

# THE STATE OF CONSTITUTIONAL DEVELOPMENT IN TANZANIA FOR THE YEAR 2005

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### 1.0 INTRODUCTION

#### 1.1 *Contextual Issues*

Tanzania is a sovereign, united republic made of two former independent countries, i.e. the Peoples Republic of Zanzibar which comprises of the islands of Zanzibar and Pemba and the Republic of Tanganyika popularly known as Tanzania Mainland today. Zanzibar has its own government known as the Revolutionary Government with its constitution as well as the Revolutionary Council or House of Representatives that assumes the role of a parliament. In this regard, the Revolutionary Government of Zanzibar has its own electoral commission known as the Zanzibar Electoral Commission (ZEC) while its counterpart in the Mainland is the National Electoral Commission (NEC). Tanzania Mainland does not have its own separate government other than the Union Government. It also uses the Union Constitution and the Union Parliament. In pursuance of democratic principles in governance the Union constitution provide for Zanzibar to be represented in the Union Parliament. The people of Zanzibar (the Zanzibaris) are therefore obliged to participate in electing the Union government's president and vice president as well as members of the Union Parliament under the management of the National Electoral Commission (NEC).

Due to requirements of the constitution of the Revolutionary government of Zanzibar that have to be met on election of the new government such as holding elections within a certain time frame, the 2005 general election in Zanzibar was held on October 30<sup>th</sup>, 2005 as originally planned while for the Tanzania Mainland (union government) the election had to be postponed to meet one of the constitutional requirements on elections that demands for postponement of both the campaigns and the election where one of the presidential candidates or running mate of contesting parties die as was the case with the CHADEMA running mate for presidential post who died during the last few days of the election campaigns<sup>1</sup>. Given these circumstances, the Zanzibar general election of October 30<sup>th</sup> involved voting for only those posts specific to the Zanzibar Revolutionary government while the December 14<sup>th</sup> election also involved the Zanzibaris in electing the President and Vice President for the union government and members of the house for the union parliament. The NEC administered the December 14<sup>th</sup> election in both the Isles and the Mainland while the election of 30<sup>th</sup> October was administered solely by ZEC as it only applied to the Isles.

All registered political parties operate in both the Isles and the Mainland as enshrined in the Law on registration of political parties. However, such parties are not forced to take part in any elections contrary to their choice. For the Zanzibar elections, very few parties out of a total of 18 registered parties took part in the October and December 2005 general elections while in Tanzania Mainland the number was higher but even for the latter, some parties took part in the election of members of parliament and/ or the councillors by nominating contestants but not for the presidential elections.

#### 1.2 *The electoral system in Tanzania*

The system of elections in Tanzania follows the principles of representative democracy under universal suffrage as provided for in both the constitutions of the Zanzibar Revolutionary

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<sup>1</sup> In case the running mate dies during the campaigns, the presidential campaigns have to be postponed until a new running mate for the affected party is nominated as was the case during the just ended 2005 elections.

Government and the Union Government. Although the electoral laws have tended to be least debated on during the last five years indicating the relatively high level of acceptance by the populace, a few flaws were noted and reforms were made in the two governments' Constitutions during the last few years to address both the unconstitutional gaps and other concerns brought about by changes pertaining to the system of multiparty democracy and subsequent socio-economic and political reforms. The Thirteen Amendment of the Union Constitution (Act no. 3 of 2000) is of particular interest in this case as it introduced changes relating to the election of the president in terms of required total votes for winning the presidential post, and the proportion of parliamentary seats for women under the quota system popularly known as the Preferential Seats. The Constitution also mentions the mode of getting the Vice President who is the principal assistant to the President and is therefore required to have same qualifications as the president and stands for elections as a running mate of the President (Shivji I.G. 2004). This chapter is a modest attempt to assess the applicability of these constitutional changes within the context of the 2005 electoral processes. It is hoped to contribute to the on-going discussions on constitutional reforms in East Africa.

### **1.3 Methodological Issues**

The choice of the theme for the year 2005's discussion on Constitutional Development in Tanzania was purposely made to take advantage of the available opportunity of informing the global community on the success story of the Tanzania 2005 national elections that has demonstrated the potential of young democratic states like Tanzania to offering good experiences on electoral processes under multi-party democracy. In the recent past Tanzania has been accused of having unfair and undemocratic elections especially in Zanzibar for the 1995 and 2000 national elections under multi-party context where the ruling party Chama Cha Mapinduzi (CCM) emerged as the winner in both cases and gave the critics room to speculate and even seek for evidence on rigging and corruption. The authors found it opportune to assess the 2005 election process conducted after a decade since the first election under multi party democracy, to determine whether there has been any tangible constitutional developments ever since on matters of elections.

The narration and subsequent analysis of the 2005 national elections provided in this chapter borrowed a lot from the preliminary reports of both informal and formal election monitors such as the Tanzania Election Monitoring Committee (TEMCO) and the National Democratic Institute for International Affairs (NDI), media reports, publications by political parties the government and civil society organisations and personal observations. The discussion combines both the story telling and analysis of the whole election process in line with the ongoing constitutional reforms in Tanzania in the socio-economic and political arena. Unfortunately it was impossible to access final reports at the time of writing this chapter because none was ready yet hence, the failure to provide adequate quantitative data.

#### **1.3.1 Conceptual Issues**

##### ***(i) Constitutionalism***

We couldn't agree more with Maria Nassali's quotation from Julius Ihonvbere (2000) on the definition of constitution that puts emphasis on both socio-economic and political arena:

*"Constitutionalism is premised on the assumption that the constitution is a social contract between the people and their leaders, that defines democratic governance, guarantees individual rights, and*

*empowers the citizenry to use it as a living document that reflects their needs and aspirations in furtherance of their day to day life struggles” Shivji (2000) page 117 para 2.*

Election processes offer opportunity for people to exercise their constitutional rights that are linked to socio-economic and political empowerment, hence the authors’ inspiration to choose the 2005 election as an entry point for discussing the state of constitutional development in Tanzania, this time around.

### ***(ii) Free and Fair election***

Many interpretations are used to describe these two inter-related concepts, which tend to be used as a pair in assessing national elections. The UN criteria include “ensuring a level playing field; the prevention of fraud, corruption and unfair practices or dirty tricks, safeguarding the right to vote and safeguarding of the right to freedom of expression. (Oloka-Onyango (Ed) (2001) page 71 Para 1). The National Electoral Commission’s criteria do not diverge much from the UN criteria as it touches on both the voters and contestants’ needs and rights as highlighted below:

- There has to be a permanent voters’ register
- Polling stations have to be in open and accessible locations
- Procedures for election/voting have to be understood by all voters
- There should be no threats, intimidation or pressure to voters.

