

The Elections in Zanzibar, United Republic of Tanzania

30 October 2005

The Report of the
Commonwealth Observer Group

COMMONWEALTH SECRETARIAT

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COMMONWEALTH OBSERVER GROUP

The Elections in Zanzibar, United Republic of Tanzania
30 October 2005

6 November 2005

Dear Secretary-General,

I am pleased to submit our report on the elections in Zanzibar, held on 30 October 2005.

We have concluded that the voting and the counting of the votes on 30 October took place in conditions which were such as to enable the electors to freely express their will. However, we found that the Zanzibar media was biased towards the ruling party and the collation process was not sufficiently transparent or robust. You will see that we call on the Zanzibar Electoral Commission to publish the results sheet from the count at each polling station, in order to remove suspicion.

We trust that our report will be of assistance to the people of Zanzibar in their efforts to strengthen their democracy and to you and your colleagues in your work with them to that end.

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CHAPTER ONE

Introduction

Five elections were due to be held in the United Republic of Tanzania on 30 October 2005. These would be:

- President of the United Republic of Tanzania;
- National Assembly of the United Republic of Tanzania;
- President of Zanzibar;
- House of Representatives, Zanzibar; and
- local councils.

There were two election management bodies: the National Electoral Commission (responsible for the Union-wide elections and the local council elections on the mainland) and the Zanzibar Electoral Commission (responsible for the election of the President of Zanzibar, the elections to the Zanzibar House of Representatives and the local council elections in Zanzibar).

However, the invitations to observe these elections came not from these bodies but from the Government of the United Republic of Tanzania. First an invitation was received from the Ministry of Foreign Affairs to send observers for the elections in Zanzibar. A further letter followed, inviting the Commonwealth to send observers for the elections on the mainland.

Following receipt of the first of these invitations, and in line with standard Commonwealth practice, Commonwealth Secretary-General Don McKinnon sent an Assessment Mission of two Commonwealth Secretariat officials to the United Republic of Tanzania in September 2005. This Mission's main purpose was to determine whether the major political parties and civil society would welcome the presence of Commonwealth Observers and to ensure that observers would have open access to polling stations and be permitted to pursue their mandate. It concluded that there was broad support for the presence of such a Group and that the Group would be free to fulfil its mandate.

The Secretary-General therefore decided to constitute a Commonwealth Observer Group, consisting of eleven observers led by Professor Guido de Marco, former President of Malta and Chairman of the Commonwealth Foundation. The observers were supported by a

staff team of eight officials from the Commonwealth Secretariat led by Professor Ade Adefuye.

Terms of Reference

The Secretary-General informed the Group that its Terms of Reference would be as follows:

“The Group is established by the Commonwealth Secretary-General at the request of the Government of the United Republic of Tanzania. It is to observe relevant aspects of the organisation and conduct of the elections scheduled to take place on 30 October 2005, in accordance with the laws of the United Republic of Tanzania and the laws of Zanzibar. It is to consider the various factors impinging on the credibility of the electoral process as a whole and to determine in its own judgment whether the conditions exist for a free expression of will by the electors and if the results of the election reflect the wishes of the people.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of the United Republic of Tanzania, the National Electoral Commission and the Zanzibar Electoral Commission, the leadership of the political parties taking part in the elections and thereafter to all Commonwealth governments”.

Preparation and Activities of the Group

An Advance Team comprising Mr Onome Osifo-Whiskey, Ms Sabitha Raju and Mr Martin Kasirye began work in Dar es Salaam on 6 October 2005, observing the preparations for the elections, media coverage, the campaign and the pre-election environment as a whole. It briefed the main group of observers on arrival.

The main group of observers began work in Dar es Salaam on Saturday 22 October and an Arrival Statement was issued on Monday 24 October. In Dar es Salaam it met and was briefed by representatives of the National Electoral Commission, the police, several of the political parties, non-governmental organisations, media organisations, Commonwealth High Commissioners and other observer organizations, both domestic and international.

On 25 October the observers divided into two groups. Three teams were to be based on the mainland and six in Zanzibar. The teams which travelled to Zanzibar continued with briefings specific to Zanzibar - from the Zanzibar Electoral Commission, political parties, NGOs, the media and other observers based in Zanzibar. Those on the mainland deployed straight away.

At the outset of their deployment all the teams visited the police, provincial and district election officials, representatives of the political parties and the domestic observers and made a point of meeting with ordinary people to hear their views on the electoral process. Then the teams familiarised themselves with their deployment areas and observed the final stages of the election campaign.

On 27 October, following the death of one of the Vice-Presidential candidates in the elections for the Presidency of the Union, preparations for the Union elections were halted and those elections were rescheduled for 18 December (later changed to 14 December). The Group brought its three mainland teams to Zanzibar, so that on election day there were nine teams of Commonwealth observers on Zanzibar.

