THE UNITED REPUBLIC OF TANZANIA
THE LAW REFOM COMMISSION OF TANZANIA

ALRAESA WORKSHOP ON MODEL ELECTION LAWS TO BE HELD IN SWAKOPMUND, NAMIBIA FROM 26TH -27TH JULY, 2011

PAPER ON TANZANIA ELECTORAL LAW SYSTEM
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INTRODUCTION

1.1 Tanzania

Tanzania is a Union of formerly sovereign states which are Tanganyika (now Mainland Tanzania) and Zanzibar (now Tanzania Zanzibar). Tanzania located in East Africa, has a total area of 945,087 square kilometers (364,900 square miles). Mainland Tanzania covers 881,000 square km whereas, Zanzibar covers 2,000 square km. Water mass covers 62000 square km and forest and woodlands 3.350 square km.²

The total population of the country is 42,746,620 million (2010 estimates).²

1.2 The Political System in Tanzania

In accordance with Article 3 (1) of the Constitution of the United Republic of Tanzania, 1977, Tanzania is a democratic country with a Multi-party political system since July, 1992.

There are in total eighteen (18) registered political parties in which are: African Farmers Party (AFP), African Progressive Party of Tanzania (APPT-Maendeleo), Chama cha Mapinduzi (CCM), Chama cha Maendeleo cha Demokrasia na Maendeleo (CHADEMA), Chama cha Haki na Ustawi Tanzania (CHAUSTA), Civic United Front (CUF), Democratic Party (DP), JAHAZI ASILIA, Demokrasi Makini (MAKINI), National Convention for Construction and Reform (NCCR-Mageuzi), National league for Democracy (NLD), National Reconstruction Alliance (NRA), Sauti ya Umma (SAU), Tanzania Democratic Alliance (TADEA), Tanzania labour Party (TLP),

¹ Encyclopaedia of the Nations http://www.nationsencyclopedia.com/economies/Africa/Tanzania.html
² ibid
United Democratic Party (UDP), Union for Multi-Party Democracy (UMD) and United Peoples' Democratic Party (UPDP).

All political parties are registered under the Political Parties Act, 1992. Every candidate who aspires to become President or Member of Parliament must be nominated by a political party. No independent candidates are permitted to stand for elections in Tanzania. [Constitution 1977, Articles 39(1)(a), 67(1),(b)].

2.0 Historical Background on Electoral System in Tanzania

Historically, Tanzania Mainland (Tanganyika) began her independence existence in 1961 under Independence Constitution. The Independence Constitution of 1961 which provided for elected government, parliamentary supremacy, competitive multi-party politics and liberal democratic principles and judicial independence. A year after independence, the Republican Constitution of 1962 was enacted ushering in the presidential system with the executive president having the powers of head of state and the head of government.\(^3\)

The shift away from the multi-party political system can be traced back to 14th January 1963 when the late first President of Tanzania, Julius K. Nyerere announced that the National Executive Committee of the ruling party, the Tanganyika African National Union (TANU) party had decided that Tanganyika should become a constitutional one-party state for the interest of national unity and rapid economic development. The first President of Tanzania argued that, in contemporary Africa, multiparty system had no reason to exist. According Mwalimu Nyerere, unique African societies did not need multi-party system.\(^4\)

\(^4\) ibid
On 26th April 1964, Tanganyika and Zanzibar united to form the United Republic of Tanzania. The most important features of this political development was the establishment of the two-government structure, with two political parties namely; the Tanganyika African National Union (TANU) for Mainland (Tanganyika) and Afro Shiraz Party (ASP) for Zanzibar.

2.1 Towards a Multi-Party System
Several attempts to expand the state for democratic governance were witnessed several years after introduction of a single party system of governance in 1965. The first loud demand for changing the political system began in 1983 when the ruling party offered proposals to the public for debate in order to amend the Constitution of the United Republic of Tanzania, 1977.

