stakeholders.

The 2010 elections were competitive, with basic freedoms provided for, including freedom of association, freedom of movement, freedom of speech and freedom of assembly. Parties conducted active national campaigns, attracting large crowds and utilizing the media. The campaign was generally peaceful, though some incidents were reported and media monitoring indicates that the ruling party enjoyed an advantage in coverage and exposure overall.

In Zanzibar, the political atmosphere up to and including Election Day was much improved. This has been attributed to the overwhelming endorsement of the July 2010 Referendum which paved the way for the formation of a government of national unity after the poll. Looking forward, we hope that as the composition of the government of national unity is decided the spirit of reconciliation continues. The improvement during these elections can also be attributed in part to the arrangements made by the Zanzibar Election Commission (ZEC).

At the same time there are still areas where concerns remain, so that a fully-fledged multi-party system can be consolidated. Opposition parties were highly active during the campaign and were able to fully participate in all aspects of the process, but there was not an entirely level playing field. The ruling party in Tanzania is by far the largest and best-resourced party and following so many years in power, elements of the state structure are synonymous with the party.

The level of resources which the ruling CCM party enjoys provides it with an advantage for campaigning, and in many areas its campaign was by far the most visible. Further, media monitoring reports indicate that overall, CCM enjoyed the majority of coverage, due largely to the extent of news coverage as well as paid advertising in the private media. State-owned TBC is reported as providing more balanced coverage, which is to be commended. There are reports that *Mwananchi* newspaper faced a threat of de-registration after publishing articles critical of the government, and that is a concern.

The legal framework provides the basic conditions for a competitive election. However, in some regards it is still framed in the old one-party mould and will need to be updated to

accommodate the wider parameters of a promising multi-party democracy. For instance, NEC is appointed solely by the President, its decisions cannot be contested in the courts and independent candidates are not permitted to contest elections.

On the more positive side, the Election Expenses Act and Code of Ethics are positive additions to the electoral framework. The creation of election committees, to address and resolve complaints and concerns, is welcome.

The creation of a permanent electronic voter register after the 2005 elections was a positive development, and has helped to create, notably in Zanzibar, a much improved voter register. This remains a work-in-progress, as there were some complaints regarding the final numbers and missing voters. Further, the rather lax identification procedure used on the mainland for registration identity and the rather rigorous process on Zanzibar also needs to be addressed.

On the day of the elections, voting generally proceeded smoothly in most areas across the country. There were some shortcomings in the arrangements by NEC in terms of a lack of sufficient number of ballots for Union parliamentary elections in seven constituencies, some confusion relating to the voter registers and some inconsistent practices and a lack of familiarity with procedures on the part of some electoral officials. Overall, the day passed off calmly in the vast majority of areas, though there were some localised tensions. Party agents were able to be present for the vote count in polling stations, ensuring transparency for that key aspect of the process.

The introduction of a new results aggregation system was welcomed. But the results process was slow for the Union elections, partly due to officials handling the system for the first time, and unfortunately in some areas the slow pace of results fuelled tensions. NEC's declaration of final results for the Union presidency, for instance, was extremely drawn out and lacked full transparency, and there were complaints about the declared result from the two leading opposition parties. The magnanimous manner in which the result for the Zanzibar Presidency was accepted, after a fraught wait and a narrow margin of victory, was extremely encouraging for the future of political relations on the island.

Recommendations

A Electoral Framework and Election Administration

- In order to enhance the independence and credibility of NEC, appointment of members should be more consultative and should not be the sole prerogative of the President. The process of appointment should include parliamentary scrutiny, to ensure wider political support. A fixed, non-renewable, tenure for Commission members can also help to enhance independence.
- The use of government officials as NEC election officials needs to be reconsidered. If it is necessary to utilise local government officials for such a purpose, then the terms of their appointment under NEC need to clearly stipulate that they are under NEC's sole authority for the period of their electoral duties.