On election day the teams visited as many polling stations as possible, observing the voting, the counting of votes and the collation of the results. To test the integrity of the results system a number of teams followed the result of at least one polling station count through to the constituency collation centres. Altogether the observers visited 253 polling stations across Unguja and Pemba and were present at 31 counts. Eight of our teams were present at constituency collation centres.

The observers were assisted in their work by observation notes and checklists. An Interim Statement was issued to the press by the Chairperson of the Group on 24 October 2005. A further statement was made by the Group on its departure from Dar es Salaam on 6 November 2005.

CHAPTER TWO

Political Background

Colonial History of Tanganyika

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

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

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

Independence

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

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

Colonial History of Zanzibar

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

established a formal Protectorate over both Unguja and Pemba. Britain continued to rule Zanzibar, through a Sultan, until 1963.

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

Post-Independence Politics

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

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

Formation of the United Republic of Tanzania

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

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

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

Restoration of Multi-Party Politics

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

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

The 1995 Elections

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

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

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

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

Subsequently, substantial amounts of Western development aid to Zanzibar were suspended.

Commonwealth Initiative

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

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

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

The 2000 Elections

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

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

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

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

The Muafaka Accord

Reconciliation talks between the CCM and CUF culminated in the signing of the Muafaka (Swahili for Accord) Agreement between CCM and CUF on 10 October 2001. The Commonwealth was accorded the role of moral guarantor. In summary, it committed CCM and CUF to implementing the provisions of their 1999 Agreement, provided for an inquiry into the January 2001 violence; the dropping of charges against CUF members; by-elections to fill the 16 seats left vacant by CUF and the establishment of a permanent voter register for 2005, and reform of the ZEC.

The Muafaka created an independent Joint Presidential Supervisory Commission (JPSC) comprising equal members from both parties and appointed by the President; the JPSC's function was to supervise the implementation of the Accord and promote mutual trust and understanding between the two parties.

Pemba By-Elections, Zanzibar 2003

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

Run-up to 2005 Elections

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

One important issue particularly in Zanzibar in the run-up to the 2005 elections was the debate on the nature of the Union, with the CCM adhering to the established policy of two governments while CUF advocated three governments – independent governments in Zanzibar and mainland and a Federal Government including representation of both. In the debate concerning the nature of the Union, CCM alleged that the position of CUF would lead to the break-up of the Union. The CUF denied this, arguing that the CCM wanted to end Zanzibar's autonomy.

A second major issue revolved around proposals for the formation of a Government of National Unity after the election. The CUF pledged to implement this if it won the election, while the CCM only agreed to consider it. In their manifestos, the major parties also attempted to engage in debate on other concrete issues such as economic development, health, education, jobs etc. Long before the formal campaign began, it was clear that the elections would be keenly contested.

The Economy

Tanzania's Gross Domestic Product stands at US\$10.3 bn. Agriculture accounts for half of Tanzania's GDP and employs 80% of the workforce. Mineral production (gold, diamonds and tanzanite) is growing significantly and already accounts for half of Tanzania's export revenues. Tourism is also growing in importance both as a source of employment and a foreign exchange earner.

Gender Issues

The 2002 Census revealed that females are in the majority on both the mainland and in Zanzibar (17,112,834 females and 16,349,015 males on the mainland; and 500,908 females and 480,846 males in

Zanzibar). The total population is 34,443,603 (2002). Tanzania defines youth as persons aged between 15 and 24. This age category constitutes 19.6% of the total population. Tanzania ranks 127th out of 177 in the 2005 UNDP Gender-related development index. Women have a higher life expectancy (46.3 versus 45.5 for males). Adult literacy for females aged 15 and above stands at 62.2% versus 77.5% for males. Women have had the right to vote since 1959. In the last parliament, 21.4 % of seats were held by women while 15.4% of positions at ministerial level are held by women.

Human Rights

Tanzania has signed and ratified the following global Treaties: International Covenant on Economic, Social and Cultural Rights 1966, the International Covenant on Civil and Political Rights, 1966, the Convention on the Elimination of All Forms of Discrimination against Women 1979, the UN Convention on the Rights of the Child 1989, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, the International Convention on the Elimination of All Forms of Racial Discrimination 1972, the Conventions of 1954 and 1967 relating to the Status of Refugees, the Rome Statute of the International criminal Court 1999, and the Optional Protocol to the Convention on the Elimination of Discrimination against Women.

Local and international human rights organisations report that positive progress has been made in consolidating human rights in Tanzania. However, concern continues to be expressed in human rights reports about the retention of the death penalty, reports of extra-judicial killings, mob justice, incidents of torture, and the slow dispensation of justice¹. Some concern has also been raised by a broad spectrum of individuals and organisations about restrictions on the civil and political rights of opposition supporters on Zanzibar, and the excesses of the security forces when managing political protests.

¹ For example see the Conclusion of the Tanzania Human Rights Report 2004, produced by the Legal and Human Rights Centre of Tanzania.

