

FINAL OBSERVATION REPORT ON THE GENERAL ELECTIONS HELD IN TANZANIA ON OCTOBER 28, 2020

NOT FREE, NOT FAIR





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ON OCTOBER 28, 2020

Tanzania Elections Watch | Final Report | February 28, 2021

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LIST OF ABBREVIATIONS

| | |
|---------------|---|
| ACDEG | African Charter on Democracy, Elections and Governance in Africa |
| ACT-Wazalendo | Alliance for Change and Transparency -- Wazalendo |
| AU | African Union |
| BBC | British Broadcasting Corporation |
| BVR | Biometric Voter Register |
| CCM | Chama Cha Mapinduzi |
| CEDAW | The Convention on the Elimination of all forms of Discrimination Against Women |
| CHADEMA | Chama Cha Demokrasia na Maendeleo |
| COVID-19 | Coronavirus Disease of 2019 |
| CSO | Civil society organization |
| CUF | Civic United Front |
| EAC | East African Community |
| EACJ | East African Court of Justice |
| EMB | Election Management Body |
| HRW | Human Rights Watch |
| ICCPR | International Covenant on Civil and Political Rights the African Charter |
| ICERD | International Convention on the Elimination of all forms of Racial Discrimination |
| IEOM | Independent Election Observation Mission |
| IGP | Inspector-General of Police |
| KcK | Kituo cha Katiba |
| KHRC | Kenya Human Rights Commission |
| LHRC | Legal and Human Rights Centre |
| LHRC | Legal and Human Rights Commission |
| MCT | Media Council of Tanzania |
| MISA | Media Institute of Southern Africa |
| MP | Member of Parliament |
| NCCR-Mageuzi | National Convention for Construction and Reform – Mageuzi |
| NEC | National Electoral Commission |
| NGO | Non-Governmental Organisation |
| ORPP | Office of the Registrar of Political Parties |

| | |
|-------|--|
| PNVR | Permanent National Voter Register |
| PWD | People living with Disabilities |
| RFA | Radio Free Africa |
| SADC | Southern Africa Development Community |
| TCRA | Tanzania Communications Regulatory Authority |
| TEW | Tanzania Elections Watch |
| THRDC | Tanzania Human Rights Defenders Coalition |
| UDHR | Universal Declaration on Human Rights |
| UN | United Nations |
| UNDP | United Nations Development Programme |
| UNFP | United Nations Population Fund |
| WHO | World Health Organisation |
| ZEC | Zanzibar Electoral Commission |

EXECUTIVE SUMMARY

Tanzania identifies itself as a democracy. Its tradition of competitive political contest and inclusion, built since the restoration of multipartyism 25 years ago, has recently suffered severe setbacks because of shrinking civic space and low tolerance for political plurality.

Going into the October 28, 2020 General Election, Tanzania had effectively shut out independent election observation and monitoring by denying accreditation to civil society organisations, deregistering non-governmental organisations, and freezing the bank accounts of large civil society coalitions. The exclusion of observers from the electoral process foreshadowed the country's approaching democratic decline.

It is against this background that civil society organisations from the eastern Africa region established the Tanzania Elections Watch (TEW) initiative. The initiative, organised and coordinated by *Kituo cha Katiba*: Eastern Africa Centre for Constitutional Development (KcK) and the Kenya Human Rights Commission (KHRC), sought to plug the gaps evident in the exclusion of domestic observers from the electoral process and the inability of international observers to access the country due to the Covid-19 pandemic, as well as provide oversight for the elections.

The Tanzania Elections Watch initiative set out to overcome the limitations imposed by Covid-19-related travel restrictions, low physical access for international observers, and the absence of meaningful local observation missions by leveraging technology to collate, triangulate and verify information from various sources.

It established an information capture and analysis system that collated data from various sources, among them dedicated media monitoring firms, social media heat maps, discreet monitors and a team of observers spread across the Tanzania Mainland and its Zanzibar archipelago. Electoral governance and legal experts with knowledge of Tanzania analysed the information to distill observations about the elections and the human rights situation in the country. TEW also regularly communicated with the election management bodies (EMBs) in Tanzania and Zanzibar, as well as the leaders of critical state agencies such as the police, the political parties registrar, and the communication regulatory authority.

The conduct of the elections was assessed against the standards in Tanzania's Constitution as well as in the guiding principles of various international instruments of democratic practice to which the country has committed itself.

Pre-election environment

Constitutional and legal guarantees of freedom and the rights of citizens were in place, but they were riven by contradictions that clawed back on fundamental freedoms, including the right to movement and assembly, the right to expression and information, the right to participate in political processes and the right to access justice by dint of the ouster of courts' jurisdiction in election disputes.

The National Elections Commission (NEC) registered 7,043,247 new voters, updated information for some 3,225,778 and expunged 16,707 entries from the 2015 register.

The constitutions of Tanzania and Zanzibar provide that not less than 30 per cent of the members of the National Assembly and the House of Representatives shall be women, nominated from lists submitted by political parties in proportion to the share of the vote obtained in the elections.

The three main political parties in the 2020 election nominated 102 women out of 672 candidates vying for parliamentary seats, a 15 per cent increase from the previous election, but there was little evidence that the Registrar of Political Parties had facilitated the inclusion and effective participation of women, youth and persons with disabilities. Notably, women political candidates in the elections were physically assaulted, verbally attacked, arrested and harassed by security agents throughout the year, thus constraining their participation.

Democratic norms that guarantee civil and political rights were not institutionalised and their practice was generally weak. The full participation of political parties, their candidates and their supporters was severely limited by a combination of factors, including poor or no communication on preventive measures in light of the Covid-19 pandemic; constricted civic space; inadequate independence of election management bodies; and the politicisation of institutions of state -- especially the police, the election management bodies and the registrar of political parties.

A ban on political rallies had been in force since July 2016, but it was selectively applied against opposition parties, whose leaders were intimidated, harassed, arrested and prosecuted on a variety of charges.

A significant number of opposition candidates were excluded from the ballot in processes that did not meet universal standards for fair administrative action, and appeals were not disposed of in accordance with the rules of justice. Opposition political party agents were allowed to watch election processes at the tail end because of refusal to swear them to secrecy as required by law.

These shortcomings raised significant credibility concerns around the integrity, impartiality and transparency of the election management bodies and the elections.

Several incidences of violence, some involving security agents, put a blot on the election. Although the police leadership gave public commitments to discipline errant officers, security agents acted in a partisan manner that offended the rule of law and undermined perceptions of fairness in the electoral process.

NEC carried out countrywide voter and civic education but significantly limited civil society participation. Civil society's traditional role of mobilising citizens to participate in and engage with electoral processes in Tanzania was severely constrained in the 2020 election both by law and in practice.

Additionally, Parliament had, in the preceding five years, enacted laws that severely constrained the media, and circumscribed the right to free expression and freedom of information through regulations that were used to block access to social media. The Tanzania Communications Regulatory Authority (TCRA) imposed a variety of sanctions against independent media and clamped down on communication channels, including suspension of bulk short text messaging services, blocking social media sites, and shutting down Internet communication ahead of the elections.

Even though courts of law are recognised as the final arbiters in disputes and all matters of justice, contradictory legal claw-backs limit the courts' involvement in the operations of the electoral management bodies, and close the doors of justice to those who may be aggrieved. Only a limited opportunity to challenge decisions of the election management bodies was available through complaints and objections to the NEC since regulations oust the courts' jurisdiction to entertain election disputes.

This undermined transparency, access to justice and accountability in elections. Judges have only recently managed to claim jurisdiction for reviewing election results by citing the "unlimited original jurisdiction" that the High Court constitutionally has to hear petitions.

Given the preceding context, the political climate, the role of various actors, and the legal framework governing elections in Tanzania, TEW noted in its pre-election assessment that it would be difficult to guarantee that the 2020 elections would be free and fair.

Election Day observation

The 81,567 polling stations on Mainland Tanzania and 1,412 in Zanzibar opened at 7 am and closed at 4 pm, as stipulated in the election regulations. The electoral

management bodies supplied all election equipment and material to the respective returning officers before Election Day, who distributed them to presiding officers.

Although the law requires political parties and candidates to be authorized to enter the polling stations, monitors and observers reported that many opposition political party agents were unable to access the stations. The controversy over the swearing in of opposition party agents who would observe the elections was resolved late when the deadline for taking oaths was extended, but still, some opposition party agents were denied access to the polling stations. The voter turnout was 50.72 per cent -- lower than the 67.34 per cent announced by the National Electoral Commission in 2015.

The Zanzibar Electoral Commission arranged early voting on the island to allow security personnel and those performing election duties to cast ballots on the eve of Election Day. However, the lack of transparency in the manner of voting and disallowing opposition party agents access to voting stations made the process devoid of accountability and was a source of great controversy when the opposition urged its supporters to vote on that day, too.

Altercations between opposition leaders and NEC officials over the alleged presence of fake ballot papers and boxes in some constituencies characterized Election Day disputes, but the electoral management body denied the credibility of these claims. Numerous reports of ballot stuffing in many polling stations in Unguja and Pemba were reported, but ZEC denied these claims.

The army and the police deployed heavily in many polling stations across Zanzibar and Pemba. Some 11 people were killed by gunshot on election night, prompting massive protests in public and on social media.

TCRA imposed an Internet chokehold on Mainland Tanzania and in Zanzibar. Twitter, WhatsApp and other social media platforms were shut down, and mobile phone service providers limited use of short text messages and voice calls.

On October 30, 2020, the NEC announced the election of CCM's Dr John Magufuli as the President of the United Republic of Tanzania. Similarly, the Zanzibar Electoral Commission announced CCM's Dr Hussein Mwinyi as the winner of the presidential election on the semi-autonomous archipelago.

Overall assessment

The 2020 General Election was one of the most competitive in the history of multiparty politics in Tanzania. It drew wide international interest, coming as it did when there was a democratic rollback and decline in respect for human rights.

Whereas voting was without incident, the events leading up to, during and after the election greatly undermined the electoral process. Tanzania registered the lowest percentage voter turnout in its electoral history.

The state's refusal to mitigate public safety fears in the face of the Covid-19 pandemic did not encourage robust civic participation in the elections. Moreover, the political culture in the country signaled state intolerance to dissent by targeting opposition leaders. The crackdown on opposition political activity denied voters the full extent of political choices available to them at the elections and obviated their need to vote.

The atmosphere outside polling stations was generally tense, with some incidents of violence, intimidation and threats as well as allegations and counter-allegations of vote rigging. Opposition party agents were barred from accessing polling stations, and such incidents were widespread as the election began. Reports from opposition leaders citing irregularities, including interference in the voting process by security agents, and the general absence of transparency around election activities greatly undermined the credibility of the elections.

Rights to free expression and association, safety and integrity of the person were flagrantly violated despite guarantees in the Constitution. The constricted civic space, compounded by the restricted access to the Internet and social media applications, denied many people access to platforms and spaces for free expression and assembly. Civil society organisations had been barred from engaging meaningfully in the electoral process.

Sanctions against the media imposed by the Tanzania Communications Regulatory Authority instituted a censorship regime that prevented the provision of balanced and accurate reportage of the 2020 elections. Restrictions on mainstream media forced citizens to fall back on social media as an alternative source of information and as a forum for self-expression -- with the attendant perils of disinformation, propaganda and unverifiable claims. TCRA imposed an Internet shutdown on the eve of the elections, as well as on Election Day, which gravely hampered communication and access to information.

Election management bodies did not meet the basic standards for the administration of justice in hearing appeals challenging the disqualification of candidates. Their reluctance to provide regular information and updates to the public and stakeholders on election preparations created an atmosphere of deep mistrust and suspicion, in which it was not possible to deliver a credible and impartial election. The lack of transparency, low stakeholder engagement, and accountability deficits in the management of the electoral

process detracted from the quality of the elections.

Further, the deployment of the military in a civilian process, as witnessed in Zanzibar, was highly irregular, as was the reported presence of uniformed foreign security agencies on the island. The high-handedness of security agents in executing arbitrary arrests, unlawful detention resulted in sexual violence, violence against women, and created a climate of fear ruled by outright intimidation of opposition candidates, agents and supporters prior to, during and after the election.

At least 18 arrests of opposition party officials, leaders, and supporters were documented. The charging of opposition party members and leaders with economic crimes, and the shooting of an opposition party branch leader risked throwing the country into a fearful post-election environment. Several opposition leaders and supporters as well government critics, and their families, fled into exile.

Tanzania's legal and constitutional framework is limited in the scope it provides for legal recourse in the event of electoral disputes. The absence of robust institutions and mechanisms for electoral dispute resolution at the subnational and national level exposes the country to the risk of protracted conflicts, such as have been witnessed among some of its neighbours.

In conclusion, the people of Tanzania, their political parties and candidates ran a fairly competitive elections campaign despite significant limitations and setbacks. The demonstrable lack of transparency, absence of comprehensive stakeholder engagement and accountability deficits in the general management of the electoral process undermined the credibility of the outcome. This is contrary to international standards for holding free, fair, participatory, transparent, accountable and credible elections. In the result, it is not possible to affirm Tanzania's elections as free, fair or credible. Thus, TEW's overall assessment of the election was that it marked a significant regression of democracy in the country's democratic development.

Recommendations

TEW makes the following targeted recommendations to redress the political situation.

1. Election management bodies

EMBs should be secured constitutionally, the selection and appointment procedures for commissioners made inclusive, and their impartiality supported. Commissioners should also retain the authority to independently appoint their secretariat and hire their own staff.

Mechanisms to ensure integrity and impartiality, a transparent and competitive system of selection, checks and balances through popular approval of appointments can go a long way to ensure independence. Further guarantees of free and fair elections can include appointment and control of all election staff, adequate and timely funding, as well as timely amendment of relevant laws. NEC and ZEC should establish proper mechanisms to hear appeals and provide comprehensive reasons for disallowing them. They should act fairly and be even-handed in their treatment of all political actors. Clear guidelines for election agent vetting and swearing in should be established and followed -- with clear timelines and in keeping with international and regional human rights standards.

The election management bodies should publicize public interest information during the entire electoral process to shore up the credibility, transparency and verifiability of the process.

2. State security agencies

It should be the duty of electoral management bodies to provide security during the campaigns and elections. The police should be seconded to the EMBs and deployed only to keep law and order, intervening only where threats to peace are apparent. Any intervention should be proportionate to the threats.

Generally, State security agencies should be professional and impartial in carrying out their duties by respecting and promoting the rights of all the people.

The deployment of security agents, especially the military, in elections strips a civilian exercise of democratic control of the State and needs to be avoided. Where such deployment is clearly justified in situations anticipated by law, a robust accountability framework must be in place for holding each officer to account for their actions.

More so, there should be established electoral offences for security agents that mete violence on the population under which such officers can be held personally accountable. Such electoral offences should encapsulate sexual and gender-based violence.

3. Regulating communication

Access to information and freedom of the media is crucial for democracy. All laws and regulatory measures that have the effect of interfering with this freedom should be

repealed unless they can pass the strict test of being necessary and justifiable in a democratic society.

4. The Tanzania government

The government should ensure that the legal framework for election management is consolidated, streamlined and consistent, providing for inherent judicial mechanisms for election dispute resolution at different levels. It should also respect and adhere to the various international treaties and regional standards to which Tanzania is a party.

The government, through its institutions, should promote the strengthening of Tanzania's democratic arrangements. It should revive the stalled constitution review process and move towards a new and progressive constitutional order, which provides a legal framework for mounting a challenge to presidential election results in court.

5. Political parties

Political parties should work towards consolidating democratic practice by utilizing dialogue opportunities with NEC and ZEC to prosecute and resolve election grievances in a peaceful and consensual manner.

Parties should adhere to the electoral codes of ethics and election regulations, by implementing constitutional provisions requiring 30 per cent women representation in the selection of candidates as well as representation of special interest groups such as youth and persons with disabilities to ensure effective participation.

6. International community

The international community is aware that democracy, the Rule of Law and protection of human rights are essential preconditions to support any processes designed for human development. Therefore, they should commit to supporting all action towards conformity with international standards. It is in this way that a continuation of partnerships with the Tanzania State can be rationalized.

The African Union should review its strategy of deploying expert missions rather than observers to elections.