- Work on improving the voter registers needs to continue. Existing identification requirements on the mainland and Zanzibar should be reviewed to ensure that they are adequate and reasonable for the purposes of facilitating universal suffrage while at the same time providing safeguards against illicit registration.
- It should be possible for a person to stand as an independent candidate and not have to be a member of a political party or be nominated by a political party. Such a provision should relate to all levels of election: local, parliamentary and presidential.
- There needs to be an established timeframe for the announcement of results, which ensures a suitable balance between the need for rigour and the need for transparency and a timely announcement. This will help to diffuse tensions as political parties will know what to expect, and when, and will not lose confidence or resort to rumour and speculation.
- Responsibility for registering political parties and supervising the Election Expenses Act should reside with an independent office or body, possibly the election management body.
- It is good practice to hold elections management bodies answerable for the conduct of elections in order to satisfy the requirements of transparency and accountability. There is therefore the urgent need for the law to be appropriately amended to ensure that election-related disputes for presidential, parliamentary and local council elections are subjected to the jurisdiction of the courts or independent Election Tribunals which may be established for this purpose. Such new legislation should explicitly cover all the aspects of the electoral process including its management.

B Election Campaign and Media

- Political parties must adhere strictly to the campaign rules, especially under the Electoral Code of Conduct; the ruling party should carry a higher responsibility for such adherence in view of the fact that state resources and enforcement agencies are at the disposal of the government. The Electoral Code of Conduct Committee must strictly address such reported contraventions in a transparent manner which will reassure all political parties of equal treatment and a level playing field.
- The complaints mechanism established under the Electoral Code of Conduct Committee is commendable as a conflict prevention tool. However, it needs to be strengthened. For instance, Observers received varying accounts on how often the Committee had met to discuss complaints and the manner in which they had been addressed. While political parties need to ensure that they follow through with complaints along the various stages of the process, the Committee also needs to maintain a level of consistency in its procedures and record keeping.
- The Elections Expenses Act can be a useful tool in ensuring all political parties are able to reach out, reasonably, to the electorate and send their political messages across even with modest resources. Compliance by political parties and implementation by the Registrar of Political Parties must be strengthened.

- There is a need to examine the relevant aspects of the Newspaper Act 1976 and repeal those provisions necessary to make the Act consistent with freedom of information, including the clauses which enable the de-registration of newspapers.
- There remains a need to develop programmes to build the capacity of the media in reporting effectively on elections need.
- The Media Code of Conduct for Election Reporting is a positive development but there remains a need to ensure greater compliance with it. Further, a greater diversity in media coverage, including highlighting issues affecting gender and youth, needs to be encouraged.

C Voting, Counting and Tabulation

- The drawn out Union results aggregation and the inordinate delay in announcement of final results for the presidential election, were the Observer Group's most serious concern. It is not clear that this aspect of the process enjoyed the same level of transparency and inclusiveness. NEC needs to consider how to improve this, providing clear results in a more timely manner. There also needs to be clear legal deadlines for the announcement of the results and mechanisms to ensure transparency and political confidence.
- Both NEC and ZEC need to improve the accuracy of voter registers. This could include improved processes for public verification. Further, it must be ensured that lists are properly posted in good time for the polls in all instances and that political parties receive a copy also in good time to ensure they are able to effectively utilise the registers.
- Training for polling staff needs to be improved to ensure greater familiarity with their duties, in order to prevent inconsistencies in the administration of voting. Further, there needs to be an increase in the level of voter and civic education to improve voters' understanding of the civic duty of voting and the practices therein, and thereby enhance participation.
- NEC's management of the preparation and distribution of materials needs to be improved, to ensure that ballots are correctly prepared and distributed in all instances, to prevent any delay in opening or the need for postponement of polls.
- The layout of polling stations and, notably, the positioning of voting booths, needs to ensure the secrecy of the vote. Booths should not be positioned in a manner that may compromise the secrecy.
- Party agents need to be more clearly identifiable. This should not be in the form of party colours, but rather the provision of unique accreditation could be considered