CHAPTER THREE

The Electoral Framework and Preparations for the Elections

The Electoral Framework

The electoral framework of Zanzibar is established under the Constitution of Zanzibar 1984, Elections Act 1984 as amended, Zanzibar Municipal Council Act 1995, and District and Town Councils Act 1995. The Elections Act 1984 governs the overall conduct and management of the Zanzibar Presidency, House of Representatives and local councils in Zanzibar.

Zanzibar has its own electoral commission established under the Zanzibar Constitution, the Zanzibar Electoral Commission (ZEC). ZEC retains autonomy over the elections for the Zanzibar Presidency, House of Representatives and local councils, and the promotion and regulation of voter education.

The National Electoral Commission of the United Republic of Tanzania (NEC) is responsible for the registration, supervision and conduct of the elections for the Union Presidency and Parliament on the mainland and in Zanzibar. NEC, however, utilises the personnel of ZEC, as well as the constituency boundaries and the electoral registers devised by ZEC in the administration of Union Polls in Zanzibar.

The Constitution

ZEC is established under Article 119 of the Zanzibar Constitution and comprises seven commissioners appointed by the Zanzibar President. Commission members include the Chairperson, Vice-Chairperson, two Commissioners nominated by CCM, two nominated by CUF, and one independent Commissioner. The inclusion of Commissioners nominated by the two main political parties reflects provisions agreed under the 2001 *Muafaka II Accord*.

The independence of the Commission is intended to be guaranteed in the Zanzibar Constitution which states that 'in the exercise of its functions...the Electoral Commission shall not be subject to the order or directions of any person, department of Government or view of a political party'. The inclusion of political appointees does, however, appear to have politicised the institution, leading to some delays in the

decision making process, as illustrated in determining the nature and extent of the process used for verifying the permanent voters register.

Some controversy also surrounded the awarding of the contract for the printing of the ballot papers for the Zanzibar elections, calling the independence of the Commission into question. An earlier agreement that ZEC would contract the company used by NEC to print ballot papers for the Union elections to print those for the Zanzibar elections was overturned by the Zanzibar government. The Commission was directed to award the contract to a different company citing procedural irregularities and financial constraints as the basis for awarding the contract to a different printer.

The Group welcomes reforms made within ZEC since the 2000 elections, including the introduction of formal mechanisms for political parties to liaise with the Commission in addition to the appointment of Commissioners nominated by political parties. The independence and impartiality of the Commission could be enhanced further if the majority of the Commissioners were independent and not nominated or aligned with any political party. We recommend that consideration should be given to ways of strengthening the independence, impartiality and credibility of the Zanzibar Electoral Commission.

Section 118 of the Election Act as amended provides for election petitions and the validity of the elections to be adjudicated by the High Court. The Court has the power to direct the Director of Elections to hold new elections if required. The Group was unable to verify whether it is possible to challenge the results for the Presidential election announced by ZEC in the High Court.

Electoral Legislation

The Election Act of 1984 was amended extensively in 2000, 2002 and 2004. The Group welcomed these amendments to the Act, which reflected changes recommended by the Commonwealth Observer Group for the 2000 Zanzibar Elections, including:

- introducing a Permanent Voters Register (PVR);
- abolishing the recording of the registration number of the voter on the ballot counterfoil;
- providing for each agent (representing political parties or candidates) the right to receive an authenticated result from election officials at polling stations and collation centres;

- limiting the role of *shehas* to the registration process; and
- providing for all officials carrying out electoral duties to comply with directions issued by the Director of ZEC.

The Group welcomed the consolidation of all electoral laws into a single piece of primary legislation, and the availability of a single set of electoral regulations, which could be used for reference by all stakeholders. As in 2000, the absence of an official English text of the Constitution served as a constraint on our understanding of the proper interpretation and application of the provisions of the amended Constitution in the legislative electoral instruments.

Constituency Delimitation

Section 120 of the Zanzibar Constitution empowers the Commission to demarcate constituencies in Zanzibar on the basis of: density of population and the need to ensure adequate representation of urban and sparsely populated areas; population trends; means of communication; and geographical features. The number of inhabitants ascertained by the last census in 2002 should be used for this purpose. There is no requirement on ZEC to consult with the political parties or to give notice of carrying out a review, but notice of any changes is published in the Gazette.

The constituencies for the Union National Assembly are coterminous with those for the Zanzibar House of Representatives elections, and changes to constituency boundaries must be agreed with NEC. The Group noted that changes in the demarcation of constituencies during the voter registration process following public consultations resulted in the reduction of constituencies in Pemba from 21 to 18, and an increase from 29 to 32 constituencies in Unguja. Unguja is considered to be a CCM stronghold, whereas Pemba is known to be a CUF stronghold.

Whilst some commentators have endorsed these changes as necessary and in accordance with Constitutional and legislative provisions, the main opposition party alleged the changes were unconstitutional and an attempt to 'gerrymander' the registration process to maximise the ruling party's electoral victory. ZEC advised that there were no maps available to show the detail of the changes and that the changes had been made to redress the imbalances of these areas. The Group was not able to comment on the validity of the process.