Serious consideration needs to be given to dealing with the emerging culture of ignoring the recommendations of Election Monitoring and Observation missions. Election observation reports should contribute to reducing impunity for malpractices and deepening democratic practice.

7. Citizens and civil society

Citizens and civil society organisations should work together to advocate the implementation of the recommendations of observation missions and advocate electoral and constitutional reforms. This includes building solidarity in the pursuit of electoral justice for human rights violations that occurred during the election period.

CHAPTER ONE

Introduction: Tanzania Elections Watch (TEW)

Tanzania's October 28, 2020 General Election was conducted in a severely constricted political atmosphere.

Before the National Electoral Commission (NEC) announced the official start of the campaigns, it issued regulations restricting international observers from commenting on any aspect of the elections until results had been declared. The Commission had also excluded about 100 organizations including most of the country's major human rights organisations from the list of institutions accredited to observe the 2020 elections. The registrar of NGOs banned a large consortium of Tanzanian civil society organisations from conducting election-related activities, including voter education and the training lawyers to handle election petitions. Two highly respected organisations, which had been observing Tanzanian elections since the return of multiparty politics in 1995 were denied accreditation to carry out this mandate.

In the run-up to the elections, several key civil society organizations were deregistered or suspended for failing to provide details of their activities, funding sources, and financial records. Police froze the bank accounts of a coalition of 160 human rights organisations for allegedly signing agreements with donors without consulting the Treasury and the NGOs Registrar.

Although Tanzania had 19 registered political parties -- five of which were represented in Parliament -- they did not enjoy equal treatment in accessing the electorate or explaining their platforms. Police routinely arrested, assaulted, disrupted, or blockaded opposition party leaders on allegations of unlawful assembly, causing a breach of the peace, or holding unauthorised demonstrations. Since June 2016 political parties were effectively prohibited from holding public rallies, with the ban enforced selectively against opposition parties.

Correspondence by state and security officials to opposition political actors cast a pall of fear and constrained political space in the run-up to the elections.

The media scene was generally characterised by the absence of independence as well as fear of reprisal for media enterprises and independent journalists. Newspapers, television and radio operations were banned or suspended, while media owners and individual journalists were summoned to explain why they broadcast certain interviews or released results of candidate nominations without the NEC's approval.

Tanzania's withdrawal of the right of individuals and non-governmental organisations (NGOs) to directly lodge cases against it at the African Court on Human and Peoples' Rights, which is based in the country's city of Arusha. It has also retained the practice of keeping presidential elections outside the jurisdiction of the courts by ignoring the decision by the African Court to enable all election results to be subject to challenge.

Subsequently, the country enacted laws that created non-bailable offences around money laundering and taxation, which have been used to target political dissidents.

The human rights situation in Tanzania triggered the UN Special Rapporteurs to express concerns in June 2020 over amendments to the Basic Rights and Duties Enforcement Act, urging the government to 'immediately' drop legislative and other measures that further curb civic space and to uphold its international human rights commitments.

The 2020 elections were the first since 1995 to be conducted without any external support for the electoral commissions. Tanzania elected not to invite the United Nations Development Programme to send a National Assessment Mission, thus closing the door to the UN agency's attempts to design a customised elections project.

Significantly, the elections were conducted against the backdrop of the Covid-19 pandemic, which saw global restrictions on travel and therefore low deployment of observation missions. Tanzania stopped reporting Covid-19 cases on April 29, 2020, with the government declaring the country "coronavirus-free."¹ Additionally, restrictions were placed on the media prohibiting the publication of information on Covid-19 without the approval of the authorities.² The government's posture of denial of Covid-19 meant that no health-related safety restrictions were imposed during the campaign period.

Against the dearth of independent observation and monitoring for the October 28, 2020 elections, civil society organisations established the Tanzania Elections Watch (TEW), a regional initiative to shed light on the electoral context. The initiative, organised and coordinated by *Kituo cha Katiba*: Eastern Africa Centre for Constitutional Development (KcK) and the Kenya Human Rights Commission (KHRC), sought to

¹ See for example, Tanzania's President Says Country is Virus Free. Others Warn of Disaster <https://www.nytimes.com/2020/08/04/world/africa/tanzanias-coronavirus-president.html>

² See, In Tanzania election, COVID19 denialism an 'excuse to clamp down' on dissent' <https://www.devex.com/news/in-tanzania-election-covid-19-denialism-an-excuse-to-clamp-down-on-dissent-98418>

plug the gaps evident in the exclusion of domestic observers from the electoral process and to provide oversight for the elections.³ It sought to leverage ‘timely, active, engaging and impactful’ electoral process monitoring in contradistinction to regular election observation, which seeks to assess the election after the fact.⁴

1.1 About Tanzania Elections Watch

Tanzania Elections Watch is a regional initiative of civil society organisations and distinguished experts on various aspects of human rights, democratic governance and the rule of law from East and Southern Africa

Tanzania Elections Watch (TEW) consisted of two (2) organs: A Panel of Eminent Persons at the pinnacle of the initiative and a technical secretariat.

The Panel of Eminent Persons had 12 distinguished Pan-Africanists from the East and Southern Africa region with expertise in human rights, and media freedom advocacy, peace and conflict transformation. The Panel examined key developments and events as they unfolded during the Tanzania elections, and sought to trigger appropriate responses to address emerging human rights and political concerns. (See Annex I for the list of TEW Panel of Eminent Persons.)

The TEW Secretariat provided technical support for the Panel of Eminent Persons. It comprised a project manager, technical manager, communication specialists and project support staff. Two special rapporteurs with expertise in advocacy, networking, relationship building and communication drafted the periodic reports. The secretariat was co-hosted by KcK and KHRC.

1.1.1 TEW objectives

Tanzania Elections Watch set out to bring to light the electoral processes in Tanzania and offer immediate solution-oriented responses from within the region. It sought to trigger action on the human rights and political situation in Tanzania -- particularly by the United Nations, as well as regional human rights and governance mechanisms.

Specifically, TEW sought to achieve the following objectives:

- a. Assess, document and communicate emerging findings from the Tanzania electoral

³ See, <https://tanzaniaelectionswatch.org/about-us/>

⁴ See, <https://tanzaniaelectionswatch.org/about-us/>

process with a view to triggering responses from relevant stakeholders

- b. Create awareness on the constrained environment around the Tanzanian elections
- c. Stir public debate by regional and international actors on the Tanzanian elections
- d. Identify and develop opportunities for a regional and international civil society response to the electoral context in Tanzania
- d. Activate and engage the international human rights framework on key election related developments, including violations and irregularities.
- e. Provide an early warning platform for sustained multi-stakeholder engagement on potential risks of violence and appropriate responses.

1.1.2 Guidelines for election observation

Tanzania Elections Watch adopted a checklist of election observation guidelines borrowed from provisions of the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women, the African Charter on Human and Peoples Rights, the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), the Southern African Development Community (SADC) Treaty, and the East African Community (EAC) Treaty, to which the United Republic of Tanzania is a signatory.

In assessing whether or not the election process adhered to the principles of democracy and the rule of law, and the outcome reflected the will of the people, Tanzania Elections Watch made its monitoring and observation against the following benchmarks:

- a. Free, fair and credible elections
- b. Elections conducted by a competent, independent and autonomous electoral body
- c. Enabling civic and political space
- d. Dispute resolution by a competent and independent judiciary.

TEW adopted the basic rudiments of election observation from multiple sources, including the Southern African Development Cooperation, the East African Community, the African Union and the Commonwealth Charter:

1.1.3 Basic standards of election observation

- a. Respect for human rights evident in citizen participation, transparency and accountability, access to information, freedom of expression, and press freedom
- b. Adherence to the constitutional order
- c. Equitable opportunities to compete: campaigns, resources, voting, propaganda
- d. Legitimate and democratic change of government through a constitutional transfer of power
- e. Human security: levels and spread of violence; all forms of discrimination, including those based on political opinion, gender, ethnic, religious and racial grounds as well as any other form of intolerance
- f. Gender balance, equality, inclusion
- g. Conduct of the electoral management body -- adherence to rules of natural justice, due process, fair hearing in acting as a quasi-judicial body; transparency in decision making and work; and accountability to the people and the law
- h. Access to and expeditious dispute resolution by a competent and independent judiciary
- i. Best practices in the management of elections.

1.2 Methodology

Tanzania Elections Watch adopted an integrated methodology to collect and analyse data in order to effectively serve as an alternative election observation model in a situation where independent democratic actors such as regular election monitors could no longer fulfill their mandate in Tanzania.⁵

In the absence of independent monitoring and observation, a regional initiative was the

⁵ In June 2020, the NEC published a list of NGOs accredited to observe the 2020 elections. The list omitted all of the main human rights organizations such as: Tanzania Human Rights Defenders Coalition, the Legal and Human Rights Centre, the Tanzania Constitution Forum (Jukwaa la Katiba Tanzania) and the Tanzania Episcopal Conference. The organizations had been observing Tanzanian elections since the return of multiparty politics in 1995.

last opportunity to provide oversight for the elections in Tanzania.

Given that TEW's work was not typical of a regular election observation mission, the initiative invested in sustained relationship building with key interlocutors such as the electoral management bodies, political parties and their agents, the media, the diplomatic community, professional bodies, civil society organisations and engaged public intellectuals. TEW's relationship with diverse interlocutors opened up new channels of receiving organic election information, but also entrenched the initiative as a reliable and engaged election-monitoring outfit.

A network of monitors that included journalists, human rights monitors and civil society leaders who did not know each other deployed across mainland Tanzania and Zanzibar to collect information on election preparations, voting and the human rights situation in the country. The information they provided enabled the TEW secretariat to generate a daily briefing note for the Panel of Eminent Persons.

The Tanzania Elections Watch initiative established a comprehensive, active and involving approach that was adapted to the country context in the face of Covid-19 pandemic and shrinking civic space. The initiative set out to overcome the limitations imposed by Covid-19-related travel restrictions, low physical access for international observers, and the absence of meaningful local observation missions by leveraging technology to collate, triangulate and verify information from various sources.

A database established at the start of the initiative captured information from different sources, including from dedicated media monitoring firms, social media heat maps, and discreet monitors in Tanzania observing election-related activities. The monitors sent information through a mobile phone application developed by the initiative. Data was also received as anonymised individual reports and images shared by citizens through various communication channels, which was corroborated before being added to the database. All the data collected from various sources was processed, analyzed and presented through a custom platform developed for the initiative. This platform gave the TEW secretariat remote live round-the-clock situational awareness of the electoral process and events as they unfolded across the country.

On Election Day, a dedicated team of 432 observers spread across Tanzania Mainland and Zanzibar observed how the election was conducted and the environment in which it occurred. The observers, who had been trained virtually and issued with dedicated communication gadgets that enabled them to communicate securely, sent their information through a custom mobile phone application and short text messages to the TEW secretariat. Information in the database was triangulated for verification, and six

follow-up analysts randomly called back some of the respondents to confirm and corroborate reports.

A team of electoral governance and law experts with knowledge of Tanzania context analysed the information to distill discrete observations about the elections and human rights situation in the country and provide grounded perspectives and analysis.

In keeping with the guidelines for election observation and the objectives of the project, the Panel of Eminent Persons issued statements, preliminary reports, Notes Verbale and personalised letters to activate international mechanisms for escalating advocacy. The Panel also engaged in quiet as well as public diplomacy through dialogue webinars, dissemination fora, media interviews, and opinion editorial contributions to global media. TEW maintained a website, (www.tanzaniaelections_watch.org), and social media handles (@TanzaniaWatch) where information of its activities was published and disseminated. (Annex III presents the Panel of Eminent Persons' engagement matrix.)

International standards for election observation require monitors to comply with all national laws and regulations; maintain strict impartiality and base all their reports and conclusions on well documented, factual, and verifiable evidence from multiple credible sources as well as their own eye witness accounts.

Observers are also expected to seek responses from persons or organisations concerned before treating any unsubstantiated allegation as valid. In this regard, TEW formally wrote twice to the National Electoral Commission and once to the Zanzibar Electoral Commission raising various concerns.

TEW endeavoured to bring irregularities to the attention of national election officials but undertook its work in an unobtrusive manner that did not interfere with the election process, polling day procedures, or the vote count. It published a pre-election assessment report, a preliminary election report, and issued public statements calling for the cessation of violence, including gender based violence and arbitrary arrests of political leaders.

1.3 Structure of the report

Besides the introductory chapter, which explains the rationale for establishing the Tanzania Elections Watch initiative, its objectives, and the standards it used as well as the methodology it employed, this report comprises four other chapters. Chapter 2 lays out the political context and pre-election environment in Tanzania in the run-up to the 2020 election. Chapter 3 discusses Election Day observation, while Chapter 4 assesses

the post-election context. Chapter 5 contains Tanzania Elections Watch's findings, conclusions and recommendations.

CHAPTER TWO

Political Context and Pre-election Environment

2.1 Historical background and context

The 2020 General Election was Tanzania's 12th since independence and the sixth competitive poll since the reintroduction of multiparty politics in 1992. The party of independence, Chama Cha Mapinduzi (CCM), had won the elections in 1995, 2000, 2005, 2010 and 2015.

Previous elections had been disputed over the absence of transparency and inclusivity. In 2015, regional and international observation missions stopped short of declaring that year's elections as not being free, fair or credible.

Most election observation missions had restricted their observation to Election Day alone, and were therefore unable to assess the entire electoral process. Notably, that year's Zanzibar election results were annulled and the opposition Ukawa coalition, which had been leading in the tally, boycotted the repeat election the following year.

After the 2015 elections, in which CCM's Dr John Pombe Magufuli was elected president of the United Republic of Tanzania, a systematic democratic regression began in the country. A notable shift in Tanzania politics was the emergent debate over the union's political settlement.⁶ Political tensions between Zanzibar and mainland Tanzania that were largely triggered during elections continued to fuel secessionist sentiment in the islands.⁷

President Magufuli asserted control over CCM and launched a crackdown on political opposition.⁸ The State flagrantly violated fundamental rights, including the freedoms of assembly, association and dissemination of information, which constrained political participation. Further, Tanzania passed retrogressive political legislation that undermined political pluralism and the country's nascent democracy.

⁶ At the Edge of Democracy: Tanzania Towards 2020. Tanzania Elections Watch

⁷ At the Edge of Democracy: Tanzania Towards 2020. Tanzania Elections Watch

⁸ Troubling Clampdown on Opposition in Tanzania?: <https://www.cfr.org/blog/troubling-clampdown-opposition-tanzania>

CCM dismissed critical members of the party, including ministers; co-opted critics through appointments and promotions, and denigrated the opposition through negative rhetoric and administrative slights. Between 2015 and 2017, opposition MPs were forcibly ejected from parliament, threatened, arrested, detained, fined, remanded, imprisoned, and roughed up on trumped-up reasons.

By the time the country went to the 2020 elections, Tanzania had 19 registered political parties. Of these, only five -- the ruling CCM (195 of the 264 seats); Chadema (35 seats); the CUF (32 seats); and ACT-Wazalendo and NCCR-Mageuzi (with one seat each) -- were represented in Parliament.

In the run-up to the 2019 local council elections and the 2020 General Election, Parliament amended the Political Parties Act, 1992, to give sweeping powers to a government-appointed registrar of political parties.

These changes complicated an already strident political context, piling onto two decades of electoral grievances. In the first multi-party elections of 1995, the opposition Civic United Front (CUF) rejected the outcome of the Zanzibar elections claiming that the results had been rigged. The opposition party boycotted the House of Representatives, leading to a political impasse in Zanzibar. A formal mechanism for inter-party consultation was negotiated leading to the adoption of a Memorandum of Agreement in 1999 (known as Muafaka I) to provide for electoral reform. Key among the envisaged reforms was: the creation of a new independent electoral commission, and the compilation of a new credible voter register. However, the reform initiative collapsed just before the 2000 elections, in which CCM maintained its dominance.⁹

Reconciliation talks between CCM and CUF culminated in the signing of the Muafaka II in October 2001. In these accords, the parties reaffirmed the provisions of the June 1999 agreement and committed to implement agreed electoral reforms.¹⁰

From 2004, political parties' activity intensified as Tanzania prepared for the creation of a permanent voters' register ahead of the 2005 elections. Again, relations between CCM and CUF in Zanzibar deteriorated, leading to the suspension of formal channels of communication, and debate about the structure of the union being reignited. While CCM maintained its longstanding proposal of a dual structured government, CUF wanted a federal system, with autonomous governments in Zanzibar and on the mainland. A second major issue was the formation of a Government of National Unity

⁹ Report of the Commonwealth Observer Group Tanzania General Elections 25 October 2015

¹⁰ Report of the Commonwealth Observer Group Tanzania General Elections 25 October 2015

(GNU) after the elections. CCM declared winner of the Zanzibar presidential and House of Representative elections in 2005.¹¹ The total exclusion of one side of the political class (formerly CUF and now ACT Wazalendo) from government since 2005 has exacerbated historical racial and political tensions.