The Presidential Commission commonly known as the “Nyalali Commission” which was formed in 1991 headed by the then Chief Justice of the United Republic of Tanzania, the late Ho. Justice Francis Nyalali. The Commission was assigned the task of collecting the views of citizens and make appropriate recommendations on whether the country should adopt a multiparty or single party system. The Commission recommended that, the Tanzanian political system should be changed from the existing one party system to a new multi-party system.

The effective functioning of political pluralism usually manifests itself in the following - specific areas:

(i) The existence of a plurality of political parties;
(ii) The availability of equal opportunities for electoral competition between the political parties;
(iii) The proper and efficient functioning of an elected multiparty parliament, as well as multi-party local government authorities

2.3 The Making of Relevant Constitutional and Legislative Amendments

On 1st July, 1992, the Tanzania political system changed from the single party set up which was in existence since 1965, back to a new multiparty political system. This transition was made at the time when great external pressures were being exerted on virtually every African country, particularly by multilateral as well as bilateral aid agencies, which were making the political democratization, question an important part of the aid conditionality for each of the recipient countries. It has been said by political scientists and managers, that the current democratization process which is taking place in Africa needs to be planned in order to achieve a smooth and orderly transition from the one party system of government to multi-party democracy.

The recommendations of the Nyalali Commission that Tanzania should adopt the multi-party system of democracy was formally accepted on the 20th February, 1992, by a specially convened extra-ordinary congress of the ruling party Chama Cha Mapinduzi (CCM) which also directed the government to take all the necessary legislative measures to ensure that, multi-party democracy became a constitutional reality by 1992.

The first stage which was recommended by the Nyalali Commission was that, the Constitution of the United Republic of Tanzania should be amended in order to enable other political parties to be formed and registered. This change would involve removing all the provisions in the Constitution and laws which had entrenched the supremacy of single

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ruling party CCM and its monopoly over all political activities in the United Republic of Tanzania. After that decision, the Government started drafting the necessary legislative amendments to the Constitution and to other relevant laws in order to create a new and concussive environment for political pluralism to flourish.\(^8\)

3.0 The Applicable Electoral System in Tanzania

The electoral systems\(^9\) comprises of the legal framework as well as institutions that govern elections. It is the system that determines election constituencies, candidates’ nomination, voting procedures and is also responsible for the announcement of the winner. It is a custodian of the whole electoral processes. The country to date has 239 Electoral Constituencies, out of which 189 are found in Mainland Tanzania and 50 in Zanzibar.\(^10\)

Today Tanzania has 239 electoral constituencies, out of which 189 are found in mainland Tanzania and 50 in Zanzibar.

3.1 Categories of Member of Parliament

Tanzania Parliament consists of the following categories of Members\(^11\):

1. Members elected to represent constituencies.
2. Women members whose number shall increase progressively starting with 20% of the members named in sub-paragraphs (1), (3) and (4) to be elected by the political parties that are represented in the National

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\(^{8}\) ibid

\(^{9}\) Electoral System is the process which determines the way in which votes cast in elections are translated into seats in the legislature. An electoral system is therefore an electoral arrangement that places priority on the degree to which the elected reflect the beliefs and preferences of the electors. See, APRM (July 2009) Tanzania Country Self-Assessment Report Paragraph 149 at pg. 36

\(^{10}\) The Report of the National Electoral Commission on the 2010 Presidential, Parliamentary and Councillors’ Elections.

Assembly in terms of Article 78 of the Constitution and on the basis of proportional representation amongst those parties.

3. Five members elected by the Zanzibar House of Representatives from among its members.


5. Not more than ten members appointed by the President.

After the 2010 elections, a total of 357 members made up the National Assembly on which 239 were elected from constituencies and 102 from special seats for Women and the Zanzibar House of Representatives elected 5 members to present in the Parliament. The remainder of the membership was made up by the Attorney General and 10 appointed by the President.

