

**THE UNITED REPUBLIC OF TANZANIA:
PRESIDENTIAL AND PARLIAMENTARY ELECTIONS
DECEMBER 2005**

Report
by
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Preface

At the request of the Norwegian Ministry of Foreign Affairs, following an invitation from the United Republic of Tanzania, the Norwegian Resource Bank for Democracy and Human Rights (NORDEM) recruited 10 observers to assess the 2005 elections in Tanzania with an emphasis on the Union presidential and parliamentary election process. The elections for the Union president and parliament and the elections for the Zanzibar president and Revolutionary Council were scheduled to take place simultaneously on 30 October. However, due to the death of the vice president candidate for CHADEMA, the union elections were postponed but the Zanzibar elections went ahead as scheduled on 30 October. A separate report has been done for the Zanzibar elections. A NORDEM assessment group was re-deployed for 2 ½ weeks to observe the postponed union elections taking place on 14 December 2005.

The assessment of the union elections is based on observations made in Zanzibar and the mainland from 31 September to 10 November and in Zanzibar from 2 to 20 December. Five teams, three in Zanzibar (one team on Pemba and two on Unguja) and two on mainland Tanzania (one in Dar Es Salaam and one team in Arusha and Kilimanjaro regions), conducted pre-election observation. Five persons were deployed to Zanzibar for the poll on 14 December. A decision was made to focus on Zanzibar only, because of the tense atmosphere that had developed after the Zanzibar elections in October. The group followed the last days of the campaign period on Unguja Island. The polling, counting and collation of results were observed in one district. The group also assessed the election environment.

The NORDEM assessment group was operating independently, but in close co-operation with the Norwegian Embassy and UNDP. There were no other long-term election observation missions present. However, several regional organisations as well as international diplomatic missions had short-term observers both on the mainland and in Zanzibar.

According to the Terms of Reference, the assessment group's task was to make an analysis of the electoral process, assessing the political party campaigns, administrative preparations, media coverage, electoral framework as well as the democratic and human rights environment.

The findings are based on meetings with election stakeholders such as political parties, election administration, local and international NGOs, official observer missions, embassies, the media, and not least, voters. The assessment group has observed rallies as well as preparations by election staff and political parties. Data is also collected from written reports from other organisations relevant to understanding the election process.

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Introduction

This report presents the NORDEM group's assessment of the Tanzania elections for the union president and parliament, held on 14 December 2005.

The focus during the first period of observation was on observing the campaign and assessing the election administration with regard to preparation for Election Day. The two teams on the Tanzania mainland covered two districts in Dar es Salaam and the coastal region, and six districts in Arusha and Kilimanjaro regions (out of a total of 118 districts on the Mainland). In Zanzibar the teams covered five out of ten districts. Opposition parties have more support in these regions than elsewhere. The elections were highly contested in some of the constituencies.

The report on the elections for Zanzibar president and House of Representatives covers the campaigning period in Zanzibar and the specific Zanzibari historical and political background more extensively than in this report. This report will focus more on the preparations and campaigning on the mainland before the originally scheduled Election Day in October, and the election environment and conduct of union elections in Zanzibar 14 December.

The party nomination process, registration for the permanent voters register (PVR) and analysis of media and the political system will be presented in less detail and rely more on secondary sources.

During the second period of observation, which was conducted only in Zanzibar, the focus was on the election environment and on the conducting of polling as well as counting and collation of results. This choice was based on the findings during the assessment of the previous election in October and on the political development on the isles in the aftermath of the October elections. The group followed the poll, counting and collation of results in District North B on Unguja Island. One team observed the election environment on Pemba and the rest of the group visited and met with voters, administration and political party representatives and candidates in three constituencies on Unguja before Election Day. In the days after the elections, the group revisited and made observations in one of the constituencies followed both before and during Election Day.

Summary of Findings

The overall assessment of the NORDEM observers is that the Union elections seemed to be technically well prepared by NEC and efficiently executed, considering the logistical challenges and the resource constraints in the present situation. But the elections took place in an environment marred by gross human rights violations in Zanzibar. Nonetheless, the good administrative preparations, distrust from the opposition and a lack of a level playing field for contesting political party candidates should be noted.

There were allegations galore from the opposition (both in Zanzibar and on the Mainland), claiming that the ruling party¹ used illegal and unethical means in their campaign. Furthermore, claims were made that the election administration was biased and influenced by the ruling party. Most of these allegations involving undue pressure, bribery, theft, buying of voters' cards, harassment, disinformation, etc., were impossible for observers to directly observe or verify. The position however, of a ruling party such as CCM, which has been a dominant and ruling force in Tanzania since before independence, provides potential advantages not available to other parties in today's Tanzania.

The Code of Conduct and the Code of Ethics defining the areas of responsibility of political parties and the electoral and state authorities is very commendable. It is however, regrettable that stakeholders did not have information about the implementation and follow up, as the resources, mechanisms and procedures seem not to extend to a local level.

In observing how the polling was conducted in Zanzibar, several issues give rise to concern about irregularities taking place:

- Double voting
- Presence and active role of *shehas* in some polling centres
- Voters in many polling stations rubbing off the ink, in one place being instructed by a *sheha* to do so
- Inconsistent official figures of registered voters
- Many observers and party agents had restricted access to the polling station copy of the voters register and the process of ticking off the voters in the register
- High numbers of polling stations and polling centres with close to – and some even exceeding – 100% turnout
- Reports of excessive use of force by security forces
- Transport of security forces around Unguja, intimidating voters and giving rise to allegations of multiple voting from opposition supporters

The NORDEM group could not assess to what extent such irregularities took place elsewhere.

The climate in which the voting takes place in Zanzibar seems to be very hostile. The excessive use of force and the lack of accountability seem to create an atmosphere of rumours and allegations. Complaints and claims are rarely substantiated, but the perception of many of the voters we have met is one of suspicion and fear. The Muafaka accord² had given cause to hope for an improved, reconciliatory political atmosphere between the two main parties, but continued polarisation of politics and the cementing of enemy images seemed to have driven the two parts further apart in the last few months. The election has not contributed to transparency and trust in the system.

¹ This is also the case in the few districts on the Mainland where CCM is in opposition, such as Hai, Moshi and Karatu.

² See NORDEM report on the Zanzibar election 2005.

Of greatest concern, however, is the violence and excessive use of force by security forces, in various actions taken on Pemba and Unguja, in connection with the two elections in October and December, directed against opposition politicians and supporters. Reports by victims of torture are particularly worrying.

The legislation governing union elections represents some concerns with regard to democratic standards³. This relates to the strict residency requirements for registration in the Zanzibar PVR, the limitations of the right to freedom of expression in the requirements for political party registration and the lack of provisions for appeals of the presidential election.

Building on the observations made during the first period of observation, the group has been able to get a more substantive assessment of the conduct of elections and the election environment. Information and observations, particularly concerning the role of police and security forces, that the group could not substantiate in the first report are more prominent here, resulting in a more critical assessment.

Political Background

History

The former colony Tanganyika became independent in 1961 with a multiparty system and Julius Nyerere became prime minister. Zanzibar gained independence from Oman in 1963 and the People's Republic of Zanzibar was established. Following the revolution in Zanzibar in 1964, in which the Sultan was overthrown, the two sovereign states formed the United Republic of Tanzania in April 1964. In 1965, Tanzania became a *de jure* one-party state. In practice, the Tanganyika African National Union (TANU), established and led by Julius Nyerere, was the only party allowed on the Mainland and the Afro-Shirazi party (ASP) the only party allowed in Zanzibar. Under the terms of the Union, Zanzibar retained considerable autonomy in all matters except security and foreign affairs with its own executive, legislative and judiciary branches. After the 1972 assassination of President Karume, however, the Zanzibari government gradually became less autonomous. TANU and ASP merged in 1977 to form Chama cha Mapinduzi (CCM). Tanzania reintroduced a multiparty system in 1992 following changes in the constitution (article 3 (1)).

The first multiparty elections took place in 1995. CCM won an overwhelming majority of seats in parliament. Benjamin William Mkapa was elected president. CCM was seen as being the architect of the new multiparty system and after having won the election they also had an advantage of being in the lead of the development of a new political process. This was a subject of complaint from the newly established opposition parties, perceiving the ruling party as dominant and biased and deciding the "rules of the game".

³ Democratic elections and representative government are recognised as international human rights standards in the Declaration of Human Rights, and made enforceable under the International Covenant on Civil and Political Rights and the African Charter on Human and People's Rights. African Union (AU) and Southern African Development Community (SADC) have also established general principles and guidelines for elections.