Annex 1

Composition of the Team

Chair - The Rt Hon Paul East QC (New Zealand)

Paul East has served in the New Zealand Parliament for twenty years and held a number of ministerial positions, including Attorney-General, Minister of Defence, Minister for State Services and Leader of the House. He has also served as a diplomat representing New Zealand as High Commissioner to the UK, High Commissioner to Nigeria and Ambassador to Ireland. He has written a number of articles and presented papers on democracy and the parliamentary process. He presently practices as a barrister and serves as a board member for a number of charities and corporations.

Mrs Judith Hopwood (Australia)

Judith Hopwood is a member of the New South Wales State Parliament in Australia. She was elected in 2002 and represents Hornsby in the north of Sydney. Judy has had a number of roles such as Parliamentary Secretary to the Leader of the Opposition and the shadow Minister of Health. She has also been Shadow Minister for Mental Health and Shadow Minister for Community Services. Mrs Hopwood is a member of number of Parliamentary Friendship Groups such as the Red Cross, European Union and Asia Pacific Friendship Group. She serves on the Legislation Review committee and the Health Care Complaints Committee.

Pierre Martin (Canada)

Mr Martin has over the last 16 years worked in the field of election in South Africa, Central Africa, Republic of Congo, Kenya, Liberia, Bosnia, Croatia, Kosovo, Serbia and Canada. He organised, supervised and observed elections, he is election expert. He was special adviser of the Leader of Opposition in Canada. He worked as co-ordinator for the NGO that promote Human Rights for the disabled people in Montreal.

Ms Cheryl Dorall (Malaysia)

Ms Dorall has been a senior journalist and editor and media consultant over the last 40 years, including as editor of a major newspaper in Malaysia and as Deputy Director of Information in the Commonwealth Secretariat, London. Ms Dorall has observed elections in Bangladesh, Guyana, Pakistan, Seychelles, Nigeria, South Africa and the first multi-party elections in Tanzania in 1995.

Mr Omar Jallow (Gambia)

Mr Jallow served in the Gambian Parliament for many years where he held the position of Deputy Foreign Minister, Minister of Water Resources and the Environment and Minister of Agriculture. Presently, Mr Jallow is leader of one of the Opposition parties in the Gambia.

Akshay Kumar Rout (India)

Mr Akshay Kumar Rout is Director General of the Election Commission of India. Mr Rout has over 26 years of experience in the federal civil services. In the Election Commission he leads the areas of Voters' Education and Electoral Participation and International Cooperation. He earlier held management positions in the Government of India and was recently Election

Observer to Brazil. Akshay Rout holds three Masters Degrees in Literature, Economics, and in Public Policy and Sustainable Development.

Mr Francis Martin (United Kingdom)

Mr Frank Martin is a former British High Commissioner to the Kingdom of Lesotho and the Republic of Botswana. He retired from the diplomatic Service in January 2010. Over his 42 year career, Mr Martin served at bilateral and multilateral missions in Europe and Africa. He has spent half his working life in Africa and previous election experience was gained in Lesotho in 2002, Zimbabwe 2008 and Botswana in 2009.

Dr Rupert Roopnaraine (Guyana)

Dr Rupert Roopnaraine served as a Member of Parliament from 1991 to 2000. He is a founder member and Co-Leader of the Working People's Alliance Party, a Guyanese political Party. He has taken part in six election campaigns and served as a member of the Constitutional Reform Commission established through the Caricom-brokered Herdmanston Accord after the hotly disputed 1997 general and regional elections. Dr Roopnaraine has previously observed elections in Zanzibar, Zimbabwe and Uganda.