Qualification for Registration

Under Article 11 of the 1984 Election Act as amended, any Zanzibar citizen who has attained the age of 18 years is entitled to be registered under and in accordance with that Act as a voter, unless disqualified by that or any other law. However, to qualify to register and vote in Zanzibar House of Representatives and local elections, such qualified citizens must also be ordinarily resident within the constituency for three consecutive years immediately preceding the registration for the election. The Group welcomed the reduction of the residency requirement from five years (which obtained at the time of the last elections in 2000) to three years.

The electoral law does not provide specifically for the registration of absentee voters, such as the infirm and hospitalised, and citizens outside the country. The Group recommends that the Zanzibar authorities may wish to explore ways of enabling electors who are in the country but away from their place of registration to vote, so that no citizen is disenfranchised.

The Group welcomed provisions made under Section 68 (3) of the Election Act as amended which allows for the provision of assistance to disabled voters. The Group recommends that the use of special folders for assisting blind or partially sighted voters that were to be used by NEC in the Union elections be utilised in future Zanzibar elections.

Voter Registration

The Group considered the establishment of a PVR as a significant improvement in the electoral landscape of Zanzibar. The Zanzibar authorities and ZEC are encouraged to ensure sufficient resources and capacity is provided on a continuous basis to enable the register to be updated and verified regularly.

Voter registration was carried out at registration centres from 29 November 2004 to 26 April 2005. Registration Officers appointed by ZEC carried this process. Under Section 11 (2 -3) of the Election Act as amended, the role of the *Sheha* was limited as an *ex-officio* registration agent of the Commission, to one of co-operating with the Registration officer and other registration officials 'to secure the smooth compliance of the law and procedures pertaining to the conduct of the registration of voters at the registration office'.

In any election, the credibility of the voter register is key to ensure trust in the transparency of the electoral process. The Group was not present during the registration period, but domestic observers from TEMCO, Commonwealth Secretariat staff and other observers did witness the registration process. Observers present during this period reported witnessing a number of irregularities and violations of procedures. As a result, the Group paid particular attention to concerns expressed both by opposition parties and other observers.

There were widespread and numerous reports during the registration process of *shehas* usurping the authority of registration officers and determining people's eligibility to register in a highly partisan fashion. Even the Presidential candidate for the main opposition party was initially denied registration as a voter, though he was later permitted to register. The role of *shehas* in the registration process had also been an area of complaint in previous elections.

There were other controversial issues related to the voter registration process which were noted by the Group and which, if true, are of concern. TEMCO reported registration of over 100% of estimated voters in some constituencies, and noted that 9 registration centres in Pemba were closed for 12 days owing to confrontations between security personnel and opposition party supporters. The registration of military personnel was a source of dispute, with some observers of the process alleging that the Government had brought in a significant number of security personnel from the mainland to register in constituencies in Zanzibar (the law provides for the registration of security personnel at their duty station).

The two main political parties were alleged to have brought persons to register in constituencies in which they are not resident, and allegations were made of intimidation by security personnel of voters at registration centres, which created a sense of insecurity. The Group was unable to substantiate these allegations.

Section 5 of ZEC's Handbook on Voter's Registration Procedure for the Permanent Voters Register stipulates six days as the timeframe for display of the provisional voters register. The Group believes that this provides insufficient opportunity for voters and other stakeholders to scrutinise the provisional register and allow claims for inclusion in the register, and objections to the registration of ineligible voters, to be lodged. The Group recommends that the period during which electors may object to the Provisional Voters' Register should be extended from six to fourteen days.

A number of irregularities in the procedures for handling voter registration objections and the availability of materials were reported by TEMCO. Objections (against the denial of registration or challenge to the registration of another voter by a registered voter) had to be submitted on a specific form (Form 2D). The scarcity of the form at registration centres, in Urban West region in particular, inhibited the ability of citizens or registered voters to submit complaints. In addition, there have been claims that registration officers were partisan in their consideration of objections.

The number of voters on the provisional PVR released by ZEC at the close of the registration process amounted to 499,007. This figure was revised soon afterwards by ZEC to 509,906, representing 93.2% of eligible voters.

ZEC confirmed that a total of 4,001 objections (including claims by voters for inclusion on the register and objections to the presence on the register of others) were filed with Registration Officers in Zanzibar as a whole. Of these, 2,402 were filed in Pemba. 161 voters in Pemba initially denied registration successfully appealed the decision in the courts and were subsequently placed on the register. 1,599 objections were filed in Unguja. Of these, only 54 challenged an initial denial of registration successfully in the courts and were subsequently placed on the register. In total, 2,007 voters were removed from the provisional voters register. The final PVR released by ZEC and used on polling day contained 507,225 registered voters.