Tanzania's intractable electoral issues were compounded by a constricted civic space and restrictions imposed to contain the global Covid-19 pandemic. Although Tanzanians expressed a desire for free and fair elections that would meet their high expectations for change, the government had significantly circumscribed political space and constricted freedom of expression and assembly. The limited participation of local and foreign observers and monitors limited opportunities to demonstrate electoral accountability and transparency.

The general climate of fear spawned silence and blunted the civic spirit among citizens, who were robbed of voice.

2.2 Pre-election context

2.2.1 Electoral governance framework

The Constitution, laws and institutions that also promulgate rules and regulations constitute the legal framework that governs elections in Tanzania. Tanzania has also acceded to international covenants on elections that form part of the country's governance and legal framework for elections.

Tanzania has acceded to eight international instruments that establish standards for free, fair and credible elections, among them:

1. The African Charter on Human and Peoples Rights (ACHPR) and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol)
2. The AU Declaration on the Principles Governing Democratic Elections
3. The East African Community (EAC) Principles for Election Observation, Monitoring and Evaluation of Elections
4. The SADC Principles and Guidelines Governing Democratic Elections
5. The International Convention on Civil and Political Rights (ICCPR)

¹¹ Report of the Commonwealth Observer Group Tanzania General Elections 25 October 2015

6. The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)
7. The International Convention on the Elimination of all forms of Racial Discrimination (ICERD)
8. The Commonwealth Charter

Tanzania uses a first-past-the-post electoral system, where 264 Members of Parliament and other representatives are elected in single-member constituencies through the plurality of votes. Based on the country's two-tier government structure, the President of the Union (the United Republic of Tanzania) as well as the President of Zanzibar is elected every five years alongside Members of Parliament and the Zanzibar House of Representatives. The President can be re-elected for a further term but no more than two terms in accordance with Article 40 and Article 28 of the Union and Zanzibar constitutions, respectively.

The Union and Zanzibar constitutions also provide that not less than 30% of the members of the National Assembly and the House of Representatives shall be women, nominated from lists submitted by political parties in proportion to the share of the vote obtained in the elections.

Despite Tanzania holding 12 regular elections every five years, the culture of free and fair elections remains unconsolidated in the country.

Tanzania Elections Watch evaluated the environment in which the October 28, 2020 elections were held using five standards of assessing free, fair and credible elections, i.e., adherence to constitutional and legal guarantees of political rights; transparent and accountable election management and administration; free media and access to information about the candidates, electoral processes and observation; civic space including the freedom of assembly, association and movement necessary to organise and act politically; and electoral dispute resolution mechanisms.

Constitutional, legislative and regulatory guarantees

Tanzania's 1977 Constitution sets out the policy foundations for the country's electoral system: It spells out the structure of governance and establishes the three arms of government namely the Executive, National Assembly and the Judiciary -- each with distinct roles and qualifications to serve in each. It also creates the National Electoral Commission (NEC) -- and sets out its mandate, appointment process for its members, and conditions of service, among other requirements. The Constitution also outlines the fundamental human rights, freedoms and liberties that regulate interaction among

citizens on the one hand, and between citizens and the state on the other.

The 1984 Zanzibar Constitution provides for the public administration for Zanzibar and Pemba, establishing the three arms of government: The Executive, House of Representatives and the Judiciary as well as the Zanzibar Electoral Commission (ZEC). The Zanzibar Constitution also entrenches provisions on human rights and guarantees fundamental freedoms and liberties; including freedom of expression, assembly, association, and participation in elections.

NEC and ZEC are required to consult one another in the discharge of their mandates in order to harmonize election management. Despite having separate and distinct constitutional and legal provisions for Mainland Tanzania and Zanzibar, some laws are cross cutting and apply to both territories, for instance, the Political Parties Act 1992, the National Elections (Election Petition) Rules 2010. The key legislative and regulatory documents informing the country’s electoral are presented in the table:

Table 2. 1: Legal and regulatory framework for elections in Tanzania

| Mainland | Zanzibar |
|---|--|
| <p>National Elections Act (revised in 2015): It provides for the regulation of the election of President and to the National Assembly members.</p> <p>National Elections (Presidential and Parliamentary) Regulations 2020: These set out the procedures for the election of President and members of the National Assembly.</p> <p>Local Government (Urban Authorities) Act 1982: The law provides for the establishment of urban authorities and the election of chairpersons, mayors and their deputies to manage urban centres.</p> <p>Local Authorities (Councilors Elections) Regulations 2020: These regulations provide for the election of city, town or district council.</p> <p>Elections Expenses Act, 2010: This law regulates the funding of election campaigns with a view of controlling the use of funds, setting out prohibited</p> | <p>Zanzibar Elections Act, 2018.</p> <p>Zanzibar Municipal Council Act 1995: The law provides for the establishment of urban authorities and the election of mayors and their deputies to manage urban centres.</p> <p>District and Town Council Act 1995: This statute sets out the process for the election of city council, town council or district council, as the case may be.</p> |

| | |
|---|--|
| <p>practices in the funding process. It also sets out the parameters for the management of and accountability for campaign funds</p> <p>Political Parties Act 1992: This law provides for terms, conditions and procedures for the registration and management of political parties. This law changed significantly in the Political Parties (Amendment) Act, 2019.</p> <p>National Elections (Election Petition) Rules 2010: These provide the procedure for lodging election petitions.</p> | |
|---|--|

Although constitutional and legal guarantees of freedom and the rights of citizens exist, TEW identified incongruences and contradictions in subsidiary legislation, which claw back these rights. On June 5, 2020 the NEC published regulations for Local Authorities (councillors) as well as presidential and parliamentary elections; while the Zanzibar Elections Act, 1984, was amended in 2018.

Civil society organisations and political parties complained about the absence of stakeholder consultations in the development and subsequent enactment of the election regulations for presidential, parliamentary and local authority elections. The law requires the Electoral Commission to consult relevant stakeholders -- including political parties and the public at large. -- before amending or promulgating regulations. Similarly, the Electoral Code of Conduct also requires the electoral management body to consult stakeholders.

Further, the June 2020 regulations restricted observation by, for example, setting conditions that undermine the very essence of election observation by barring observers from making commentary on the electoral processes in the country. The provisions infringed on the rights of election observers, and more importantly, the rights of the public to information and freedom of expression.

Some of the provisions in the regulations exceeded the mandate of the electoral management body by, for example, allowing nominated candidates who had not been opposed in their election quest to be deemed elected in violation of Article 66 of the Constitution, which sets out the procedure for the election of Members of Parliament.

The exclusion of courts from adjudicating electoral disputes through regulations exceeded the mandate of the electoral management bodies and ran counter to constitutional guarantees of access to justice. The constitution of Tanzania provides that the decision of the electoral commission shall be final and cannot be challenged in a court of law. Specifically, article 41(7) of the Constitution bars courts from inquiring into the election of a presidential candidate after the Electoral Commission has declared a winner.

The Zanzibar Electoral Commission is similarly an unchallenged final power and authority in determining any election-related matter not provided for under the law. Such legal provisions curtail the right of the people of Tanzania to access justice in line with Articles 13 of the Constitution and the African Charter on Human and People's Rights, as affirmed by the decision of the African Court of Human and Peoples Rights¹².

2.2.2 Civic space and the exercise of political rights

Elections are the ultimate opportunity for citizens to exercise their democratic will in choosing their leaders. The freedom to freely elect their government is foundational and consequential on all other rights. Any impediments, restrictions or actions that suppress this right are a grave violation of not only Tanzania's Constitution but also of universally accepted norms and covenants to which the country is a party.

Free, fair and credible elections have a higher probability of occurring in an environment that provides constitutional and legal guarantees for them, and where civil liberties are respected and protected. Among these freedoms are the right to vote and to seek election, and the right to exercise political choices without fear of intimidation, bribery and other forms of corruption.

Voter eligibility and registration

The vote is the people's voice. Requirements for eligibility and registration of voters as outlined in Tanzania's National Elections Act and the Zanzibar's Elections Act protect the integrity of the vote. Citizens can register to vote once they reach the age of majority. Zanzibaris must additionally provide proof of permanent residency in a given constituency for at least 36 months, possess a Zanzibari identity card, and register in only one district.

¹² Application 018/2018 *Jebra Kambole v The United Republic of Tanzania* Summary of the decision can be found [here](#)

The electoral management bodies deployed a Biometric Voter Registration (BVR) system for the October 2020 elections just as they did in 2015.

The National Electoral Commission began updating the BVR in all regions of Tanzania, starting with Arusha and Kilimanjaro on June 18, 2019 and completed in Dar es Salaam on February 23, 2020. The National Election Act requires the NEC to review the voter register twice during an electoral cycle, i.e. in between five years from one election to the next. The exercise used different systems, including:

Voters Registration System: This was included in the BVR kits and used to register new voters, update their information and expunge the names of those who had lost eligibility.

Register System (RS): This system is used to receive and populate the voters' information collected from the registration centers. It is also used to print the preliminary BVR.

Voter Interaction System: This is used to verify voter information when displaying the preliminary BVR. It is supported by other systems that use mobile phones through a special SMS code *152*00# hosted on the NEC website (www.nec.go.tz)

Automated Fingerprints Identification System: This system is used to populate voters' fingerprints and flag double registration.

According to NEC, 7,043,247 new voters were registered (which is 30.41 % of those registered in the 2015 General Election) on the roll. Another 3,225,778 updated their information (which was 13.93 % of those registered in 2015) while 16,707 voters were expunged from the register (which is 0.07 % of those registered in 2015).¹³

Opposition parties in Zanzibar complained of errors in the Permanent National Voters Register (PNVR) days before the election, which included mistakes in the pictures – a man's name for example had a woman's picture. There were also complaints about "ghost voters". The opposition claimed that the PVR had 'voters' from the Mainland, as had been the case in previous elections.

Gender balance, equality and inclusion

Tanzania has provided for the participation of women, youth and Persons with Disabilities in the electoral processes, among other social spheres of life. These efforts to foster inclusivity in the country's democratic processes and enable their voices to be

¹³ See, NEC Newsletter, <https://www.nec.go.tz/uploads/documents/sw/1602348888-NEC%20Newsletter-%20KISWAHILI.pdf>

heard appear to be in contradiction with lived experiences.

a) Gender parity

According to the 2012 census, women make up 51 % of the Tanzanian population. In the 2020 elections, women constituted 53 % of eligible voters. Although there are no express legal provisions barring women's political participation, the lack of positive duty provisions, coupled by cultural and historical hurdles exclude them from elected political leadership.

Section 6 of the Political Parties Amendment Act, 2019 provides that parties shall adhere to the principles of democracy, good governance, non-discrimination, gender and social inclusion. As such, political parties are mandated to provide for the election of women in the party leadership as well as public elective positions. However, no guidelines have been promulgated for enforcing the Political Parties (Amendment) Act, 2019. More so, Tanzania's Constitution bars the election of individuals unless nominated by their respective political parties, thus limiting opportunities for independent candidates, including women.

Tanzania is still a long way from complying with its commitments to gender equality because of a pervasive culture of violence evident in verbal attacks which quickly escalated to physical violence during the election. The treatment of women and girls, including some demeaning references made by the President during political rallies, fosters an environment that tolerates violence against women. Police participated in the physical assault on some of the women candidates. Women's rights activists in the country have complained about a number of controversial measures by the Tanzanian state including the edict to bar pregnant girls from returning to school.

In mid-October, police raided Tarime Urban MP Esther Matiko's office, roughed up her bodyguard and groped her. The CCM chairperson for Tarime District Daudi Ngicho used obscene language in reference to Matiko during a campaign rally, calling her a "prostitute".

The same week, police assaulted and harassed the Chadema parliamentary candidate for Serengeti constituency; Catherine Ruge; while she was visiting the office of the National Electoral Commission. She was admitted to hospital after the assault, during which police allegedly tore her clothes and groped her.

Earlier on March 13, 2020, three women opposition politicians -- former Chadema MPs Halima Mdee (Kawe), Ms Ester Bulaya (Bunda Urban) and Special Seats MP Ms Jesca Kishoa -- were admitted to hospital after police assaulted them as they accompanied

their party's national chairman, Freeman Mbowe, as he was being released from remand at Segerea Maximum Security Prison. They were subsequently charged with inciting violence and trespassing along with 20 other members of the Chadema Women's Wing.

The three main political parties in the 2020 election -- CCM, Chadema and ACT Wazalendo -- nominated 102 women out of 672 candidates vying for parliamentary seats. The proportion of women candidates, the equivalent of 15 per cent, was a notable increase from 2015 when women were only 67 of the 651 candidates. However, this is still far from standards set for gender equality and inclusion.

b) Youth role and voice

According to the 2012 Census and 2010 United Nations Population Fund (UNFPA) report, almost two-thirds of Tanzanians are below the age of 24, out of which more than eight million are between the ages of 15 to 24.

Data from NEC shows that youth voters -- those aged 18 to 35 years -- constituted 57 per cent of all registered voters in the 2020 elections. No analysis of how many youth sought elective positions was available from the electoral commission data.

Tanzania enacted the National Youth Council Act in March 2015, which sought to create opportunities for youth participation in decision-making, but this population group still remains invisible and their voice muted in the country's politics. Key provisions of the law, including the establishment of the National Youth Council, are yet to be implemented. The Political Parties (Amendment) Act, 2019, provides for the inclusion of youth in party leadership and elective office, but the National Electoral Commission and political parties have not published rules or guidelines bring the provision into force.

c) Persons with Disabilities

Estimates place the population of people living with disabilities in Tanzania at 4.5 million. For decades, people with disabilities have borne the brunt of abuse, lack of education, and job and livelihood opportunities.¹⁴ The 11th Amendment of the Constitution, the Political Parties Act in 2019, the enactment of the People with Disabilities Act in 2010 and the National Youth Council Act seek to increase the inclusion of PWDs in electoral governance. The country is a signatory to a number of international conventions, which inform its national laws on the protection of the rights

¹⁴ See for example, Challenges for People with disability persist <https://shivyawata.or.tz/challenges-for-people-with-disabilities-persist/?lang=en>

of PWDs. The two 2020 Election Regulations provided for voting by persons with disabilities and those unable to read,¹⁵ but no specific efforts to include this population group in elected leadership was discernible.

The role of the Office of the Registrar of Political Parties (ORPP) is critical in facilitating the full participation of parties in elections to give effect to democratic aspirations. There was little evidence that the Registrar was playing such a role in ensuring inclusion and effective participation of women, youth and persons with disabilities.

Safety and security

A series of incidents defined the security situation in the election period. A week before the elections, 20 people were killed in a suspected terrorist attack on a village on the Tanzanian border with Mozambique. Police did not disclose the number of casualties or those captured, thus creating a sense of helplessness as the country went into the elections. Regular statements from leaders of the security services, which superficially appeared to assure the public of their safety, were in many respects veiled threats against free movement, assembly and political expression.

Security services deployed in unprecedentedly large numbers around the country, but especially so on the islands of Unguja and Pemba. Tension was escalating in Zanzibar ahead of the elections, with reports of killings, brutality and harassment by state security agents in both Unguja and Pemba.

The heavy police and army presence across Zanzibar was an intimidating atmosphere that created fear and despondency with the likelihood of deterring voters from participating in the elections. In some instances, the presence of large numbers of security forces in civilian spaces triggered violent confrontations with the public. Police responded to public protests by using teargas and shooting with live ammunition, with the result that at least 10 people were killed in Zanzibar.