Pauline Adobea Dadzawa (Ghana)

Pauline Dadzawa has been a member of the Electoral Commission Of Ghana since 1994. Pauline is a practitioner in Human Resource Management and holds a BA in Linguistics and a post-graduate Diploma in Business Administration. She is also a member of the Chartered Institute of Public Relations (CIPR) UK. She has worked in several countries in West Africa, and has observed elections in almost all countries in West Africa that have held elections in the past decade.

Mr Pesi Fonua (Tonga)

Mr Pesi Fonua is Publisher and Editor of VaVan Press which publishes Tongan books and Matangitonga Online. He is the chairman of the Media council Inc. (Tonga) and the chairman of Transparency Forum Tonga Inc.

Jane Godia (Kenya)

Jane Godia is a Gender and Media Expert and has over 15 years experience in news room management. She has post-graduate degrees in Communications and Gender and Development. An advocate of gender equality with a bias towards women's issues and women's rights, she has written various articles on Gender Based Violence. She also has experience in training journalists both locally and abroad on gender sensitivity as well as training women leaders in the East African sub-region on how to raise their profile within the media. She was Deputy Managing Editor at the Standard Media Group in Kenya until June 2009 and is currently the managing editor of Kenyan Woman, an Online newspaper.

Juliette Maughan (Barbados)

Juliette has worked in with government, non-governmental and international organizations including, the Organization of American States (OAS), the United Nations Population Fund (UNFPA), The Inter-American Commission for Women (CIM) and the Canadian High Commission. Her varied background includes working on issues related to youth and gender mainstreaming, political affairs, trade, sexual and reproductive health rights and HIV/AIDS. She has been a member of a number of international electoral observations missions and has recently worked with the Department of Electoral Cooperation and Observation of the OAS.

Hon. Irene Ovonji-Odida

Hon. Ovonji-Odida was an elected Member of the East African Legislative Assembly (2001-2006), spearheading initiatives to increase transparency and accountability of EALA to marginalized constituencies and increasing effective participation of African legislators in international processes. Previously she worked as Director, Legal, Directorate of Ethics and Integrity, Office of the President, Uganda; and before that in the Uganda Law Reform, and the Uganda Constituent Assembly Commission which managed the 1995 constitution-making process in Uganda. She has authored or contributed to publications on women's land rights in Uganda, constitutionalism and East African regional integration. She participated in election monitoring by the EAC in Uganda in 2005.

Charles Munyaneza

Charles Munyaneza is the Executive Secretary of the National Electoral Commission of Rwanda. He has participated in a number of other election observation missions, including Ghana, Kenya, Ethiopia, Burundi, South Africa, Tanzania and Senegal. He has a BA(Political Science) from Makerere University, Kampala-Uganda and an MBA from Maastrich University, The Netherlands. He also holds a number of Post-Graduate Diplomas and Certificates in Good Governace, Democracy and Elections from Harvard University.

Sheikh Abdul Carimo Sau

Sheikh Abdul Carim is the Co-ordinator of the Elections Observatory in Mozambique. He is also Vice-President of the Islamic Council of Mozambique.