In the 1995 Zanzibar elections CUF rejected the outcome and political violence ensued. CUF also alleged vote rigging after the elections in 2000, in which CCM won. Again, in 2005, after the October elections, CUF accused CCM of rigging, and refused to accept the outcome. The NORDEM report from the October 2005 elections concludes that in spite of significant improvements, important and serious shortcomings were noted. Defects in the permanent voters register, the failure of the Zanzibar Electoral Commission (ZEC) to publish the full results down to polling station level, and the excessive use of force by the security forces added greatly to the climate of tension and distrust. The Union elections in Zanzibar cannot be seen outside of this context.

Political Parties

The Political Parties Act of 1992 makes registration of political parties conditional on their non-advocacy of religious, ethnic, racial and regional interests. Parties are not allowed to advocate the breaking up of the union or to carry out political activities only in one part of the union. Political parties are obliged to carry out periodic and democratic elections of their leadership. Party membership must be open to all Tanzanians without discrimination based on gender, religion, race, ethnicity or occupation. Finally, a party must have a minimum of 200 members who qualify as voters from each of the ten regions of the Union, of which at least two must be in Zanzibar; one on Unguja and one on Pemba (article 9-10).

By the end of 1993, 13 political parties had registered. Currently there are 18 registered political parties in Tanzania. In the 1995 general elections, the new parties won 40.8% of all the valid votes cast, while CCM won 59.2% of the votes. Opposition support declined in the 2000 general elections to 34.8% of the votes cast.

The main opposition parties registered were the Civic United Front (CUF), Tanzania Labour Party (TLP), Chama cha Democrazia na Maendeleo (CHADEMA) and the National Convention for Construction and Reform (NCCR Mageuzi). The opposition has however only a few seats in the parliament. In Zanzibar CUF emerged as the main opposition party, dominating Pemba Island but only a few constituencies on the more populous island of Unguja.

The political parties in Tanzania are largely personalised, building their identity on prominent individuals, rather than distinct political platforms. The political party landscape is characterised by fluctuations and defections. An illustrative example is the prominent and popular politician Augustine Mrema, who left CCM (after having lost the nomination process for presidential candidate) to join the opposition party NCCR-Mageuzi, after which he again defected, this time to TLP. NCCR-Mageuzi subsequently lost a lot of support. The emphasis on persons rather than issues was also a characteristic feature of the 2005 political party campaign observed by the teams. As far as the group could ascertain, only three parties had published a political platform. These were CUF, CCM and CHADEMA. The platforms were all characterised as being general and focusing less on how to achieve the goals than on what they wanted to achieve. Improved conditions with regard to infrastructure, health, water, education and income were the main issues mentioned by most parties.

A study done by the American NGO National Democratic Institute (NDI) on political parties and their need for capacity building and support concludes that opposition parties

lack organisational capacity⁴. CCM is characterised by its many years of being the ruling party in a one-party state. They have a very elaborate, wide reaching organisation down to the so-called 10-cell units, comprising 10 households. The party apparatus has partly overlapping state structures.

Candidates for parliament nominated by political parties vary depending on the constituencies. Only in very few districts do all parties have registered candidates. In some constituencies only one party (the ruling party) has registered a candidate.

Women's representation in political parties and in the contested seats of parliament is very low. Women candidates competing for constituency seats complain about the particularly tough conditions for women. The group has met with women candidates for different political parties and they echo each other when describing their experience. They point to several factors causing this situation. The fact that there are special seats for women may create the impression that women have their own seats, so they do not need to compete for the "real" seats. A former woman candidate in Zanzibar characterised the special seats for women as token seats, as the women selected by the parties are often relatives or women whom for other reasons are well connected, and not necessarily politicians who have competed on an equal footing. This may be why the women candidates all feel that their parties do not give them the same kind of support as they give the party's male candidates. Contesting for a seat in parliament costs a lot of money and this represents a bigger problem for women than for men. Traditionally, the woman's role is defined as different from the man's, based on taking care of children, home and family. Politics are perceived as the domain of men. The overwhelming lack of civic and political awareness puts women more at a disadvantage than men when it comes to representation and influence in politics. When asked if the special seats for women should be abolished, one candidate said that for now the system should remain unchanged, as the development toward greater equality is a very slow process.

Election Environment

The group was made aware of several violent incidents on Pemba involving Zanzibar police or security forces, in the aftermath of the October elections. The Tanzania Union police are responsible for maintaining law and order, and are authorised to call for reinforcement from any of the other security forces as deemed necessary, and therefore also have the overall responsibility for activities carried out by these forces.

In meetings with witnesses and victims, the team was told about incidents in Wete, Piki (both on the night between 31 October and 1 November) and Konde (1 November). In all three places members of the local population told the team that they, or people they had seen, had been beaten by the police, or by forces under police control. Many people had found their houses looted and damaged when they returned from the woods after having fled. In Wete, the team talked to the father and brother of a young man who, when trying to hide, was chased and shot in the back. He died on the spot. One other person is still in hospital from the injuries he received. 16 CUF members from Konde were still detained at the time of observation. It was not known whether they had been formerly charged. In Piki, the situation lasted for several days before the Mainland army succeeded in taking control of the situation. The local population had called CUF party leaders, who came to the village. They were themselves beaten, after which their feet

⁴ Political Parties in Tanzania: An Assessment of Mechanisms to Strengthen the Democratic Process. National Democratic Institute for International Affairs (NDI), September 2004.

were tied and they were then hung from a roof beam in the nearby barn. Among the seriously injured was the CUF party secretary. Some of this information was corroborated by observation of destroyed property and some victims' injuries. The local population perceives these incidents within a political election context. Whatever the background for the police missions in these places, these actions against civilians represent grave violations of basic human rights.

In a village in the Bumbwini constituency, visited by the group, the local population told the team that the evening before the October election, young men allegedly accompanied by the KVZ (*Kikoza Valantia Zanzibar*) came to the village, going into houses and beating up people. They took six men with them, of whom four had not returned the day after. An 18-year-old boy suffered injuries to his leg and the husband of the woman the team talked with was taken away with five other men. Two of them had to be brought to the Mnazi Mmoja hospital in Stone Town. The team saw the damage done to some of the houses as well as some of the injuries. The same thing happened during the 2000 election, when the husband was held under arrest for five days, according to the woman who spoke with the team. When the team visited the village on Election Day they did not know the whereabouts of the men. Two days later the team learned from the Officer in Charge that they had been taken to the police station in Mahonda.

According to reports in newspapers and by other International observers, violent incidents took place in Stone Town, Nungwi and on Tumbatu Island on Election Day. The incidents seem to have stemmed from alleged attempts by a number of voters with dubious eligibility to vote, who were transported to polling stations and cast their votes. This prompted protests from CUF supporters, who tried to stop what they believed was illegal voting. The clashes on Tumbatu caused a number of people to flee and seek refuge in Nungwi and Stone Town⁵. Allegedly, in Nungwi, security forces used arms to disperse a crowd, injuring a young man in the foot. In Stone Town one international observer witnessed security forces beating up civilians and he later spoke with a CUF candidate in hospital, who claimed he had been beaten unconscious by security forces. The doctor confirmed the injuries.

The police claimed that the only persons arrested during the election were around 20 CUF supporters who, according to the police, had kidnapped, assaulted and heavily injured four members of the prison guard. The police spokesperson also stated that no bullets had been fired during the election. (This is contradicted by numerous media reports.)

In an election context, this is in stark contrast to the aim of creating a peaceful environment for elections (as outlined in the NEC-initiated Code of Conduct and Code of Ethics, as well as in compliance with the spirit of the Muafaka accord) and has serious implications for the conduct of democratic elections. Although the responsibility of the police to keep public order must be acknowledged, the extent to which they seem to use violence and intimidation is likely to produce resentment, fear and lack of trust. Everyone the NORDEM group talked to understood these incidents within the election context, and supporters of the opposition perceived them as harassment, intended to scare voters from voting CUF⁶. Implementation of the various human rights instruments

⁵ The group was not able to confirm any numbers before departure.

⁶ Public statements by the CCM presidential candidate, Mr. Kikwete, that he was going to take more votes on Pemba, only served to "support" CUF's perception.

to which the Union Republic of Tanzania is a signatory, is a responsibility that lies not only with the Zanzibari authorities but also ultimately with the Union government of Tanzania.