The Group noted concerns expressed by the main opposition party following the release of the provisional PVR in August 2005. It was claimed that 12,000 voters had been denied registration; a request to reopen the register was apparently denied by ZEC. They went on to allege that 10,000 voters had been added to the final PVR used on polling day². ZEC stated that the addition of the number of voters in the first provisional PVR released in August was hastily done and incorrect. The Director of Elections confirmed that the subsequent provisional PVR reflected corrections made in the original collation of voters, and that the final PVR to be used on polling day reflected corrections made after objections had been considered. While the Group was not in a position to evaluate the concerns that had been expressed, these concerns must be taken seriously, as they could

² These allegations were also reported in the TEMCO Interim Statement on General Elections in Zanzibar, released on 3 November 2005.

impact significantly on trust in the fairness and legitimacy of the electoral process.

The verification of the PVR in Zanzibar was to comprise a comparison of names, facial recognition where the photographs of registered voters were compared, and fingerprint comparison. ZEC stated that political interference led to delays in determining the extent of the verification process and commencement of the verification process. This in turn led to allegations by the main opposition party of attempts to compromise the validity of the register. ZEC stated that it was not possible to undertake a fingerprint comparison because of lack of time; a facial verification process with manual verification checks was undertaken which was time consuming.

The final register used by ZEC officials on polling day contained a total of 507,225 registered voters compared with 451,881 registered voters in 2000. Section 41 of the electoral regulations stipulates that details of the voter register for each polling station should be displayed publicly eight days prior to polling. The Group was concerned at the delays in producing and verifying the PVR which resulted in extracts from the register only being displayed publicly the day before, or on polling day itself. This led to confusion among many voters as to whether they were on the final verified register, and at which polling station they were supposed to cast their ballot.

We recommend that:

- the register should be publicly available for inspection, including at ZEC offices, and that the whole process of access to the register should be characterised by openness and transparency;
- the register should be produced in good time before the election.

Given the number and nature of the concerns expressed by many stakeholders as to the accuracy and completeness of the PVR, the Group recommends that a review of the implementation of the registration procedures be undertaken by ZEC. This would help to ensure that the integrity of the PVR is not called into question in future.

Voter Education

Article 5(b) of the Election Act 1984 as amended places responsibility for voter training and education with ZEC. ZEC did provide limited voter education, which was supported through donor funding. A

number of civil society groups also provided extensive voter education and training programmes with the support of donor funding. All voter education materials used by such groups are required by law to be approved by ZEC prior to use. The Group welcomed these programmes and commended the work of civil society groups in conducting voter education and training. The Group was concerned, however, that limited resources constrained the scope and scale of these programmes. The lack of sample ballot papers also affected negatively the ability of ZEC and other groups to provide comprehensive education on all aspects of voting procedures.

The Group recommends that voter education and training programme be provided as early as possible prior to future elections to ensure all voters, particularly those in rural areas and voters with disabilities, are aware of their rights and electoral procedures. The Group noted that political parties provided some voter education to their own supporters throughout the campaign. Additional training for party agents on their rights and responsibilities as representatives of the party during the electoral process would assist in strengthening confidence in the integrity of the system.

Administration

Some concern was expressed in the Report of the Commonwealth Observer Group on the 2000 Elections regarding the role of District Administrative Officers in carrying out the role of Returning Officers and other electoral staff. The Group welcomed the provisions of Part IV of the 2005 electoral regulations which empower the Commission to appoint Returning Officers who, in turn, recruited electoral staff.

Nomination of Candidates

The House of Representatives comprises the President, who is Head of the Zanzibar Executive, and 50 members elected directly by universal suffrage to serve five-year terms. The House of Representatives makes laws specifically for Zanzibar. The House of Representatives also includes ten members nominated by the President (two in consultation with the opposition) and the Attorney-General. Article 5 of the Constitution also allows for the appointment by parties on a pro-rata basis to ensure that 30% of the total membership are women.

Every Presidential candidate must be sponsored by a political party. Each candidate must be nominated in writing by not less than 200 nominators which are registered as voters under the Electoral Act 1984 as amended, from each of the regions of Zanzibar. The nomination must be received by ZEC within the prescribed deadline on

a specified nomination day along with payment of a deposit. Nominations must be submitted on approved forms and contain specific data on candidates and their nominators.

Parliamentary candidates must also be sponsored by a political party and qualify under the provisions of the Constitution. They must be nominated by not less than 25 voters registered in the polling districts within the constituency for which that person is a candidate. Nominations must be submitted on approved forms and contain specific data on candidates and their nominators.

Local authority candidates must also be sponsored by a political party, and be ordinarily resident in the area of jurisdiction of the local authority. She/he must be nominated in writing by not less than fifteen voters registered in the polling districts within the area for which she/he is a candidate. No deposit is required.