The electoral system currently used in Tanzania is "First Past the Post" in the sense that; the Presidential, Parliamentary and Councilor Candidate who secures the majority of votes is declared to be the winner. Likewise, the Women Special Seats Members of Parliament obtained by way of Proportional Representation according to the number of votes each Party got country-wide in the Parliamentary Election. Women Special Seats Councilor for each Party are obtained according to the proportion of Councilor Seats each Party won in each particular Council. The whole country is demarcated into constituencies and wards. Each constituency elects its representative to the parliament, while every ward in Tanzania Mainland elects a councilor to be a representative in the council.\(^\text{12}\)

The electoral system of Tanzania comprises of three types of elections, namely:

(i) The General Elections- for electing the President of the United Republic of Tanzania, the President of Revolutionary Government of Zanzibar, Members of Parliament of Tanzania Mainland, House of Representatives of Tanzania Zanzibar and Councilors.

(ii) The Local Authorities Elections is for electing leaders for villages, hamlets, streets, members of village councils and members of streets councils.

(iii) The By-elections- for re-electing leaders mentioned in (i) and (ii) above, once that leader dies or resigns of his/her office becomes vacant for any reason.

Elections are conducted periodically, every fifth year after the previous General election. Usually, the local authority elections are conducted one year prior to the general elections and they are supervised by the local authorities (not by the National Electoral Commission).

4.0 The Legal and Institutional Framework Governing Elections

4.1 Electoral Laws

There are several laws and legal frameworks that guide the conduct of elections in Tanzania. The principal ones for the general elections include the Constitution of the United Republic of Tanzania of 1977; the National Elections Act, 1985; the Local Authorities (Elections) Act, 1979; the Political Parties Act, 1992 and the Election Expenses Act, 2010.

(a) The Constitution of the United Republic of Tanzania of 1977

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13 CAP. 2 [R.E.2002]
14 CAP. 343 [R.E 2010]
15 CAP. 292 [R.E 2002]
16 CAP. 258 [R.E 2002]
17 Act No. 6 of 2010
The Constitution of the United Republic of Tanzania of 1977 spells out fundamental rights and duties of individuals. It establishes the National Electoral Commission of Tanzania (NEC). Political rights are also entrenched in the Constitution including the rights to vote; rights to equality before the law; right to personal freedom; right to freedom of expression; right to freedom of association; freedom to participate in public affairs and other related rights. Furthermore, Article 8(1) (a) of the Constitution provides that, sovereignty resides in the people and it is from the people that, the government through the Constitution shall derive all its powers and authority. Peoples’ right to vote for the political leaders is one of the ways in which people exercise their power in the governance of the country.

The Constitution also provides for the procedures and requirements for presidential and parliamentary elections (including special seats). The special seats for women members of parliament (minimum of 30%) are elected by the NEC after submission of proposed names by the political parties. However, not all political parties are eligible to propose names. Apart from the constituency members and special seats, there are also five seats elected by the House of Representatives of Zanzibar, ten nominated by the President, the Attorney General (AG) who comes in as

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18 Article 12 to 29 of the Constitution of the United Republic of Tanzania 1977, which enshrine the Bill of Rights and Duties.
19 ibid Article 74 (1)
20 ibid Article 5 (1)
21 ibid Article 13(1)
22 ibid Article 15
23 ibid Article 18
24 ibid Article 20
25 ibid Article 21
26 ibid Article 66(1)
27 ibid Article 78(1) (b) provide that, only political parties which took part in the general election in accordance with the procedure laid down and obtained at least five (5) per centum of the total valid voters for Parliamentary election, shall propose the Electoral Commission that names of the women on the basis of the proportion of votes obtained by each party in the Parliamentary election.
28 ibid Article 66 (1) (c)
29 ibid Article 66 (1) (e)
ex officio by virtue of his position and the Speaker.\(^{30}\) The Constitution also provides for the permanent voters register.

(b) National Election Act, 1985

The National Election Act is the main legislation which regulates elections of the President of the United Republic of Tanzania and the Members of Parliament. It recites the composition, responsibilities and mandate of the National Electoral Commission (NEC). It also provides for the powers to demarcate and designate administrative areas of Tanzania into constituencies and polling districts or centres; procedures of registered voters, including the management of the Permanent Voters National Register; nomination of presidential and parliamentary candidates; management of electoral campaigns; elections, voting and counting procedures for avoidance of the elections by election petition.