Commonwealth Secretariat Staff Support Team

Mr Ayodele Oke, Adviser and Head, Africa Section

Mr Mark Stevens, Adviser and Head, Democracy

Mr Martin Kasirye, Political

Ms Yvonne Apea, Political

Mr Julius Mucunguzi, Media

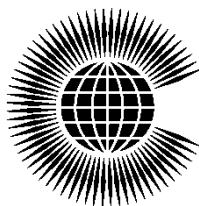
Ms Zippy Ojago, Democracy

Annex 2

COG Deployment Plan

Team	AREA	LOCATION	NAMES
1	DAR-ES-SALAAM	Dar-es-Salaam	Rt Hon Paul East (New Zealand) Ayo Oke / Julius Mucunguzi
2	DAR-ES-SALAAM	Dar-es-Salaam	Mark Stevens Zippy Ojago
3	DAR-ES-SALAAM	Dar-es-Salaam	Charles Munyaneza (Rwanda)
4	COAST	Mtwara	Cheryl Dorall (Malaysia) Pierre Martin (Canada)
5	CENTRE	Dodoma	Pauline Dadzawa (Ghana) Pesi Fonua (Tonga)
6	NORTH	Arusha	Sheikh Abdul Carimo (Mozambique) Irene Ovonji-Odida (Uganda)
7	NORTH	Mwanza	Yvonne Apea Akshay Rout (India)
8	NORTH	Bukoba	Juliette Maughan (Barbados) Omar Jallow (Gambia)
9	ZANZIBAR	Unguja	Martin Kasirye
10	ZANZIBAR	Unguja	Rupert Roopnaraine (Guyana) Judith Hopwood MP (Australia)
11	ZANZIBAR	Pemba	Frank Martin (UK) Jane Godia (Kenya)

Annex 3



**Commonwealth Observer Group
Tanzania General Elections
31 October 2010**

NEWS RELEASE

**Arrival Statement by Rt Hon Paul East QC
Chairperson of the Commonwealth Observer Group**

The Commonwealth Secretary-General, Mr. Kamallesh Sharma, constituted an Observer Group for the 2010 Tanzania General Elections, following an invitation from the National Electoral Commission. The Commonwealth, you will recall, was present for elections in 1995, 2000 and 2005.

It is my honour and privilege to have been asked to lead this Commonwealth Observer Group and be here in Tanzania with my colleagues for these important elections.

Democracy and good governance are core Commonwealth principles and ones which our Observer Group is constituted to promote and uphold. These elections are important for the people of Tanzania, as they elect their representatives, and it is therefore imperative that the electoral process is transparent, fair and credible.

Our task as the Commonwealth Observer Group is to observe and report on relevant aspects of the organisation and conduct of the elections and also on the environment in which the elections are held. The Group will consider all the factors impinging on the credibility of the electoral process as a whole, and assess whether the elections have been conducted according to the standards for democratic elections to which Tanzania has committed itself, with reference to its own election-related legislation as well as relevant regional, Commonwealth and other international commitments.

We will consider, among other things, whether conditions exist for free and competitive elections; the transparency of the process; participation rights; the impartiality of state apparatus and public media; whether candidates were free to campaign on a level playing field; whether freedom of expression is provided for, and whether voters were free to express their will.

In conducting our duties and undertaking our assessment, we will be impartial, objective and independent. Commonwealth Observers are present here in their individual capacities as distinguished Commonwealth citizens. The assessment by the Group will be its own and not that of member governments. We will deal in solutions, not criticisms, with the intent to help further strengthen the democratic process in the country.

The team of Observers come from across the Commonwealth, and includes politicians, members of election commissions, and representatives of civil society, academia and the media.

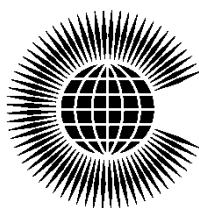
In the pre-election period we will meet a wide range of stakeholders, including officials from the National Electoral Commission and Zanzibar Electoral Commission, representatives of political parties, civil society and media, as well as High Commissions and representatives of other international and national observer groups.

Prior to election day, Commonwealth teams will deploy to various provinces around the country to observe the voting, counting and results processes. We will issue an Interim Statement after the election and a final report at a later stage.

The conduct of peaceful, transparent and credible elections is vital, and we are hopeful that this will be the case. I wish the people of Tanzania every success in the exercise of their constitutional rights. Our expectation is that the journey of democratic consolidation will continue with these elections and confirm Tanzania as one of the Commonwealth's stable and progressive democracies. All eyes are focused on Tanzania.