Elections amid Covid-19

The 2020 elections were conducted against the backdrop of the Covid-19 pandemic. However, Tanzania appeared to have taken a different path in responding to the pandemic, having stopped reporting cases on April 29, 2020 when the government

¹⁵ See, for example, The National Elections (Presidential and Parliamentary Elections) Regulations, 2020, Section 54.

declared that the country was ‘coronavirus-free.’¹⁶ In addition, restrictions were placed on the media that prohibited the publication of any information on Covid-19 without the approval of authorities.¹⁷

Although the World Health Organization Regional Office for Africa developed guidelines for elections in the context of Covid-19, Tanzania’s decision to set itself apart from the rest of the global community’s response to the pandemic likely had an effect on how voters perceived their safety, and this could have had an effect on participation in the elections.

On Election Day, observers deployed by TEW noted that no meaningful measures were put in place to mitigate the transmission of Covid-19 during preparations for elections. Campaign rallies were conducted without any attempt to adhere to requirements for social distancing, wearing protective gear, or regular temperature checks. The absence of these measures, or even information, in the face of public anxiety about their safety might have depressed participation in the elections.

Updating of the permanent national voter register reportedly continued in the midst of reports of the pandemic in June 2020, thus potentially depressing the numbers of voters coming out to register or update their records.

Right to vie and campaign for election

Eligibility criteria for candidates in presidential, parliamentary and local council elections are set out in various laws for Mainland Tanzania and Zanzibar.

The October 2020 attracted 15 presidential candidates, among them two women at the head of the ticket, and another five women as running mates.

Various political parties also nominated 17 presidential candidates for the Zanzibari presidency.

Rules for participating in elections in Tanzania had been published but the electoral officials disqualified an inordinate number of candidates from the contest.

At the start of the national campaign in August 2020, Opposition leader Tundu Lissu

¹⁶ See for example, Tanzania’s President Says Country is Virus Free. Others Warn of Disaster <https://www.nytimes.com/2020/08/04/world/africa/tanzanias-coronavirus-president.html>

¹⁷ See, In Tanzania election, COVID19 denialism an ‘excuse to clamp down’ on dissent’ <https://www.devex.com/news/in-tanzania-election-covid-19-denialism-an-excuse-to-clamp-down-on-dissent-98418>

claimed that as many as 1,020 Chadema candidates for council positions, out of a total 3,754, had been disqualified from vying in the elections. The electoral contest was tainted by claims that the National Electoral Commission had unfairly disqualified opposition candidates or prevented them from submitting nomination papers.

Many of those disqualified, appealed, but the NEC reinstated only 66 parliamentary candidates.

NEC received 661 appeals from candidates for parliamentary and ward council seats seeking reinstatement to the ballot, but its disposition of the petitions failed to meet universally accepted standards for the administration of justice. Only a fifth of the appeals lodged had been attended to as other candidates proceeded with campaigning. Ultimately, all the appeals were heard and some candidates were reinstated.

NEC allowed 66 appeals, or over 40 per cent of all cases, lodged to challenge candidacy disqualification for parliamentary elections -- itself an indicator of problematic nominations. No explanations were provided for the decisions to allow or reject the appeals.

Gaps in NEC's transparency; guaranteeing the right to be heard, and engaging participatory decision-making involving the candidates raised questions about fairness its fairness in dispensing justice. The Commission was performing a quasi-judicial mandate and was thus bound by the basic principles of and norms in the administration of justice.

A significant number of candidates was, however, locked out of the process, while others were declared to have been "elected unopposed" in contravention of constitutional provisions and denied citizens the exercise of their right to fully participate in public life.

It appeared that many appeals affected candidates who belonged only to parties other than the ruling CCM as noted by some clerics in the country. The absence of clear and transparent due processes, and the overwhelming number of opposition complainants was indicative of the absence of a level electoral playing field.

The disqualification of a significant number of opposition candidates -- in the absence of clear and transparent processes for the handling of the appeals -- raised concerns about the equal and fair treatment of political competitors. On September 29, 2020, a full month before the elections, NEC declared 28 CCM candidates elected unopposed. It was not explained, for instance, why the NEC only processed 661 appeals when the opposition claims to have submitted over 1,000 appeals.

The credibility questions surrounding the 2019 local government elections, when over

90 % of the candidates were relegated from the ballot, together with the disqualification of candidates at both the parliamentary and councillor levels in 2020, raised concerns about the integrity, impartiality and transparency of the electoral body. These actions significantly influenced the composition of the legislature at the national and local council level to the advantage of the ruling party -- and without reference to the electorate.

Political campaigns

Before the official campaign period, a blanket ban on political rallies, in force since July 2016, was selectively applied against opposition parties, whose leaders were intimidated, harassed, arbitrarily arrested and prosecuted on a variety of charges.

In September 2017, opposition leader Tundu Lissu was shot 16 times in what was believed to be an assassination attempt. He was expelled from Parliament for absenteeism in 2019 after he travelled outside the country to seek medical assistance.

The government lifted the prohibition on political activities to allow the 2020 campaigns, but police continued to refer to the ban in blocking political rallies and targeting opposition events and meetings for disruption and arrests. On October 2, 2020 with less than a month to the election, NEC suspended opposition leader Tundu Lissu's presidential campaign for a week over speech in which he claimed a plot by the ruling party, with the collusion of President Magufuli, to rig the elections.

Police intimidation of opposition politicians, in violation of the rights of movement and expression, curtailed the right of voters to access information. These incidents spiked in the lead-up to the elections. Police intercepted the Chadema presidential candidate's convoy on its way to Kibaha, Coast region. In Hai constituency, the district head of police was caught on video telling the opposition parliamentary candidate Freeman Mbowe that he would not win the elections in his constituency.

Although it is commendable that Inspector General of Police (IGP) Simon Sirro gave a public commitment to take disciplinary action against the officer, the incidence of some members of the security services acting in a partisan manner offends the rule of law and undermines fairness in the electoral process. The primary mandate of the police is to maintain law and order, and to facilitate the exercise of fundamental rights, freedoms and liberties by everyone.

On September 18, 2020, Chadema's councillor candidate for Kibosho, Moshi Rural constituency, in Kilimanjaro, Gallus Chuwa was abducted and forced to announce that he was withdrawing from the elections. The same week, individuals alleged to be CCM

supporters attacked Chadema's candidate for Rundugai ward, Hai constituency, Simon Mwacham with machetes; while an NCCR Mageuzi party member was attacked and his ear chopped off in Vunjo area, as ward candidates were reportedly being attacked and forced to join CCM.

Party flags were reportedly vandalised in various constituencies: ACT-Wazalendo reported citizens being physically abused by Zanzibar Special Forces (Vikosi vya SMZ) in Pemba; and that police were holding three party officials – Dotto Rangimoto, Dahlia Majid and Arodia Peter – after a raid at their headquarters in Magomeni.

Individuals believed to be CCM youth, with the alleged help of police, attacked an ACT-Wazalendo branch in Tutani (Mkombozi) and Barza Nuur in Nungwi in Zanzibar, tore down the party flag and replaced ACT Wazalendo campaign posters with CCM ones. There were numerous complaints of opposition campaign posters being vandalized and vehicles attacked by alleged CCM supporters in Arusha; and people throwing stones at the Chadema presidential candidate during a campaign rally at the Gymkhana Stadium in Bukoba, Kagera.

CCM also complained that ACT-Wazalendo members had attacked its supporters, Khamis Nyange (Profesa Gogo) and Bakari Ali, with machetes as they prayed at Kangagi mosque in Pemba, Wete district, Pemba.

Kilimanjaro's Regional Commissioner; Anna Mghwira warned of increasing incidences of violence, such as abduction and physical abuse, with victims dumped in rivers and forests.

TEW urged that these acts of violence be immediately deterred to avoid catalyzing further violence as the election drew near. It urged political parties, the security agencies and citizens to restrain themselves from actions that could undermine peace during and after the campaign period.

Separately, NEC also warned opposition parties Chadema and ACT-Wazalendo over forming a political alliance for electoral purposes because it had not been formalized three months before the start of campaigns as required by regulations. NEC did not respond in a similar manner to a possible coalition between CCM and another party.

2.2.3 Civic education and access to information

Countrywide voter and civic education was delivered through television and radio programmes in which its NEC commissioners and staff took part through debates and discussions. NEC also sent announcements to various media including TV and radio, roadshow vans that traversed all the regions of Mainland Tanzania and Zanzibar, and

visited schools and colleges. NEC also deployed its website as well as social media sites such as Facebook, Instagram, Twitter, YouTube, NEC Online TV and to disseminate messages on the elections.

Musicians were also co-opted into campaigns to reach voters through performances in various regions of Tanzania.¹⁸ Stakeholders -- including political parties, CSOs, religious leaders, women representatives, youth representatives, persons with disability (PWD), news editors and members of the press, security agencies and traditional elders -- were engaged at various stages of the election: before, during and after.

In June 2020, the NEC approved 245 organizations throughout the country to undertake voter education. The NEC did not, however, provide room for any aggrieved organizations to appeal their decision. It was not clear what criteria were used to select those providing voter education.

Freedom of information and the media

Freedom of the media guarantees free and fair election by not only providing a forum for citizens to learn about the various political platforms, but also secures the watchdog role in safeguarding the transparency and credibility of the electoral process.

The reintroduction of multiparty politics in 1995 witnessed the proliferation of media in Tanzania. By 2020, over 50 newspaper titles were publishing, 60 radio stations were on air and 25 television stations were broadcasting in the country. The media is both state-run and privately owned. Newspaper readership remains low and limited to urban areas. The main English language newspapers are *The Citizen*, *The Guardian* and *The Daily News*, while the *Mwananchi*, *Nipashe* and *Habari Leo* are the most popular newspapers published in Kiswahili.¹⁹

Although television coverage and access has been increasing, it still has a relatively small share of the market, according to the Media Institute of Southern Africa (MISA), Tanzania Chapter. Radio remains the most important source of information, with over half the population owning radio sets. Increased access to mobile telephones has given rise to the use of social media platforms such as Twitter, Facebook, WhatsApp. In 2015, it was estimated that 8 million Tanzanians were online. By 2020, the number had

¹⁸ See NEC Newsletter, <https://www.nec.go.tz/uploads/documents/sw/1602348888-NEC%20Newsletter-%20KISWAHILI.pdf>

¹⁹ See, At the Edge of Democracy: Tanzania Towards 2020. Tanzania Elections Watch

increased to over 10 million.²⁰

Over the past five years, Parliament enacted the controversial Media Services Act, 2016 in the midst of fervent protests from media and human rights actors in Tanzania. It has since then been used to ban independent newspapers seen as being critical of the administration including *Mawio*, *Mseto*, *MwanaHaLISI*, *Raia Mwema*, *The Citizen* and *Tanzania Daima*.

In January 2017, Media Council of Tanzania (MCT), the Legal and Human Rights Centre (LHRC) and the Tanzania Human Rights Defenders Coalition (THRDC) filed a reference at the East African Court of Justice (EACJ) challenging the law, on the grounds that it threatens freedom of the press and freedom of expression.

Various attempts to circumscribe freedom of expression and the right to information were noted in the targeting of social media influencers and activists through online content regulations gazetted in July 2020. These regulations were used to either block or suspend social media accounts whose users had been marked as vocal critics of the government and President John Pombe Magufuli. They include: Alen -@iAlenOfficial Khalifa Said – @ThatBoyKhalifax and Kigogo2014 @kigogo2014 on twitter.

The Tanzania Communications Regulatory Authority (TCRA) instructed mobile telephone network operators to block the free flow of information during the elections. Its directives sought to restrict the freedom of expression and freedom of information, in violation of guarantees in the Constitution. TCRA's amendments to the Electronic and Postal Communications (Radio and Television Broadcast) Regulations requiring media to obtain permission to broadcast content jointly produced with regional and international partners was tantamount to censorship.

TCRA's punitive actions included the suspension of Mwananchi Online for six months in April 2020 over a report on the Covid-19 pandemic; fining three media companies (Star Media, Azam Digital and Multichoice Tanzania) in April for their coverage of the country's Covid-19 strategy; suspension of Kwanza Online TV in July for alleged biased Covid-19 reporting for publishing an alert by the US embassy; and placing Radio Free Africa (RFA) on probation for three months for airing a BBC interview with the opposition presidential candidate that is alleged to lack balance.

These sanctions against independent media constituted attacks on freedom of expression and undermined the process of a transparent, accountable and credible

²⁰ See, At the Edge of Democracy: Tanzania Towards 2020. Tanzania Elections Watch

election. The right to information is a critical tenet of a free and fair election.

TCRA clamped down on communication channels, including suspension of bulk short text messaging services, blocking social media sites, and shutting down Internet communication ahead of the elections.

2.2.4 Independence of election management bodies

A competent, independent and autonomous body should be responsible for conducting elections. The National Electoral Commission and the Zanzibar Electoral Commission are responsible for managing elections on mainland Tanzania and Zanzibar, respectively. Security services and the judiciary offer them auxiliary support during elections.

NEC supervises and manages presidential and parliamentary elections, coordinates voter registration, and boundary delimitation. It is also responsible for voter education and the declaration of the final results in presidential elections.

The President solely selects the chairman, vice-chairman and five commissioners of the NEC. The fact that the electoral management body's members are selected outside a public competitive process presents a conflict of interest and undermines the commission's posture of independence.

The Commission's secretariat manages the operational aspects of elections. The President appoints the Director of Elections, who heads the secretariat, from among civil servants on the recommendation of the Commission. The NEC delegates senior local government officials for its regional administrative and operational structure, thus undermining perceptions of independence from the government and the ruling party. NEC is expected to consult with the Zanzibar Electoral Commission on the management of elections in Zanzibar.

ZEC's functions in Zanzibar mirror those of the NEC. It is a seven-member commission appointed by the President of Zanzibar, with two members each recommended by the leader of government, and the leader of the opposition.

ZEC's director of elections performs the operational electoral functions in Zanzibar as those of his counterpart at the NEC on Mainland Tanzania.

Constitutional provisions and legislation establishing the election management bodies in Tanzania and Zanzibar do not sufficiently secure their independence in the manner of their appointment, operations or funding as they are not insulated from the influence of political actors participating in elections.

Election administration

Tanzania uses a first-past-the-post electoral system to choose the President and determine the composition of the National Legislature as well as the local authorities. The President is elected by popular vote to serve a five-year term, renewable once. In the National Assembly (Bunge), 239 members are elected by plurality vote in single-member constituencies to serve a five-year term; while 102 seats are reserved for women; five seats are allocated to members of the Zanzibar House of Representatives; and 10 seats are reserved for presidential nominations.²¹

Electoral administration is a multistage process that entails the delimitation of boundaries, voter registration, candidate eligibility, political campaign management, and complaint handling. No boundary delimitation was undertaken in the run-up to the 2020 elections, thus keeping the electoral units at the same number as before.

A major frustration for opposition political parties was the fear that their agents would not be allowed to watch election processes because of refusal to swear them to secrecy as required by law. Ultimately, NEC extended the deadline for swearing in the registrars, but the lead on time they would have enjoyed in familiarising themselves with voting materials and processes was lost.

2.2.5 Electoral dispute resolution

Dispute resolution by a competent and independent judiciary is one of the constitutional guarantees of a democracy and encompasses electoral justice. The National Elections Act provides for offences relating to voter registration and candidate nomination, no instances of enforcement were observed. It enumerates a series of election-related breaches of law such as corrupt and illegal practices; bribery; treating voters; undue influence; personation; illegal voting; false statements; and intimidation, which are referred to the judiciary for trial, but electoral disputes are reserved for the election management bodies. On the other hand, the Prevention and Combating of Corruption Bureau may receive complaints or investigate matters, which can impact a candidate's eligibility. The office of the Registrar of Political Parties is responsible for enforcing compliance with the Political Parties Act, including during elections. The ORPP also arbitrates in inter-party disputes and may intervene in intra-party disputes.

Procedurally, objections and complaints about voter registration are determined in the first instance by the Registration Officer, whose decision can be appealed to a District

²¹ <https://www.electionguide.org/elections/id/3333/> retrieved November 12, 2020

Court. Objections to and complaints against candidate nomination are determined in the first instance by the constituency Returning Officer, whose decision may be appealed to the NEC.

The NEC's decision can only be challenged through an election petition presented under Chapter VII of the National Elections Act. Other determinations that may impact on a candidate's eligibility for nomination are reserved for the NEC. The Registrar of Political Parties, a state appointee, supervises and administers election expenses under the Election Expenses Act, 2010. In the event of an election expenses irregularity, the Registrar notifies the Director of Elections.