For the contestants they have:

- To know their rights on how to be selected by their parties and when
- To be fully informed on all the election processes
- The environment has to be peaceful and secure
- There should be absence of any type/form of discrimination
- They should be represented at appointment, voting and counting of votes
- Administration organs should to be devoid of favouritism
- To have in place an efficient and effective system of reporting on unfairness and on election petitioning over the results.

The discussion that follows will use these criteria in assessing the 2005 national elections process and provide a synopsis on how the application of such criteria contributed to the constitutional development in Tanzania.

## **2.0 REGISTRATION OF VOTERS**

### ***2.1 The basis for Creation of permanent voters’ register***

The creation of permanent voters’ register constitutes the first and essential activity in the electoral process. In order to attain integrity of the electoral process, the voters’ register has to be transparent, acceptable, fair and capable of inspiring confidence both to the election administrators and the electorate. If effectively used, the register has the potential for reducing problems and complaints that usually crop up during elections.

The year 2005 general elections in Tanzania witnessed a usage of Permanent Voters Register (PVR) in both the Isles and the Mainland. The registers were legally established as result of constitutional development and subsequent laws as amended in January 2000 (Article 5(3) of the URT 1977 Constitution and Section 12 of the Elections Act No 1 of 1985) and in June 2004

(Section 11 A (1) of the Elections Act No. 1 of 1985 and Section 15 A (1) of the Local Government Elections Act No 4 of 1979).

The introduction of PVR was aimed at providing an instrument for guiding free and fair general elections in Tanzania.

## **2.2 The process of creating the PVR**

A number of factors contributed to the establishment of the register. First, creation of the register was one of the agreements made during the second Peace Accord signed between CCM and CUF (Muafaka 11) on October 10<sup>th</sup> 2001.<sup>2</sup> Second, the PVR came to replace the previous voters' registration systems which lacked permanency, contained several limitations as they were time and money consuming, lacked transparency and were prone to manipulation by the strong and corrupt political parties. In order to make these changes there was need to review the constitution and the electoral law, hence the passing of an Act in Parliament in time for the process to be initiated.

Due to the dual nature of the political system in Tanzania where the Revolutionary Government of Zanzibar and the Union Government of Tanzania that applies to the Mainland have different constitutions and election laws, two Permanent Voters Registers were created, one for the former part created by the Zanzibar Electoral Commission (ZEC) and the second for the Mainland under the National Electoral Commission (NEC) following the amendment in January 2000 Article 5 (3) of the URT 1977 Constitution and Section 12 of the Elections Act No 1 of 1985. In June 2004 Section 11 A (1) of the Elections Act No 1 of 1985 and Section 15 A (1) of the Local Government Elections Act No 4 of 1979 were amended. For Mainland Tanzania the exercise of creating PVR that started by registering voters commenced on 7<sup>th</sup> October 2004 and ended on 18<sup>th</sup> April 2005. The first task performed was the preparation of adequate human resource responsible for managing the voters' registration exercise. This entailed temporary employment or appointment of registration officials and building their capacity through training. A series of workshops and seminars were organized for their training on their role, responsibilities and functions and other matters related to the registration of voters in their respective regions and districts/constituencies.

The focus was on all legal, administrative, operational and technical aspects of the voters' registration process. Sections 7 A (1) and 8 (1 and 2) of Acts No 13 of 2004 and No 8 of 195 respectively empowered NEC to appoint Regional Election Coordinators-cum Registration Officers and all City, Municipal, Town and District directors as Assistant Registration Officers. NEC also appointed the senior officers of the City, Municipal, Town and District Directors, including Ward Education Coordinators and Ward Executive Officers for recruitment. Camera Operators were also employed and recruited on issues related to photographing. Preparation of registration materials for the voters' registration process was another task performed and this was followed by the task of distribution of the materials in time to the registration centres. This task was performed smoothly as vehicles and motorcycles were sufficiently available.

## **2.3 Mobilizing voters to register in the PVR**

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<sup>2</sup> Muafaka is a political/peace accord concluded between CCM and the Civil United Front (CUF) (the two most active and rival political parties) on Zanzibar. So far two accords have been signed and the agreements made have largely contributed to the improved political life in Zanzibar.

This was the fourth task that was performed towards creation of the PVR. The process was facilitated through a voter education strategy that was also aimed at empowering the voters politically and making them competent and well informed particularly on the family of rules, regulations and procedures governing elections in the Tanzania political system and hence, more likely to participate confidently, effectively and meaningfully in elections. There is also enough evidence to show the positive correlation between politically literate voter and the rate of participation in elections.<sup>3</sup>

Voter education was provided by different institutions including NGOs using various strategies including the use of posters, brochures, pamphlets and fliers which were spread in almost all accessible strategic public places included bus stations/stands, health centres, schools, voters' registration centres, hotels, bars and other places. Radio, television, newspapers, mobile vehicles mounted with public address systems and loud speakers were used as other strategies to mobilize people to register.

Government officials were also responsible for informing people to register in the PVR for the 2005 general election. As for the involvement of political parties, two political parties namely CCM and CUF were more active than the remaining registered political parties that participated in the general election in Tanzania. Civil Society Organizations (CSOs) played very minimal role in performing the task. Out of 75 CSOs specialized in Civic Education, only two actively took part in mobilizing people to register in the PVR the situation contributed by failure of the majority to get funds from donors.<sup>4</sup> The tendency of over-dependence on donor funding made by the NGOs has several negative impacts including that the NGOs may be partisan or influenced by donors resulting in favouring certain ideologies and political parties which may lead to building disunity among the people in the country. For the future there is a need to extend government support and observing practices of no-partisanship and impartiality in activism of NGOs to disseminate civic education to voters. These were Global Network of Religion for Children (GNRC) and Agenda 2000. Religious Organizations also played their part in informing their followers to register in the PVR. Despite the fact that the organizations legally have the rights to perform such function, the danger of many of them to use such opportunity to serve their interest may arise if there are no effective laws and regulations that could guide them in the whole exercise of education provision to the voters. Although the monitoring of voters' registration exercise was to be undertaken by the political party agents as directed by NEC, this did not happen due to financial and human resources constraints, lack of strong institutional base and support at the grassroots level.<sup>5</sup> There was also scepticism by some political parties on the ability, credibility and efficiency of the NEC and ZEC to carry out the process of creating PVRs soon enough for use in the 2005 elections. One of the indicators for such doubts was when ZEC was seen providing a loophole that allowed the local government leaders (shehas) and military personnel to interfere in the process of registration despite the amendments of both the Zanzibar Constitution and Elections Act in 2002 that barred them to do so. In Tanzania Mainland the NEC was not able to promptly address problems of registered voters whose identity cards (voter cards) were lost, defaced or destroyed leading to majority failing to be issued with replacements. Others never reported the loss on time as they were unaware of operating law governing registration process and others encountered high cost problem as they lived far from the

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<sup>3</sup> B.A. Bana, Voter Education and Response Paper, University of Dar es Salaam, 2005 p.1

<sup>4</sup> Ibid p. 5

<sup>5</sup> C. Mongella ( ) page 19

district headquarters. Most of these failed to vote and hence were unable to exercise their constitutional rights. Also some voters such as University students with problem of changing polling stations because of genuine reasons failed to be attended to on time and hence could not vote<sup>6</sup>. Unfortunately NEC was accused of being inefficient as it failed to address all these problems adequately.

