

THE OCTOBER 2010 GENERAL ELECTIONS IN TANZANIA

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Abstract

Tanzania conducted its fourth general elections in October 2010 since the re-introduction of multiparty politics in 1992. Like in the previous elections, the performance of opposition parties has remained relatively weak hence militating against multiparty democracy. We argue that such weakness is a function of the uneven playfield. Based on documents, interviews and observation of the 2010 elections, we explore systemic factors that work against opposition parties and democracy in general.

INTRODUCTION

On 31 October 2010 Tanzania went to its fourth electoral polls since the advent of multipartism in 1992. Since the inception of multiparty politics in 1992, the electoral performance¹ by opposition parties in these elections has been relatively weak, therefore posing threat to the entire multiparty system. Although opposition candidates occasionally win such contests, they usually lose them. In order to explain this alarming state of affair, we observed the 2010 general elections. Based on empirical materials, the article answers the question: Why are opposition parties relatively weak? We argue that such weakness is a function of uneven play field which the ruling party enormously benefits from. The literature on the level play field suggests that when that field is uneven, the incumbent abuse of the state generates disparities in access to resources, media, or state institutions so much so that opposition parties' ability to organize and compete for national office is seriously impaired.² In Tanzania the state and the party are strategically fused to the extent of creating an uneven play field to the detriment of opposition parties.³ Since the re-introduction of multiparty politics, the state-party fusion has

¹ In 1995 opposition popular votes stood at 38.2% while the ruling party got 61.8%. In 2000, the ruling party gained up to 71.7% and the opposition dropped to 28.3%. In 2005 the ruling party gained further to 80.2% of support while opposition got 19.8%. In the 2010 elections, CCM dropped to 61.17% while opposition gained to 38.83% (See the National Electoral Commission's reports for 1995; 2000; 2005; 2010).

² S. Levitsky and L. Way, "Why democracy needs a level playing field", *Journal of Democracy*, Vol. 21 n° 1, 2010, p. 57-68.

³ A.B. Makulilo, *State-party and democracy: Tanzania and Zambia in comparative perspective*, PhD Thesis, University of Leipzig, 2010.

raised concern among academicians, politicians, and activists who advocated for re-writing a completely new constitution and reforming the election management authorities so as to make them independent and impartial. Notwithstanding this call, the ruling party which singly dominated the entire transition politics has always been reluctant to constitutional and institutional change. Instead, it has done cosmetic reforms with the consequences of constraining rather than nurturing democracy.⁴ The backdrop of the cited literature suggests that in Tanzania fair competition in elections is difficult. In this article we examine systemic factors that militate against the performance of opposition parties and democracy in general.

METHODOLOGICAL ISSUES

Data for this study were gathered through a wide range of research techniques: literature and document reviews, interviews and observation. Monographs specific to democracy and elections in Tanzania were reviewed. Unlike the present study, these monographs came either before or after general elections, meaning that they were not the outcome of specific observation processes. While building upon previous monographs, our study verifies their findings. Additionally, the study relied on various documents such as newspapers, opinion surveys, government reports, observation reports, statutes, case laws, parliamentary hansards, president's speeches, and party documents.

The study also made use of interview method. Interviews were conducted between December 2009 and August 2010 with purposefully selected twenty respondents. These were practitioners and experts on democracy in Tanzania. Respondents came from the following institutions: the National Electoral Commission (NEC), the Registrar of Political Parties, the Ministry of Justice and Constitutional Affairs, the Ministry for Policy, Co-ordination and Parliamentary Affairs, Chama cha Mapinduzi (CCM), Chama cha Demokrasia na Maendeleo (CHADEMA), the Civic United Front (CUF), the Tanzania Labour Party (TLP), the Tanzania Democratic Alliance (TADEA), the United Democratic Party (UDP), the National Convention for Reconstruction and Reform (NCCR-MAGEUZI), the Research and Education for Democracy in Tanzania (REDET), the Tanzania Center for Democracy (TCD), the Legal and Human Rights Centre (LHRC), and independent analysts from academic community. Likewise, observation of elections started with the official launching of campaigns on 20 August 2010. Our team was based in Arusha and Dar es Salaam for the purposes of observation. These areas were selected owing to the fact that they present stiff competition between the ruling and opposition parties.