(c) The Local Authorities (Election) Act, 1979

The Local Authorities (Election) Act of 1979 governs elections at the level of the Local Government Authorities (LGAs) and appointment and coordination of election officers at lower levels. Furthermore, it provides for the rights and procedures for registration of eligible voters;\(^ {31}\) procedures for making changes on the voters’ register;\(^ {32}\) right to inspect the register at anytime;\(^ {33}\) procedures for making objections regarding the registration;\(^ {34}\) qualifications for voting;\(^ {35}\) qualifications of candidates for LGA election;\(^ {36}\) nomination of candidates;\(^ {37}\) management of the election

\(^{30}\) ibid Article 66(1) (f)
^{31}\) Section 15 of the Local Authorities (Elections) Act, 1979
^{32}\) ibid Section 23
^{33}\) ibid Section 28
^{34}\) ibid Section 30
^{35}\) ibid Section 36
^{36}\) Ibid Section 39 & 40
^{37}\) Ibid Section 41 to 47
campaigns;\textsuperscript{38} election day and voting procedures;\textsuperscript{39} counting procedures\textsuperscript{40} and declaration of the results.\textsuperscript{41}

(d) The Political Parties Act, 1992
This is an Act that provides for the terms, conditions and procedures for registration of political parties and related matters. It creates the office of the Registrar of Political Parties and vests on him responsibilities of registering political parties in Tanzania. It also governs sources of funds for political parties.

(e) The Elections Expenses Act, 2010
The Elections Expenses Act of 2010 governs the election expenses; \textsuperscript{42} it became operational immediately after being assented by the President in early 2010. Therefore, it was used for the first time during the 2010 general elections. This Act makes provisions for the funding of nomination process, election campaigns and elections with a view of controlling the use of funds and prohibited practices in the nomination process. This Act makes provisions for allocation, management and accountability of funds by political parties during elections.

This Act intends to tighten government’s efforts to curb corruption in particular by controlling the use of funds and curb illegal practices in all electoral process. The Act requires each political party to conduct and fund its election campaigns by utilizing its own funds from the source stipulated under the Political Parties Act, 1992. It also puts limitation of election expenses to a maximum amount as set out by the responsible

\textsuperscript{38} Ibid Section 53
\textsuperscript{39} Ibid Section 56 to 69
\textsuperscript{40} Ibid Section 71 to 83
\textsuperscript{41} Ibid Section 84
\textsuperscript{42} Section 7 of the Election Expenses Act, 2010 defines “election expenses’ to mean all funds expended or expenses incurred in respect of the conduct and management of nomination process, election campaign and election by a political party, candidate or Government”.

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Minister. The limitation is based on prescribed criteria, including the size of the electoral constituency.

For the purpose of improving the Election process, various amendments were made in the Electoral process from the Registration of Voter to the Declaration of results. A total of 15 amendments were made in the Election Laws. Moreover, the establishment of the Election Expenses Act, 2010 contributed to further amendments in the Election Laws.\textsuperscript{43}

4.0 **Electoral Institutions**

There are several authorities which manage electoral process in Tanzania, which include the National Electoral Commission of Tanzania (NEC) and the Registrar of Political Parties, law enforcers, anti-corruption bureau (PCCB) and the Controller and Auditor General.

4.1 **The National Electoral Commission (NEC)**

The National Electoral Commission was established under the Constitution of the United Republic of Tanzania, supervised and coordinated the conduct of Presidential, Parliamentary and Councillors’ Elections. The 2010 election was the fourth General Election under the Multi-Party System since its re-introduction in 1992.