Civil Society

The 1992 constitutional amendments opening up for a multiparty system also allowed the creation of private media and non-governmental organisations (NGOs). Civil organisations had, until then, been under the direct control of the state and the ruling party. This group met with several influential and professional NGOs, such as the Tanzania Election Monitoring Committee (TEMCO), Legal and Human Rights Centre and Tanzania Gender Networking Program.

However, while this group was observing the preparations for the elections, a significant and high profile case made headlines in all media outlets. The NGO *HakiElimu*, an organisation promoting fair education, released a report, in which they had criticised the government's progress in education, based on facts from the Ministry of Education's own report. The executive director of *HakiElimu*, Rakesh Rajani, has in a letter from the Minister of Education been "interdicted from undertaking and publishing any articles, studies regarding Tanzania Schools". President Mkapa himself publicly condemned the critique from *HakiElimu*.

Similarly, the Zanzibar Law Society, registered as an NGO, after having publicly condemned the deaths in relation with the voter registration process, was rebuked by the authorities, claiming in a letter that "NGOs were not registered to do politics", according to the NGO representative.

The Legislative Framework

The legislation governing presidential and parliamentary elections is the Elections Act, 1985. It incorporates all amendments made to the Act and is cited as the Elections Regulations, 2005. The Regulations shall be read as one with the Constitution of the United Republic of Tanzania, 1977. This also includes all amendments made to the act up to August 2005. Amendments are made to the old legal acts in order to regulate multiparty elections, introduced in 1992.

In addition to the above-mentioned legal acts, NEC is empowered to create regulations and guidelines in order to facilitate effective conduct of electoral duties. These are Regulations governing registration of voters for parliamentary and presidential elections (2004), and Elections (Parliamentary and Presidential Elections) Regulations (2005). The Guidelines are directed to electoral staff such as Registration Officers, Returning Officers, Assistant Returning Officers and Polling staff, as well as political parties and candidates. They are intended to explain the electoral process, and the duties and responsibilities of electoral staff, candidates and their political parties.

The legislation encompasses rules regarding registration of voters, qualification and nomination of candidates, the election campaign, the voting and counting procedures, offences in connection with the elections and the procedures for complaints and appeals.

Since the 2000 elections, the government has made several amendments to the electoral acts. A major positive change is the introduction of a permanent voters register. Another significant change in legislation is the recognition of the need for voter education in that the NEC is designated as responsible for this.

Election System

The current political system used in Tanzania is the "first-past-the-post" system. The country is divided into constituencies and wards (or *shehias* in Zanzibar). Each constituency elects one representative to the union parliament. The winning candidate is the one who receives the greatest number of votes cast. With regard to a presidential election, each candidate must have a running mate (vice presidential candidate) who must come from the other part of the union. The winning candidate is, again, the one with the greatest number of votes cast.

The Tanzanian Parliament is a unicameral national assembly. It has 324 members composed of 232 elected constituency members (182 from the Mainland and 50 from Zanzibar), 75 members of parliament for women's special seats, five members elected by the Zanzibar House of Representatives, 10 members appointed by the President, The Speaker (if not elected among the constituency members) and the Attorney General. In other words, the voters directly elect 71% of the seats, and the rest are appointed or selected through other means. The special seats for women are distributed proportionally according to the number of votes each party wins in the parliamentary election. NEC appoints the candidates based on lists provided by the political parties.

Franchise

The right to vote is granted all citizens of the Union Republic of Tanzania who have attained the age of 18 unless disqualified, most importantly, on grounds of a criminal conviction or for being legally of unsound mind (Election Act 1985, 10-11, Constitution, 5 (2)). Zanzibar citizenship is more strictly regulated than Tanzanian citizenship. The voter must be registered in the Permanent Voters Register (PVR). Registration shall be in the constituency in which the voter ordinarily resides. For the Union elections NEC provides the Permanent National Voters Register (PNVR) for use on Tanzania Mainland, whereas for Zanzibar the Zanzibar Permanent Voters Register (ZPVR) shall be used. This creates some confusion, as the rules for registration are different. A result of this is that NEC has made a separate voters list of those voters living in Zanzibar, but who have not yet qualified for residency in Zanzibar, and thus only have the right to vote for the president. A voter in Zanzibar, contrary to the Mainland, is deemed resident only if he or she has lived in the constituency continuously for the past 36 months.

On the other hand, the very flexible regulations for security forces that are exempted from the residency requirements are the cause of much concern on the part of the opposition, due to suspicions that security forces are deployed before registration with the intention of influencing elections.

Constituencies and Polling Districts

According to the Union and Zanzibar constitutions, the NEC and the Zanzibar Electoral Commission (ZEC) respectively, have the power to demarcate electoral constituencies. The number of residents shall be the main factor in deciding the boundaries, although

factors such as distance and administrative boundaries, as well as representation of urban and rural areas, shall be considered. The Election Act (Article 5(1)) vests NEC with the power to divide each constituency into polling districts. There seems to be little guidance in the Election Act regarding the criteria for changing the boundaries. When this has been done in the past, the opposition parties have often objected, claiming that it is done to favour the incumbent party. The latest demarcations were made in the autumn of 2005.

The Electoral Administration

Following the introduction of the multiparty system in 1992, the President appoints a seven member National Electoral Commission⁷. According to the Election Act, the chairman must be a judge of the High Court or Court of Appeal. The Vice-Chairman must be a judge or a person qualified to be a judge of the same courts. It is also a constitutional requirement that when the Chairman comes from Tanzania Mainland, the Vice-Chairman has to come from Zanzibar (and vice-versa). The President shall appoint one member from the Tanganyika Law Society (representing civil society). The requirements for the remaining 4 members (also appointed by the President) are that they are experienced in conduct or supervision of Parliamentary elections. The constitution bars political party leaders from being appointed members of NEC⁸ (this in contrast to ZEC).

For the 2000 elections, the law was amended so that local election officials (so called Returning Officers/Registration Officers) were no longer recruited through applications and selected based on merit. Today the district/municipality/ town executive director (DED) automatically becomes Registration/Returning Officer for the duration of the registration/election. The DEDs are government appointed. They are responsible for all matters relating to registration of voters and administrative matters relating to elections. NEC has appointed Regional Electoral Co-ordinators, who coordinate information from the Returning Officers in his/her region.

The tasks of the National Electoral Commission, stipulated in the Elections Act, 1985 (4-8) and in the Constitution (74 (6)), are the following:

- Supervise and coordinate registration of voters
- Supervise and coordinate the conduct of presidential and parliamentary elections in the United Republic and the councillors election in Mainland Tanzania
- To review and demarcate boundaries of constituencies
- To declare elected members of parliament for special seats for women
- To provide voter education and approve voter education material prepared and used by other institutions involved in voter education

⁷ Section 74 of the Constitution 1995, amended in 1995; Election Act no. 1 1985, amended in 1992.

⁸ Article 74 (3)(d).

The President also appoints a Director of Elections. He is the Chief Executive and secretary to the commission. He is not a member and does not have a vote. The secretariat has various departments:

- Elections management
- Information, Research and Statistics
- Legal
- Administration and personnel
- Accounts
- Internal Audit
- Information Technology
- Voter Education

Several actors, such as the NGO Law and Human Rights Centre (LHRC) and the regional organisation SADC, are of the view that the law establishes a non-representative Commission⁹. There are two reasons for this: 1) the unilateral appointment by the President, and 2) the composition of the commission. In contrast to ZEC, NEC defines its neutrality through being strictly non-partisan. The opposition parties, which the NORDEM observers met locally, nevertheless seem to perceive the commission as representing the government.

The change in the law¹⁰, giving District Executive Directors automatically the responsibilities as Returning Officers, has given rise to critique and complaints from political parties. LHRC is of the opinion that this may put the neutrality and loyalty in question, as they may be seen as serving two masters, namely the Commission and the government. Before 1995 the election posts were advertised in the mass media and the successful applicants were appointed as subordinate commission personnel for purposes of conducting the elections. In Zanzibar, however, the Returning Officers had applied for the position and were for the most part schoolteachers and headmasters.

NEC has initiated the involvement of political parties in the planning of elections by introducing several committees that advise NEC on how to supervise the elections. Some committees also include representatives from the media as well as representatives from civil society. The committees include committees on code of conduct, government and political parties, observers and voter education. NEC also held several consultative meetings with the political parties. One notable outcome was the Code of Conduct, signed by NEC, political parties and the government of Tanzania, regulating the "dos and don'ts" for the three parties to the agreement. The committee on code of conduct is to monitor the implementation.