Access to justice

Courts of law are established under the Tanzania and Zanzibar constitutions, which recognise the Judiciary as the final arbiter in disputes and all matters of justice. Yet, Article 74 (12) of the Constitution stipulates that, "No court shall have power to inquire into anything done by the Electoral Commission in the discharge of its functions in accordance with the provisions of this Constitution."

These two contradictory provisions attempt to limit the court's involvement in the operations of the electoral management body and imply that any injustices arising from the latter's actions or decisions cannot be remedied and those aggrieved have no recourse in law. Those aggrieved by the Commission's decision cannot challenge it in a court of law, and even if they do, the existence of regulations that expressly bar review of decisions by the electoral management body can intimidate judicial officers. This undermines transparency, access to justice and accountability in elections.

Gaps in the legislation open space for administrative mischief. For example, the Constitution in Article 74 provides for the establishment of the National Electoral Commission (NEC), "an autonomous department" that "shall not be obliged to comply with orders or directions of any person or any government department." Additionally, the Constitution and electoral laws provide an unusual immunity for the election management bodies that "no court shall have power to inquire into anything done by the Electoral Commission in the discharge of its functions."

Judges have only recently managed to claim jurisdiction for reviewing election results by citing the "unlimited original jurisdiction" that the High Court has to hear petitions.

2.2.6 Election observation and monitoring

Observation is a critical component of democratic oversight in elections. Regional and international groups deployed observers to the 2020 Tanzania elections, among them,

the African Union, the East African Community Observer Mission and the Tanzania Elections Watch.

Some of the global observer missions included the USAid through Tanzania Electoral Process Observation as well as the European Union. However, critical domestic human rights organizations such as the Legal and Human Rights Commission (LHRC) and Tanzania Episcopal Conference were denied accreditation.

Although the NEC invited domestic and international observers to apply for accreditation, it admitted only 96 organizations to observe the 2020 election; while ZEC admitted 17 organizations to observe polls in Zanzibar. The NEC reportedly declined to extend an invitation for a European Union Election Observer Mission.

NEC additionally invited and accredited 15 international election observers but locked out some of the leading local human rights civil society organisations such as the Tanzania Legal and Human Rights Centre, the Tanzania Human Rights Defenders Coalition (THRDC) and the Tanzania Constitution Forum (Jukwaa la Katiba) the right to observe the elections without explanation. Similarly, the exclusion of the Tanzania Episcopal Conference from the list of accredited observers was not explained.

Civil society's traditional role of mobilising citizens to participate in and engage with electoral processes in Tanzania was severely constrained in the 2020 election both by law and practice.

2.3 Pre-election assessment

Given the preceding context, the political climate, the role of various actors, and the legal framework governing elections in Tanzania, TEW published a preliminary report, in which the Panel of Eminent Persons noted that it would be difficult to guarantee that the 2020 elections would be free and fair.

In Zanzibar, specifically, where a subsisting electoral dispute remained unresolved, the absence of an opportunity for judicial remedy in the event of electoral disputes aggravated the risk of violence.

At the time, Tanzania Elections Watch made these recommendations in its preliminary report:

1. Election management bodies should use the 2020 elections to dispel growing concerns over their independence by exercising demonstrable impartiality, high levels of integrity, transparency and accountability to ensure the credibility of the electoral process. They could take note of regional and international best practices, rules and

regulations governing the conduct of democratic elections and commit to abide by them. They should involve all relevant stakeholders in key decisions to build confidence around the entire electoral process. And they needed to counter the state's interference in the elections by consistently upholding the provisions of the law that provide for impartiality.

2. The State in Tanzania needed to take note of and commit to abide by international laws and standards on the management of elections. It needed to comply with the decision of the African Court on Human and People's Rights in relation to the provisions of the Constitution (Article 41(7)) that violate the African Charter. The government needed to respect and uphold the Constitution as well as international laws providing for free and fair elections.

3. Political parties and candidates needed to refrain from any actions that could amount to violation of the Constitution and international laws and standards. There was a need for political parties to conduct their election campaigns in line with the provisions of the law and in a manner that upholds fundamental principles and universally accepted standards and norms on elections. They also needed to commit to promote peace and fair treatment throughout the election period.

4. The international community needed to put Tanzania under the radar and watch carefully as events unfolded in the country, participate actively as monitors and observers in the Tanzanian elections, and remind the Tanzanian state of its obligations under international law to uphold key principles in the management of elections.

The international community also needed to engage with the actors in Tanzania to fully understand emergent developments in relation to the elections and to support efforts towards building an early warning system for Tanzania in the context of elections to forestall violence.

CHAPTER THREE

3. Election Day Observation

Polls opened at 7:00 am and closed at 4:00 pm, as stipulated in the election regulations. There were 81,567 polling stations on Mainland Tanzania up from the 63,525 from the 2015 elections. In Zanzibar, there were 1,412 polling stations down from the 1,500 in 2015. Further to the election procedures issued by the National Electoral Commission for the elections on Mainland Tanzania, each polling station had three ballot boxes -- for the Union President, Members of Parliament and the councillor representing the ward. In Zanzibar, where the Zanzibar Electoral Commission (ZEC) oversees the elections, the polling stations had five ballot boxes -- the Union President, Member of Parliament, President of Zanzibar, Member of the House of Representative and the councillor representing the ward. The Commission supplied all election equipment and material to the respective Returning officers before the Election Day, as required by election laws and regulations.

Returning officers distributed election equipment and material to the presiding officers as per the Election Regulations, which also set out the voting procedure for persons with disability and persons who cannot read. A presiding officer was in charge at each polling station, and was supported by polling assistants. Although the law requires that political parties and candidates be authorized to enter the polling stations, monitors and observers reported that many opposition political party agents were not able to access the stations.

3.1 Early voting in Zanzibar

Early voting, known in Zanzibar as *Kura ya Mapema*, meant to allow security personnel and those performing election duties to cast ballots on the eve of Polling Day, became a source of great controversy. The opposition read mischief in ZEC making provision for such an early vote. ACT-Wazalendo presidential candidate Seif Sharif Hamad vowed during his last campaign rally in Mnazi Mmoja that he would vote early, too, and lead his followers in calling for accountability on the early vote.

Hamad indeed went to the Garagara Polling Station to vote on October 27, 2020 in an act of defiance and was arrested. Police later released him but the incident set the tone for what was to transpire on Election Day and after.

3.2 Voting procedure

Polls opened on time in both Zanzibar and on the Mainland. In large parts of the country, the process began well and ran smoothly. People woke up early to vote. There had been some controversy about the swearing in of opposition party agents in order for them to gain access to observe the elections at the polling stations. Early reports of opposition party agents being denied access to the polling stations were resolved when the deadline for taking oaths was extended. The voter turnout was not as high as in previous elections.

In Zanzibar, the election process was generally trouble-free when the polls opened. Queues were orderly and flowed smoothly between 7 am when the polls opened and 4 pm when they closed. Chadema's presidential candidate reported that over 70% of their polling agents across the country had been either denied entry to polling stations or expelled their posts. On October 28, the Dar es Salaam Regional Police Commander Lazaro Mambosasa denied allegations that police had participated in stuffing ballots as observed in Kawe constituency by Chadema's parliamentary candidate, Halima Mdee.

3.2.1 Irregularities

In Kawe constituency, Dar es Salaam, tension rose after altercations between the opposition candidate Halima Mdee and NEC officials over the alleged presence of fake ballot papers and boxes, which she alleged had been brought into the polling station. Police arrested her but later set her free. There were other similar reports in Pangani, Tanga and Buhigwe Kigoma. NEC chairman Semistocles Kaijage denied allegations of vote fraud.

Opposition party agents were arrested in Tanga over what police alleged to be attempts to bar voters from entering the polling stations to vote. Numerous reports of ballot stuffing in many polling stations in Unguja and Pemba were reported, but ZEC refuted these claims.

3.3 Security and safety

There was heavy army and police deployment in many of the polling stations in Zanzibar and Pemba. In constituencies in Pemba, for example, a number of people had been shot dead as they tried to unmask the ballot stuffing in Pemba²²

²² At least 11 shot dead ahead of Tanzania's presidential vote, AP. <https://apnews.com/article/international-news-shootings-tanzania-elections-arrests->

Some 11 people were reportedly killed by gunshot on election night, prompting massive protests on social media, with the #ZanzibarLivesMatter hashtag trending on Twitter. As social media became a critical space for expression and organising, the authorities imposed an Internet chokehold (slowing down of the Internet) on Mainland Tanzania and in Zanzibar. Twitter, WhatsApp and other social media platforms reported shutdowns. Twitter had warned the previous day against shutting down its platforms, saying that it was “hugely harmful and violated basic human rights and the principles of the #OpenInternet”.

Mobile phone service providers limited use of short text messages and voice calls on the eve of the elections, which frustrated the free flow of information and communication especially through short messaging services²³

3.4 Counting and declaration of results

On October 30, 2020, the chairman of the National Electoral Commission, Justice (retired) Semistocles Kaijage announced the final results of the Union Presidential Elections in Dar es Salaam. Below is a tabular representation of the announced results:

Table 3.11: Tanzania’s presidential election results, 2020

| Candidate | Votes | Percentage of Votes Cast |
|------------------------|------------|--------------------------|
| John Magufuli (CCM) | 12,516,252 | 84.40 |
| Tundu Lissu (Chadema) | 1,933,271 | 13.04 |
| Others | 380,672 | 2.57 |
| Total Valid Votes Cast | 14,830,195 | 49.84 |

[9fa98fce198457c50b498e44af86ad1f](https://doi.org/10.21203/3.9fa98fce198457c50b498e44af86ad1f)

²³ Tanzania restricts social media during election, DW, [Tanzania restricts social media during election](#)

| | | |
|-------------------------|------------|-------|
| Total Rejected Votes | 261,755 | 0.88 |
| Total Votes Cast | 15,091,950 | 50.72 |
| Total Registered Voters | 29,754,699 | 100 |
| Turnout % | 50.72 | |

Source: NEC, <https://www.nec.go.tz/news/commission-announces-dkt-magufuli-elected-to-be-the-president-of-united-republic-of-tanzania-on-28th-october-2020>

NEC announced that President John Magufuli of CCM, the incumbent, had won by a landslide. The ruling party was also awarded victory in Tanzania’s semi-autonomous state of Zanzibar where CCM’s candidate for the presidency, Dr Hussein Mwinyi, was declared winner by 76.6% against Seif Hamad’s 19%. CCM also won an overwhelming majority in the parliamentary elections -- claiming all but two (2) seats in the National Assembly; and all but four (4) seats in the House of Representatives in Zanzibar.

3.5 Assessment of pre-election context

Generally, the conditions during the October 28, 2020 election fell far short of the international standards for a free, fair and credible election²⁴

Only half of all the registered voters cast ballots in the election. Given the demographic structure of the permanent voters’ register, in which 57% of electors were between the ages of 18 and 35 years, it is self-evident that the election produced a suppressed youth voice.

The slowdown of the Internet denied many people access to various social media platforms and other spaces for expression and assembly.

The arrest and intimidation of opposition politicians and their supporters on Election Day had a chilling effect on the electoral process and undermined the credibility of the

²⁴ See Statement by TEW Panel on Observations made during the Election Day in Tanzania, <https://tanzaniaelectionswatch.org/2020/10/29/statement-by-tanzania-election-watch-panel-on-observations-made-during-the-election-day-in-tanzania/>

election results. The systematic denial of access to polling stations for opposition party agents observed and reported throughout the country also undermined the credibility of the election²⁵

While voting was without incident, the events leading up to, during and after the election greatly undermined the electoral process.

Uncertainty over the oversight and scrutiny of the early vote were a source of great anxiety among opposition parties and their supporters, and likely played a role in triggering protests in Zanzibar. ZEC went ahead with the early vote even in the face of significant levels of violence, particularly on Pemba Island. It is not evident that ZEC made efforts to guarantee the transparency and verifiability of the early vote.

The atmosphere outside the polling stations was generally tense, with some incidents of violence, intimidation and threats as well as allegations and counter-allegations of voter rigging. Opposition party agents were barred from accessing polling stations, and the incidence was widespread as the election began. Generally, few observers watched the polls. TEW received reports of irregularities, including interference in the voting process by security agents. The transparency of Election Day activities was greatly undermined by an Internet shutdown as well as slowdown and denial of service from mobile telephone networks, especially short text messaging. The heavy deployment of Tanzanian security forces, most critically the military, in a civilian exercise raised concerns over the attempt to militarise and securitise a largely civilian process. It is unclear what necessitated the deployments, and the legal basis for it, which would define the limits of those so deployed.

The apparent overwhelming success of the CCM as declared does not portray the true picture of a popular mandate in view of the irregularities that can explain the diminished public participation. The dramatically reduced opposition party numbers (two seats) in the National Assembly, as well as the nomination of opposition leaders as special seat members to the legislature without the participation of their parties has challenged the viability of Tanzania as a plural, democratic society.

²⁵ Ibid.

CHAPTER FOUR

4. Post-Election Context

4.1 Political consolidation

After the declaration of election results, President Magufuli named his government, which had only two members from Zanzibar -- Vice President Samia Suluhu and the new Zanzibar President, Dr Hussein Ali Mwinyi. Significantly, NEC's nomination of 19 women members of the opposition Chadema party as Special Seats members of Parliament ran into headwinds after the party disowned the list and stripped them of membership.

Although the election results awarded Dr Mwinyi 76 per cent of the vote, he invited ACT-Wazalendo party leader Seif Sharif Hamad to join the Government of National Unity as Vice President. The rapprochement in Tanzania will doubtless reduce down political tensions and create opportunities for undertaking urgently needed governance reforms, but they leave the opposition in a weak position. Previous reconciliation efforts, especially in Zanzibar, have not delivered on reforms and concerns remain that political accommodation in the aftermath of putative elections could breed a culture of incumbent parties delivering defective elections in the expectation that they will offer to share the spoils of government with their dissatisfied opponents.

4.2 Role of security services in elections

Armoured police vehicles patrolled Pemba and Zanzibar Islands, where security forces reportedly shot and killed several civilians on claims of being aligned with the opposition. In the lead-up to the elections and days after, there was a heavy and intimidating police presence across Zanzibar. Police officers harassed and physically assaulted residents, who remained fearful of reporting such incidents since the perpetrators were the same people tasked with maintaining security.

Police reportedly used excessive force in trying to quell protests following the announcement of the election results. Government security forces and a government-aligned militia group, known as the 'Mazombi', were seen harassing and attacking people in Zanzibar during the elections and after. Scores of people were injured and nursing injuries after confrontations with the police in Zanzibar.

4.2.1 Loss of life

The 2020 elections were conducted in a challenging security environment. Between the election date and November 11, 2020, security forces killed at least 22 people. Opposition politicians and civil society groups accused security forces of using excessive force indiscriminately, including live ammunition, to disperse protesters who were demonstrating against the NEC declared election results in Zanzibar and on the mainland.

ACT-Wazalendo reported that nine (9) of its members had been shot and killed by police in Pemba. These killings allegedly took place on the eve of the elections. At the close of the elections, the party reported a further four (4) deaths, bringing the total toll of ACT Wazalendo members killed by the police on the archipelago to 13.²⁶ Inspector General of Police, Simon Sirro, however said that only three (3) people had lost their lives in Tanzania during the violence that followed the elections.²⁷

No known accountability measures have been instituted for these deaths and injuries in Tanzania and Zanzibar.

4.2.2 Arbitrary arrests

Throughout the election period, political parties reported arbitrary arrests, detention and attacks against their members. By November 2, 2020, Tanzania human rights monitors and lawyers representing political opposition parties reported over 300 people arbitrarily arrested by security forces.

There were at least 18 documented arrests of opposition party officials, leaders, and supporters. Before the elections, several opposition leaders had been arrested and detained without charge. Nassor Mazrui, ACT Wazalendo's Secretary General, was detained for 23 days. The party alleged that Mazrui had been abducted from his home at night and beaten. Later, the party claimed, the police accused him and 32 others of allegedly possessing devices that could interfere with the electoral system.