The relatively transparent and democratic processes of PVR creation and voters registration helped to realize a turn up of big number of voters (16,5760,230) for registration in the PVR for the 2005 Mainland general elections and it also reduced complaints that might have arisen from voters' registers.

### **3.0 SELECTION/ NOMINATION OF POLITICAL PARTIES OF CONTESTANTS/CANDIDATES**

The Union Constitutional development demands general elections in Tanzania to be free, fair and democratically conducted on the one hand, and for the nomination of candidates of political parties involved in the election to follow democratic procedures. Unfortunately for the 2005 general elections majority of political parties did not have candidates' nomination procedures that could be termed democratic which meant that for majority of these parties nomination models did not even exist and many relied on combination of hand picking and self proclamation model thus being accused of nepotism in some instances.<sup>7</sup>

Very few political parties such as CHADEMA, CUF and CCM demonstrated democratic way of nomination of their presidential candidates but for the MPs a number of parties did not have any noticeable degree of democracy. CHADEMA nominated its presidential candidates for the union presidency via a zonal preferential poll, which was then endorsed by party delegates during a national conference. As for CUF its presidential candidates for both the Union and Zanzibar's presidency were nominated in a national congress via a secret ballot. Compared to the other parties, CCM displayed most democratic, clear cut and transparent system for candidates' nomination.<sup>8</sup> For the CCM Union presidential nomination a total of 11 candidates contested. Each candidate had to fulfil 13 qualifications in order to qualify as CCM presidential candidates as set by the National Executive Committee of the party. The 13 point set nomination criteria among others included leadership experience in government and public institutions, cleanliness from corruption and other vices; possession of university degree; commitment and ability to defend the union and the ability to govern.

CCM nomination model is dependent on three decision making organs which are the Central Committee (CC), the National Executive Committee (NEC), and the Party Congress. The actual selection of the candidates began with a submission of aspiring candidates' names to the party's secretary general who in turn submitted them to the Central Committee (CC). The CC with a membership of between 25 and 30 did not eliminate any name from the candidacy list of eleven people from which it was supposed to shortlist five best candidates for onward transmission to the NEC comprising of 230 members. In order to get the five best candidates, a thorough assessment

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<sup>6</sup> Alasiri Tanzania Newspapers of December 19, 2005 p. 8

<sup>7</sup> Election Update 2005 Tanzania a number 1, 26 September 2005 p.

<sup>8</sup> Ibid p. 6

of the candidates' curriculum vitae was made against the criteria set by the party. After short listing the five names, CC then sent the list to the NEC, which further scrutinized the names to come up with only three names by secret ballot. It was then the NEC's responsibility to send these three names to the Party Congress comprising of close to 1200 delegates to elect by secret ballot the candidate for presidency-ship. This process was praised by many people as being very democratic and the other parties were expected to emulate such a unique process. But even for CCM, it was the first time to have such an elaborate system with so much transparency and so many candidates without any trace of partisanship embedded in it.

#### **4.0 CAMPAIGNS**

Campaigns constituted strategies used by political parties to make their contesting candidates and policies (manifestos) known and assessed for their credibility by the voters. In Tanzania Mainland campaigns for the 2005 general election began on the 5<sup>th</sup> September, 2005 and although they were to end one month thereafter, they were prolonged following the postponement of the election day from October to December 2005 due to the death of the running mate for the presidency candidate for CHADEMA party a few days before ending the campaigns. In Zanzibar campaigns started on the 5<sup>th</sup> September 2005 and continued until just a day before the elections on 30<sup>th</sup> October 2005.

The postponement of the Mainland general election was assessed with mixed feelings. On the one hand people saw the postponement as an opportunity for the campaigners to iron out some of the pending issues and address some of the controversial issues raised during the first leg of the campaigns to clear any doubts the electorate might have had on their own suitability as well as their parties' strengths. However, for the relatively financially weak political parties the extra time attained due to the postponement was seen as a constraint in the sense that they would have no money to continue with the campaigns although they feared that much of the excitement they had already raised among the electorate might subside by the time the election actually takes place. To some parties like CUF the postponement was also disastrous in that the election results for the Zanzibar election that was held in October were not so encouraging to the extent that it had some psychological effects on the electorate for the Mainland. Besides, the winning of CCM candidate for the Zanzibar Presidency office contrary to expectations of CUF leaders and followers tended to cause anger and inspired some followers to go wild and break the law to the extent that they attacked the media people who happened to be around the CUF head office premises in Dar es Salaam. This incidence which landed the media reporters in hospital and some losing their precious equipment was widely abhorred by the general mass and more so the media people and this to a large extent made the party lose the support it had been enjoying from the media. It is also feared that CUF might have lost some voters who might have associated the chaos with the inability of CUF to contain its followers' anger whenever it erupts. The response on this allegation by CUF leaders is that they made a very strong statement to condemn that behaviour immediately after that unfortunate event. Yet it remains to be confirmed whether the sad event had negative effects on the winning of CUF contestants or not but the fact remains that CUF got not a single Parliamentary seat from the constituencies in Tanzania Mainland contrary to their expectations.

Although the electoral laws provide equal participation of all political parties in the campaign process, financial constraints faced by most parties limited their involvement in the campaigns for the 2005 general election. Public meetings, door-to-door campaigns and the use of brochures, pictures, posters, T-shirts and khangas were some of the campaigning tools used by political

parties in the electoral campaigns. Each of these tools contributed to the furthering of democracy in Tanzania. Public meetings for instance gave all the parties opportunity to be heard and explain the content of their party election manifestos for those which had any, the people were also given chance to weigh from amongst the manifestos the ones which could adequately meet their expectations before voting. The police force also performed its role to ensure security and hence instilled confidence among the people on its capacity for peace keeping. The use of door-to-door campaign entailed that both political party agencies and contesting candidates were using all available opportunities for face to face engagements to lobby and convince the voters to support them and their parties. However, this approach had the impact of using hospitality '*takrима*'<sup>9</sup> which, is seemingly corruptive as a means by the candidate to convince voters to vote for them and their parties. Except for CCM, CHADEMA, CUF and NCCR-Mageuzi, the rest of the political parties never designed tangible policies (manifestos) that could be used during campaigns to attract voters.