The general impression of the Tanzanian electoral administration is one of efficiency and competence in the technical aspects of conducting elections. However, on a local level, the representatives of the electoral administration – Returning and Assisting Returning Officers – are in some constituencies associated with CCM. Opposition parties often expressed a lack of trust in the neutrality of the electoral commission and

⁹ SADC election observation statement 2000; LHRC unpublished paper, analysis of the electoral law, 2004.

¹⁰ Elections Act 1985 section 7(1).

the Returning Officers, as they are seen to be protecting the interests of the ruling party. This is based on several factors, such as the blurred boundaries between the CCM party structures and civil service structures as well as the unilateral appointment of the electoral commission¹¹. In three constituencies the NORDEM team visited, political parties other than CCM had complained about the work of the Returning Officer or of the conduct of Returning Officers themselves. In two instances they had sent written complaints to NEC, but neither had received any formal response, which served to enforce their lack of trust in the electoral administration.

In Zanzibar, it is this group's impression that the voters and the political parties have more confidence in the neutrality of NEC than of ZEC. One reason for this may be the fact that according to the Election Act, NEC is obliged to display the voters registers 8 days before the Election Day. This was done on time. A minor flaw, however, was that the local electoral staff was not informed adequately about the fact that there could be no changes in the register, as the deadline for complaints and appeals had passed.

Voter and Civic Education

According to amendments to the Election Act, NEC is now responsible for voter education and co-ordination of other actors providing this. They had produced posters widely displayed on polling stations and centres explaining the voting procedure. Voter information was also disseminated through cars driving around towns with loudspeakers. This was observed several times in several places.

UNDP, funded by the Election Donor Basket, developed civic education, media training, political party training and law enforcement training programs. The civic education program involved 110 local NGOs, who were trained and then conducted events in their various localities. A media code of conduct was developed and signed by stakeholders. Training sessions were held for political parties concerning the role and responsibilities of party agents.

Political party, NGO and electoral administration representatives that the group talked to expressed the opinion that much of the electorate is not educated in political and government structures. This is confirmed in a study done by the University of Dar Es Salaam. It concludes that only a few people can be said to have comprehensive knowledge of political and government affairs¹². Women to a larger extent than men seem to have a low level of awareness of both national and local politics. According to the study, this may be partly due to the fact that women have even less access to information than men. People who follow accounts of political and government affairs by reading newspapers are mostly urban, educated elites. The majority of Tanzanians depend on the radio for political news and information.

¹¹ Although the commission according to the constitution is non-partisan, due to the fact that the President appoints the seven members, the commission may be perceived as not neutral. The President is head of the government and represents a political party.

¹² Mushi, S, Mukandala, R and Baregu, M (ed.): Tanzania's Political Culture: A Baseline Survey. Department of Political Science and Public Administration, 2001.

The group noted that voter and civic education was very much appreciated by those who have received it. However, both election administration and political parties emphasise the need for a much greater outreach. All political parties except CCM participated in polling agent training in Arusha region¹³ and expressed their satisfaction with the training and claimed that it was very useful. In Arusha and Kilimanjaro regions, the civic education was well coordinated and organised. It seemed to be very well received and effective, although the outreach left much to be desired. This was particularly noted in rural areas such as Monduli, where the majority of people are Masai and semi-nomadic pastoralists.

Voter Registration

Amendments have been made in the constitution so as to provide for the establishment of a permanent national voters register. This is a major positive change. The register was made for the 2005 elections. It contains names of eligible voters on Mainland Tanzania. In the case of Tanzania Zanzibar, the law provides for the use of the Zanzibar Permanent Voters Register in union presidential and parliamentary elections.

Persons qualified to register present themselves for registration in polling districts where they normally reside. An application form must be filled out in person. If accepted, the voter receives a voter's card. If the application is rejected, the person has the right to receive a written explanation of the grounds for refusal. He or she can take this to the Registration Officer who will rule on the case. The aggrieved has the right to appeal to the District Magistrate within a time period of seven days after the decision of the Registration Officer. The appeal shall be determined within 14 days.

After the completion of the registration of voters, the register was displayed in every ward for public inspection. A registered voter then has the right to object to the retention of his/her name or the names of others, on the grounds of not qualifying for registration.

On Tanzania Mainland, a voter who is registered in one polling district and becomes resident in another may apply to transfer the registration. In Zanzibar, however, the residency requirements are very strict. A voter must have lived continuously in the same district for 36 months before being registered. In other words, voters on the Tanzania Mainland and Zanzibar are subject to different registration regimes.

The NORDEM assessment group did not observe the registration period, which took place at the end of 2004 and beginning of 2005. The group has heard few complaints about the PVR for the Mainland, except in Karatu (Arusha region), where the ruling party CHADEMA claimed that several thousand names were duplicated in the register. The Returning Officer stated that this was sorted out, but not to the satisfaction of CHADEMA. The group has not been able to verify this claim.

The Zanzibar register was highly contested by the opposition, who claimed that a number of people had been disenfranchised and others had been registered multiple times. According to the Muafaka accord, the political parties agreed to have the register

¹³ Conducted by NDI.

completed well in advance before the October elections for inspection. This was not achieved, resulting in a situation in which the register had little credibility for the opposition. There was also no provision in the law for making corrections in the PVR before the December elections. Contrary to the Zanzibar election law, the Union election law stipulates that the PVR is to be displayed 8 days prior to Election Day. As far as this group could ascertain, the voter list was displayed in polling centres on time.

Candidate Registration

To be registered as a candidate for election, a political party must sponsor him or her. NEC deals with presidential candidates, while the Returning Officers deal with the parliamentary candidates. There are certain requirements specified in the constitution.

A presidential candidate must have a so-called running mate, a vice presidential candidate from the other part of the union. The candidates must be supported in writing by not less than 200 voters from each of at least ten regions, out of which at least two must be in Zanzibar. A deposit of Tshs 1,000,000 (approximately USD 1,000) must accompany nominations.

For a person to be validly nominated as a Parliamentary candidate, he or she has to be nominated in writing by not less than 25 voters registered in the polling districts within the constituency in which the candidate is competing. A deposit of approximately Tshs 50,000 (USD 50) must be made to the Returning Officer.

The nomination day set by NEC was 20 August.

Procedures for objections are specified in the Election Act. NEC received only one objection to a vice presidential candidate. The objection was rejected. NEC received 65 objections for Parliamentary candidates, but only six were upheld. NEC accepted 10 presidential candidates with their running mates and 1225 parliamentary candidates. The number of candidates from each party differs substantially.

The NORDEM assessment group did not observe this process. CUF in Monduli (Arusha region) complained to the NORDEM team that the local electoral authorities had tried to make it difficult for them to register their parliamentary candidate, claiming that there were problems with the names in the registration form, causing delays in the process. He also claimed that he had been offered bribes for withdrawing his candidacy. He was the second candidate, as the first one did accept the bribe, and had withdrawn his candidature, according to CUF's candidate. Complaints concerning the registration of candidates (also for local councillor election) and campaigning were filed with the Returning Officer and with NEC, without formal response, according to the CUF candidate.

Several local CCM representatives in Arusha noted that their party struggled internally with a democratic and transparent process of nominating candidates for parliament. In one district (Arumeru West) the candidate chosen by the central organ was by both the district and the regional level considered to be corrupt and not a person representing the interests of the electorate. Internal conflicts of this kind caused frustration among district party people. The media also reported numerous such cases from other regions of Tanzania.

The Election Campaign

Both the Election Act and the Political Party Act regulate the procedures and activities of the election campaign.

In a constituency, the candidate and his/her party organise the election campaign. The campaign schedule must be submitted to the Returning Officer, who after having received this from all candidates will convene a meeting to coordinate the events. This coordinated program must be disseminated to all parties (in addition to the parties, the police and the District Commissioner). No other formalities are necessary to organise election meetings. NEC coordinates the presidential campaign program. Door-to-door canvassing is allowed. Campaigning is not allowed on Election Day.

The candidates have the right of access to the state-owned media. NEC issued directives to privately owned media to accord equal opportunity to all candidates. These directives have the force of law.