⁴ M. Mmuya, "Elections and prospects of democratic consolidation in Tanzania" *The African Review: A Journal of African Politics, Development and International Affairs*, Vol. 29, n° 1-2, 2003, p. 36-66.

DATA AND DISCUSSION

Biased Media

Media is one of the institutions that are biased in favour of the ruling party. Arguably, media in Tanzania is in the pocket of the ruling party. With regard to state media, the law obliges them to work fairly towards all candidates and parties in an election. Section 53(1) of the National Elections Act. No. 1 of 1985 provides that presidential and vice-presidential candidates as well as political parties participating in an election shall have the right to use state owned radio and televisions during the period of official campaigns. The law requires further that the media should be impartial in allocating space and time to candidates and parties. However, in all the previous elections, state media worked in favour of the ruling party. For example in the 2005 elections, the state radios, the Radio Tanzania Dar es Salaam (RTD) and Sauti ya Mapinduzi Zanzibar (STZ) allocated 105,971 seconds to CCM while the next party, the CUF got 31, 557 seconds. The situation was the same with the state televisions. The National Television (TVT) and Television Zanzibar (TVZ) gave CCM 114,475 seconds, while the next party CHADEMA received 22,287 seconds. The situation was the same with the private owned media. It allocated 278,815 seconds to CCM and 70,628 seconds to the second largest party, the CUF.⁵ Although these are not required by law to provide equal coverage among candidates and their parties, the general tendency is for the same to allocate wider coverage to the ruling party. This is normally done in fear of reprisal from the ruling party and its government. Similarly, in the 2010 elections CCM continued to enjoy a lion's share of coverage in both state and private media. Throughout the election, CCM prevailing dominance in coverage was evident from all media. For example, in September 2010, the distribution of coverage from both state and private media was as follows:- For the print media, CCM received 163,900cms which is about 48%, CHADEMA received 81,914cms equivalent to approximately 24%, CUF got 40,874cms or 12% and NCCR – Mageuzi received a total of 13,667cms of coverage or 4% while TLP received 11,021cms or 3%. On electronic media specifically the radio, CCM received 133,630 seconds equivalent to 43%, followed by CUF which had 81,720 seconds equals to 26% and CHADEMA had 67,885 seconds equivalent to 12%. On television, CCM obtained 161,753 seconds or 40%, then CHADEMA with 83,188 seconds or 20% of the airtime and CUF with 50,375 seconds or 12%.⁶

One critical incidence of state media bias came out clearly from the *Daily News*. This was in response to the use of its data posted on the question "Will Dr. Slaa win the presidential race?"⁷ by CHADEMA. It was published by *Raia Mwema* that 60.87% out of 161 voters- before

⁵ The Media Institute of Southern Africa, Tanzania Election Media Monitoring 2005 Report, Dar es Salaam.

⁶ Synovate: Tanzania media election coverage September 2010

⁷ See the "Daily News online 2010 Election Special Edition"

the polling was abandoned for unknown reasons - would like to see Dr. Slaa of CHADEMA become a president while 28.57% did not approve him.⁸ Reacting on whether the government paper would conduct such a poll in which a candidate from opposition party seemed to get popular support, the editor of *Daily News* openly said "Dr. Slaa will never become the fifth president of this country".⁹ It is interesting to note that although this was contrary to electoral laws, no authority took step to resolve the matter. It is our view that this act was an ill intention and was done to frustrate opposition parties. This practice of using state media to undermine opposition parties and democracy has been a strategy of CCM and its government since the inception of multiparty politics in 1992. In the 1994 Kigoma by-election, the RTD gave more air time to CCM. In response to this and other issues raised in the case by CHADEMA candidate (*Attorney General and Two Others v. Aman Walid Kabourou 1996*) the High Court of Tanzania nullified the election and on the issue of media it stated "CCM was given more air-time on Radio Tanzania Dar es Salaam than were given other political parties, and its broadcast generally were biased in favour of the CCM candidate, such that it must have influenced the by-election results in favour of the CCM candidate."