The campaigns were to a large extent peaceful except in few cases where there were some collision between CCM and CUF and ensuing fighting between the supporters of these parties especially in Zanzibar where some people were injured and hospitalized while each party was blaming the other for the scuffles. This year more political parties were involved in the elections in Zanzibar and people were convinced that this would have diffused the long standing misunderstanding between the two relatively strong parties of CCM and CUF but to everybody's surprise, the new parties were just too weak to make any noticeable difference. CCM and CUF have by all standards remained the strongest political parties in Zanzibar and they shadow the political life in Zanzibar with continued misunderstanding between the two at both the level of leadership and membership/supporters. This misunderstanding always culminates at the time of national elections where CCM has always emerged the winner while CUF has always refused to accept the election results and such behaviour has always marred the elections to the extent that some political analysts have unconvincingly labelled the previous Tanzanian national elections under the multi-party system as undemocratic. The situation has sometimes caused political tension thus making the issue a national concern as it affects the security of the people and their socio economic development, the implementation of the government policies and the survival of the Union itself.

Other cases of collision were noted in both Zanzibar and the Mainland regarding the availability of campaigning grounds where accusations of giving favour to CCM were directed to the government and other influential organs mandated to allocate campaigning grounds like football pitches, and other open spaces. There were also instances in the Mainland where CUF followers attacked and injured media people as well as ruining some of their equipment while CUF leaders were accused of not being vocal enough in condemning such mishaps. Some parties due to chaos created by an opposing party's followers also reported a few cases on cancellation of campaigning meetings. It is hard to tell what would have happened if there was insistence to hold the meeting despite the chaos, yet it was sheer luck in such circumstances that some party followers and the general mass are civilized enough to avoid commotion whenever there is fear for provocation.

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<sup>9</sup> Takrима is a token cost paid for hospitality in the form of materials or cash met by the contestant for all those involved in campaigning for her/him at the end of the working day. However, experience has shown that it was very difficult to distinguish takrима from election corruption.

## 5.0 THE ELECTION DAY PROCESS

### 5.1 Introduction

The electoral process entails a number of important events/activities beyond the participation of the electorate. It embraces respect of the peoples' will and building a basis for the rule of law and respect for human rights. The rights involved in the electoral process are derived from three sources, that is, the African Charter on Human and Peoples' Rights (the Banjul Charter), the constitution of Zanzibar State of the United Republic of Tanzania, all of which recognize both the individual and group rights and duties towards society. In nutshell, this connotes the building of a culture that embraces democratic principles in a society aiming at attaining peace, security and sustainable development that would benefit all Tanzanians.

For the election process, Tanzania has a number of important benchmarks of democratization including the enactment of Political Parties Act No.5/92 that ushered in the era of multiparty democracy in Tanzania. As a result of this the electoral laws of Tanzania were amended to accommodate this new political process. Indeed, Tanzania is one of the developing countries with numerous political parties. To-date there are a total of 18 registered political parties out of which 16 signed the document containing acceptable code of conduct on elections that was prepared under the guidance of NEC. Of the 18 parties, less than half the number participated in the presidential elections in both Zanzibar and the Mainland while more parties participated in the parliamentary and councillors' elections for Mainland Tanzania on 14<sup>th</sup> December 2005 and in the election for members of the Revolutionary Council/House of Representatives of Zanzibar government in October 2005. This implies that several parties lack confidence in contesting for the presidential post either because of lack of qualified candidates or due to financial constraints that lead to inability to launch effective campaigning.

Another important benchmark is the increase of special seats for women MPs from the previous 15% to between 20% and 30% of the constituency seats. There is yet another very prominent and important landmark for the election process that marked the 2005 elections and this is the establishment of the Permanent Voters' Books one for Zanzibar and the second one for Tanzania Mainland.

It would do no justice if we bypass the issue of the two peace Accords (Muafaka I & II) signed in June 1999 and October 2001 respectively whose impact has led to dramatic changes not only in terms of the behaviour of the two involved political parties i.e. CCM and CUF but also in terms of the work of the Zanzibar & (Mainland) National Electoral commissions, especially in ensuring that the agreements made including membership to the Zanzibar Electoral Commission (that had to include CUF representatives) and allowing all the parties to operate freely before and during elections as well as for the mass media to treat all parties without discrimination. There is a general feeling among those who initiated and signed the Accords that much development has been realized ever since, as demonstrated by the following quotation:

*"Frankly speaking since the signing of the Agreement Zanzibar has benefited with the Accord as to a large extent there is development in both: democratic freedom and the Human Rights respect..."*  
Maalim Seif Sharif Hamad (undated) pg.14.

It is against this political background that the election processes of 2005 will be discussed.

## **5.0 ELECTION DAY PROCESS**

### **5.1 Introduction**

The election process in a multi-party system especially in African countries has always tended to be delicate and sensitive. This emanates from the little experience these countries have on present-day multi-party elections coupled with poverty and high rate of legal illiteracy as well as low level of civic education among the voters. This necessitates careful preparations for the election process not only in terms of legal/constitutional environment resources, so as to make the election free and fair. As noted from the previous sections of this chapter and as a general practice, preparations for the election-day started long before the day itself. Such preparations included voters' and administrators' education (on election matters); registration of voter which went hand in hand with creation of permanent voters' book(s); having elections monitors prepared identification of polling stations.

### **5.2 Election administration**

#### **5.2.1 Credibility of Electoral Commissions**

It is undeniable that Parliamentarians and councillors are elected representatives of the citizens. But it is also true that going through the election process can be tough and rough sometimes because of the high competition and many temptations including corruption. Hence, as one politician once said there are a number of issues to be considered the main one being how the members of parliament earned office. This is where the issue of corruption comes in. There are certain parties for instances including CCM which had legalized the use of takrima which has been interpreted by some people as a form of corruption. There is also the issue of whether the results announced by the National Electoral Commission were free from doctoring and this raises the concern on the credibility of the commission itself in the eyes of the electorate and the citizenry in general. Such credibility also extends to the ability of the commission to control the election officers in the districts, constituencies, wards and polling stations.

The following quotation tells it all as to the danger for both the elected leaders and the constituents where a leader enters office through corruption.

*"... a political leader who does not earn the political office through the confidence he enjoys in the electorate by electing him to office in a free and fair election that political leader will never serve his people sincerely. If one knows that he can be a Member of Parliament (or even) the president for that matter, through the manipulation of the electoral process... or through corrupt practices such a parliamentarian will not respect his constituents, and so he will not represent their interests. Such a Parliamentarian will be driven to safeguard his personal interest and so be amenable to the wishes of the Executive" Maalim Seif Sharif Hamad (undated).*

#### **5.2.2 Logistical preparations**

It is the role of election commissions to make all the logistics including preparation of timetable for voting; preparation of voting materials/resources; selection and training of polling centers/stations' administrators and their assistants; identification and training of regional, district and polling stations' returning officers; identification and selection of voters /political parties agents for each polling station; production of a guide for the voters and administrators on voting process/procedures; posting voters' names and numbers on the notice boards at polling stations and educating the general mass on voting procedures through mass media. What remained to be

done on the election day was reduced to the minimum. Voters were to be reminded on the following: to check their names on the notice boards at the polling stations, to bring their registration cards for identification before casting their votes and to be at the stations on time. On their part, the election commissions were to ensure a peaceful environment at all polling stations and that the actual voting, the counting of votes and announcing of results are done in a transparent and peaceful manner.