A Code of Ethics has been agreed upon and endorsed by the political parties, the government and NEC as a memorandum of understanding. It is the responsibility of NEC to ensure implementation. Among the issues mentioned are:

- Avoiding acts and language that may be abusive, confrontational and divisive
- Avoiding breaching peace and tranquillity
- Not causing chaos or public disorder
- Co-operation and facilitation of peaceful polling
- Ensuring equal opportunity
- Maintaining peace and order
- Not abusing authority or government resources to campaign for any political parties or candidate
- The government's obligation to ensure that security organs do not use their mandate to oppress any political party
- The government's obligation to ensure that the security organs do not use excessive force
- Provision of voters education and election staff training

There is also a Political Parties Code of Conduct produced by NEC, based on the Political Party Act (Section 22 (h)), in which many of the same issues with regard to political parties are regulated. In addition, the right to hold rallies and discuss politics and seek the support of voters is emphasised. The use of bribery to influence voters is forbidden. The responsibility for ensuring the implementation of these regulations lies with the Registrar's office. The Registrar can give written warnings or publicly snub the contravention.

The political parties represented in parliament did in previous elections receive financial support for campaign purposes. This provision was however cancelled before this election. The possibilities for the opposition parties, perhaps with the exception of CUF and CHADEMA, to do extensive campaigning, reaching out to potential voters is thus limited. CCM dominates the political campaign scene through huge posters on

buildings, billboards and road poles as well as clothing effects and flags. Opposition parties have few resources compared to the ruling party. They also lack the apparatus and the organisation to reach out to the same extent as CCM.

According to the law (Election Act, section 98) "traditional hospitality" is allowed during the campaigns. However, this is not defined, leaving the matter open to subjective interpretation. The difference between "traditional hospitality" allowed by the law and "treating" which is not permitted under the law is not at all clear. This may encourage corruptive practices.

Before 2000 door-to-door canvassing was not allowed on the grounds that it could lead to corruption in the electoral process. Section 51(3) of the Elections Act, which was inserted in the 2000 amendments, permits candidates, their agents and political parties acting with consent of the candidates to conduct door-to-door canvassing. This may create an environment conducive to corrupt transactions.

The rhetoric in many of the rallies the group observed on the mainland was often provocative and to some extent derogatory. The focus is usually on person rather than issue. We noted that CCM in several rallies presented the opposition as being synonymous with disorder and possibly war since they had "no experience", "no money" and "no address".

In rallies attended in Zanzibar, the rhetoric of both CCM and CUF was characterised by provocative language. Mr. Maleem Seif for example, in the CUF rally on 11 December, called Mr. Karume and his party "thieves who have stolen" the victory of CUF. Likewise, Mr. Karume in a CCM rally on 13 December stated that if CUF were to be elected, they would lead the country into war¹⁴. The language used by the parties seems to be perceived by the opposing parties as inflammatory and "proof" of their mutual accusations of lies and cheating.

Opposition parties all raised complaints about CCM using their position as ruling party to their advantage, and using pressure, bribery and other unethical means to win voters. Allegations of bribery, buying voter cards and candidates, using lies and disturbing other parties' rallies, were presented to us. This was also the case in districts where CCM was in opposition (e.g. Hai, where CCM was in opposition and complained about the ruling party in the district, CHADEMA). Such allegations are, however, difficult to verify, as much of the illegal methods are supposed to have taken place during house-to-house campaigning. The team did observe, however, the Union Vice President leaving Pemba after a CCM meeting, using one of the government planes.

As far as the group could ascertain, clashes of parties claiming the same location for their rally, were solved without violence. Interference by an opposing party in terms of loudspeakers, singing and distribution of party materials took place, but it is hard to estimate to what extent.

In most conversations with political parties, the emphasis was on the opposing party or parties. Local party representatives gave the impression of being less concerned with a party platform and political issues than with criticizing the opponent and behaviour of the contesting parties (most often this would be the ruling party).

The last week before the originally scheduled 30 October election saw an increase in aggressive incidents related to campaigning in Arusha and Kilimanjaro. In places where

¹⁴ These examples illustrate the trend observed in rallies also in Arusha and Kilimanjaro.

competition was high, the pressure and tension seemed to increase as we approached Election Day. Several violent incidents in Moshi, Arusha, Monduli and Karatu were reported. In some cases, groups of young people promoting CCM seemed to play a role. A case in point is the incident in Karatu when a group of youngsters driving a car through the town "informed" the town over loudspeakers that the Chadema presidential candidate and secretary general on visit to Karatu had defected to CCM. CCM on their part denied any connection to the youngsters.

In Zanzibar, the NORDEM group aimed at talking to the ruling party candidates in their constituencies, but when visiting the three constituencies in District North B on Unguja before the election, only the CUF candidates were present.

In Zanzibar, CUF has had some big rallies, attracting several thousand participants. CCM, according to the party secretary, has had a different strategy of small meetings around the island, just meeting with local party leaders. A notable exception was the rally before Election Day where Mr. Karume made a speech. A huge crowd of maybe more than 10,000 persons attended. The assessment group did not receive information regarding opposition parties being rejected from a scheduled location for a rally, something that was reported in October.

The Media

Section 53 (4) of the Election Act stipulates that all candidates and political parties shall have access to state-owned media. According to directives from NEC, radio and TV broadcasters, and print media are required to devote equal coverage to all contesting parties.

Under the auspices of UNDP and funded by the Joint Donor Election Basket, the Media Institute Southern Africa (MISA), monitored the Tanzanian media from July to October, but only on the Mainland. A training program for the media was also implemented with regard to reporting within an election environment.

The preliminary conclusion of the MISA institute¹⁵ was that all contending parties received coverage, but that the ruling party dominated, particularly in the state-owned media. Furthermore, the political interests of the media owners were believed to be a factor in how electoral processes were covered. It was also noted that women are rarely used as sources of information in media articles. Our own findings suggest that opposition parties may not be fully aware of the possibilities they have for using the state media.

All media increased the amount of voter information and, according to MISA, fulfilled their obligation in this sense.

¹⁵ Quarterly Progress Report of Tanzania Elections Media Monitoring project (September-October 2005).

Observation on Polling Day

Procedure

NEC issued a special and detailed guide containing directives to polling station supervisors. It included the role and responsibilities of electoral staff and preparations for Election Day, things to bear in mind during voting, and finally counting.

The Returning Officer is obliged to put up a notice eight days before Election Day in the centres, displaying names of voters assigned to each polling station, contesting parties and candidates and the opening and closing times.

The electoral law authorizes political parties to appoint party agents in each polling station, to observe the process from voting to counting. There are a huge number of polling stations; only CCM had the resources to put agents in each station. In Zanzibar also CUF has agents in most stations.

Polling stations opened at 07:00 and closed at 16:00.

The number of polling stations is based on the number of voters specified to vote at one station (350 in Zanzibar). They are normally located in school buildings, with several stations in one polling centre. The voters register for one centre covers a *shehia* (or ward on the Mainland), which is divided into separate stations by counting the first 350 names in station A, the next 350 in station B, and so on. The last will normally have the remaining names (not amounting to 350) plus the additional list containing the names of those who are eligible for voting only for president (these are the ones that do not fulfil Zanzibar requirements for residency and thus are not registered in the ZPVR).

Each polling station has three polling executives out of which one is appointed Presiding Officer of the polling station. Shortly before the election, however, NEC decided to appoint one extra assistant to assist the voters outside in finding their names on the voters list.

Before opening the station, the Presiding Officer must show the empty ballot box to all present, after which he or she will seal the box. Voters must present their voters card upon entering the station, and will be allowed to vote if the name corresponds with the register. The little finger should be inspected for ink. Polling staff assigned to a polling station other than the polling station at which they are registered to vote, must present a certificate of service in order to vote at their assigned polling station. The Assistant Supervisor will tick off the voters name in the register and read aloud the name of the voter. The Presiding Officer will provide the voter with a stamped ballot paper and he/she will proceed to the booth. Another Assistant Supervisor will guide the voter in placing the ballot in the correct box and then smear the little finger with ink. Blind voters will receive a tactile template ballot folder for voting. If it is believed that a voter has no right to cast their vote he or she shall be informed that voting without the right to do so is a crime that can be punished. If the person still insists, he/she must fill in and sign a declaration form that shall be put in a separate envelope, marked with the person's name and address. Incapacitated or illiterate voters may be assisted by a person of their own choice (but this person can only assist one person or incapacitated member of that same person's family).