Corruption

Corruption is a distinctive feature of multiparty politics in Tanzania. Nonetheless, we hasten to emphasize that comparatively it is the ruling party and its candidates that are accused of corrupting voters during elections. This has been a common phenomenon in all the previous elections. In some cases, CCM uses government projects to exchange with votes. A typical example was the construction of the Kigoma-Ujiji road during the Kigoma by-election in 1994. The candidate for CHADEMA, Mr. Aman Walid Kabourou complained that such construction by CCM government was done for corrupt motives. In the case of *Attorney-General v. Aman Walid Kabourou* (1996), the Court of Appeal of Tanzania ruled that the maintenance work of the Kigoma-Ujiji road during the election campaign constituted non-compliance with the prohibition against electoral bribery, and was executed with the corrupt motive of influencing voters to vote for the CCM candidate and accordingly affected the results of the election. Yet, in other cases individual candidates corrupt citizens during election seasons. The impact of corruption is to distort the conventional electoral competition. Usually, this practice undermines the ability of opposition parties to outcompete the ruling party. For easy reference, anecdote evidence is highlighted. During the civic elections held in October, 2009 CCM appeared to have mobilized massive support based on corruption. The study conducted by the Institute of Development Studies of the University of Dar es Salaam in collaboration with the Prevention and Combating of Corruption Bureau (PCCB) in five regions of Tanzania, that is,

⁸ *Raia Mwema* 22 September 2010

⁹ *Mwananchi* 23 September 2010

Manyara, Arusha, Dar es Salaam, Tanga, Kilimanjaro, Morogoro and Dodoma revealed that most respondents were of the view that CCM is the most corrupt party. Figure 1 below is self-explanatory with regard to corruption and party politics.

Figure 1: Opinion of Respondents on level of Corruption by Political Parties (by region in Tanzania) in %.

Region	CCM	CUF	CHADEMA	NCCR	TLP	Don't Know	No Response
Manyara	57.1	11.4	5.7	0.0	0.0	8.6	17.1
Arusha	48.6	0.0	13.5	0.0	0.0	10.8	27.0
Dar es Salaam	100.0	0.0	0.0	0.0	0.0	0.0	0.0
Tanga	50.0	0.0	0.0	0.0	0.0	0.0	50.0
Kilimanjaro	31.0	0.0	3.4	3.4	0.0	20.7	41.1
Morogoro	50.0	3.8	11.5	0.0	0.0	11.5	23.1
Dodoma	48.0	0.0	8.0	0.0	4.0	4.0	36.0
Mean	49.5	2.7	7.0	0.5	0.5	9.1	30.6

Source: University of Dar es Salaam, Institute of Development Studies 2010.

The climax of corruption was its legalization in 2000 when the National Assembly enacted a law (Act No. 4 of 2000 as an amendment to the Elections Act No.1 of 1985) popularly known as “*Takrima Law*”. The law was meant to enhance “African” traditional hospitality, referred to as *takrima* in Kiswahili, consisting in offering food, drinks, money or clothes to fans during campaigns. To be specific, Section 98(2) read “anything done in good faith as an act of normal or traditional hospitality, shall be deemed not to be treating.” Subsection 3 furthered “normal or ordinary expenses spent in good faith in the election campaign or in the ordinary cause of election process shall be deemed not to be treating, bribery, or illegal practice.” As it can be seen, corruption was fertilized under the excuse of African traditional hospitality. Having substantial resources mainly drawn from state,¹⁰ CCM and its candidates benefited from this law in 2000 and 2005 elections. This law was eventually repealed in 2006 by the High Court of Tanzania.¹¹

¹⁰ The United States Agency International Development (USAID) report on Democracy and Governance Assessment in Tanzania, June 2010

¹¹ *Legal and Human Rights Centre (LHRC), Lawyers’ Environmental Action Team (LEAT) and National Organization for Legal Assistance (NOLA) v. The Attorney General*, Miscellaneous. Civil Cause No. 77 of 2005, High Court of Tanzania, Dar es Salaam (Unreported).

