

# **IMPROVING THE QUALITY OF ELECTION MANAGEMENT**

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## **IMPROVING ELECTIONS IN TANZANIA**

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## 1. INTRODUCTION

Tanzania reintroduced multipartism in 1992 following landmark eight constitutional changes which marked an end of monopartism. This was a result of the end of the cold war between the East and the West which had an impact on the social, political and economy of the globe, Tanzania being part of the world was also affected by the change.

Article 3(1) of the Constitution of the United Republic of Tanzania, 1977 now provides that:

***“The United Republic of Tanzania is a democratic ..... state which adheres to multiparty democracy”***

The Constitution also mandated the putting in place structures to cater for the supervision and management of a pluralistic political system. These were, the office of the Registrar of Political Parties, which is entrusted with the major task of registering Political Parties. Another major structure was the National Electoral Commission which is entrusted with the task of organizing and supervising the conduct of multiparty elections in Tanzania. This paper explains the legal framework within which elections are conducted in Tanzania, Functions of the Commission, lessons and experiences drawn from elections already conducted and efforts for the improvement in the management of elections.

## 2. LEGAL FRAMEWORK

### a. The National Electoral Commission

The National Electoral Commission is a creature of the Constitution under Article 74(1) of the Constitution and it is categorized to be an independent Institution. Members of the Commission are barred from being members of Political Parties and the Commission is not obliged to comply with orders or directions of any person or any Government Department or views of any Political Party. Furthermore, the security of tenure for members of the Commission is guaranteed under the Constitution.

### b. Functions of the National Electoral Commission

The NEC is mandated to perform electoral functions under the Constitution of the United Republic of Tanzania, 1977 and other Legislations. The functions are:

- (a) to supervise and co-ordinate the registration of voters in the Presidential and Parliamentary elections in the United Republic, and Councilors Elections in Mainland Tanzania;

- (b) to supervise and co-ordinate the conduct of the Presidential and Parliamentary election in the United Republic, and Councilors Elections in Mainland Tanzania;
- (c) to review the boundaries and demarcate the United Republic into various areas for the purposes of parliamentary elections;
- (d) to declare elected, Members of Parliament for women special Seats;
- (e) to declare elected councilors for women special seats.

The Elections Act of 1985 and The Local Authorities (Elections) Act of 1979 govern the conduct and operationalisation of electoral duties.

Besides the aforesaid legal framework, the Commission is also empowered to make Regulations which are relevant in the conduct of the day to day activities pertaining to electoral duties.

### **c. Electoral System**

Tanzania has a mixed electoral system comprising of First Past the Post and some form of Proportional Representation. The President of the United Republic, Members to the National Assembly representing constituencies and members to local authorities representing wards are elected through First by Post. Members of Special seats in the National Assembly and in the local authorities are elected through Proportional Representation depending on how Political Parties have performed in the elections.

## **3. ELECTORAL PROCESSES AND EFFORTS OF THE COMMISSION IN IMPROVING THE MANAGEMENT OF THE ELECTIONS**

Electoral processes involve, the Delimitation of Boundaries, Registration of Voters, Nomination of candidates, Election Campaigns, polling, vote counting, vote addition and declaration of results.

Since its creation the Commission has been managing the elections focusing mainly on how best to improve the electoral processes and management of elections. As such and whenever possible the Commission has embarked on legal and administrative reforms geared at improving the conduct of elections. The accomplishment of the aforesaid and the progress made so far is as explained below in each process.

### **a. Delimitation of Boundaries**

As earlier stated, the Commission is empowered to divide the United Republic of Tanzania into constituencies for the purpose of Parliamentary elections. The said Constitution under Article 75 only sets out general criteria for demarcation. It is stated in the said article that:

***In demarcating the boundaries of constituencies, the electoral Commission shall take due account of the availability of means of communication and also geographical conditions of the area intended for demarcation into constituencies"***

The Commission found these criteria not adequate for the demarcation of constituencies, and decided to go further developing and defining the prerequisites for variation of constituency boundaries. Among the criteria as set by the Commission are as follows:

- The constituency should not cut across boundaries of two different districts or local authorities;
- The constituency should be composed of wards established for the purposes of councilors' elections;
- The constituency should not cut across two different wards.

The decision of setting out clear criteria has enabled the Commission to be safe from complaints such as gerrymandering which in essence render elections not to be considered as free and fair.

#### **b. Registration of voters**

Tanzania does not have a permanent voters roll. It is currently on the process of establishing one. In the past elections, the Commission registered voters whenever an election was about to take place. In practice registration of voters for General Election was done just three months before the Election Day.

After the 1995 Elections, the Commission recommended for the establishment of a Permanent National Voters Register in Tanzania. In 2000, the Government took a bold step of amending the Constitution making the Permanent National Voter's Register a constitutional requirement. However, the Electoral Acts were not effectively amended so as to facilitate the operationalisation of a voters' roll for the 2000 elections.