Dar es Salaam, 25 October 2010

Annex 4



Commonwealth Observer Group Tanzania General Elections 2010

INTERIM STATEMENT

Rt Hon Paul East QC
Chairperson of the Commonwealth Observer Group

The Commonwealth was invited by the National Electoral Commission (NEC) to observe the 2010 General Elections. The Secretary-General of the Commonwealth decided to deploy a 15-person Observer Group supported by a staff team from the Secretariat. I am honoured to have been asked to Chair the Group, which has been present in the country since 24 October 2010. During this period we have met with the National Electoral Commission, Zanzibar Electoral Commission, representatives of contesting political parties, civil society, media, Commonwealth High Commissions as well as other international and national observers.

Commonwealth teams were based in nine locations around the country. Our teams observed the voting, counting and results aggregation and also met with electoral officials, national and international observers and other stakeholders at the District level in order to build up a larger picture regarding the conduct of the process.

This statement is interim, and is issued with some aspects of the process on-going. We will issue a final report at a later stage, containing our final conclusions on the entire process.

- The 31 October General Elections in Tanzania were the country's 4th multi-party elections since the restoration of multi-party democracy in 1992. These elections represent a step forward for the country, with a largely peaceful campaign on both the mainland and Zanzibar, the development of an electronic permanent voter register and acceptance of the result for the Zanzibar presidency despite an extremely narrow margin of victory. However, some issues remain to be addressed as Tanzania continues to strengthen its democratic processes and institutions and to build confidence among all stakeholders.
- The 2010 elections were competitive, with basic freedoms, including freedom of association, freedom of movement and freedom of assembly provided for. Parties conducted extremely active national campaigns, attracting large crowds and utilizing

the media. The campaign was generally peaceful, though some incidents were reported and media monitoring indicates that the ruling party enjoyed an advantage in coverage and exposure overall.

- In Zanzibar, the political atmosphere up to and including Election Day was much improved. This has been attributed to the overwhelming endorsement of the July 2010 Referendum which paved the way for the formation of a government of national unity after the poll. Looking forward, we hope that as the composition of the government of national unity is worked out the positive atmosphere is maintained. The improvement during these elections can also be attributed in part to the arrangements made by the Zanzibar Election Commission (ZEC).
- At the same time there are still areas where concerns remain, so that a fully-fledged multi-party system can be consolidated. Opposition parties were highly active during the campaign and were able to fully participate in all aspects of the process but there was not an entirely level playing field. The ruling party in Tanzania is by far the largest and best-resourced party and following so many years in power elements of the state structure are synonymous with the party and elements of the legal framework still need to be brought fully into line with the requirements of an inclusive multi-party system.
- On the day of the elections, voting generally proceeded smoothly in most areas across the country, though there were some shortcomings in the arrangements by NEC in terms of a lack of a sufficient number of ballots for Union parliamentary elections in seven constituencies, some confusion relating to the voter registers and some inconsistent practices and a lack of familiarity with procedures on behalf of some electoral officials. Overall, the day passed off calmly in the vast majority of areas, though there were some localised tensions. Party agents were able to be present for the vote count in polling stations, ensuring transparency for that key aspect of the process.
- The new results aggregation system is welcomed, and final results are still being completed. But the process has been slow in some areas, partly due to officials handling the system for the first time, and unfortunately in some areas the slow pace of results has helped fuel tensions. Having said this, the magnanimous manner in which the result for the Zanzibar Presidency was accepted, after a fraught wait and a narrow margin of victory, is extremely encouraging. We hope there are not undue delays in other parts of the country and that the level of transparency afforded at polling station-level is maintained, ensuring confidence in the outcome. We continue to follow the process and our Final Report, containing our conclusions and recommendations, will be out in a few weeks.

Election Campaign

The election campaign was generally calm and peaceful. Political parties and candidates were extremely active, holding meetings and large rallies across the country and campaign freedoms were provided for. In Zanzibar, the campaign environment was a massive improvement on past elections, which is to be commended. On the mainland, there was an incident between party supporters, resulting in the unfortunate death of a party supporter, as well as some localised tensions, including an incident when security forces dispersed a crowd following the cancellation of a rally. NEC reported it had received some complaints, dealing with issues such as campaigning after hours and use of inflammatory language.