#### (i) Distribution of Materials

Preparations for the two voting days (one for Zanzibar and the second one for the Mainland) were relatively better compared to the last national election. Due to the death of the running mate for the CHADEMA Party presidential candidate during the last few days before the elections, the elections for Zanzibar were held earlier to meet some constitutional requirements pertaining to Zanzibar. This split made the logistics easier especially in terms of distribution of human resource and voting materials. The latter including ballot boxes, indelible ink, pens, stamps and various forms were distributed on time and available in abundance even in remote polling stations except in few cases in Zanzibar where about of the TEMCO observed stations had inadequate voting materials. While in some materials especially the ballot papers and presidential results declaration forms were either delayed inadequate or missing in about 10.6% of the TEMCO observed polling stations. However, the party agents derived the forms after this long delay due to pressure. For the mainland, probably due to experience learnt from the Zanzibar elections no missing, inadequacy or delay of materials was experienced in the polling stations.

#### (ii) Display of list of voters

In both the Isles and the mainland constituencies, names of voters were displayed but unlike the latter where the display was made two weeks before the election day, in the Isles the list was displayed on the voting day or late on the previous day thus giving little room for voters to verify their names before voting. For the mainland the displaying of voters' names was transparent and timely thus voters were able to verify their names long before the voting day and report to the relevant authority where their names were missing. The disturbances found in Zanzibar on verification of names were therefore very much minimized and voting went on very fast where voters had managed to see their names on the list before hand. The process of names was important because missing names on the list indicated omission of such names in the voters' registration book and hence denial of voting rights. There were few complaints on missing names for both Zanzibar and the mainland but for most complaints especially for the mainland it was due to both panic and carelessness in searching for the names especially for the voters who never bothered to verify their names prior to the Election Day. Very few genuine cases were witnessed and to a large extent the ZEC and NEC in collaboration with the polling officers who assisted voters to check their names on the list managed to act promptly and allowed the affected people to vote. In Zanzibar, TEMCO observers note that 59.1% of the stations they observed showed that the list displayed was satisfactory while for the remaining stations the lists had problems although most of these were eventually addressed positively voters turned in big numbers and those who are illiterate were given freedom to choose their assistants from the pool of eligible voters while the secrecy of voters' ballot was highly respected. The opening of polling stations was done at 7.00a.m and closing was at 4.00p.m. Although some voters reported to the stations as early as 4.00a.m, it was uncalled for because the voting process including checking of voters' names in the voters' books against their voters' identity cards were orderly and efficient.

### **5.3 Role of Party Agents**

The electoral law provides for presence of party agents for all the participating political parties in all polling stations as part of the monitoring process.

These are poll watchers representing political parties and their contestants. They all understood their role after having been educated on what is expected from them and they remained actively engaged in monitoring the voting process and counting stages. Their presence was even more felt during the counting stage at the polling stations to ensure absence of rigging of results by corrupt parties. There are allegations that some agents were unfamiliar with their roles but it is un-doubtful whether this was not by design given the training sessions prepared for them by the ZEC and NEC before the Election Day. But even if this was the case, the blame should equally be shared by their representing parties that were also obliged to treat the issue of selection of their agents with almost care and seriousness. There are some unconfirmed accusations that some agents were bribed to allow for rigging but this is very unlikely given the vigorous screening process during the counting of votes that was very transparent. Posting party agents to each polling station has some costs. The agents were to be paid an allowance by the parties they were representing and this involved finance. Most of the relatively young political parties could not afford to have agents in every station. While some decided to share agents so as to minimize costs, others had to do without agents in some stations. The parties that were able to place agents in every polling station were CCM, CUF and CHADEMA and these are the same parties that got majority of votes and hence majority of representatives in the union Parliament and the Revolutionary Council of Zanzibar. Absence of government subsidy for the young political parties compounded the problem of financial constraint for the young parties.

### **5.4 Security Issue and the use of force**

There is a general assumption among many critiques of national governments that every state organ entrusted with powers finds ways of abusing such powers; i.e. it fails to act in accordance with the law. Two such organs that were involved in the election process are the police force including the Field Force Unit (FFU) and the Tanzania Peoples Defence Forces (TPDF). The latter was used by Zanzibar Electoral Commission (ZEC) to carry voting materials to and from polling stations while the former was expected to deal with breach of peace likely to happen during and after the casting of votes. The work of security personnel who were deposited in every polling station was made easy this time unlike the last national elections of 2000 due to three main factors:

1. Most voters were enthusiastic, patient and disciplined and hence, the voting process was carried out in an orderly manner with men and women having separate queues, thus making their ballot casting fast and smooth as reported by observers from both the Tanzania Election Monitoring Committee (TEMCO) and the National Democratic Institute (NDI). For the Zanzibar elections for instance, TEMCO placed a total of 300 observers who noted that 83.3% of the polling stations they observed had no indication of breach of peace despite the high turn out of voters. This shows that the voters were seriously observing all the election procedures as guided by the NEC and ZEC and that the education given to voters was adequate.
2. The high degree of competence demonstrated by most ZEC and NEC officials/administrators including district returning officers as well as polling stations' officials and their assistants in managing the voting process. Both formal and informal election monitors made this observation. For Zanzibar for instance, unlike the situation in the 2000 elections where ZEC was considered weak and pro CCM, much improvements were made this time

- to the extent that about 90% of TEMCO observers who also took part in the monitoring of the previous election said they were satisfied by the competency shown by ZEC officials.
3. Re-dedication by CCM, CUF and the two governments to peaceful democratic politics especially in Zanzibar after the signing of the second Peace Accord (Muafaka II) as an attempt to end hostile politics in Zanzibar in October 2001. The impact of the Accord was felt even before the voting day, e.g in terms of reorganizing membership of the ZEC to include representatives of CUF.

Police Officers were found in all polling stations in Zanzibar and in some in the Mainland, and although some voters considered their presence to be intimidating, the officers assisted in providing voters with directions to their appropriate polling stations; location of voters names in the voter registers and in ensuring that women with babies, the sick, the old and the disabled are given priority by allowing them to vote without standing in long queues.

Unlike Tanzania Mainland where very few uniformed police were found at polling stations however, in Zanzibar the stations were characterized by heavy presence of security forces including KMKM, Prisons Officers, Field Force Police and Volunteers despite the fact that very few political parties took part in the elections in Zanzibar.