At the close of the poll, the Presiding Officer seals the ballot box slot. Party agents shall fill in a form, showing his/her satisfaction or dissatisfaction with the electoral procedures, upon which one of the Polling supervisors shall explain actions taken in response to complaints during the day. The Presiding Officer will then record numbers of ballot papers, packing the stems of the used ballot papers, the unused ballot papers, the spoiled ballots, the voters list, and the used polling station material in the prescribed envelopes. This must be done in front of the party agents and observers. The votes will be counted at the polling station, separately for each election. First the total number of ballot papers will be counted, then for each paper the candidate that has been selected will be determined. If the voter's intention is not clear, the ballot paper will be put in a separate pile. If it is clear it will be put in a pile for that candidate. After all the ballot papers have been divided into piles by candidate, they are counted. Any objections from the party agents shall be recorded. The result is recorded and the party agents are invited to sign. Once they have done so, the result is posted outside the station. The sealed ballot boxes containing the sensitive material are transported to the Returning Officer with police escort.

At designated centres, where all the polling stations from one constituency will bring the results and the material, the Returning Officer is responsible for collating the results from that constituency and then announces the winning candidate. The Returning Officer is also allowed (after a recent change in the law) to announce interim results for the Presidential election. NEC will announce the final result. Accredited observers and party agents are allowed to observe the collation process.

Observation

As mentioned above, this assessment group concentrated their observation in the North B district on Unguja, Zanzibar. The Unguja North B district consists of three constituencies, Bumbwini, Donge and Kitope, with a total number of almost 34,000 registered voters. The 3 MPs from the district's 3 constituencies all represent CCM. Zanzibar is divided into 10 districts (6 on Unguja and 4 on Pemba islands) and 50 constituencies (32 on Unguja and 18 on Pemba).

The group visited 28 polling stations in 11 polling centres (out of 27) in the three constituencies. The group followed counting in four polling stations in two constituencies. The collation of results was observed throughout the whole process starting in the evening of Election Day and ending around noon the following day.

The preparations by the election administration went well in the areas this group visited. The staff the group talked to seemed to be knowledgeable on technical issues, well prepared (but with some notable exceptions) and the election material was received as planned. It is the impression of the group that the election was better organised now compared with the election in October. NEC's decision to add one extra person to the polling station staff to assist voters in finding their names seemed to be very useful.

The otherwise good practice of displaying the PVR and the additional list before the Election Day unintentionally caused some confusion among voters and electoral staff. This concerned the question of mistakes in the lists and who (NEC or ZEC) was responsible. According to the law, the register cannot be changed until after the election. The practice observed was that voters that did not find their names complained to the Returning Officer, who then referred them to ZEC, who in turn referred them to NEC.

No changes were made, however. The fact that NEC is responsible for conducting the elections, whereas ZEC is responsible for the PVR (but not the additional list, which is compiled by NEC), created this uncertainty. On Election Day the additional list was a cause for confusion as there seemed to be a lack of knowledge or understanding of the procedures for having their names on this list and who was responsible¹⁶. In stations observed in which they had the additional list, it seemed that many of those coming to vote on this list did not find their names.

In spite of this, the group found some mistakes and irregularities that may be explained by human error, and not necessarily intended to influence the outcome of elections, but nevertheless, some serious flaws were observed, concerning the risks of multiple voting in the polling centres visited.

The group observed *shehas*¹⁷ present outside some polling centres. In one case the team saw one *sheha* organising voters arriving at the centre. It was also observed that one *sheha* instructed a voter to rub off the ink. The team made some spot checks during the day at the same polling station, and the *sheha* was outside the centre on all of these occasions. The *sheha* is appointed by the regional commissioner, and as such is the representative of the president. They were highly criticised for the proactive role they took, against instructions, during registration. Disenfranchising voters in some areas and registering under age voters in others were among the violations of the law allegedly perpetrated by the *shehas*¹⁸. One of the tasks of the *shehas* is to have an overview of the residents in the *shehias*. Their presence outside the polling centres, where they can observe everyone in their *shehia* coming to vote, was perceived as intimidating by some voters that this group talked with.

Among the irregularities were inadequate space in makeshift polling stations, polling booths with the opening facing the polling staff, failure to call out the names of the voters, persons assisting more than one voter, and family voting. This was observed to have happened, but there is no evidence of this being anything systematic.

One team observed a person succeeding in voting twice, having rubbed off the ink before proceeding to the station next door, where he was also registered. His name was in both polling stations' voters registers. In all polling centres observed, several voters tried to rub off the ink immediately after voting, often using sand from the ground. In many of the polling stations observed, the group did not see that the voters were inspected for ink on the finger before they could vote. In some stations they were inspected after they had cast their vote, before being inked. In some polling stations, the voters' names were not ticked off properly in the register.

There had been several allegations during the previous elections, but also during the days leading up to this election, that multiple voting would take place through the transport of security personnel and others to polling stations for voting. The NORDEM

¹⁶ In all polling stations observed by the group, several potential voters were turned away as they could not find their names on the additional list. According to the NEC Regional Coordinator, those who are registered in the NEC PVR on the mainland, but living in Zanzibar, should have notified him before the election, so as to be included on the additional list.

¹⁷ The *shehas* are local village officials, in the so-called *shehias*, which corresponds to wards on the mainland. They played a crucial role in the registration of voters for the Zanzibar PVR, and there were serious allegations of their disenfranchising eligible voters.

¹⁸ This was e.g. reported by East Africa Law Society in their assessment of the registration process in Zanzibar.

teams did not observe this themselves. However in the course of less than one hour in the village Mahonda in North B, one of the group members, after hearing from an International Observer that truckloads of young men accompanied by uniformed security personnel were moving around the island to vote in several places, noticed 4 such trucks going north and 2 going south. Armed JKU personnel escorted one of these. It was impossible to ascertain whether or not they voted multiple times. One international observer saw such groups voting, but was not allowed to observe the process of ticking off their names in the PVR.

Party agents were in several polling stations denied access to the room or in most cases placed too far away from the register and ballot paper to be able to see much. Two members of this group were on three occasions restricted in observation by the Presiding Officer. On one occasion the observer was asked to leave before she had finished. At least three other international observers reported the same experience in a meeting with UNDP after the election.

Many opposition party agents approached the observers, mostly complaining about multiple voting and lack of sufficient access to observe adequately the voting process¹⁹. However, none of the agents the group talked to would register their comments and complaints according to the procedures provided for in the regulations. The reasons mentioned were either fear of reprisals later or because "it is no use". No party agents recorded any complaints after the counting in the polling stations the team observed.

The group did not themselves witness any violence or disturbances in polling stations. We were told however by other international observers and by voters of incidents allegedly taking place around the island. Some of these were reported on the news the following day. One of these took place in Bumbwini, allegedly involving the police shooting to disperse a crowd of CUF supporters, who allegedly had tried to stop what they believed to be unlawful voting.

One polling centre must be noted specifically, as it was created to cater to security forces in a nearby camp in Bumbwini constituency. At Pangatupu the polling centre consisted of five polling stations – originally 6; A-F, but F was removed and placed under D, according to the Returning Officer. The polling stations had very limited space. The polling agents had to stay outside or at the entrance. At one of the stations one observer from this group was not allowed to enter. On a visit to the village before Election Day, the villagers informed the team that they were not at all happy with this camp, as the officers did not live in the community regularly, only when there were elections, and thus had no interest or knowledge of the village affairs and interests and constituted 16% of the total number of registered voters in this constituency²⁰.

The police observed in the polling stations by the NORDEM teams seemed to be standing by the entrance, controlling the queue. Almost all polling stations had party agents present.

¹⁹ In a training session for political parties in Arusha on being a party agent, all the opposition parties expressed a great concern for party agents becoming victims of bribery on Election Day, since they had no funds to provide for the agents.

²⁰ Although officers at the camp informed the team that there were around 3000, the number of registered voters in this polling station was 1777 according to the official figures received from the Returning Officer before Election Day. The total number of voters in the constituency is 10,964.

Counting

The counting of votes in the polling stations visited by this group was on the whole conducted without problems (although not always following the procedures correctly). The police followed the counting closely, making his or her own notes of the results. In one polling station the police actually assisted the polling staff in keeping the ballot paper piles in order. There are many forms to be filled out and quite elaborate procedures, obviously confusing the staff. Writing result forms in many copies because there is no carbon paper adds significantly to the workload if there are several party agents, who shall all have a copy.

The collation of results in Mahonda secondary school (collation centre for this district) was observed till the end, and no problems occurred. It took a long time for all the results to come in from the polling stations. The collation was not finished before noon the following day. The Returning Officer and the electoral staff had then been working since before six o'clock the previous day. That mistakes are made and procedures not followed in all detail is under such conditions to be expected.