In Zanzibar, the following presidential candidates, including one woman, stood for the office of President of Zanzibar:

CCM:	Amani Abeid KARUME
CUF:	Seif Shariff HAMAD
DP:	Abdalla Ali ABDALLA
Jahazia Asilia:	Ali Haji KITOLE
NLD:	Rashid Ahmed RASHID
National Reconstruction Alliance (NRA):	Simai ABDULRAHMAN
SAU:	(Ms) Maryam Ahmed OMAR
Union for Multi-Party Democracy of Tanzania (UPDP):	Ameir Ali HAJI

Sixteen political parties contested the House of Representatives elections for the 50 seats in Zanzibar. There were 219 candidates representing the following parties of which 23 were women:

CCM:	50	TADEA:	4
CUF:	50	UDP:	4
Jahazi Asilia:	24	CHAUSTA:	3
UPDP:	14	Demokrasia Makini:	3
NCCR-Mageuzi:	13	PPT Maendeleo:	2
CHADEMA:	10	UMD:	
NRA:	10		
TLP:	8		
NLD:	6		
DP:	4		

The Group welcomed the provision for ensuring 30% of seats within the House of Representatives for women. Nonetheless political parties are encouraged to explore further how to attract and support more women as candidates in all elections.

Political Parties

The Group welcomed the implementation of the *Muafaka II Accord*, which established the Joint Presidential Supervisory Committee as a formal mechanism for consultation and dialogue between the main political parties. While noting that the mandate of the JPSC has expired, the Group urges the political parties to continue to meet regularly to facilitate political dialogue. The Group also encourages the Zanzibar authorities to consider making provision for independent candidates.

There is some provision of state funding for eligible parties. We noted that private party fundraising is not regulated. The lack of regulation raises issues about the transparency of funding of political parties. The Group recommends that all political parties contesting elections should be required by law to submit to ZEC within six months of elections accounts on electoral and campaign expenditure, and details on the source of revenue. All such accounts should then be published. This would facilitate greatly the transparency and accountability of party and campaign funding.

Voting Systems and Procedures

The electoral system currently in use is mainly 'First Past the Post', with some provision for special seats for women and nominees of the President.

The Group welcomed changes introduced by ZEC reducing the number of registered voters for each polling station to 350, from 400 as used in the 2000 elections. This facilitated the speed of vote counting and collation of results within each election at each polling station, as well as the efficiency of the voting at polling stations. The consolidation of all regulations pertaining to the nomination procedures for candidates in the electoral regulations of 2005 is noted. The Group considered the use of registration centres as the locations for polling stations as a good choice, as the locations were already known widely among voters. The use of schools was also considered to be a good choice of location as these institutions are well known focal points within communities; this was particularly important in rural areas.

Some collation centres were found to be unsuitable for collation purposes, as insufficient space was available to accommodate all ZEC officials, party agents, media and other observers.

Training

Section 17(1) of the Electoral Regulations 2005 stipulates that ZEC should provide training for all Returning Officers. Section 17(2) stipulates that Returning Officers provide training for Assistant Returning Officers and other polling staff. The Group welcomed the mandate for ZEC to provide such training, but recommends that comprehensive training is provided early and repeatedly to ensure all electoral and polling staff display professionalism and knowledge in their management of the electoral process. This in turn will enhance public confidence in the electoral process.

Distribution of Materials

The Group welcomed the provision of clear guidelines on the polling procedures and polling station layout in the 2005 Polling Station Procedures Manual. We were somewhat concerned at the limited communication between ZEC and polling station officials who were unsure as to when materials would be distributed to polling station. As a result, some polling station staff were waiting for materials from mid-day on the day before the poll with no information of when materials would arrive. ZEC is encouraged to establish a timetable for the distribution of all materials within an agreed timetable which is communicated to all electoral staff.

The use of the army in transporting electoral materials was also a matter of concern to the Group. The use of the army to transport materials was a ZEC initiative. The logistics of transporting materials to and from polling centres appeared to be controlled by the army and not ZEC officials, many of whom appeared to be uninformed as to when the army would distribute materials. It is important that ZEC is at all times in control of all aspects of the electoral process, including managing the transportation of materials to and from the polling and collation centres.

CHAPTER FOUR

Campaign and Media

THE CAMPAIGN

Campaign Period

The official campaign period, as designated by the Zanzibar Electoral Commission, began on 5 September 2005 and ended on 29 October, the day before polling. Members of the Group were present in Unguja and Pemba during the last three weeks of the campaign period.

Election Campaign Procedures

According to the Electoral Law^{3[1]}, election campaigns were to be conducted as follows:

- in a constituency, the election campaign is organised by the candidate, the candidate's political party or his/her agent. The candidate or the candidate's political party or agent must submit an election campaign programme to the Returning Officer
- after receiving such campaign programmes, the Returning Officer must convene a meeting of all candidates, political parties or agents for the purpose of co-ordinating the campaign programme so as to avoid clashes. Immediately after this meeting, the Returning Officer must submit a copy of the Co-ordinated Programme to the District Commissioner for information only and to the police officer commanding the District (OCD) in which the Constituency is situated for the purposes of organising security. The agreed programme constitutes a notice of the campaign meetings. No other formalities are required to organise election meetings and events.
- Presidential election campaign programmes are co-ordinated by the Commission in the same manner as parliamentary election campaigns.
- candidates or political parties participating in an election are allowed to undertake door to door canvassing during the election campaign period.