Towards the 2010 elections, CCM and its government initiated the Election Expenses Act No.6 of 2010 to address the problem of corruption in elections. If read critically, this Act is a mere replication of “*Takrima Law.*” The Tanzania Election Monitoring Committee¹² concurs with our stand. It posits that “despite the introduction of the Election Expenses Act No. 6 of 2010, and in spite of the early deployment of TAKUKURU – the anti-corruption special unit – to monitor and prevent corruption in the ongoing political process, observers have noted and reported a wide of corruption practices.” It was reported by most newspapers that during CCM nomination, many aspirants were caught bribing members. Some were taken to the court of law. For example, the *Daily News* of 27 July 2010 reported that 17 suspects were arrested by the PCCB in Kilimanjaro while bribing party members. Among them were a CCM aspirant for a special seat in Kilimanjaro, Kilimanjaro Regional CCM Women Organisation (UWT) Secretary, and Kasulu District Commissioner. They were bribing party members by cash between 50,000Tsh/ and 100,000Tsh/, pairs of “*khanga*” and “*vitenge*”, and honey. Other prominent CCM aspirants who were taken to court included Mr. Joseph Mungai and Mr. Fred Mwakalebela in Iringa region. Similarly, the government effected underground salary increment to attract workers to vote for CCM. It should be noted that President Jakaya Mrisho Kikwete uttered a controversial statement in April 2010 that he would not want workers’ votes, a statement that sparked debate over the entire election period. The president said that even if he would be given 10 years, he could not be able to pay the salary scales as proposed by workers organisation, the Trade Union Congress of Tanzania (TUCTA). TUCTA threatened not to vote CCM. Surprisingly, the CCM government did an underground salary increment, something which can be interpreted as corruption. Following the salary increment, CHADEMA raised an objection against CCM presidential candidate.¹³

Yet, another corruption practice which is critical and harmful to multiparty politics involves vote buying. Our interview¹⁴ with Dr. Wilbroad Slaa of CHADEMA, then a Member of Parliament for Karatu Constituency, is interesting with regard to this point. Dr. Slaa said that CCM as a party and its candidates normally buy voter identity cards so as to ensure victory. Such business is usually done in areas that CCM perceives opposition parties to have strong support. For example, in Arusha, it was reported that one identity card was hired out after paying between 5,000Tsh/ and 10,000Tsh/ on the agreement that it should be returned to the owner immediately after the October 2010 elections. Mr Matei Basilio, the Regional Police Commander confirmed “We are aware of these latest strategies by some politicians here who are working hard to ensure that they get control of people’s voting powers”.¹⁵ It was alleged that CCM was dealing with this illegal business. The phenomenon was massive and

¹² TEMCO Newsletter, no. 1, 2010a

¹³ *Mwananchi* 27 August 2010

¹⁴ Interview with the Secretary General, Chama Cha Demokrasia na Maendeleo (CHADEMA), Dar es Salaam, 19 February, 2010.

¹⁵ *Daily News* 21 September 2010

countrywide. In Bukombe constituency, two leaders of CCM were arrested by the police with 185 cards¹⁶, and in Igalula constituency one businessman alleged to work on behalf of CCM was arrested with 400 cards.¹⁷

Unfair Laws

One of the highly contested aspects of Tanzania's political system relates to the legal framework. The legal framework in question is a sole property of the ruling party which is its main architect. To start with, the constitution, which is the grand law of the country was made during the single party era and therefore carries with it the philosophy and values of the one party system. To ensure this, the CCM committee of twenty people that made the CCM constitution in 1977 was the very same committee which was tasked to make the state constitution in 1977. Indeed, the party and the state constitutions were deliberately designed to carry out the agenda of single party system. The reforms that were made since 1992 are cosmetic and unable to envisage democracy. At the eve of multipartyism, the Nyalali commission¹⁸ recommended for a completely new constitution that is spirited on multiparty system. The CCM government refused to cherish this recommendation; instead the party prefers to use the CCM dominated National Assembly to allow reforms. Some problematic aspects of the constitution are highlighted: Firstly, Article 9 of the constitution of the URT 1977 provides for *Ujamaa* as the national ideology. Interestingly, this is the very same ideology of the ruling party as stipulated in Articles 4(3) and 5(3) of the constitution of CCM 1977. In 1999, a survey by the presidential committee¹⁹ revealed that 88.8% of respondents wanted *Ujamaa* to be retained in both constitutions. This figure implies that CCM still enjoys the support of the majority Tanzanians on the ground of its ideology. This conclusion was also made by the Afrobarometer survey in 2002 in Tanzania.²⁰ In this case, CCM has advantages of using state constitution to popularize its ideology and mobilize support around the *Ujamaa* ideology. Secondly, the constitution does not allow independent candidates. Articles 39(1),(c) and 67(1),(b) of the constitution require that presidential and parliamentary candidates be nominated by their respective parties. For presidential post, Article 41(6) of the constitution furthers that both presidential and running mate candidates should be sponsored by the same party. In the case of the *Attorney General v. Rev. Christopher Mtikila*²¹, these constitutional