During the elections, police forcibly removed opposition leaders from polling stations

²⁶See, Briefing by Zitto Kabwe, Leader of ACT Wazalendo, 08 November, 2020 <https://www.actwazalendo.or.tz/briefing-by-zitto-kabwe-leader-of-act-wazalendo-08-november-2020>

²⁷ See, Police chief differs with opposition on number of people who died in October Polls, *The Citizen*, <https://www.thecitizen.co.tz/tanzania/news/police-chief-differs-with-opposition-on-number-of-people-who-died-in-october-polls-3204004>

in Kijiji, Kilindini, Kinuni and Kijichi areas.²⁸ Several opposition leaders and their supporters were arrested, interrogated and allegedly tortured for disputing the October 2020 election results. ACT-Wazalendo's Ismail Jussa was brutally assaulted by security forces during his arrest on October 29, 2020 while being interrogated.

Additionally, on November 1, 2020, police arrested Chadema chairman Freeman Mbowe, as well as party members Godbless Lema and Boniface Jacob. These arrests were made on the eve of protest demonstrations called by Chadema and ACT Wazalendo in response to alleged election rigging.²⁹ Among those arrested and later released included opposition presidential candidate Tundu Lissu, Zanzibar opposition presidential candidate Seif Sharif Hamad, and other opposition leaders, Zitto Kabwe, Freeman Mbowe, Godbless Lema, Lazaro Nyalandu, Isaya Mwita, Boniface Jacob, Nassor Mazrui and Ayoub Bakari.³⁰

Also arrested during the election period was Chadema opposition Member of Parliament Halima Mdee, and ACT Wazalendo official Hamad Masoud Hamad.

Party officials claimed that they had been denied access to their members who were arrested. ACT Wazalendo officials reported that they were denied access to all their detained party members.³¹

TEW issued statements condemning the arrests and called on the authorities to release all political prisoners.³²

4.2.3 Opposition in flight

Numerous opposition leaders expressed fears for their safety following the announcement of President John Magufuli as the winner of the Tanzanian elections.

The widespread arrest and detention of hundreds of people, prompting many opposition leaders and supporters as well government critics, and their families, to flee for their lives. Opposition leaders Tundu Lissu and Godbless Lema fled the country

²⁸ See, Tanzania: Repression Mars National Elections <https://www.hrw.org/news/2020/11/23/tanzania-repression-mars-national-elections>

²⁹ See, Tanzania: Repression Mars National Elections, HRW, <https://www.hrw.org/news/2020/11/23/tanzania-repression-mars-national-elections>

³⁰ Amnesty International report on Tanzania, 2020.

³¹ See, Briefing by Zitto Kabwe, Leader of ACT Wazalendo, 08 November, 2020 <https://www.actwazalendo.or.tz/briefing-by-zitto-kabwe-leader-of-act-wazalendo-08-november-2020>

³² See, Tanzania Elections Watch Panel of Eminent Persons Calls for Release of Arrested Opposition Leader <https://tanzaniaelectionswatch.org/2020/11/02/tanzania-election-watch-panel-of-eminant-persons-calls-for-release-of-arrested-opposition-leaders/>

after the October 28 election fearing state persecution.

International media reported the dramatic arrest of Tanzanian opposition leader and former Member of Parliament Godbless Lema by Kenyan authorities as he attempted to cross into the country with his wife and three children. He sought asylum in Kenya fearing for his life.³³ Similarly, Chadema presidential candidate Tundu Lissu was arrested, held briefly, and released as he sought asylum at the German Embassy. He reportedly feared for his life after alleging fraud in Magufuli's reelection.³⁴

4.3 Statements by the international community

Tanzania's 2020 elections were the most sparsely observed in the country's history. Only the East African Community and the Southern African Development Community deployed observation teams. Still, the United States, the Commonwealth, Canada, the European Union and Germany expressed deep concerns about reports of serious incidents of violence and electoral malpractice, Internet disruption and the absence of a level playing ground for all political parties. The East African Community's mission endorsed the electoral process as credible while SADC congratulated President Magufuli on a resounding electoral victory without addressing any of the concerns raised by other observers. The Electoral Institute for Sustainable Democracy in Africa (EISA) enumerated the following problematic areas:

- a) Access to election information by voters, political parties and other stakeholders: Limited televised access to parliamentary proceedings, restrictions on freedoms of the media and internet restrictions during the voting process are all examples of ways in which information was limited during the 2020 electoral period.
- b) The arrest and detention of significant numbers of opposition candidates, party leaders and members of the press fearing that these actions created an atmosphere of tension and fear, which was regrettable.
- c) The instability, general insecurity and loss of life due to election-related violence, particularly in Zanzibar.
- d) The decision not to accredit established civil society organisations to support

³³ See, Kenya must not deport fleeing opposition Tanzanian MP and his family <https://www.amnesty.org/en/latest/news/2020/11/kenya-must-not-deport-fleeing-opposition-tanzanian-mp-and-his-family/>

³⁴ See, Tanzania Elections Watch Panel of Eminent Persons Calls for Release of Arrested Opposition Leader <https://tanzaniaelectionswatch.org/2020/11/02/tanzania-election-watch-panel-of-eminent-persons-calls-for-release-of-arrested-opposition-leaders/>

NEC and ZEC efforts to promote voter and civic education, as well as limited evidence of national voter education campaigns likely impacted on the familiarity of voters, polling staff and polling agents with the electoral rules and procedures on Election Day.

At the time, the Panel of Eminent Persons of the Tanzania Elections Watch was similarly concerned about the continued detention of various opposition leaders throughout Tanzania. The arrests of many leaders pointed to a declining respect for civil liberties in the country, in contravention of national and international law.

TEW was also concerned about the charging of several opposition party members and leaders throughout the country with economic crimes. The shooting in broad daylight of a local opposition party leader Zanzibar threw the country into a fearful post-election environment that risked undermining Tanzania’s democratic aspirations.

Notwithstanding the shortcomings of the elections, Kenya, Uganda, Burundi, Namibia, South Africa, Zimbabwe and South Africa congratulated Tanzania on successful elections. The African Union, in its statement encouraged all actors to address any electoral disputes through the established legal and institutional architecture for dispute settlements, while preserving peace and stability. However, the recommendation that Tanzania changes its constitution to allow for the electoral disputes to be canvassed through the courts has not been implemented.

Table 4.1: Select statements from the international community

| Country/Organisation | Comments |
|-----------------------------|--|
| United States of America | The US Ambassador to Tanzania, Donald J. Wright: “... we remain deeply concerned by credible reports of significant and widespread voting irregularities, internet interruption, arrests, and violence by security forces both in mainland Tanzania and on Zanzibar. These irregularities call into question Tanzania’s commitment to democratic values. While the Tanzania Election Commission declared President Magufuli on October 30 as the winner of the presidential contest, we remain deeply troubled by the impact of these |

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| | irregularities and violence on the results.” ³⁵ |
| Commonwealth | “By turning out to vote on 28 October, the people of Tanzania once again placed their hope in our shared values of democracy. I laid them for their unwavering commitment. However, I am deeply concerned by reports alleging serious incidents of violence and electoral malpractice. I urge the relevant authorities to transparently and expeditiously conduct the necessary investigations and ensure the rule of law, justice and accountability prevail, in order to maintain the people of Tanzania’s confidence in democracy.” ³⁶ |
| Canada | “Canada urges calm and renewed efforts at inclusion and reconciliation underpinned by respect of human rights and fundamental freedoms. We call upon all political leaders to engage in constructive dialogue.” |
| European Union | Election day was well organized and peaceful in many parts of the country. Nonetheless, the European Union (EU) notes with regret the disruption of social media before, on and after election day, claims of opposition candidates that they did not benefit from a level playing field during the electoral process, as well as the limited possibilities for electoral observation. Reports of irregularities in some districts are also raising concern. These serious allegations have an impact on the transparency and overall credibility of the process. They should be processed through legal means of redress. |

³⁵ See, Statement from the U.S. Embassy on Tanzania's elections. <https://twitter.com/usembassytz/status/1321839816124846092>

³⁶ See Statement by the Commonwealth Secretary General on Tanzania elections <https://thecommonwealth.org/media/news/statement-commonwealth-secretary-general-2020-general-elections-united-republic-tanzania>

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| | In Zanzibar, tensions were reported, with deadly violence, including allegations of excessive use of force by State organs. The EU hopes that it will be possible to lay the foundation for a sustainable reconciliation between all stakeholders, in order to contribute to long-lasting peace and stability in the archipelago |
| Japan | “I am troubled by the information of widespread irregularities and wrongdoings during the recent election process in this country. I am convinced that sound democracy, based upon a multiparty system, works best to contribute to further development and prosperity in Japan.” |

Table 4.2: Statements from African countries and regional bodies

| Country/ Organisation | Statement |
|---|---|
| East African Community (EAC) | “Generally, the Mission is of the view that the Election process was conducted in a credible manner.” ³⁷ |
| Southern African Development Community (SADC) | “On behalf of SADC, and indeed on my own behalf, I wish to take this opportunity to once again, commend the President-Elect of the United Republic of Tanzania, Dr, John Pombe Magufuli on his resounding electoral victory and wish the incoming government a peaceful and successful term in office.” ³⁸ |
| Electoral Institute for | “...Access to election information by voters, political |

³⁷ See, East African Community Observer Mission Statement on Tanzania Elections, <https://www.eac.int/statements/1892-preliminary-statement-by-the-head-of-the-eac-election-observer-mission-to-the-united-republic-of-tanzania-general-elections,-2020>

³⁸ See, Southern Africa Development Community Statement on Tanzania Elections, <https://www.sadc.int/news-events/news/statement-his-excellency-dr-mokgweetsi-eric-keabetswe-masisi-president-republic-botswana-and-chair-sadc-organ-politics-defence1/>

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| <p>Sustainable Democracy in Africa (EISA)</p> | <p>parties and other stakeholders: Limited televised access to parliamentary proceedings, restrictions on freedoms of the media and internet restrictions during the voting process are all examples of ways in which information was limited during the 2020 electoral period.³⁹</p> <p>The arrest and detention of significant numbers of opposition candidates, party leaders and members of the press. While the IRON supports the upholding of the laws of Tanzania, the effect of these arrests in creating an atmosphere of tension and fear is regrettable.</p> <p>The instability and loss of life due to election related violence, particularly in Zanzibar, is of grave concern to the IEOM, who once again appeals for calm and orderly conduct by all stakeholders to allow the electoral process to conclude without further loss of life or serious injury.</p> <p>The decision not to accredit established CSOs to support NEC and ZEC efforts to promote voter and civic education, as well as limited evidence of national voter education campaigns likely impacted on the familiarity of voters, polling staff and polling agents with the electoral rules and procedures on election day.”</p> |
| <p>African Union (AU)</p> | <p>“The Chairperson further encourages all actors to address any electoral disputes through the established legal and institutional architecture for dispute settlements, while preserving peace and stability.</p> <p>The Chairperson extends his gratitude to His Excellency Goodluck Jonathan, former President of the Federal Republic of Nigeria, for leading the African Union Election Expert Mission which observed the conduct of</p> |

³⁹ See, EISA Preliminary Statement on Tanzania Election <https://s3-eu-west-1.amazonaws.com/s3.sourceafrica.net/documents/120793/EISA-Preliminary-Statement-Tanzania-2020-General.pdf>

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| | the elections in Tanzania.” ⁴⁰ |
| EFF | “It is high time that the African Union holds leaders of governing political parties liable for loss of life every aftermath of elections in Africa and immediately activate the African Court on Human and Peoples Rights before the West(ern) imperialists (send) these genocidal African leaders to The Hague.” ⁴¹ |
| Kenya | “On behalf of the People and the Government of the Republic of Kenya and on my own behalf, I congratulate you, my brother, Dr John Pombe Magufuli on your election victory and that of your party, Chama Cha Mapinduzi, in the just concluded election. Your re-election is a demonstration of the love, respect and admiration Tanzanians have for you and your administration, and is an endorsement of your plans for the future prosperity of your country. Your re-election is a demonstration of the love, respect and admiration Tanzanians have for you and your administration, and is an endorsement of your plans for the future prosperity of your country. We in Kenya look forward to continue working with your Administration for the benefit of the people of our two nations, for the prosperity of the East Africa and for the peace, stability and growth of the African continent,” ⁴² |

⁴⁰ See, African Union Statement on Tanzania Elections, <https://au.int/en/pressreleases/20201104/chairperson-african-union-commission-congratulates-president-magufuli>

⁴¹ See Economic Freedom Fighters Statement (EFF) on Tanzania Elections, <https://twitter.com/SuphianJuma/status/1323553411330170880>

⁴² See, Kenya’s President Uhuru Kenyatta message to President Magufuli on his election victory <https://www.president.go.ke/2020/10/31/president-kenyatta-congratulates-tanzanias-john-magufuli-on-his-re-election/>

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| Uganda | <p>“Congratulations to His Excellency @MagufuliJP [Magufuli] and Chama Cha Mapinduzi Party on the resounding victory in the just-concluded elections,” Museveni posted on his Twitter handle on Saturday. “Uganda looks forward to working even more closely with you and the people of Tanzania to deepen our social, economic, and political ties. Hongera”</p> |
| Namibia | <p>“I wish to congratulate my dear brother, President John Pombe Magufuli on his re-election as President of the United Republic of Tanzania. We have since independence consolidated our partnership to respond to changing demands of our people. I look forward to working with President Magufuli as we harness opportunities for the shared prosperity of our people, the development of our sister countries and the entire SADC region ”⁴³</p> |
| Zimbabwe | <p>"Congratulations to (President) Magufuli on his re-election victory as the President of Tanzania. I know that through increased trade and cooperation between our two nations, both of our peoples will prosper".</p> |
| Burundi | <p>“On behalf of my people and my own behalf, I extend to President Magufuli my heartfelt and warmest congratulations for his reelection. I congratulate the People of Tanzania who decided their future in peace and displayed their democratic maturity.”</p> |
| South Africa | <p>“We offer our congratulations to Dr John Pombe on his election as the president-elect of the United Republic of Tanzania. We commend the people of Tanzania for upholding democratic principles and holding peaceful</p> |

⁴³ See Namibian President Hage G. Geingob statement on President Magufuli’s win <https://www.facebook.com/NamibianPresidency/posts/president-hage-g-geingob-extends-congratulatory-message-to-he-dr-john-pombe-magu/3309888189122621/>

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| | <p>elections. We look forward to working with Dr Magufuli to strengthen the strong and cordial bilateral relations that exist between South Africa and Tanzania, as well as in matters of mutual interest in the Southern African Development Community Region, the African continent and the world.”⁴⁴</p> |
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⁴⁴ South African President Cyril Ramaphosa congratulates John Pombe Magufuli, <https://www.gov.za/speeches/president-cyril-ramaphosa-congratulates-dr-john-pombe-magufuli-president-elect-united>

CHAPTER FIVE

5. Findings

This chapter examines Tanzania’s 2020 elections against the universal democratic standards to which the country has committed. It also analyses the major electoral complaints against critical actor responses, and also examines the role of regional communities in improving election contexts.

5.1 Tanzania’s elections on a democratic scale

The Constitution of Tanzania, 1977; and the National Elections Act, 1985, primarily provide the legal framework for conducting elections in Tanzania. In Zanzibar, the main instruments for conducting elections are the Constitution of Zanzibar, 1984; and the Elections Act, 1984. Tanzania is a party to a series of international and regional instruments regulating the conduct of democratic elections. These include: The Universal Declaration of Human Rights; The International Covenant on Civil and Political Rights; Convention on the Elimination of All Forms of Discrimination against Women; African Charter on Human and Peoples Rights; African Union Declaration on the Principles Governing Democratic Elections in Africa; African Charter on Democracy, Elections and Governance; The Treaty Establishing the East African Community; Treaty of the Southern African Development Community (SADC); and the SADC Principles and Guidelines Governing Democratic Elections.