In June 2004, the Electoral Laws were amended thus allowing for the establishment of the permanent national Voters' Register which is expected to be ready for use in the forthcoming 2005 elections.

Owing to the fact that the Permanent National Voters' Register entails a different timing and system in operationalisation which is not known to Tanzanians, the Commission has embarked on voter awareness programme in order to educate the citizenry on how, why, when and where to register as a voters. The programme also involved in-depth consultations with political parties, media institutions and other stake holders.

Political Parties are also involved in the process by allowing Political Parties to post their representatives in every registration center for the purpose of witnessing the registration exercise.

In order to ensure that only qualified voters remain in the voters register, the law provides for a right to object to registration of a voter who is not qualified to be registered. However, the same cannot be removed from the roll without being afforded a right to be heard. There is also an opportunity of appealing in court against the decision for removal. Persons who have the right to object registration of a voter are: the Director of elections, a Registration officer and a registered voter.

Earlier, the period within which the appeals were processed was quite long and such appeals were only supposed to be submitted in the Resident Magistrates Courts. The Commission felt that the process might adversely affect the establishment of the permanent national Voters' Register. This is due to the fact that there are only 22 such courts and as such people would be forced to travel for long distances to submit the appeals which were likely to force them to abandon this right. The Commission recommended for the amendment of their law to enable the appeals relating to registration to be submitted in the District Courts which are in every District and therefore disposed off early. The Government accepted and the law was amended accordingly thus contributing to the efficient preparation of Permanent national Voters Register.

#### **c. Nomination of candidates**

In Tanzania we do not have private candidates. Any party may sponsor one candidate in any election. i.e. one person for every Presidential, Parliamentary and Councilor election. Any candidate aspiring to be nominated for presidential, parliamentary and Councilor election, apart from possessing other legally prescribed qualifications, is supposed to be a member of and be sponsored by a political party. This rule applies also to candidates who contest for candidature for women special seats as Members of parliament and Councilors'.

In the nomination process the Commission has observed that some political parties do not have democratic systems within their parties in proposing candidates thus leading to complaints against the whole nomination process. In view of the aforesaid, the Commission in its 2000 elections report, recommended for an amendment of the legislation to ensure that political parties adhere to democratic principles when conducting internal nomination of Candidates.

#### **d. Election Campaigns**

Political Parties conduct campaign meetings in accordance with the programme which is coordinated by Returning officers out of proposals submitted by every party contesting elections. The coordinated programme is submitted to the Police who are required to arrange for security measures during campaign meetings.

In The past elections, the Commission experienced incidences of clashes of parties in campaign meeting venues. On close follow up it was realized that in some areas Returning Officers coordinated campaign programmes without inviting Political Parties involved in elections. Unfortunately this was a result of a flaw in the Electoral law. To avert this problem the Commission recommended and the law has now changed to require the Returning Officer to invite Political Parties for discussion before coordinating the campaign programme. The Commission is also flexible in availing

parties opportunity to change the campaign programmes in between the campaign period whenever circumstances so allow.

**e. Election Day**

The Commission is required by law to set a polling day which is not less than 60 days and not more than 90 days after nomination of Candidates. Political Parties are allowed to have polling agents to witness the polling exercise in polling stations.

In the past elections, Electoral Laws were rigid in that there was no room for postponement of an election which has failed to take place on the Election Day. Even for an election which the Commission foresaw that it could materialize in less than 60 days, the Commission was supposed to revoke the earlier set date and appoint another day within 60 to 90 after revocation.

With unpredictable situations which sometimes happen to frustrate elections, in our case, the Commission was legally not in a position to remedy the situation. Owing to this state of affairs, it successfully recommended for a change in the law which now enables the Commission to postpone an election which as failed to take place and appoint another election day.

**e. Vote Counting**

Before 1995, counting of votes was done centrally at the headquarters of the constituency or a ward. Before the 1995 General election, the Commission recommended that the counting of votes be done at the polling station after the conclusion of voting exercise and results of the particular polling station be declared and displayed at the same polling station. Furthermore, each agent of the Political Party is to witness the exercise and endorse on the results form of the same effect. Every agent or rather a candidate is by law required to be given a copy of results.

The openness and involvement of parties in the exercise has earned the Commission a credit in implementing the process in a transparent manner thus minimizing rampant complaints which used to be raised when counting was done centrally.

**g. Vote Addition**

The law requires the Returning Officer to inform Candidates and Political Parties on the date, time and venue for the addition of votes. This is important to enable them to witness the vote addition exercise and raise whatever complaints they might have on the conduct of vote counting.