¹⁶ *Tanzania Daima* 22 October 2010

¹⁷ *Mwananchi* 26 October 2010

¹⁸ United Republic of Tanzania, *The Presidential Commission on Single Party or Multiparty System in Tanzania: Report and Recommendations of the Commission on the Democratic System in Tanzania*, Vol. 1, 199, Dar es Salaam University Press.

¹⁹ Jamhuri ya Muungano wa Tanzania, Kamati ya Kuratibu Maoni Kuhusu Katiba, Kitabu cha Kwanza: Maoni ya Wananchi na Ushauri wa Kamati, 1999, Dar es Salaam.

²⁰ A. Chaligha *et al.* "Uncritical Citizens or Patient Trustees? Tanzanians' views of Political and Economic Reform" Afrobarometer Paper n° 18, 2002.

²¹ Civil Case No. 5 of 1993, High Court of Tanzania

clauses were declared unconstitutional by the High Court of Tanzania. Interestingly, in the case of *the Attorney General v. Rev. Christopher Mtikila*²², following the appeal by the government, the Court of Appeal ruled that the High Court was incompetent to declare an Article of the constitution unconstitutional. It held further that the issue of independent candidate is a “political matter” which cannot be entertained in any court of law. The court advised that the proper forum for the matter is the National Assembly. Thirdly, the constitution vests unlimited powers to the president. When addressing the members of the National Assembly on 21 August 2008, President Jakaya Mrisho Kikwete remarked “*Mheshimiwa Spika, ndiyo maana nasema mamlaka ya Rais ni makubwa sana. Rais akiwa na papara ataonea kweli.*”²³ The president being the chairman of the ruling party may use this constitutional weakness for the advantages of his party. The concern for new constitution re-emerged at the eve of the 2010 general elections and still prevails. The CUF and CHADEMA for example promised in their manifestos that if elected they would work for the new constitution. The Chief Justice of Tanzania Mr. Augustino Ramadhani has defended the need for the new constitution;²⁴ the Roman Catholic Bishops and activists also urged for a new constitution.²⁵

Other pieces of laws that are inimical to democracy and opposition parties include but are not limited to the Political Parties Act. No. 5 of 1992. This law for example restricts political parties to forge alliances during elections. It also provides stringent requirements for a political party to assemble. Normally, the law requires a party to inform the police not less than 48 hours before the meeting is held so much so that the police can provide security. Practically, however, since the advent of multipartism, the police has used such powers to block opposition parties meetings. Besides, the recent law on election expenses, the Election Expenses Act. No. 6 of 2010 is harmful to parties, particularly, the opposition ones. It highly constrains parties to mobilize resources as well as to forge cooperation with civil society organizations.

The use of state personnel

This is the most critical aspect of Tanzania’s political system since the advent of multipartism. The ruling party deploys state machinery and resources for its political advancements. For example, the Regional Commissioners (RCs), District Commissioners (DCs), Ward Executive Officers (WEOs), and Village Executive Officers (VEOs) who are supposed to be impartial with regard to party politics work in favour of the ruling party at the expense of opposition. Interestingly, the RCs, DCs, WEOs, and VEOs are members of CCM’s executive

²² Civil Appeal No. 45 of 2009. The judgment was delivered in June 17, 2010.

²³ Translated “Hon. Speaker, the President has unlimited power and if he or she is not wise, he or she would misuse it”. Jamhuri ya Muungano wa Tanzania, Hotuba ya Rais wa Jamhuri ya Muungano wa Tanzania, Mheshimiwa Jakaya Mrisho Kikwete aliyoitoa Bungeni, Dodoma, Tarehe 21 Agosti 2008 <http://www.parliament.go.tz/> (accessed: 10 August 2010).