The NORDEM group observing the counting and collation were very well received and the observation expediently facilitated.

In the October election, much uncertainty was connected with the recording and tabulation of results at the collation centres. On the basis of this, the NORDEM assessment group decided to observe the collation of results from all polling stations in North B district. The team had made its own tally form so as to note all the official figures from all forms. In addition, the group had received an official list from the Returning Officer containing numbers of registered voters for each polling station and each polling centre in the whole district. After the election, the group received a copy from the Returning Officer of the official collation forms for each constituency (Form 24 A and B). These three documents give important opportunities for crosschecking data, most importantly:

- Total number of eligible voters per centre against the number of cast votes
- Maximum number of registrants against announced number of registrants in the PVR of each polling station
- The tallying of every single result against the officially announced result

To simplify and prepare the job of filling in the results, the group had filled in the number of registered voters from the official lists received from the Returning Officer before Election Day. When looking at the result forms, it appears that the figure of registered voters from the list the Returning Officer had before the election was lower than the figure of registered voters announced during collation. One example is from the above-mentioned Pangatupu. During the collation process, the 26 voters listed under station F, which according to the Returning Officer had been moved to section D during polling, "reappeared". The registered number of voters at station F was then 326 and number of votes 289.

The following information appears from the official figures noted during collation²¹:

- In Kitope constituency, the figures show that 770 more people voted for the Member of Parliament than there were registered voters in the PVR.

²¹ See appendix for the full list of figures from North B district.

- In Donge constituency, the figures show that 880 more people voted for both parliamentary and presidential elections than there were registered voters.
- In many stations and centres, the "turnout"²² is very high. In Donge constituency²³ this is particularly striking. In seven out of the nine polling centres (or 19 out of 33 polling stations), the "turnout" is between 96 and 100%. Of these, 12 have 100% or more "turnout", according to the official forms.
- When comparing the number of voters registered according to the official figures received before the election, with the registered number of voters noted in the compilation result forms (24 A and 24 B), the total number registered for the whole district appears to have increased by 851 for Presidential election and 955 for Parliamentary election²⁴.

The election law does not allow for adding voters to the PVR on Election Day²⁵. The procedures required during both counting and collation are cumbersome and complicated. Taking into account the late hour at which these took place, it is likely that some figures may be incorrect due to human error.

It is safe to say, however, that although inconclusive, the findings may put the accuracy of the process into question. It must be noted that the group did not have time to verify this information with the Returning Officer before departure.

After Election Day

Due to the observations made on Election Day and information received from other sources both before and on Election Day, a decision was made to focus the follow up observation after the election on Bumbwini constituency. Bumbwini was mentioned as one target area for CUF where they would put "all efforts into safeguarding the electoral process"²⁶.

Mr. Makame Haji Makame, CUF, became the MP from Bumbwini in 1995 when he won with a clear majority. However, he lost the seat in 2000 to his CCM opponent. Mr. Hakame and his CUF supporters claim that the 2000 election was not "free and fair". They pointed specifically to the number of "foreign" voters at the Pangatupu polling centre.

One officer in the training camp for security forces *Kikosi Valentio Zanzibar* (KVZ) told the team that there were 3000 persons in training at the camp. Villagers at Bumbwini told the team that the numbers of officers in the KVZ camp had increased before the

²² Rejected votes not included in the calculation.

²³ The figures for 3 of the polling stations were not clear to this team, thus they are not recorded.

²⁴ The discrepancies appear when looking at:

Registered voters for Parliament according to official list received from the Returning Officer before election (NEC's list) and the number of registered voters according to the Result form 24 B.

Registered voters for President according to official list received from Returning Officer before election plus voters in the additional list compared with registered voters according to the Result form 24 A.

²⁵ There is a provision for allowing persons who do not fulfil the criteria, but who insist, to cast their vote. These votes are, however, cast according to special procedures and reviewed by the Returning Officer. This was not observed in North B district.

²⁶ Speech at a rally at Chumbini on 12 December by the CUF Secretary General Mr. Maleem Seif.

2000 election and that the same thing happened this year. After the election most of them leave, according to the local people talking to the team. Only a small number of people remained in the camp between the elections. The Zanzibar Police Spokesperson dismissed information the group received from the villagers, saying that the camp was one of five permanent camps in Zanzibar, which are here to secure the island. Furthermore, he claimed that what we heard were "lies" from people who "are against our forces".

Villagers are concerned that these are voters who come from other areas of Zanzibar, without any feeling of belonging to this constituency. Therefore, they should not have any influence on the election of their MP, as one villager said to the team.

When approached by the team, the *Sheha* of Musafini and the *Vice-Sheha* of Kidanzini and other members of the *Sheha* staff were not willing to reveal their names or to make any comments on the election issues.

This group has been made aware of two incidents that took place in Bumbwini constituency related to elections. Although not observed by the group, local villagers and voters as well as party representatives brought this to the attention of the group. Villagers involved relayed the first incident to us. The TEMCO observer and some voters in Mahonda village informed the group about the second incident. This was later referred to in the English language newspaper "The Citizen".

The team met with police (Regional Police Commander in Northern Unguja Region and spokesperson for the Zanzibar police) after Election Day in order to clarify some of the reports and claims we had heard concerning actions allegedly conducted by security forces. According to the police, CUF members group together and try to prevent people from voting to reduce the number of votes. It is then the job of the police to stop the harassment by CUF members. In order to do this, forces of police, the army and the KVZ join forces to prevent crime and maintain peace. Furthermore, the only persons arrested during the election were around 20 CUF supporters who according to the police had kidnapped, assaulted and heavily injured four members of the prison guard. No bullets had been fired during the election, according to the police spokesperson.

The Review of Complaints Process

The procedures for filing complaints and appeals during the various stages of an election are described in the Constitution and the Election Act. During registration period, the Registration Officer has the power to make decisions on complaints. The District Magistrate must rule on appeals within 14 days.

During nomination of presidential candidates, another candidate or the Director of Elections can make objections as to whether or not the candidate in question fulfils the criteria within the following day. NEC makes the decision regarding the validity of the objection, which is final. The Returning Officer can also make objections to nomination of a parliamentary candidate. A candidate filing an objection submits it to the Returning Officer who makes the decision, upon which the candidate may appeal to NEC, who has the final decision.

During the election campaign, there is no formalised procedure for complaints. The Code of Conduct for political parties is based on hard law (Political Party Act), but the Code of Ethics is voluntary, although endorsed by the NEC, the Government and all political parties. The Registrar is made responsible for monitoring the Code of Conduct, whereas one of the committees established by NEC overlooks the implementation of the Code of Ethics.

During the voting process, the party agents have the right to comment on the process through formalised procedures, recorded in designated forms. This is described in the Election Regulations 2005. The stages at which point the Party agents can report their grievances are before commencement of voting (Form 14), and at the end of counting (Form 16). A voter who has already voted and who is dissatisfied with the conduct of voting has the right to register the complaint (Form 15). The Presiding Officer shall on all these forms indicate the way the complaints were dealt with and the actions taken.

In many polling stations visited by the NORDEM teams, opposition party agents reported complaints to the observers. The issues most often mentioned were multiple voting and lack of adequate access to observe the work of the Polling supervisors. However, they fail to record their complaints formally. They claim that they are both afraid of possible repercussions after the election, and that it does not do any good to report it, as nothing will be changed anyway. After the October election, the Zanzibar Electoral Commission stated that there had been no complaints about the conducting of the election reported to the Returning Officers.

Election petitions are provided for under Chapter VII and VIII in the Election Act. All election petitions fall under the jurisdiction of the High Court. However, no court is allowed to inquire into the election of a presidential candidate who has been declared duly elected. Persons authorised to file election petitions in the High Court are:

- A voter
- A candidate
- A person claiming to have the right to be nominated or elected at such election
- The Attorney General

Petitions must be presented within 14 days after the declaration of results. The Court has two years to hear the case. The decision is final. The petitioner must pay a sum determined by the court as security for costs. Grounds for petition are:

- Campaign statements by a candidate, or on his/her behalf, exploiting tribal, racial or religious issues
- Non-compliance with the provisions of the Election Act, affecting results
- The candidate at the time of election had no qualifications to be elected

It has been reported in the media that the chairman of TLP, Mr. Mrema, planned to file a petition to protest rigging of the election. This has at the time of writing not been confirmed.