Unfortunately for Zanzibar, there were some few incidences of violence outside the polling stations in both Unguja and Pemba islands the major cause being allegations that CUF supporters and agents had identified some non residence people who were not registered to vote at those stations and had to be barred from voting. The alleged non-residents on defending themselves claimed that CUF followers were actually victimizing the former because of political differences. It should be noted here that in Zanzibar, these two parties are the strongest with majority of followers who for some reasons are always at loggerheads in the political arena. It is only after the signing of the two 'Peace Accords' in June 1999 and October 2001 that there is some degree of political tolerance between them today.

Other causes include illegal assembly, demands for posting of results and provocative acts towards security forces by supporters of opposition parties. It was reported that in addressing the erupted violence, the security forces used excessive force including tear gas and even water cannons in some cases to disperse crowds of people that were blocking the road access to the polling stations.

### ***5.5 Counting votes and announcement of results.***

The sensitivity of the counting of votes cannot be over emphasized as it is usually intrigued by possibilities of rigging especially where the officers in charge and other involved stakeholders are corrupt. The counting is critical because it is the last but one stage before knowing the winners and losers. During the counting every stakeholder waits with curiosity, anxiety and hopes for winning while everybody knows that there has to be losers in the end although nobody wants to be the loser after having incurred so many expenses during the campaign process.

For both Zanzibar and Mainland, the counting of votes commenced after closing the polling stations at 4.00p.m although on average most stations started counting between 5.00 and 6.00p.m. The counting went on with relative smoothness as noted by the party agents, the domestic and international observers, the voters themselves and many other stakeholders as reported by the

media and also from our personal experience. The counting was transparent and carefully done with close checking and counter checking of votes by party agents who were to be held answerable by their parties in case of inefficiency in counting that would jeopardize the winning position of their parties. The result forms were signed by each party agent to demonstrate their total agreement with the results as witnesses. In Zanzibar counting was even repeated where there was a disagreement between the election officers and the party agents. TEMCO informs that there were complaints about counting in 9.1% of the stations it managed to observe while repeating of counting was made once in 12.9% of such stations, twice in 6.8% of same stations and thrice in 9.1% of same stations. Disagreement was also noted over what was considered to be spoilt votes in 4.5% of the TEMCO observed stations. Overall, for Zanzibar complaints were made in 6.1% of stations observed by TEMCO before the final results were declared. This shows that incidences of irregularities were very few making the election process to be largely free and fair in the eyes of both the winning and losing parties and the general mass.

For Tanzania Mainland, reports from both the media and TEMCO inform on the reigning peace and security in both voting and counting of votes where the election officials demonstrated a high degree of responsibility neutrality and efficiency. The results were counted in a transparent manner with party agents witnessing every step while the election monitors were able to see every stage and the results were signed and displayed as expected.

#### **5.6 Role of Civil Society Organizations (NGOs)**

Since the introduction of multiparty democracy in Tanzania there has been a tradition for the NGOs to prepare NGOs election manifestos to be shared by all political parties during the election process. The manifestos highlight critical areas to be considered by political parties in their party election manifestos and campaigning tools. NGOs manifestos are also supposed to empower the electorate for active participation in the election process by way of consolidating their demands on what the new leadership should do to meet peoples needs/interests.

For the 2005 election, the NGOs' manifesto is contained in a publication carrying the title "Tanzania Tunayoitaka" (The Tanzania we want) where several issues of almost importance to the development of the Tanzanians are raised. Among such issues is the concern that NGOs are being marginalized on political issues and more so in the on-going democratic processes pertaining to the national electoral system. It should be underscored at this juncture that the electoral system does not allow for anyone to contest for leadership outside the party structure while the fact cannot be denied that only a small number of the electorate belongs to political parties. This connotes that a large number of the electorate is denied the constitutional right of contesting for leadership. This section of the people falls under the precinct (ambit) of civil society organizations.

The 2005 election manifesto aimed at reviving the spirit of nationhood, seeing that concerted efforts are made to completely eradicate poverty, to allow each Tanzanian to live with dignity, efforts to democratize all processes good governance and quality leadership. Lastly, the manifesto aimed at seeing that leaders are answerable to the electorate within the context of political objectives.

The NGOs prepared the manifesto from the understanding that by doing so they were using their constitutional rights as citizens who care for the development of their nation and who are obliged not only to inform their leaders on what the people need and expect from the leadership but also remind the leadership and electorate the basic principles to be followed in leading the people and

in the election process including the protection of national interest and peoples' interest through making and developing policies that are pro-poor and pro-development.

The manifesto that was prepared in a participatory manner by a total of 175 NGOs from all walks of life (Agenda participation 2000, 2005 pg. 31 – 34).

The manifesto highlighted basic concerns/challenges to be addressed by the new government during the next 5 years in the areas of economic development and economic rights, good governance and democratic processes, social rights and security pertaining to education, health, communication and networking, peace and security and gender equality and equity. In total, 12 demands were made in relation to the 2005 election process. A synopsis of the demands is provided below (translated from the Swahili version):

1. Leadership to be answerable / accountable to the electorate.
2. Leadership that cherishes tolerance, democratic discussions and debates, consultative processes and progressive politics.
3. Leadership that has a clear vision for the nation that is shared by the general mass and that has the potential for participatory community development that will enthusiastically motivates people to participate in elections and in development processes after the elections.
4. Revolutionary thinking and innovative strategies that would ensure congruence of implementation process and results thereof.
5. Development of a New leadership culture that insists on leading by showing good examples in serving the people and being answerable/accountable first to the electorate and second to the party through which leaders attained their positions'.
6. The election process to be transparent, free, fair and peaceful.
7. The electorate to use the manifesto as a yard stick for assessing the campaign agenda of contestants and their political parties as well as a tool for measuring performance of the ruling political party during next 5 years.
8. Sources of funds for political parties to be transparent to the electorate
9. The electorate to have the right to remove from office non-performing leaders.
10. Counting of votes to be transparent and done at polling stations.
11. Participatory and democratic governance to reign at all levels (page 27 & 28 of Agenda 2000, 2005).

## **6.0 THE GENDER ASPECT**

### **6.1 Introduction**

The 2005 general elections were the first to be held after the adoption of the National Strategy for Growth and Poverty Reduction (NSGPR) for the Mainland and the Zanzibar Poverty Reduction Plan for the Isles. The two national strategies share the component of **good governance** as one of the three major clusters with clearly stated political will on ensuring sustained democratization and human rights and increased government's accountability to the citizenry. The two strategies emphasize the need to take equity issues on board for realization of fast and equitable growth that focuses on reducing inequalities. The emphasis is further made on creating structures and systems of governance that are representative and accountable and where human rights are respected.