The level of resources at the disposal of the ruling CCM clearly provides it with an advantage for campaigning, and in many areas its campaign was by far the most visible. Further, media monitoring reports indicate that, overall, CCM enjoyed the majority of coverage, due largely to the extent of news coverage as well as paid advertising in the private media. State-owned TBC is reported as providing more balanced coverage, which is to be commended. There were allegations that *Mwananchi* newspaper faced a threat of de-registration after publishing articles critical of the government, which if true are of concern.

Electoral Framework and Management of the Electoral Process

The legal framework provides the basic conditions for a competitive election. However, in some regards it is still framed in the old one-party mould and will need to be updated to accommodate the wider parameters of a promising multi-party democracy. For instance, NEC is appointed solely by the President and independent candidates are not permitted to contest elections.

On the more positive side, the Election Expenses Act and Code of Ethics are positive additions to the electoral framework. The creation of election committees, to address and resolve complaints and concerns, is a further positive development. The full implementation of these electoral mechanisms would go a long way reinforce the electoral process. We note that some opposition parties complained about a lack of transparency and responsiveness by NEC, notably in what they felt was the late disclosure and public posting of the final voter registers.

On Zanzibar, political parties expressed a high level of confidence in ZEC in terms of the preparation of the poll, building on their performance for the July Referendum. Of note was the quality of ZEC's management of the voter registers and their policy to recruit lower level staff rather than use state officials as is the practice on the mainland.

The creation of a permanent electronic voter register after the 2005 elections was a positive development, and has helped to create, notably in Zanzibar, a much improved voter register. This remains a work-in-progress, as there were some complaints regarding the final numbers and missing voters as well as the rather lax identification procedure used on the mainland for registration identity and the rather rigorous process on Zanzibar, but overall it is an improvement.

Voting, Counting and Results

Reports received from Commonwealth Observers indicate that, in general, the voting and counting at the polling station levels were conducted in a calm and orderly manner. The various safeguards, such as requirement for ID and application of ink, were in place for voting and the count was fair and transparent, with party agents present in polling stations. Commonwealth Observers found that the voter turnout on the mainland was quite low. In the lead up to the poll, some institutions of higher learning in Dar es Salaam were kept closed, which impacted on participation by those students registering to vote at affected locations.

There was a problem in the delivery of ballots for Union elections in four constituencies in Zanzibar and three on the mainland, as well as for a number of local elections, which is regrettable. While most voters did find their names on the voter lists, some did not or were not able to be adequately directed by polling staff. Further, some isolated incidents were

reported, such as in Kinondoni in Dar es Salaam, but this was not characteristic of the overall process. It is hoped that both NEC and ZEC will address any reported complaints regarding the administration of the process.

The process for vote counting and tabulation at the polling station and constituency levels provided for a high degree of access and transparency, with party agents able to be present throughout, scrutinizing and receiving an official copy of the results. However, the results aggregation at the Constituency level was drawn out, with some officials exhibiting a lack of familiarity with the new system.

After the election there was tension in a number of areas, as supporters of parties awaited the results. For instance, in Mwanza there were reports of clashes with the police. In Zanzibar, supporters of CUF gathered at the results centre heightening tensions, but in the event the manner of the concession by the second-placed candidate ensured a peaceful outcome.

Dar es Salaam, 2 November 2010

Declaration of Principles for International Election Observation

The Commonwealth Secretariat is a signatory to both the Declaration of Principles for International Election Observation and the associated Code of Conduct for International Election Observation Missions, which were commemorated on 27 October 2005 at the United Nations in New York.

Commonwealth Observer Groups are organised and conducted in accordance with the Declaration and Commonwealth Observers undertake their duties in accordance with the Code of Conduct.