^{3[1]} "A Handbook of Tanzania Electoral Laws and Regulations 2005", Chapter 6: Election Campaigns, Section 6.1

- election campaigns are not allowed on election day.

Code of Ethics

A *Code of Ethics for Elections (2005)* was adopted by political parties during the election campaign period^{4[2]}. This regulated such matters as the right to conduct election campaign meetings, stipulated times when campaigns could be conducted (between 10am and 6pm) and provided for the civic education of voters. In addition to the *Code of Ethics*, training programmes for journalists were also conducted.

Conduct of the Campaign

Eighteen parties were registered for the elections in Zanzibar. Of the eighteen parties registered, sixteen parties contested the elections. This was a marked increase of 50 percent from the 2000 elections. The Electoral Law^{5[3]} on campaigning provides that the agent or candidate's party is required to provide the Zanzibar Electoral Commission (with a copy to the District Commissioner) with a schedule, indicating the proposed programme for his/ her public meetings/ rallies. There was a harmonisation of campaigns among the parties, so no two parties campaigned at the same time in the same place^{6[4]}.

Despite the existence of the schedule, only the Chama Cha Mapinduzi (CCM), the ruling party, and the Civic United Front (CUF), the main opposition party, were visibly conducting rallies. Campaigns were vibrant with party colours prominently on display. They also featured music and dancing. Posters were utilised extensively, but the ones most dominantly on display were those of the CCM party. Flags, banners and t-shirts (with photographs of the presidential candidate) were also utilised in abundance, once again overwhelmingly by the ruling party.

The rallies, in general, were an opportunity for the parties to educate the voters on how to vote. Door-to-door campaigns, termed "mobilisation of supporters", were embarked upon by the parties. Generally, parties conducted their campaigns freely and in an orderly manner. CUF employed slogans such as "CCM is Dead", signifying that victory was sure for them, whereas CCM used the slogan "CCM Forever". However, given the tension under which the campaigns took place and the marked polarisation of the people, we noted that the inflammatory statements made by speakers of the

^{4[2]} Code of Ethics for Election, 2005 (Articles 3.1 and 3.2). See also "A Handbook of Tanzania Electoral Laws and Regulations 2005", Chapter 6: Election Campaigns, Section 6.4

^{5[3]} Article 56 (2), Election Act (1984), Act No.11 of 1984

^{6[4]} Some could start at 10am and end by 2pm, while others could start at 2pm and end at 6pm, but no campaigning was allowed beyond 6pm.

two principal parties at some rallies, were not conducive to generating a positive atmosphere during the campaigns.

We also noted that the campaigns took place by and large in the month of Ramadan. Given the challenges to those who were fasting in a society that is 98 percent Muslim, we commend the fortitude and determination of the Zanzibar electorate during this period.

There were, however, reports of violations of the agreed *Code of Ethics* such as sporadic clashes which occurred during some campaigns. The rising tension was, however, much doused by external inputs such as the appeals made by the international community, urging on political leaders the need to make the electoral process peaceful. Another influence was the significant presence of international and domestic observers.

A further source of tension was when CUF took the position during the campaign period that its supporters should “guard the vote” by remaining just beyond 200 metres of polling stations - a position which the Government regarded as provocative and a threat to law and order. A few days prior to polling day, a boost was given to the peaceful conduct of the election when CUF reversed its position and asked its supporters to go about their business after voting. This later CUF advice reduced tension and a possible source of violence on polling day.

Usefulness of Campaigns to Voters

We found that at many rallies, candidates imparted “on-the-spot” voter education to their supporters, viz. how to vote and the value of their vote. The parties also sought to promote their manifestos and, quite significantly, and commendably, to make strong calls for peaceful conduct throughout the electoral process.

The Role of Security Forces during Campaigns

The distinct presence of the army and police was in evidence throughout Zanzibar. We recognise that it was a difficult balancing act for the authorities. On the one hand, there were allegations of heavy-handedness in the beefing up of the security forces, while on the other, there was the clear need by the government to maintain law and order. In Pemba, it was evident that the presence of the military and the police was on a great and possibly intimidating scale.

For reasons we could not determine at the time of writing this report, though the police had agreed to the schedule of rallies (a copy of which was provided to us by ZEC), we noted that in one instance of violation of this agreement, a major campaign rally

which was scheduled to have been held in Skuli ya Donge in Unguja by CUF on 9th October from 10am till 2pm was disallowed. When the CUF supporters tried to go to the school, the police had blocked the area. The day before, the police had informed ZEC that the venue could not be used for the CUF rally on the grounds that church and mosque premises and schools should not be used for rallies.