²⁴ *Nipashe* 10 December 2010

²⁵ *Tanzania Daima* 10 December 2010

committees in their respective jurisdictions.²⁶ Besides, they are appointees of the president of the United Republic who at the same time is the chairperson of CCM. This arrangement adversely affects the impartiality of these officers. To be sure, in the 2005 general elections, the DCs for Iringa, Nkasi, and Mpanda openly campaigned for the ruling party while at the same time preventing people from attending opposition parties' rallies.²⁷ In the 2010 the same situation repeated. TEMCO states "Regional and District Commissioners have placed state resources (vehicles etc) in campaign processions of the presidential candidate defending his position".²⁸ Yet, in another incidence, one member of campaign team for CCM' s council candidate in Mbeya Urban Constituency, Itiji ward remarked that the Ward Executive Officers (WEOs) are the cornerstone for CCM victory. In the same constituency, the District Commissioner used state resources to further the interests of CCM.²⁹ Specifically, the United States Agency International Development (USAID) report of June 2010 summarises the duties of these officers as follows: allowing CCM to use public facilities (stadiums, schools) for campaigning, but denying such use to opposition parties; having tax collectors target opposition supporters as well as business owners who fail to support or vote for CCM; threatening to revoke the licenses of business owners who do not support CCM; ordering police to shut down businesses during CCM rallies to boost attendance; telling public school teachers to encourage their students to attend CCM rallies and to discourage them from going to opposition gatherings; telling citizens that basic services are contingent on a ruling-party victory in their area; threatening civil servants with firing if they fail to mobilize the electorate for CCM; and placing civil servants on fundraising committees for CCM candidates.

Politics of Intimidation

This concerns national security. CCM considers itself to be a party of peace, unity and tranquility. It regards opposition parties as agents of violence.³⁰ During campaigns, CCM has consistently and persistently preached that opposition should not be elected since they stand for politics of violence. This practice was more evident during the 1995 elections. CCM leaders preached to the general public that if opposition parties were elected, there would be wars just like in Rwanda, Burundi and Angola. For example, in the case of the *Attorney-General and Two Others v. Aman Walid Kabourou (1996)* CCM's behaviour to threatening people was revealed. In this case, the then CCM chairman, Mr. Ali Hassan Mwinyi and then the president of the United

²⁶ CCM Constitution 1977

²⁷ TEMCO Election report 2006

²⁸ TEMCO Interim statement 2010b

²⁹ TEMCO Mbeya Urban Constituency report 2010c

³⁰ A.B. Makulilo *Tanzania: A De Facto One Party State?*, VDM Verlag Dr. Muller Aktiengesellschaft & Co. Kg, Germany, 2008.

Republic of Tanzania; the then CCM Secretary-General, Mr. Horace Kolimba; the then CCM National Publicity Secretary, Mr. Kingunge Ngombale-Mwiru, and Mr. Augustino Lyatonga Mrema (MP), the then Minister of Home Affairs and Deputy Prime Minister uttered statements that if opposition parties were elected, the country would experience wars like in Rwanda and Burundi. The court ruled that such statements were made with ill intention against opposition parties and in favour of the ruling party. It should be noted that the mentioned figures in the case were people of high profile in the party and the government. Yet, CCM widely used films on genocide in Rwanda and Burundi to threaten Tanzanians so that they would reject opposition parties (TEMCO 1997). In the 2010 elections, CCM's chairman and the presidential candidate Mr. Jakaya Kikwete uttered similar statements of threatening people against opposition. On 25 August 2010 in Bukoba he said "*Mkituchagua tena nchi hii itakuwa baridiii kushinda maji ya mtungi*".³¹

The other strategy of intimidation is related to the use of security forces. This is not surprising since in 1990, the founder of CCM and the first president of the United Republic, Mwalimu Julius Kambarage Nyerere said, "*Jeshi letu ni jeshi la wanachama wa CCM; limefunzwa sana mambo ya siasa; lina mwamko sana wa kisiasa, na linashiriki kikamilifu katika mambo yote ya siasa.*"³² It should be emphasized that during the heydays of one party system, security forces were highly integrated to the party, indeed it was made party's affiliate organization. At the eve of multipartism the delinking of the security from the party was symbolic rather than actual. The careful link between CCM and the security is well forged.³³ It is this link that CCM enjoys during elections.