After the establishment of the Permanent National Voters’ Register for the 2005 General Election, the National Electoral Commission updated it for the 2010 General Election. The updating involved the Registration of new eligible Voters and the removal of the ineligible Voters; to reissue new Voters Cards to those whose Cards were lost or have been destroyed; to rectify information of Voters for various reasons and transfer Voters’

\textsuperscript{43}The Report of the National Electoral Commission on the 2010 Presidential, Parliamentary and Councillors’ Elections.
records for those Voters who had moved from one Ward or Constituency to another Ward or Constituency.\textsuperscript{44}

In accordance with the Constitution of the United Republic of Tanzania, 1977, the NEC reviewed Constituency boundaries. In so doing, the Commission took into consideration criteria as mentioned in the Constitution that is the population, availability of communication facilities and geographical conditions. Furthermore, the Commission added ten (10) more criteria which were concurrently to demarcate Constituencies.\textsuperscript{45}

The National Electoral Commission has seven (7) Commissioners and 119 Members of Staff. For the purpose of the 2010 General Election, the Commission hired 674 temporary Staff at the Headquarters. At Regional and Constituency levels, the Commission appointed 23 Regional and Election Coordinators, 142 Returning Officers, 995 Assistant Returning Officers; 6,670 Assistant Returning Officers at Ward level and 212,156 Polling Officers. There were also 53,039 Security Guards.\textsuperscript{46}

\textbf{5.0 Tanzania Experience in the 2010 Elections}

Through meetings the national Electoral Commission involved various stakeholders in different methods, including Political Parties, the Government, Development Partners, News Media, Civil Society Organisations Religious Leaders and People with Disabilities.\textsuperscript{47}

The Commission provided Voter Education in accordance with its Strategic Plan through the use of different methods, including the printing and distribution of Posters, Booklets, Banners and messages in place of

\textsuperscript{44} The Report of the National Electoral Commission on the 2010 Presidential, Parliamentary and Councillors’ Elections.
\textsuperscript{45} ibid
\textsuperscript{46} ibid
\textsuperscript{47} ibid
worship, the News Media, Motor vehicles with Loudspeakers, Drama and Art groups. Moreover, the Commission in exercising its legal powers to supervise and approve Voter Education material used by Civil Society Organisations or persons provided Voters education, scrutinized, edited and approved materials used in providing Voter Education. A total of 65 Civil Society Organisations provided Voter Education. Out of these, 43 were financed by the United Nations Development Programme (UNDP) though the Election Support Project (ESP).

Nomination of Presidential, Parliamentary and Councillors’ Candidates was done on 19th August, 2010. For the Presidential Election seven (7) Candidates were nominated through APPT-Maendeleo, CCM, CHADEMA, CUF, NCCR-Mageuzi, TLP and UPDP. All 18 Political Parties participants in Parliamentary and Councillors’ Elections. A total of 1,036 Candidates were nominated for Parliamentary Election. A total 7,934 Candidates were nominated for Councillors’ Election.

In the 2010 General Election there were 239 Constituencies and 53,039 Polling Stations. Seven (7) Constituencies did not conduct Parliamentary Election on 31st October, 2010 due to various reasons. The Parliamentary Elections in these Constituencies were held on 14th November, 2010. Moreover, Councillors’ Elections in 23 wards were not held due to either errors in the printing of the ballot papers or the death of the Candidates. Those Elections were held on 28th November, 2010.

There were fifty one (51) Appeals which emanated from the objections against decision made by Returning officers during Nomination of Parliamentary Candidates. The Commission allowed fourteen (14) Appeals and dismissed thirty seven (37) Appeals. For Councillors’ Election, the

48 ibid
Commission received 122 Appeals, among which twenty two (22) were allowed and 100 were dismissed.

Election Campaigns commenced on 20th August, 2010 and ended on 30th October, 2010. The Campaigns were conducted in a peaceful and orderly manner, although there were a few chaotic events in some areas.

The Presidential Election results were as follows:-
Registered Voters 20,137,303; Actual Voters were 8,626,303 which is equivalent to 42.84% of Registered Voters; Valid Votes were 8,398,414 which is equivalent to 97.35% of the Actual Voters; Spoilt Votes were 227,889 which is equivalent to 2.65% of the Actual Votes.