Table 5.1: Tanzania elections through the lens of universal principles governing democratic elections

| No. | Principles and Guidelines for Democratic Elections | Tanzania Elections Context, 2020 |
|-----|---|--|
| | <i>Constitution of Tanzania, 1977; Constitution of Zanzibar, 1984</i> recognize freedoms of movement, assembly, association and expression, and the right to protection from discrimination | Between June and September 2020, police arrested at least 17 opposition party members; blocked major rights groups from observing the elections; and imposed restrictions on the media including an Internet shutdown. |

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| | <p>Article 21 of the <i>Universal Declaration of Human Rights</i> enjoins member states to guarantee the right of citizens to participate in governance either directly or through chosen representatives, and the will of the people to be expressed in periodic and genuine elections.</p> | <p>Since the transition to multi-party politics in 1995, Tanzania has held regular elections every 5 years that allow for people to participate in governance. Political opposition however rejected results announced by the NEC alleging that the 2020 elections had numerous irregularities.</p> |
| | <p>Article 25 of the <i>International Covenant on Civil and Political Rights</i> enjoins every citizen to take part in the conduct of public affairs.</p> | <p>The opposition faced difficulties organizing public rallies and internal party meetings. CSOs, media faced difficulties in freely going about their (election) work.</p> |
| | <p>Article 7 of the <i>Convention on the Elimination of All Forms of Discrimination against Women</i> enjoins state parties to eliminate discrimination against women in the political and public life of the country.</p> | <p>About 50.33% of the total number of voters in the 2020 election was female. In addition, there was a notable increase in women participation in constituency elections from 10% in 2015 to 15% in the 2020 elections.</p> |
| | <p>Article 13 (1) of the <i>African Charter on Human and Peoples Rights</i> enjoins member states to ensure that every citizen has the right to participate freely in the government.</p> | <p>The election exercise was legally non-discriminatory, for voters and candidates. NEC and ZEC updated the Permanent National Voters Register (PNVR) between 17 April 2020 to 4 May 2020. All political parties nominated candidates for the various elective seats for</p> |

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| | | the 2020 elections. |
| | Principles II and III of the <i>African Union Declaration on the Principles Governing Democratic Elections in Africa</i> emphasise democratic elections as the basis of the authority of any representative government. | The political environment in which the 2020 elections took place was less open and less tolerant than previous elections in Tanzania, including the limitation of political campaigning, freedom of assembly, freedom of speech and freedom of expression. |
| | Article 17 of the <i>African Charter on Democracy, Elections and Governance</i> , state parties reaffirm their commitment to hold transparent, free and fair elections. Article 6 and 7 of the <i>Treaty Establishing the East African Community</i> enjoins member states to adhere to the fundamental principles of good governance. | Tanzania has not ratified the ACDEG. Election stakeholders including opposition political parties and CSOs expressed concern about the transparency, freeness and fairness of the 2020 Tanzania electoral process. |
| | The <i>Treaty of the Southern African Development Community (SADC)</i> outlines the basic principles as: human rights, democracy, and the rule of law. | Legal provisions of the electoral process were adhered to. However, Tanzania does not have a provision to allow for the challenge of presidential elections results. |
| | Equal opportunity for all political parties to access the state media and access to and integrity of the voter's roll | The ruling CCM dominated state media. Opposition political parties accessed the voters' roll at the last minute. |
| | Independence of the judiciary and | Mandates of judicial and electoral institutions are clearly |

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| | impartiality of the electoral institutions | stipulated in the Constitution and other laws. In the 2020 election, the Judiciary was perceived as independent while NEC and ZEC were not. |
| | <i>Acceptance and respect of the election results</i> by political parties proclaimed to have been free and fair by the competent national electoral authorities in accordance with the law of the land | The opposition refuted the 2020 presidential election results alleging various electoral malpractices. |
| | Civic and voter education | This was reportedly inadequate. The NEC and non-state actors including media and NGOs provide civic and voter education. |

5.2 Recommendations from previous engagements

When the Africa Peer Review Mechanism conducted a governance review in Tanzania in 2013, it identified “serious flaws and cracks” in the constitutional and political framework for competitive party and electoral politics as well as pluralism.

The role of the National Electoral Commission and the Zanzibar Electoral Commission was seen as being problematic for political pluralism because of their “fusion with the ruling party”. The review cited provisions in the Political Parties Act, 1992, for having “discouraged initiatives by opposition parties to form electoral alliances and contest elections as a unified bloc”. It was subsequently recommended that the institutional capacity and independence of democracy-promoting institutions such as the election management bodies and the Registrar of Political Parties be enhanced.

The repeal of legislation ousting courts from jurisdiction over results declared by NEC was considered desirable, as was the comprehensive review of the electoral law and related legislation on competitive politics to strengthen multiparty politics. The APRM panel also recommended a modification of the first-past-the-post electoral system, to

accommodate elements of a proportionality system in order to broaden and diversify parliamentary representation and improve governance.

Although the Tanzania government agreed with these recommendations, it proposed to include them in constitutional review, which has been stalled for years.

The Treaty for the Establishment of the East African Community (EAC) in Article 6 (d) on the fundamental principles of the Community -- promotes good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and people's rights. This is in accordance with the provisions of the African Charter on Human and Peoples' Rights. Other principles include the EAC Principles of Election Observation and Evaluation; and the South African Development Community (SADC) Principles and Guidelines Governing Democratic Elections. For example, in Section 7.4 of the SADC Principles and Guidelines governing democratic elections require member states to safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression and campaigning as well access to the media on the part of all stakeholders during the electoral process.

More recently, Commonwealth-mediated negotiations between CCM and the opposition in Zanzibar have produced three agreements -- Muafaka I, Muafaka II and Maridhiano -- whose reform agenda have not been implemented.

5.3 Role of regional bodies and the international community

The African Union, the East African Community, the Southern Africa Development Community, the Commonwealth and the European Union have been common players observing previous Tanzania elections. However, given the Covid-19 pandemic context within which the 2020 elections were conducted, many institutions did not deploy physical election observation missions to Tanzania.

Tanzania is a member of the EAC and SADC regional blocs. The EAC deployed an election observation mission to Tanzania on October 21, 2020 headed by former Burundian President Sylvestre Ntibantunganya. In its preliminary statement, the EAC endorsed the October 28 elections as having been conducted in a credible manner. EAC's approval of the election was significantly at variance with the findings of other

regional and international organisations that followed the election closely.⁴⁵ The Electoral Institute for Sustainable Democracy in Africa (EISA), a South African-based elections think tank, challenged the manner in which the elections were organized and conducted.⁴⁶ The African Union had, until the release of this report, not officially issued its findings on the Tanzania election.

SADC did not deploy a physical Electoral Observation Mission. Instead, it held a series of virtual engagements with key electoral stakeholders in preparation for the election due to the restrictions imposed by the Covid-19 pandemic. Following the election, the chairperson of the SADC Organ on Politics, Defence and Security Cooperation, Botswana President Mokgweetsi Masisi, called for a peaceful post election environment amid rising tensions. SADC called upon Magufuli's government to closely engage all actors in democracy, governance and politics with a view to implementing reforms aimed at improving political engagement and sustaining democracy in Tanzania.

The United Nations, the European Union and the United States released statements that expressed concern about the conduct of the October 28 elections. They noted credible reports of significant and widespread voting irregularities, Internet interruption, arrests, and violence by security forces in mainland Tanzania and Zanzibar. The international community noted that election irregularities could trigger violence as well as refusal to accept the election results. It further urged Tanzanian authorities to investigate allegations of irregularities and violence by security forces and ensure that all political actors had access to legal institutions to peacefully address electoral disputes. The US specifically warned of a potential for visa restrictions as a way of holding to account those found to be responsible for human rights abuses and interference in the electoral process.

5.4 Conclusions

The 2020 General Election was one of the most competitive in the history of multiparty

⁴⁵ East African Community Election Observer Mission to the United Republic of Tanzania general Elections, 2020 Preliminary Statement: <https://www.eac.int/statements/1892-preliminary-statement-by-the-head-of-the-eac-election-observer-mission-to-the-united-republic-of-tanzania-general-elections,-2020>

⁴⁶ EISA Election Observation Mission to the 2020 General Elections in Tanzania, Preliminary Statement: <https://s3-eu-west-1.amazonaws.com/s3.sourceafrica.net/documents/120793/EISA-Preliminary-Statement-Tanzania-2020-General.pdf>

politics in Tanzania. It drew wide international interest especially coming at a time when there was a democratic roll back and rise in human rights issues in the previous five years. The National Electoral Commission (NEC) announced that the voter turnout was 50.72% -- down from the previous 67.34% in 2015.

The lack of transparency, repressed stakeholder engagement and accountability deficits in the general management of the electoral process detracted from the overall quality of the elections.

5.4.1 Independence of election management bodies

The independence of NEC and ZEC has been a sore point in all the previous elections in Tanzania. Ahead of the 2020 elections, opposition parties, human rights organisations and religious institutions expressed concerns about the integrity of the election management bodies stemming from appointment of their members to funding. During the final campaign rallies, opposition political parties claimed that the EMBs had discredited the elections by disqualifying their candidates or halting their campaigns. NEC and ZEC did not meet the basic standards for the administration of justice in hearing appeals challenging the disqualification of election candidates. There were significant delays in issuing decisions -- with some coming less than three weeks to Election Day -- which were not accompanied by written, reasoned rulings. The appeals process violated the basic tenets of natural justice, including circumventing the right of the candidates to be heard. Further, NEC did not adequately investigate and respond to complaints about the certification of opposition polling agents.

The reluctance of NEC and ZEC to provide regular information and updates to the public and stakeholders on preparations for the elections created an atmosphere of limited transparency that did not inspire the confidence of opposition political parties and other stakeholders. In this environment of deep mistrust and suspicion, the election management bodies could not deliver a credible and impartial election.

5.4.2 Free expression of the people's will

Only half of the people who registered to vote cast their ballots in the 2020 elections. It was the lowest voter turnout in the electoral history of Tanzania. While it is difficult to attribute the low voter participation to a single factor, the state's refusal to mitigate public safety fears in the face of the Covid-19 pandemic cannot have encouraged robust civic spiritedness around elections.

The prevailing political culture in the country had signalled state intolerance to dissent

by targeting opposition leaders. The declaration by the National Electoral Commission of 28 candidates -- over 10 % of the National Assembly -- as having been elected even before Election Day not only denied the public voice but also indicated that such a voice was unlikely to have any meaningful effect. Further, the crackdown on opposition political activity denied voters the full panoply of choices available to them in the 2020 elections and obviated their need to vote.

5.4.3 Elections free from violence, intimidation or bribery

Significant security challenges were evident around the 2020 elections, particularly because of the high-handed approach State security agents adopted in executing their mandate. Arbitrary arrests, unlawful detention, sexual violence, outright intimidation of opposition candidates, agents and supporters and violence against women raised questions on the role of security services in elections. The conduct of the security services created a climate of fear prior to, during and after the election.

Police arrested opposition politicians Halima Mdee and Upendo Peneza on Election Day but later released them. The heavy presence of armed security personnel was not only intimidating and provided a visible threat of violence.

The deployment and participation of the military and civilian process as witnessed in Zanzibar was highly irregular, as was the reported presence of uniformed foreign security agencies in Zanzibar. These actions not only created an insecure electoral environment but delivered an invoice of injuries and deaths.

The looming presence of the Tanzania Communications Regulatory Authority cowed the media from providing balanced and accurate reportage of the 2020 elections despite the existence of a self-regulatory code of conduct for journalism. Restrictions on mainstream media forced citizens to fall back on social media as an alternative source of information and as a forum for self-expression -- with the attendant perils of disinformation, propaganda and unverifiable claims.

The July 17, 2020 enactment and subsequent enforcement of the Electronic and Postal Communications (Online Content) Regulations circumscribed citizens' freedom to seek and exchange information during elections. The regulations outline a list of prohibited online content, including organising, planning and supporting online protests, whose publication attracts penal sanctions.

TCRA shut down the Internet on the eve of the elections, as well as on Election Day, greatly hampering access to information and communication. Citizens individual rights of freedom of expression were curtailed, as was evident in the case of Sheikh Ponda

Issa Ponda, the secretary of the Islamic Council in Tanzania, who was arrested on July 11, 2020 at his Bungoni office in Dar es Salaam for allegedly circulating content that was deemed to be inciting, and breaching the peace. He was detained in police custody for 10 days and released without charge.

5.4.4 Election credibility and verifiability

The people of Tanzania, their political parties and candidates ran a fairly competitive campaign despite significant limitations and setbacks. TEW's overall assessment of the election was that it marked the most significant regression of democracy in the country's democratic growth. The demonstrable lack of transparency, absence of comprehensive stakeholder engagement and accountability deficits in the general management of the electoral process undermined the credibility of the outcome.

The pre-election period featured considerable restrictions on the free operation of civil society, triggered by the Written Laws (Miscellaneous Amendments) Act, 2019, as well as the Political Parties (Amendment) Act, 2019, which criminalised civil society mobilisation for political causes. Civil society organisations were required to obtain approval from the Registrar of Political Parties before providing capacity building for political parties. The enforcement of the Non-Governmental Organisations Act and its attendant regulations made it impossible for civil society to engage meaningfully in the electoral process.

Election observation is critical to assuring the credibility and verifiability of an election, and the absence of sufficient and credible observation missions had an overall negative impact on the credibility of the elections.

The Treaty for the Establishment of the East African Community (EAC) in Article 6 (d) on the fundamental principles of the Community -- promotes good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and people's rights in accordance with the provisions of the African Charter on Human and Peoples' Rights. Other principles include the EAC Principles of Election Observation and Evaluation; and the South African Development Community (SADC) Principles and Guidelines Governing Democratic Elections. For example, in Section 7.4 of the SADC Principles and Guidelines governing democratic elections require member states to safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression and campaigning as well access to the media on the part of all stakeholders during the electoral process.

Tanzania's legal and constitutional framework is limited in failing to provide scope for legal recourse in the event of electoral disputes. Electoral disputes and conflicts pose a significant threat to justice and the rule of law in the country. The absence of robust institutions and mechanisms for electoral dispute resolution at the subnational and national level exposes Tanzania to the risk of protracted conflicts, such as have been witnessed among some of its neighbours.

Based on these international standards for holding free, fair, participatory, transparent, accountable and credible elections, it is not possible to affirm Tanzania's elections as free, fair or credible. TEW's overall assessment is that the 2020 General Election marked the most significant regression of democracy in the country.

5.5 Recommendations

5.5.1 Election management bodies

The lack of independence of both NEC and ZEC has been a subject of debate for a long time now. International instruments such as the African Charter on Elections, Democracy and Governance (ACEDG) set the benchmarks for assessing the independence of elections management bodies on the continent. EMBs should be secured constitutionally, the selection and appointment procedures for commissioners made inclusive, and their impartiality supported. They should also retain the authority to independently appoint their secretariat.

One way to enhance the independence of EMBs in Tanzania would be for inter-party parliamentary committees to nominate names of NEC/ZEC commissioners and propose them to Parliament for approval before appointment by the President.

Alternatively, as per the recommendations from the stalled constitutional review process, the commissioners should be recruited through an independent application process, and vetted by a selection committee before appointment by the President. The appointment of the chairman of the electoral management body, its Director of Elections, and Commissioners should be approved by Parliament.

Whatever path is chosen, a system is urgently required with mechanisms to ensure integrity and impartiality of the EMBs through a transparent and competitive system of selection, checks and balances through popular approval of appointments, plus effective oversight over their activities. The system should also guarantee factors for the management of elections in a free and fair manner, including the appointment and control of all election staff; adequate and timely funding, as well as control over

disbursal of funds; the timely enactment or amendment of election laws; and the absence of fetters over independence of decision making.

EMBs in Tanzania still rely on local government staff, whose posture is to act in anticipation of the desires of the ruling party. The EMBs should receive increased funding to enable them to hire their own staff.

NEC and ZEC criteria for disqualifying candidates came under the spotlight in the 2020 elections. Most opposition candidates were disqualified on petty and frivolous grounds. The appeals process was also not comprehensive. The disqualification of opposition candidates violated Tanzania's Constitution, which provides an opportunity for every citizen to take part in matters pertaining to the governance of the country. International norms also emphasize the centrality of citizens and popular participation with the aim of strengthening democracy and fostering good governance. NEC and ZEC should establish proper mechanisms to hear appeals and provide comprehensive reasons for disallowing such appeals.

At various points of the campaign, NEC and ZEC barred candidates -- including two opposition presidential candidates -- for breach of election regulations. TEW urges NEC and ZEC to avoid unnecessary distraction of the campaigns and accord equal treatment to all candidates and parties.

Clear guidelines should be established for election agent selection, vetting and swearing in -- with clear timelines and in keeping with international and regional human rights standards.