Operationalization of this cluster's goal has a lot to do with the electoral system and more so the gender dimension. While there is commitment to improve the capacity of all representative bodies

and strengthening of local level governance institutions, this cannot be realized without a free and fair election which focuses on increased participation and representation of women, youth, the old people and people with disability and other vulnerable persons in all governing structures including the Councils and Parliaments. The strategies also aimed at addressing gender issues through gender mainstreaming in all the targeted fields and in monitoring and developing of indicators of good governance<sup>10</sup>. The issue at hand is to ascertain how this commitment on gender mainstreaming was attained in the electoral system during the 2005 general elections. This issue will be explored further in the discussion that follows below.

## **6.2 Gender aspects in the election process**

### **I. The Constitution**

As noted in the preceding sections of this chapter, both the Union and Zanzibar government constitutions embrace gender issues as key concerns that are enshrined in the mother law. The same is raised in the electoral laws where women representation in national legislative bodies was particularly highlighted. The intention of increasing women representation in the Union Parliament from 20% to 30% of total parliamentary seats is evidence of political will for gender equity in the legislature although 50% would have been the ideal.

The system that has been developed to facilitate attainment of the required female vs male proportion is the **quota system** that is worth noting. This system involves the political parties that have won parliamentary seats from the constituencies to select women representatives along a proportionality approach to facilitate the quota system. The rule of the game is that the political parties with higher numbers of constituent – based Members of Parliament enjoy the opportunity to bring into the parliament a large number of women MPs from the renowned quota system. In the 2005 election CCM which had majority MPs from both the constituencies and the quota system. CUF came second although it had no single MP from the constituencies of Tanzania Mainland.

Much as the electoral law gives adequate attention to the gender issue, there are arguments that the interpretation of gender has tended to be confined to the relationship between men and women and more so along quantitative terms. Yet it is true that women are not a homogenous group, and hence should not be treated as one. The disabled and the youth for instance are complaining that their representation in parliament is not adequately attended to, by the existing electoral system and that their role in leadership is not adequately acknowledged especially when it comes to legislative roles.

Except for CCM whose nomination and election system for the preferential seats for women (quota system) was elaborate and transparent, the other political parties did not bother to make theirs as transparent as people would have wished. There are unconfirmed allegations on hand picking of these parties' candidates the reasons being varied. A strong guess would be financial constraints that would limit the use of democratic processes of using party structures from lowest to highest level in the nominations but it is also alleged that democracy within the parties themselves leaves a lot to be desired, especially where women are involved. These features also apply to nomination of candidates for presidency and his/her running mate, members of parliament and the councillors where some political parties were not transparent enough to convince the electorate on the degree

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<sup>10</sup>The Strategy popularly known as MKUKUTA has three clusters namely, Growth and Reduction of Income Poverty; Improvement of Quality Life and Social Well-being and Good Governance

of democracy expected in such matters. This observation therefore requires further analysis as it highlights a challenge worth pursuing.

## **ii. Registration in the PVR**

The gender disparity in the electoral system is often noted in the number of voters who are obliged to register first before voting. This scenario was also noted during last year's creation of the Permanent Voters Register. Out of the total number of people who registered in Mainland Tanzania for instance, women were the majority according to unconfirmed data. As for Zanzibar, women were also the majority as noted on the election-day. It was also personally observed during the registration process that women were more responsive to the national call for registration of voters and long queues of women were seen as the women patiently waited for their turn to engage in the voters' registration process. The high turn out of women in the registration stage is verified by the big number of women who actually took part in the voting. This scenario is not surprising given the fact that compared to men, women tend to appear in bigger numbers when it comes to participation at social events or gatherings including those for political motives although they are hardly heard or listened to.

## **iii. Nomination of candidates**

One of the roles of political parties in the electoral process is the choosing/nominating of candidates to compete with counterparts from other parties for the contested posts/positions.

With regard to gender representation both the SADC member states and the Government of Tanzania had made a commitment (agreement) that by 2010 the target of ensuring that women hold 30% of political posts and other decision making posts need to have been met. The Union Constitution as well as that of the Revolutionary Government of Zanzibar also requires equal representation of men and women in political and decision-making positions. However, as usual, it is easily said than done especially where top national leadership posts applies as was the case in the 2005 general elections where, only 1 (i. e CHADEMA) out of the 10 political parties which contested for presidential election in Mainland Tanzania had a woman presidential candidate and 4 political parties had women presidential running mates. But even for the party that had a female running mate, the woman was nominated only after the death of the first nominee hence it was like an after thought to have a woman running mate. Nonetheless, there were high expectations from their parties that having these women nominees would be very much appealing to the electorate especially women who form the majority in the electorate and that having women nominees is a genuine gesture for gender mainstreaming and hence the potential for winning of more votes from the electorate although the election results proved contrary to this.

## **iv. Election Campaigns**

The gender dimension of the campaigning process is assessed with mixed opinions. On the one hand, there are arguments that the general campaigns were unnecessarily very expensive this time around compared to past elections. While the blame is squarely put on corruption especially under the *takrima* practice, it is also true that the cost of transport and other requirements have gone up compared to the last election. There has also been a cut-throat competition between the equally qualified contestants from an increased number of participating political parties and this competition was reflected in the pattern of use of resources for campaigning as noted in preceding sections of this chapter. Besides, the electorate is more politically literate this time given the intensive civic education provided by many stakeholders including the civil society organisations. There is also an observation that the MPs from the last parliament had a good amount of money

given as end of term gratuity and therefore, those who had the intention of returning to office had added advantage of having enough financial resources for the campaigns.

The above state of affairs had much influence on the gendered pattern of the campaign process and coupled with the fact that a large number of women are economically disempowered, most of them would surely think twice before using the meagre resources they have for the campaigning exercise. Indeed, we are aware that some men were motivated to use their salaries for the campaigning but there would be very few women with similar opportunity. Men are also used to mobilizing contributions for campaigning from their friends or colleagues as they normally do when they have social functions but women are less successful in this area due to both their economic powerlessness and less chances for socializing as dictated by patriarchy. In any case, women's wages are usually lower than men's and even where women earn as much as men, decisions on how to use family cash incomes tend to be a male domain. But even where they have the decision-making powers over the use of resources, women tend to invest in areas with direct benefit to the whole family rather than in selfish and personal gains. In any case married women are less exposed to chances of spending their incomes on political affairs. Incidentally, women are also less active in engaging in corruption because most, if not all, value their dignity more than political fame. They also fear breaking the law and abhor going to jail for whatever reason probably because of their high level of legal illiteracy and inability to hire advocates.