The Commission declared Hon. Kikwete Jakaya Mrisho of CCM elected President of the United Republic of Tanzania with Valid Votes 5,276,827 which is equivalent to 61.17% of Actual Votes.49

5.1 Involvement of Election Stakeholders
Several Stakeholders were involved in the Electoral process to mention a few; the Government, Political Parties, Civil Society organizations, the media, religious Institutions and Election Observers.

5.1.1 The Government
The Government of the United Republic of Tanzania facilitated the Commission to carry out its responsibilities as required by the Constitution and other laws by availing it with necessary resources and working tools to conduct the Electoral process. It also insured a peaceful environment during the Elections.50

50 ibid
5.1.2 Political Parties and Candidates

The Political Parties are stakeholders who, among other things are expected to field Candidates for the Election, to prepare manifestos and time tables for campaigns as coordinated by the National Electoral Commission (NEC), to appoint Agents during the updating of the Permanent National Voters’ Register and Elections. Similarly, the Political Parties are expected to run election campaigns in compliance with the Electoral Code of Conduct.

5.1.3 Civil Society Organizations

The National Electoral Commission recognizes the position of the Civil Societies and their role in the electoral process, such as providing Civil and Voter Education and sensitizing people to come out and participate fully in the General Election.51

5.1.4 The Media

The Commission involved various News Media both Public and Private in the Electoral process. Such Media included Newspapers, Television and Radio. Furthermore, there were International News Media which broadcasted Election news in the country. These included; the British Broadcasting Corporation (BBC); Reuters (London) and Deutsche Welle (Voice of Germany). The News Media were helpful in disseminating information on the electoral process as well as in sensitizing the citizens to participate in the National Election.52

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51 ibid
52 ibid
5.1.5 Religious Institutions

The National Electoral Commission involved religious leaders in the National Election 2010 in order to sensitize citizens to come out and participate in the Election.\(^{53}\)

5.1.6 Election Observers

The National Electoral Commission through the Ministry of Foreign Affairs and International Co-operation sent invitation to prospective International Election Observers. A total of twenty (20) Teams of International Observers observed the Election. International Observers were co-ordinated by the United Nations Development Programme (UNDP). The Commission also invited prospective Local Observers. A total of sixty four (64) Local Civil Society Organisations met the criteria set by the Commission and were therefore accepted to observed the 2010 General Election. However, only nineteen (19) Civil Society Organisations came out and were eventually accredited as Observers.

Some of the international and local observer missions were; the African Union, the Southern African Development Community (SADC), European Union and East African Community. The local observers included the TLS, TEMCO and civil society alliance, which included the Legal and Human Rights Center (LHRC) and many others. The NEC handed out the observation rules to all observers, setting out guidelines and regulations on how to undertake the observation.\(^{54}\)

5.1.6.1 TLS Observation Mission

The Tanganyika Law Society Observation Mission stated that the General Election which was held on the 31\(^{\text{st}}\) October, 2010 met the criteria for fair

\(^{53}\) ibid

\(^{54}\) ibid
and free elections, in that the hallmarks of a democratic election were met and upheld by the government. Voters were not intimated or coerced into voting, all political parties were able to engage in campaigning prior to the elections and the actual elections were conducted in an open and transparent manner.\textsuperscript{55}

However, the TLS noted several logistical problems on Election Day that prevented some people from voting, while others were discontent with the manner in which results were announced. There were lengthy delays and long queues in some constituencies causing voter discontent. However, it was generally observed that, these problems or issues did not appear to be deliberate omissions by the NEC but oversights and shortcomings which would require substantial improvement in time for the 2015 General Election.\textsuperscript{56}

5.1.6.2 SADC Observations

SADC has set out principles for conducting democratic election, whereby, all Member States are required to adhere to those principles in the conduct of democratic elections. Tanzania being one of the SADC Member States is also obliged to abide to the principles stated out by the SADC.\textsuperscript{57}

In line with SADC Principles and Guidelines Governing Democratic Elections and the National Elections Act, Cap 343 of the United Republic of Tanzania, the SADC Electoral Observation Mission (SEOM) urges all political parties and candidates to respect the will of the people and any grievances that they might have, should be pursued in line with the relevant laws of the country. The SEOM further noted that, the NEC

\textsuperscript{55} ibid
\textsuperscript{56} ibid
conducted its work in a transparent and professional manner, despite some challenges which were addressed as the election progressed.