**4. CONFLICT RESOLVING MECHANISMS**

Elections are inherently conflictual because Political Parties involved in the process are naturally adversarial. The Commission in realizing this fact has all along strived to ensure that they minimize the possibility of occurrence of whatever conflicts that might adversely affect the process. Also in anticipation of such conflicts that may occur, plan for managing the situation. For example most Political Parties clash during

campaign period. Also there are instances where the incumbents use their positions at the expense of other candidates. The Commission normally initiates an Election Code of Conduct prescribing the dos and don'ts of the Government, Political Parties and the Commission itself. The same is discussed by both parties and thereafter endorsed by the respective parties. In the year 2000 the Commission formed a committee to follow up the implementation of the code and it was very helpful.

Moreover, from 1995 the Commission formed some advisory committees which were composed of some members from Political Parties. The performance these committees were appreciated and most of the doubts were cleared without even being submitted to the Commission because most of them were a result of parties not understanding the process and their rights and responsibilities in the process.

## **5. TRUST AND CONFIDENCE FROM POLITICAL PARTIES**

The trust and confidence for the Commission from Political Parties has been partly a contentious issue since the creation of the Commission. In Tanzania members of the Commission are appointed by the President. Political Parties argue that, the President being a Chair of the ruling party appoints people who are loyal to him. Political parties went to the extent of challenging members of the Commission in court for being partisan. However the High Court ruled that the partnership lies with a person and not with the appointing authority.

It is important to note that some countries whose Commissions had members sourced from Political Parties have been marred by a series of stalemates which have adversely delayed the conduct of the process to the extent that some observation Missions have recommended a revision of the membership of the Electoral Commissions.

Of late the Government decided to table a Constitutional Amendment Bill proposing to include some members of the Commission sourced from Political Parties. The Parliament rejected the proposal for the reason that the Commission is supposed to be impartial.

However, having conducted several elections, the Commission is of the view that some negative perceptions and discomfort of Political Parties are caused by the ignorance of the process. Thus it requires any Electoral Management Body to exert extra effort to enlighten the parties in order to cure this problem.

It is also vital to implement the electoral process in absolute impartiality without discriminating or rather marginalizing any Political Party. All parties should be treated equally. If this is exercised, fears would be averted as against the commission's conduct of elections. Political Parties should be availed with the election time table and plan quite early so that they can plan for their approaches for participating in elections.

## **6. THE USE OF TECHNOLOGY AND ITS CHALLENGES IN THE ELECTORAL PROCESS**

The National Electoral Commission has decided to utilize an appropriate information Technology in the preparation Technology in the preparation for the 2005 elections in major areas of election administration. These include.

- (a) Establishment of Permanent Voter Register;
- (b) Communication networks (Wide area and Local area). Wide area network (WAN) will link the offices of the National Electoral Commission and the Warehouses and the Processing Centre. It is also planned to link the national Electoral Commission and the Zanzibar Electoral Commission;
- (c) The establishment of a WEB site which may be used effectively to provide all required election information such as voter and Civic Education, the electoral Laws and regulations, the Commission's Guidelines, the Election results etc. The Commission Web site is soon to be launched;
- (d) Geographical Information System which will be used to produce electoral maps manage geospatial electoral information and present Voter and electoral statistics in clear, accessible and comprehensible outlook;
- (e) Implementation of Logistics management Systems for an Audit trailing of field Materials and equipments such as Camera, Registration Forms and Ballot papers. The Objective is to assist in planning and achieving baseline information management, Operational Management Capability, reducing operational risk and control over electoral materials and assets;
- (f) Establishment of a Result Centre. This will enable the Commission to announce results as they are received from constituencies.
- (g) General Administrative Management e.g. financial planning and Personal management and general operational application.

Major challenges associated with the introduction of the said appropriate technology are the high Cost implication. However its cost effectiveness is realized by managing the various electoral processes timely and more efficiently. However its cost effectiveness is realized by managing the various electoral processes timely and more efficiently. Moreover, it is normally the start up cost which is quite high, but the costs are generally amortized in the mind and in the long term. Another challenge is the level of Foreign Service Consultancy. In view of the fact that the introduction of appropriate technology employed is a new phenomenon, the Commission has limited exception other than relying mostly on foreign experts and vendors.

The UNDP has provided great assistance in the provision and coordination of the consultancy services both for Technical Assistance and Procurement. However, concerted efforts are required for skill transfers, maintenance of the system and ensure overall sustainability.

## **7. Conclusion:**

Election in Tanzania are big an expensive ventures. The establishment of the Permanent Voters for the 2005 Election itself is expected to cost about 37.0 Million US Dollars and the rest related election cost will add some 30.0 Million US Dollar more.

The National Electoral Commission has always strived to improve Election Management by being more transparent and inclusive in the conduct of elections. Needless to say, our democracy is just emerging and consequently relatively fragile.

Modern technology indeed provides easy avenues for managing elections, and Tanzania has therefore decided to share the advantages of the technological and global phase. However some challenges remain so as to achieve full impact on the conduct and management of Elections in Tanzania. But the will and spirit exist and it is undisputed that the future is bright for managing transparent, free and fair and more acceptable elections in Tanzania.

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