Also, the area was pronounced too small to accommodate the rally. While ZEC was of the view that the police were in a position to determine whether the use of an area breached security, they were surprised that the police directive came only a day before the rally, when the rally schedule had been agreed to more than a month earlier by the police, the political parties and ZEC. Given that the CCM had already used school compounds for campaigns, the police claim that the school compound could not be used on this occasion appeared to be an attempt to prevent CUF from access to the same privilege. The breach of the understanding of the agreement on the conduct of campaigns fuelled an air of thick tension which resulted in violence during which the police opened fire on CUF supporters. Some 19 persons sustained injuries, four seriously. Though denied by the police, wounds were reported to have been from gunshots.

Use of Public Resources

The elections, in terms of use of public resources, were characterised by the blurring of the lines between government and the ruling party. There were strong allegations by opposition parties that the government was putting state resources at the disposal of the ruling party, namely government vehicles, to transport supporters to political rallies. We received a litany of complaints that the playing field was not level. In Pemba, we received complaints of the abuse of incumbency. However strident as the claims were, we were not able to substantiate them.

We recommend that there should be a review of the use of public resources during the campaign period and that measures should be introduced to ensure a level playing field in this respect.

Issues of Concern

During our briefing sessions with political parties, CUF complained that women and youth did not have access to adequate civic and voter education. They also complained that the elections were not taking place in an atmosphere of calm. The party was of the view that though the Muafaka Accord is in existence, the political and democratic structures have not been liberalised to set arms and departments of state free from party control and to enable the Muafaka Accord to be implemented to the letter.

NGOs expressed a lack of faith in the system and felt that the playing field was not level during campaigns. They claimed there were bottlenecks for women's candidacy; in spite of the fact that special seats were reserved for women they still played subservient roles in political parties. The women nominated by the political parties, they claimed, were not candidates who could gain wide support in their own right.

As Zanzibar is essentially dominated by two major parties, it is our view that there is an urgent need to emphasise civic education so that the electorate gains a deeper understanding of key issues which emerge in campaigns.

Overall Assessment

Based on the Code of Conduct and campaign schedule as agreed among the political parties, on balance they were able to campaign freely. The campaign playing field seems to have been tilted in favour of the ruling party, which exploited to the full the advantages of incumbency. Since the 2000 elections, adherence, to some degree, to the code of conduct has contributed considerably to a general improvement in the campaign environment.

The latter part of the campaign exercise that we were able to observe was generally calm, though sporadic incidents of violence and intimidation appeared in evidence. While some campaigns took place in an atmosphere of tension, this did not undermine the election as a whole. The political parties' commitment to the Muafaka Accord may have tended to respect the letter of the law generally but in spirit, there was much to be desired for a fair and encouraging campaign environment.

THE MEDIA

Overview

Since 1992 when the Communication Act was enacted, the media environment has been significantly liberalised on the mainland, leading to a mushrooming of the private media. As at today, there are some 15 operational television stations and over 30 radio stations, most of which are privately owned. *TV Tanzania* and *Radio Tanzania* are owned by the Union Government. In Zanzibar, *TV Zanzibar* and the *Voice of Zanzibar*, a radio station, are state-owned. These state-owned electronic media have wide-range coverage and frequencies.

Specifically, radio and television in Zanzibar are regulated by the Zanzibar Broadcasting Commission Act of 1997. Unlike in mainland Tanzania where the 1992 Communication Act has led to the emergence of private TV and radio stations, only state-owned stations exist in Zanzibar. The same is true of the print media. While the *Daily Star* and *Sunday Star* group owned by the Union Government have been complemented by a great array of private newspapers (in Swahili and English) on the mainland, *Zanzibar Leo*, owned by the Zanzibar Government, is the only newspaper published in the Isles. However, the private newspapers published on the mainland circulate in Zanzibar as well.

Media Access

In Zanzibar, as well as the rest of Tanzania, the radio is the most influential news medium on account of its relative cheapness and wide coverage. Television is next in influence as it tends to reach only more affluent households or areas where electricity is readily available. The print media provides the least access in Zanzibar. Newspapers have limited circulation, with the *Daily News* having the largest circulation, though *The Citizen*, *The Guardian*, *The African* and a host of Swahili and English newspapers are quite visible as well. It must be further emphasised that in Zanzibar there is limited access to information through independent media.

Party Political Broadcasts

At the advent of the political campaigns, on account of the great reach and influence of state-owned electronic media, each political party was granted a 30-minute slot per week to air its campaign programmes on TV and radio. Only CCM, the ruling party, and CUF, the main opposition party, were able to make use of the slots as the small parties, lacking funds and expertise, were unable to create programmes for broadcast.

Code of Conduct

As a further attempt to ensure fair and equitable reporting of the political parties and electoral process, a *Media Code of Conduct for Election Reporting in Zanzibar*^{7[5]}, was instituted. It provides for ethical and professional standards in journalistic practice for media houses from both the mainland and Zanzibar. It also seeks to remove shortcomings which in the past blurred the image of the press in matters of credibility and balance. However, there has been limited compliance with the Code, as there is no mechanism for enforcement.

^{7[5]} As adopted by the Stakeholders' Conference at Mazsons Hotel, Old Stone, Shangani, Zanzibar, 6 October 2005.