Some Observations on the issues noted during the course of its duties include among others:

(i) Some leaders of Political Parties and Candidates used language which could incite hatred, violence among the voters;
(ii) Some stakeholders leveled various allegations against the electoral process without being able to substantiate their claims;
(iii) Some parties could not campaign due to lack of funding;
(iv) Some stakeholders are not conversant with the contents of the provisions of the Constitution and the electoral laws;
(v) Limited coverage of some political party campaigns in the print and electronic media;
(vi) Inadequate voters education;
(vii) Inadequate training of the electoral staff;
(viii) Insufficient distribution of the ballot papers in some constituencies; and
(ix) Inaccurate ballot papers in some constituencies.\(^{58}\)

### 5.1.6.2.1 Explanation of SADC Principles Compliance by Tanzania 2010 General Election

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<th>No</th>
<th>SADC Principle</th>
<th>Implementation in Tanzania</th>
<th>Remarks</th>
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<tbody>
<tr>
<td>i</td>
<td>Full participation of the citizens in the political process</td>
<td>The United Republic of Tanzania is a state which adheres to the principles of democracy and social justice and according, sovereignty resides in the people and it is from the people that the</td>
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\(^{58}\) ibid
Government through this Constitution shall drive all its power and authority [Art. 8 (1)]

Article 21 of the Constitution provides for the right and freedom to participate in public affairs.

<table>
<thead>
<tr>
<th>ii</th>
<th>Freedom of association</th>
<th>Article 20 of the Constitution has entrenched the right to freedom of association.</th>
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<td>iii</td>
<td>Political tolerance</td>
<td>Few incidents of chaos by some Political Party enthusiast in some areas, which resulted in the breach of peace.</td>
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<td>iv</td>
<td>Regular intervals for elections as provided for by the respective National Constitutions</td>
<td>The life of each Parliament shall be five years.[Art.65 (1)of the Constitution] The expression of “life of Parliament” means that whole period commencing from the date the new Parliament was first summoned after General Elections and ending on the date of dissolution of that Parliament for the purpose of enabling the holding of another ordinary general.[Art.65 (2)]</td>
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<td>v</td>
<td>Equal opportunity for all political parties to access the state media</td>
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<td></td>
<td>Limited coverage of some political party campaigns in the electronic media.</td>
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<td>Mechanism should be put in place to regulate the media during the electoral process.</td>
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<td>vi</td>
<td>Equal opportunity to exercise the right to vote and be voted for.</td>
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<td>Article 5(1) of the Constitution provides for the rights of every citizen of the United Republic who has attained the age of 18 year to vote in the election held in Tanzania.</td>
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<td>vii</td>
<td>Independence of the Judiciary and impartiality of the electoral institutions</td>
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<td>Election petition cases where elections were nullified because of discrimination.</td>
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<td>viii</td>
<td>Voter education</td>
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<td></td>
<td>- Inadequate voters’ education.</td>
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<td></td>
<td>- Lack of sufficient training in the use of Tactile Ballot Folders.</td>
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<td></td>
<td>NEC should consider undertaking a comprehensive voter education and training of electoral staff</td>
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<tr>
<td>ix</td>
<td>Acceptance and respect of the election results by political parties proclaimed to have been free and fair by the competent National Electoral Authorities in accordance with the law of the land</td>
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<td>Some Political Parties didn’t accept the results,</td>
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<td>All stakeholders are required to be conversant with the Constitution and the Electoral Laws.</td>
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<td>Refining the legal framework to deepen democratic practice in Tanzania.</td>
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<td>x</td>
<td>Challenge of the election results as provided for in the law of the land</td>
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<td></td>
<td>Late Preparation of Electoral Regulations, 2010. Costs for prosecuting or defending an election petition are still</td>
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<td>Court fees and security costs for judicial action can be reduced or exempted by the High</td>
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5.1.6.3  AU Observations