Conclusions

Democratic policy and decision making requires a viable opposition, providing different perspectives and contributing to a dynamic discourse in parliament. The results of the union elections for president and parliament have given CCM an overwhelming majority. Mr. Kikwete received 80.2% of the 11.3 million votes cast. Mr. Lipumba, CUF's candidate won 11.6% of the votes. CCM secured 206 out of 232 seats in parliament. This gives CCM 88.8% of the contested seats.

In the opinion of the NORDEM assessment group, Tanzania has not been able to develop a level playing field for political parties. The lack of campaign resources and the advantages of the ruling party are factors that influenced the possibilities for the parties to reach out to potential voters.

NEC is doing commendable work, obviously trying to improve and facilitate a transparent and participatory process. Several new initiatives, including political parties and NGOs in meetings and committees, discussing the various aspects of the voting process are very positive. The establishment of a permanent voters register is an important step forward. Conducting elections in Tanzania is a logistical and technical challenge, involving huge numbers of people down to polling station level. Co-ordinating, supervising and organising this is a complicated task. The political awareness of political parties, election administration and the electorate in general is fairly low on a local level, and there is an unmet need for awareness raising and information. The team observed a unanimous wish for voter and civic education. Increasing the awareness of the voters could also decrease the possibilities for bribery, manipulation and deception.

It is the impression of the NORDEM assessment group that a majority of the political parties, particularly on a local level, have limited knowledge of the formal procedures when it comes to election-related complaints. Allegations and claims are rarely adequately documented or substantiated. On Election Day, the party agents furthermore fail to use the possibilities built into the system for the purpose of having checks and balances.

In Zanzibar, this may be understandable, given an election environment marred by excessive use of force and harassment by police and security forces against the civilian population, often members or supporters of CUF. Whatever the reason for a police action, brutality and uncontrolled use of violence are considered violations of basic human rights. This is a threat to conducting peaceful and democratic elections.

Again, in Zanzibar in particular, the role of official persons of authority, from the *sheha* to the security officers, in connection with the elections, is perceived by many voters and opposition supporters as one of oppression and intimidation.

During campaigning, CCM dominated the scene, particularly on the mainland. CCM has been the ruling party since independence, and the boundaries between the party and state structures are in many cases seen as being blurred. The advantages this gives CCM can hardly be underestimated. But this is not balanced by facilitating equal access to the electorate and potential voters for opposition parties. The lack of a level playing field in this regard was striking. The documents produced by NEC to promote a code of ethics for political parties are very positive. However, there seems to be a great need for improvements in upholding the code locally.

Even though the technical conduct of elections overall is good, some irregularities are potentially serious. Recalling allegations in previous elections in Zanzibar, claiming multiple voting, as well as the contested Zanzibar PVR, it should have been of paramount importance to make sure that everything possible was done to avoid multiple voting. In this context, reports of transport of voters, lack of diligence in checking the voters' inking and the lack of access to adequate observation in many places, become serious.

Some experts, such as the Legal and Human Rights Centre (LHRC) and EU election experts have argued that the law conflicts with International standards for democratic elections, insofar as it limits the right to stand for election unless nominated by a political party²⁷. According to international standards and understanding of human rights law, the right to freedom of expression should not be limited in the way the law puts restrictions on registration of political candidates. Political opinions, such as advocating the breaking up of the union or calling for secession or autonomy, should not automatically be prohibited from the country's assembly.

The legal provisions for petitions have some weaknesses. There is no legal remedy available to presidential candidates in the event of serious election malpractice, as this is prevented in the constitution. Furthermore, the timeframe for hearing and ruling on appeals concerning parliamentary elections is so long (two years) that it renders such action almost futile. A successful appeal will result in a by-election, and by the time the new candidate fills the post, there is not much time left.

NEC is responsible for conducting union elections on Tanzania Mainland and in Zanzibar. The use of two voter registers governed by two different laws results in confusion and also different conditions for voters to be registered. The very strict requirements for residency in Zanzibar (36 months) are in contradiction to the Union electoral law governing registration on the Mainland, which does not stipulate any such criteria. There are some exceptions to the strict residency requirements for registration, among them the right to security personnel deployed on the islands. As mentioned above, this has given rise to allegations from the opposition that the security forces are used for influencing the outcome of elections, based on the assumption that they are supporters of the ruling party.

According to the observations this group made in North B district in Zanzibar, some of the procedures intended to prevent multiple voting were not followed properly, such as checking voters to ascertain whether they had been inked before being allowed to vote. Furthermore, the difficulties observers and party agents met with which hindered them from observing adequately reduced transparency in the voting process. Regrettably, our impression is that party agents failed to use the opportunities given in the law to register their complaints in a formal way. Although not always related to the election, the environment of excessive use of force results in reducing the confidence in Zanzibari authorities in general. Indirectly this contributes to creating a lack of trust in the Zanzibar and Union Republic of Tanzania governments' ability to conduct democratic elections.

The climate in Zanzibar in which the voting takes place seems to be very hostile. The excessive use of force and the lack of accountability seem to create an atmosphere of rumours and allegations. Complaints and claims are rarely substantiated, but the

²⁷ LHRC Analysis of the electoral act, unpublished paper, 2004. EU election consultants report (November 2005).

perception of many voters we have met is one of suspicion and fear. The technical irregularities contribute to "confirming" these voters' lack of trust in the Zanzibari authorities.

Recommendations

"Enhancing the transparency and credibility of elections and democratic governance as well as ensuring the acceptance of election results by all contesting parties", as identified by SADC²⁸, are the main challenges for the Union Republic of Tanzania. With a view to the above and based on the NORDEM assessment group's own findings, the following recommendations are made:

- **To increase the trust in the electoral administration**, the appointment of NEC members should be transparent and in such a way that the electorate and the political parties perceive members as impartial and neutral.
- **To improve the implementation of the Code of Conduct and Code of Ethics**, local electoral commissions should be established, and the relationship between the different levels and between the electoral commissions and the government should be clearly defined (violations must be acted upon).
- **To create a more level playing field for political parties** in the election campaign, public funding should be allowed and private funding within limitations. All funding and expenditures should be subject to reporting and disclosure requirements.
- **To create equal rights for Tanzanian citizens** on the Mainland and in Zanzibar with regard to voter registration, the Union PVR should include voters in Zanzibar. The Union electoral legislation including registration should be applied also in Zanzibar.
- **To enhance the trust in the PVR**, the register should be made publicly accessible, periodically updated, maintained in a transparent manner and mechanisms put in place for allowing corrections of inaccuracies and inclusion of persons who have reached 18 years of age since the PVR was updated.
- **To improve voter, political party and electoral staff awareness**, increased outreach initiatives similar to those conducted during this election are needed. Civic education in schools should also be considered.
- **To increase the plurality of voices in the parliament** – as cornerstones of a democratic system – changing the law should be considered, in such a way as to remove limitations on political party registration requirements concerning the right to be elected without distinction of political opinion. Allowing for independent candidates should also be considered.
- **To improve the possibilities for appeals and redress**, the law should allow for petition of presidential election results and the deadlines for complaints, appeals

²⁸ SADC Principles and Guidelines Governing Democratic Elections: 1.

and decisions should be speedy and efficient, so results do not remain uncertain for a long time (e.g. two-year deadline for the court to hear a petition on parliamentary election results).

- **To contribute to transparent, efficient and accurate conducting of polling**, aimed at enhancing credibility the following is suggested:
 - Increased emphasis on training on the risks for multiple voting
 - Require voters to sign the voters register before they vote
 - Establish unambiguous regulations for observation of the whole voting process
 - Develop training for political parties concerning election legislation and complaints and petition procedures
 - Review with the aim of simplifying complicated and time consuming counting procedures
 - Increased training in election law for local level election officials
- **To redress the complaints of human rights violations in Zanzibar**, the new government should consider an independent investigation of the use of police and security forces in Zanzibar during elections. Allegations of police impunity must be addressed as well as the competency of the government to control and instruct its forces. Training and awareness raising of police and security forces with regard to Human Rights law should be considered.
- **To reduce perception of undue pressure and intimidation** in villages in Zanzibar, the role and appointment of *shehas* should be reviewed. Furthermore, the voting arrangements for military and security personnel should be reviewed.
- **To alleviate the multiple allegations of rigging results**, all results must be made public in detail. Tabulation of results should be available in a format that allows tracing of results of each polling station through all levels of aggregation. The tabulation should contain detailed information including:
 - Number of registered voters
 - Number of ballots used and unused
 - Invalid ballots
 - Number of votes for each candidate/party

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