The procurement process for ballot papers and other material was not subjected to the necessary scrutiny and did not draw on stakeholder participation. NEC and ZEC should publicize public interest information, including voting and tallying processes, to shore up the credibility, transparency and verifiability of elections.

A number of critical domestic observer groups that sought accreditation were locked out. NEC and ZEC should allow all independent observers to freely carry out their monitoring work on the electoral cycle in Tanzania.

5.5.2 State security agencies

The provision of security during campaigns and polling should be the responsibility of the National Electoral Commission and the Zanzibar Electoral Commission. Police seconded to the electoral management bodies should only be deployed to keep law and order, and intervene only where threats to peace are apparent. Any police intervention should be proportionate to the threats.

The conduct of the state security agencies in the 2020 elections was neither impartial nor in keeping with democratic practice. On their own, state security agencies must demonstrate professionalism and impartiality in providing safety and security services to election stakeholders during the electoral cycle.

It is imperative for security agencies to uphold the protection of human rights during the electoral cycle. In instances of electoral malpractice and offences, individual agents and their commanders should be held to account.

Security agencies should carry out their duties so as to effectively respect and promote the rights of people to freely express themselves and to freely assemble, and desist from arbitrary arrest and harassment of members of the opposition. The heavy presence of state security agents during and after the election was seen as a form of harassment and intimidation of voters.

TEW recommends that there should not be heavy deployment of their forces during elections. The deployment of security agents, especially the military, in elections strips a civilian exercise of democratic control of the state of free will and needs to be eschewed. Where the deployment of security agents is clearly justified in situations anticipated by law, a robust accountability framework must be in place for holding each officer to account for their actions.

5.5.3 Regulation of communication

Freedom of information and the Media is crucial for democracy. All laws and regulatory measures that have the effect of interfering with this freedom should be repealed unless those that can strictly pass the test of being necessary and justifiable in a democratic society.

While TEW appreciates the critical role of the Tanzania Communication Regulatory Authority as a key government agency, its involvement in the country's democratic roll back especially in the lead-up to, during and after election left a lot to be desired.

TCRA suspended, banned and gave fines to various media outlets during the electoral cycle. This negatively impacted the electoral integrity and credibility. The ban of bulk SMS communication on the eve of elections, the Internet throttle during the election was a violation of the constitutionally guaranteed right of access to information as enshrined in Article 3 of the Tanzanian constitution. TEW recommends that TCRA should work with utmost impartiality and integrity so as to ensure that people express themselves freely within the confines of domestic and international laws.

5.5.4 The Tanzania government

TEW recommends that the government should ensure that the legal framework for election management is consolidated, streamlined and consistent, providing for inherent judicial mechanisms for election dispute resolution at different levels; and to respect and adhere to the various international treaties and regional standards to which Tanzania is a party.

TEW recommends that the government, through its institutions, should promote the strengthening of Tanzania's democratic arrangements. It should revive the stalled constitution review process and move towards a new and progressive constitution.

A new constitutional dispensation should have legal frameworks that provide for the possibility to challenge presidential election results in court for the Union and Zanzibar. This will be in keeping with international principles for democratic elections entrenched in the International Covenant on Civil and Political Rights (ICCPR).

5.5.5 Political parties

Political parties should work towards consolidating democratic practice by utilizing dialogue opportunities with NEC and ZEC to challenge and resolve election grievances in a peaceful and consensual manner.

Parties should adhere to the electoral codes of ethics and election regulations. During campaigns, political parties should avoid divisive rhetoric and hate speech. They should promote a culture of tolerance and uphold the values of peace and unity. Parties should reprimand, and take action against, members and supporters who violate the election codes and regulations.

Political parties should increase the participation of women and other special interest groups such as youth and persons with disabilities in keeping with constitutional provisions to allow for effective participation.

5.5.6 International community

The international community constitutes an integral part in the elections. It is aware that democracy, the Rule of Law and protection of human rights are essential preconditions to support any processes designed for human development. Therefore, they should commit to supporting all action towards conformity with international standards. It is in this way that a continuation of partnerships with the Tanzania State can be rationalised.

Tanzanian authorities need to be encouraged to adhere to their democratic and human

rights mandate and obligations under international law. Tanzanian citizens and institutional actors also require support in addressing the transitional justice issues related to the 2020 elections.

Specifically, the African Union needs to review its strategy of deploying expert missions rather than observers to elections. Observers are obliged to publish their findings and recommendations, but no such burden is imposed on expert missions beyond filing a report to the AU structures. Such reports may not be available to the citizens whose rights they discuss. Serious consideration must also be given to the dealing with the emerging culture where observer reports are not considered and recommendations ignored. Observation reports need to become a tool for calling impunity.

5.5.7 Citizens and civil society

Citizens and civil society organisations should work together to advocate for implementation of the recommendations of observation missions.

Citizens and civil society groups should advocate electoral and constitutional reform. Constitutional and legal reform to expand political space and channels for electoral justice, including participation of special interest groups like women, youth and persons with disabilities, must feature back on the public agenda.

Additionally, they should pursue electoral justice for human rights violations that occurred during the election period.

ANNEX I

Panel of Eminent Persons

| Member | Country | Position | Brief Profile |
|----------------------------|----------|----------|--|
| Prof. Fredrick Ssempebwa | Uganda | Chair | Former Chairman of the Uganda Constitutional Review Commission. |
| Ms. Alice Mogwe | Botswana | Co-Chair | Current President of the International Federation for Human Rights (FIDH) since her election in October 2019. |
| Hon. Justice Willy Mutunga | Kenya | Co-Chair | Former Chief Justice of Kenya and currently as Commonwealth Special Envoy to the Maldives. |
| Ms. Alice Wairimu Nderitu | Kenya | Panelist | A Kenyan armed conflict analyst and mediator, educator and author. |
| Ms. Kaari Betty Murungi | Kenya | Panelist | A peace and justice advocate. She served as Vice Chairperson and Commissioner to the Kenya Truth Justice and Reconciliation Commission (2009-2010) |
| Prof. Chaloka Beyani | Zambia | Panelist | Associate Professor of International Law in the Law Department at the |

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| | | | | London School of Economics (LSE) since 1996. |
| | Hon. Dan Wandera Ogalo | Uganda | Panelist | Former member of the Constituent Assembly of Uganda; a former Member of Parliament in Uganda and in the East Africa African Legislative Assembly |
| | Mr. David Makali | Kenya | Panelist | A distinguished advocate of press freedom with over 27 years experience in media civil society advocacy. |
| | Prof. Frederick Jjuuko | Uganda | Panelist | An advocate and Professor of Law and Jurisprudence. He was one of the experts from Uganda and Kenya that that reviewed and made proposals on the Proposed Constitution of Tanzania and presented their findings to the Warioba Committee in 2015 |
| | Justice Lydia Mugambe | Uganda | Panelist | A Judge of the High Court in Uganda. She formerly worked with the United Nations International Criminal Tribunal for Rwanda (UNICTR) in Arusha, Tanzania in the |

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| | | | | Chambers and Appeals and Legal Advisory Division. |
| | Hon. Dr. Miria Matembe | Uganda | Panelist | A proponent for and an advocate of women's rights in Uganda. A former Member of Parliament in Uganda and at the Pan African Parliament. |
| | Hon. Zein Abubakar | Kenya | Panelist | A committed pan-Africanist and a former Member of Parliament in the East African Legislative. |

ANNEX II

Observer Questionnaire

Your name:

Polling station name and number:

Name of NEC/ZEC returning officer:

Province:

1. What time did the polling station open?

2. Were the agents from all political parties present at the polling station?

If yes, name them and political party

If no, do you know why?

3. Number of registered voters in that polling station

4. Did you see the ballot boxes before voting began?

If yes, describe them

If no, why?

5. Did you see the ballot paper before the voting began?

If yes, did you see all candidates on the ballot? Describe the ballot paper -- colour? All candidates were there? Special features?

How many security officers were present at the polling station?

Describe their conduct throughout the day

6. What Covid-19 measures were put in place?

A place for washing hands?

Social distancing?

Hand sanitizers?

Gloves?

Temperature measuring devices?

Any other?

7. Were there NEC/ZEC officials to help the elderly, physically challenged (deaf, blind, dumb, etc.)? How were they assisted to vote?

8. Describe the general voting process:

Approximate time for one person to vote?

Was there privacy while voting?

Did you see anyone interfering with voters? If yes, in what way?

9. What time did the last person vote?

10. What time was the polling station closed?

11. Were there people at the polling station who were sent away without voting?

How many?

By who?

Why?

12. Describe the process after voting ended:

Were the votes counted?

Were all political party agents present?

What was the number of all votes cast? Spoilt votes? Votes for top 3 candidates?

Did the officials announce the winner?

Did you confirm that it was the person with most votes?

Did you see the tallying form? Were all agents given a copy of the tallying form?

What time was the winner announced?

Did you observe the election officials sealing the ballot boxes after counting and announcing ended?

13. Was anyone at the polling station beaten, assaulted, arrested or disrupted in any way?

Who?

How many?

By whom?

Action taken by election officials or police?

14. Did you observe any bribing or canvassing or any influencing of voters at or around the polling station? Explain

15. Did you observe anyone interfering with ballot boxes at any point during the voting process? Explain

16. Any other observations?

ANNEX III

Panel of Eminent Persons' Engagement Matrix

| Statement | Date | Addressee | Summary of statement |
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| Launch of the TEW Panel of Eminent Persons ^[1] | Sept 3 | The general public | The statement highlighted the deterioration of civic space in Tanzania and human rights abuses. It introduced the Panel to the public and their goal to ensure free and fair elections in Tanzania. |
| Statement by TEW Panel of on unfair disqualification of opposition candidates from contesting the elections ^[2] | Sept 17 | National Electoral Commission | The statement addressed the disqualification of opposition candidates from taking part in the elections. It highlighted NECs failure to adhere to the principles of administrative justice in handling appeals instituted by candidates challenging their disqualification. The Panel also noted that only a fifth of the appeals had been heard thus far. |

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| <p>TEW Panel on legal hurdles to the attaining free and fair elections^[3]</p> | <p>September 23 2020</p> | <p>Justice Semistocles Kaijage, NEC chairman</p> | <p>The Panel noted the complaints by civil society and political parties about the absence of stakeholder consultations in the development and subsequent enactment of the June 2020 election regulations.</p> <p>The Panel was also concerned that NEC had denied some of the leading local human rights Civil Society Organizations such as the Tanzania Legal and Human Rights Centre, the Tanzania Human Rights Defenders Coalition and the Tanzania Constitution Forum (Jukwaa la Katiba) the right to observe the elections and offered no explanation. The Panel also flagged the exclusion of the Tanzania Episcopal Conference from the list of accredited observers.</p> <p>The Panel was concerned that observation was restricted through various clauses in the National Elections Regulations, 2020 and deplored the ouster of courts' jurisdiction to hear election-related disputes.</p> |
| <p>Statement by TEW Panel of Eminent Persons on Rising Incidents of Violence Across Ahead of the General Election^[4]</p> | <p>Oct 2</p> | <p>Chairperson of NEC</p> | <p>The statement covered these issues:</p> <ol style="list-style-type: none"> 1. The reports of rising electoral violence 2. Disqualification of candidates and the mishandling of their appeals 3. Absence of legal remedies for some of the EMBs' decisions |

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| <p>TEW Panel concerned over growing suppression of freedom of movement, expression and access to information ahead of the General Election</p> | <p>Oct 3</p> | <p>General public</p> | <p>The Panel noted the increasing police intimidation of the opposition politicians, which violated their rights of movement and expression and also curtailed the right of voters to access information.</p> <p>The Panel noted with concern the suppression of the freedom of expression and the right to information especially targeting social media influencers and activists through new online content regulations gazetted in July 2020.</p> <p>The panel noted the consequential role played by the Tanzania Communications Regulatory Authority (TCRA), which was reported to have issued instructions to mobile network operators to prevent the free flow of information during the elections.</p> |
| <p>Letter to the NEC calling for free, fair and credible elections in line with international law and norms^[5]</p> | <p>Oct 24</p> | <p>NEC</p> | <p>The Panel urged NEC to work with other institutions to create an enabling environment for peaceful and credible elections.</p> <p>The Panel also called upon NEC to ensure that the elections were conducted in a manner that truly represented the sovereign will of the people of Tanzania.</p> |
| <p>Letter to Zanzibar Electoral Commission calling for preparations for free, fair and credible elections in Zanzibar</p> | <p>Oct 24</p> | <p>ZEC</p> | <p>The Panel observed the conduct of the commission, especially in the disqualification of candidates before the election, which raised concerns about ZEC's impartiality.</p> <p>The Panel noted complaints by the stakeholders regarding the Permanent National Voters Register (PNVR).</p> <p>The Panel also noted with concern, questions raised over the credibility of the voters' register and complaints of unfair treatment and lack of transparency in the disqualification of candidates.</p> <p>The Panel called on ZEC to work with other institutions to create an enabling environment for peaceful and credible elections.</p> |

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| <p>Letter to the Director General of TCRA calling for non-interference in the elections^[6]</p> | <p>Oct 24</p> | <p>Director, TCRA</p> | <p>The panel raised concern over TCRA's media restrictions in the form of suspension, banning and fining of media outlets. These were a violation of the right to freedom of expression and information,</p> |
| <p>Pre-election Statement by the TEW Panel ahead of the General Election on October 28^[7]</p> | <p>Oct 28</p> | <p>General public</p> | <p>The Panel was concerned over reports of escalating tension in Zanzibar on the eve of the polls especially reports of killings, brutality and harassment by state security forces in Unguja and Pemba.</p> <p>Panel also concerned about heavy police and army deployment across Zanzibar</p> <p>It deplored the use of excessive force by police in responding to protesters by tear-gassing and other callous acts in Zanzibar.</p> <p>There were reported deaths of civilians at the hands of security forces.</p> <p>The Panel was alarmed by the clampdown on communication channels, including suspension of bulk SMS services, reported blocking of social media sites, and slowing down of Internet communication ahead of the elections.</p> |

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| <p>Statement by TEW Panel on observations made on Election Day^[8]</p> | <p>Oct 29</p> | <p>General public</p> | <p>The Panel expressed concern about events observed on Election Day which undermined the credibility of the electoral process:</p> <ol style="list-style-type: none"> 1. Shutdown of the Internet on October 27. Twitter reported a shutdown in Tanzania on the same day. 2. Reported deaths of civilians mainly on the Islands of Pemba and Unguja. 3. Complaints of opposition polling agents barred from observing voting in polling stations with some reportedly attacked or arrested while carrying out their mandate. 4. The reported arrests of candidates including Halima Mdee and Upendo Peneza on Election Day. 5. The deployment and participation of the Tanzanian military in an erstwhile civilian process as witnessed predominantly in Zanzibar. 6. Mobile service limitations of the free flow of information through short messaging services. |
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| TEW Panel of Eminent Persons calls for the release of arrested opposition leaders ^[9] | Nov 2 | Tanzanian government | The Panel called on the government to immediately release opposition leaders being held for unspecified reasons, including: <ol style="list-style-type: none"> 1. Freeman Mbowe 2. Godbless Lema 3. Nassor Ahmed Mazrui 4. Boniface Jacob 5. Salome Makamba |
| Statement on post-election violence and abuse of the criminal justice system | Nov 16 | Tanzanian authorities | The Panel noted with concern the continued detention of political various leaders throughout Tanzania. The Panel also noted reports of politicians and civil society leaders fleeing the country fearing for their safety. |

[1] See TEW website <https://tanzaniaelectionswatch.org/press-releases/2/>.

[2] See TEW website <https://tanzaniaelectionswatch.org/press-releases/2/>.

[3] See TEW website <https://tanzaniaelectionswatch.org/press-releases/2/>.

[4] See TEW website <https://tanzaniaelectionswatch.org/press-releases/2/>.

[5] See TEW website <https://tanzaniaelectionswatch.org/press-releases/2/>.

[6] See TEW website <https://tanzaniaelectionswatch.org/press-releases/2/>.

[7] See TEW website <https://tanzaniaelectionswatch.org/press-releases/2/>.

[8] See TEW website <https://tanzaniaelectionswatch.org/press-releases/2/>.

[9] See TEW website <https://tanzaniaelectionswatch.org/press-releases/2/>.