The AU electoral observer mission report with regard to the Presidential and Parliamentary Elections in the United Republic of Tanzania notes that:

(i) The electoral process was generally peaceful and held in accordance with the electoral laws of the United Republic of Tanzania;

(ii) The campaign was conducted peacefully as all Political Parties were free to carry out their political rallies across the country;

(iii) There were no significant acts of violence in the run up to the elections;

(iv) There was a fair access of all Political Parties and candidates to the Media.

In the voting day the AU Mission observed the following, to mention just a few:

(i) Most polling stations were established in public institutions especially schools and colleges. A few were, however found in open spaces covered by tents;

(ii) Most polling stations opened on time;

(iii) Polling officials were in place and on time for the opening of the polling stations;

(iv) Some political parties agents were present in the polling stations;

(v) Polling materials were delivered in good time and generally sufficient, including the indelible ink which was used in all polling stations;

(vi) Names of voters registered to vote in each polling station were prominently posted and were visible at each polling station.\(^{59}\)

The AU Observer Mission also noted the following irregularities:

(i) Names of some candidates for the legislative elections were missing from the ballot papers, which led to the postponement of the elections in 7 constituencies;

(ii) Out of 8 registered Political Parties only CCM, CHADEMA and CUF were prominently represented in the most polling stations visited;

(iii) There were shortages of voting material such as ballot papers in a few polling stations located in districts.

The AU Observer Mission concluded by declaring that, the general elections in the United Republic of Tanzania were conducted in accordance with the Durban Declaration on the Principles Governing Democratic Elections in Africa, as adopted by the Assembly of the African Union in July 2002. The AU Observer Mission therefore, stated that the Presidential and Parliamentary Elections were free, fair, transparent and credible.\(^60\)

6.0 **Challenges of the 2010 General Election**

Some of the challenges which emerged in the General Election 2010 process include:- Constrained Election Budget, Low Voter Turn-out on the Election Day, there were some complaints with regard to Permanent National Voters Register concerning errors in the register i.e. mixing of names as some voters failed to use their right to vote. They claimed that, their names were wrongly written or not listed in the list of voters and Some polling stations were allocated very far from voters.

For the purpose of improving future Elections, the Commission made the following recommendations; to increase Election Budget to meet the Election needs, the Commission to establish offices in Zones, Regions and

\(^{60}\) ibid
Districts to bring services closer to the Voters and improve efficiency, to process of demarcation of Wards to be done early so as to enable the Commission to determine Constituencies in proper time and further the Commission recommended for the review of the Election Expenses Act, 2010 in order to identify and amend sections conflicting with the Election Laws.

The current parliamentary, executive and judicial actions of frustrating the rights of independent candidates for president, parliamentary and councilors leadership is a grave infringement of the right of an individual to be democratically elected to those political leadership position without being a member of political parties which need immediately rectification. The challenges of cost for remaining elections affects fast by-elections to till vacant political positions and the judiciary fast adjudication role.

Decisions of the NEC should be appealed against to a full-panel of NEC Commissioners warranties its expansion from 5 current Commissioners to 7 or more Commissioners.

7.0 Conclusion

The Report on the Tanzania electoral system has elaborated the background of election laws in Tanzania, legal and institution framework governing the elections, Tanzanian experience with regard to the Presidential, Parliamentary and Councilors’ 2010 elections and its challenges.

What we are doing in Tanzania election wise as briefly analyses above is certainly relevant and educative to other members of ALRAESA and vice verse where our joint preserve here. We hope to strike a balance in a commonly agreed Election Act provisions and principles to which will act as model and standard form specimen for us all.
REFERENCES