Most of the women contestants faced a lot of problems related to financial constraints as noted from the lamentation aired by the media where some were even forced by circumstances to walk for many hours to reach the electorate because of inadequate resources. On the part of men, very few aired their lamenting although some, especially from the relatively new political parties that have no access to government subsidy also faced the same financial limitation. To some extent men found different tactics for addressing the financial limitation. Some for instance carefully targeted the electorate that was seemingly more responsive to their party election 'manifesto' and hence reduced the physical coverage while others used less expensive election tactics. There were also cases where the male nominees spent more party resources than their female running mates although they both were expected to enjoy the campaigning resources. This differential way of expressing grievances and distributing resources also indicates a gender difference in the electoral system. A few gendered challenges pertaining to campaigns have been raised here and this calls for more studies and analysis before the next general elections are held so as to find ways of improving the electoral system.

#### **v. Election –day and Election results**

The election -day is a test case for determining the level of exercising of the constitutional rights of voting and being voted in office. It also informs on individual party's level of success of their campaigns. This entails the turn up of voters and the carefulness and level of efficiency demonstrated by the election administrators. As was the case in the registration of voters, the actual turn up for voting was higher for women than men. It is too early to provide precise quantitative data on this issue due to failure to access final monitoring reports from both the two Electoral Commissions and the independent monitors on grounds that they are still being prepared, suffice it to use the qualitative data. It is a truism that as is the case in many general elections, women are less provocative than men and where the breach of law is found, more men than women tend to be involved. This applies to the 2005 general elections for both Zanzibar and Tanzania Mainland where in the few cases where these instances were witnessed most of those

who were either injured or rounded off by the police were men. Even for those who lamented that they were not able to exercise their voting rights due to the missing of their names in the PVR, more male than female voices were heard. This may mean that women have closely followed up the guidelines provided by the Electoral Commissions including careful checking of their names ahead of the election -day although we can not completely rule out some elements of victimizing some men for political reasons. All in all, women were very active in exercising their voting right as electors.

However, despite their active participation as electors, they still lag behind in holding political office. In Zanzibar for instance, they represent only 10.5% of the total number of candidates in the House of Representatives, while for the Union Parliament they hold less than 40% of the total seats although for the special seats this time the women managed to get 75 MPs through this route out of a total of 232 MPs. The party with majority female MPs through the quota system is CCM which had 58 members followed by CUF with 11 members while CHADEMA has 6 members. The contribution of the quota system in addressing the gender concerns in politics in Tanzania is substantial, the political scene especially in the legislature is slowly being gender balanced, yet the situation is not all that rosy. The expectations that the women who have had chance to enter the legislature through the quota system would venture into the constituencies and compete with men while giving opportunity for the new comers to enter through the preferential seats has not been met. It is true that the special seats entrance does empower women and mould them for more challenging opportunities. But the open-endedness regarding the terms one should serve through this route leaves the same characters to enter the legislature for as long as there are supporters to vote them in. This is limiting the openings to new -comers who may be equally good but have high regard to those who are already in and hence shy away from contesting. There are already some arguments that while it is true that the quota system for parliamentary seats empower and increase women's awareness and experience in power relations, the constitutions of both the Government and political parties should make constitutional amendments to limit the terms to say two so as to create space for new comers and hence expand the list of women who are politically empowered. All in all, the fact still remains that a greater number of women representatives enter the parliament/House of Representatives through the quota system leading to a very strong assumption that in the absence of the system, the number of women representatives at the legislature would be very negligible. This implies that more concerted efforts need to be made especially in Zanzibar to realize both the constitutional rights and the SADC 30% target of women representation in decision-making positions by 2010 as agreed upon by African leaders.

There are also some observations that much as women form the majority of the electorate, female nominees/contestants do not necessarily get the highest number of votes. A number of reasons have been expressed including the high level of political awareness that inform women that they should not vote for women just because of their sex but because they are better candidates. Indeed, this demonstrates a high degree of political maturity and gender sensitivity among women voters. Yet, there are also possibilities that women have voted in weaker male candidates and left out strong and able female candidates because of other reasons such as the *takrima* which many people have had difficulty trying to distinguish it from election corruption.

## **7.0 CONCLUSION**

The process of constitutional development in Tanzania during the year 2005 has been bombarded by a lot of challenges that draw their legitimacy from both the socio-economic reforms and the democratic initiatives targeting the political arena as stimulated by the multi party system introduced as far back as 1992. Much as multipartism has lived for a decade now, and has actually influenced the last two general elections, the 2005 general elections were blessed by a bigger number of participating political parties to the extent that the competition over political office was made so strong that even the relatively old and strong parties had to be extra careful in making their nominations for the would be contestants. The same factor had actually challenged the participating political parties more innovative in carrying out their campaigns all geared towards winning as many voters as possible.

Undoubtedly, the then ruling party CCM that vehemently defended its position and actually won with overwhelming majority and other experienced parties had more reason for being extra careful in all their preparations for the election including drawing well thought through election manifestos while the newly emerging parties had reason for seeking recourse, given the tough competition amidst the undeniable financial constraints facing them. Each party played its role amicably in all the election processes and those who won have reason to celebrate while failure to others also provides yet important challenges on constitutional development that cannot be allowed to pass unnoticed.

The main lessons learned during the 2005 general elections are very important for constitutional development in Tanzania and not just because there were some elements of violation of constitutional rights. There are a number of issues emanating from these elections that are worth mentioning here. The issue of takrima for instance, though constitutionally allowed has been found to be pro-men and more so the well off, as well as being used to lure voters to vote for the takrima givers. This has had gender biases and hence contrary to the constitution. There are already some discussions towards making it unconstitutional and it has to be done soon to spare the constitution from further abuse. The other issue left for the constitution to grapple with is the long pricking issue of private candidacy. There have been some attempts to challenge this constitutional omission and the conclusion is yet to be reached. There are mixed opinions on this issue. On the one hand, some people consider it as a constitutional right where one do not have to belong to a political party before contesting for political office while on the other hand others find it prudent for one to belong to at least a social organization but not necessarily a political party as a pre-requisite for entering into contesting for high political office. The debate continues and a big challenge remains for Tanzanians to find ways of dealing with this issue. The gender issues discussed above also need to be addressed and to be able to do this there is need to ensure that the electoral commissions are also empowered to more adequately articulate all the gender issues inherent in the electoral system before drawing some guidelines and strategies on how best to mainstream gender in the system.

It is consoling that the 2005 general elections tried as much as possible to honour the Peace Accord (Muafaka) made between the two big and often at loggerheads CCM and CUF. There were also agreements signed by a larger number of political parties on the desired conduct for the general elections that were adequately honoured and at this juncture we would like to suggest that the two Electoral Commissions did a good job worth congratulating but the two organs should not be complacent because they are still left with more challenges to address to make the general

elections that will follow more gender friendly and democratic. Much appreciation together with a big challenge also goes to all other stakeholders including the civil society organizations that played a remarkable role in providing civic education and in the election monitoring which were very instrumental in making the election process and hence the constitutional development during the year 2005 quite successful and the lessons emanating there-from worth emulating.

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