To strengthen our argument, the starting point is to view the president as the Commander in Chief of all armed forces. He or she is vested with powers to command any force within the country and his or her order is final and should be respected (Article 148, subsections 1, 2 and 3 of the constitution of the URT 1977). As already stated, the president being the chairperson of the ruling party is likely to be faced with conflict of interests and hence can abuse such powers in favour of the party. To be sure, Article 15(1) of the CCM constitution demands all its members to stand firm and advance party interests before anything else. As part of implementing his party's constitution, during his speech on 21 August 2008 to the members of the National Assembly, President Jakaya Mrisho Kikwete said that if he orders the Inspector General of Police (IGP), Said Mwema to arrest any person, it would be so. As an

³¹ Translated "If you'll elect us, this country will be peaceful". Tanzania Broadcasting Company (TBC1), News, August 25, 2010 at 8.00pm.

³² Translated "Our army is the CCM's army" CCM: Wasia wa Mwalimu Nyerere kwa CCM: Hotuba ya Mwenyekiti wa Chama Cha Mapinduzi, Mwalimu Julius K. Nyerere, Mkutano Mkuu Maalum wa Taifa, Dar es Salaam, 16 Agosti 1990.

³³ N. Kamata, Campaign for the 2005 General Elections. A Paper presented at a conference on 2005 General Election in Tanzania, Ubungo Plaza Conference Centre, Dar es Salaam, 20-21 February 2006.

example, he further said, if the president orders the IGP to arrest Dr. Slaa,³⁴ he would be arrested. This statement was typical of the first president of Tanzania, Mwalimu Nyerere who once said that constitutionally he had powers like a dictator.³⁵ Indeed, the power of the president in Tanzania is omnipotent. This problem was also revealed in the report by the committee formed by the president in 1999 to review the constitution.³⁶ Yet, at lower levels, security matters are handled by the Security Committees³⁷ whose chairmen are RCs and DCs in their respective areas. As already stated, these officers are by and large CCM cadres. In the 2010 elections, the role of RCs and DCs on security matters was done in favour of CCM.³⁸

In the context of election these powers are problematic. In the 2005 general elections, the then president of the URT Mr. Benjamin W. Mkapa, while campaigning for Mr. Jakaya Mrisho Kikwete (CCM presidential candidate 2005), said that in his capacity as the CCM president he would not allow any break-down of democracy under his administration. He pledged to deploy state apparatuses to ensure CCM won a landslide victory.³⁹ He actually did. It was just one day before the 2005 elections that the then Inspector General of Police (IGP) Mr. Omar Mahita went on TV and deliberately threatened Tanzanians that opposition parties intended to shed blood.⁴⁰ Interestingly, up to date there is no any investigation on such allegation suggesting that it was mere propaganda. Yet, during the 2000 general elections, Mr. Mkapa (then an incumbent president and a candidate for the same elections) used a police helicopter to campaign in remote areas. Similarly, the retired president, Mr. Ali Hassan Mwinyi used the same helicopter to campaign for CCM in the Coastal Region and Kigoma.⁴¹

In the 2010 general elections, this method was again heavily relied on. As usual, CCM started campaigning that if elected, opposition would shed blood. The climax of this campaign was for the security forces to intervene the matter. The Tanzania People's Defence Forces, Chief of Staff, Lt. Gen. Abdurrahman Shimbo, the Deputy Director of Criminal Investigations, Mr. Peter Kivuyo and the Head of the Police Special Operations Unit, Mr. Venance Tossi called a

³⁴ Dr. Slaa was a member of the National Assembly (2005-2010) via CHADEMA. He has always been very critical to the CCM government. He is recently a presidential candidate for CHADEMA in the 2010 general elections. As can be seen, the statement by the president would portray the behaviour of CCM presidents towards the opposition parties.

³⁵ Quoted in I. G. Shivji, "The Changing State: From an Extra-Legal to an Intra-Legal State in Tanzania", in Fimbo, Mgongo and M. Sengondo (eds), *Constitutional Reforms for Democratisation in Tanzania*, Faculty of Law, University of Dar es Salaam, 1993, p. 1-14.

³⁶ Jamhuri ya Muungano wa Tanzania. 1999. Kamati ya Kuratibu Maoni Kuhusu Katiba, Kitabu cha Kwanza: Maoni ya Wananchi na Ushauri wa Kamati, Dar es Salaam.

³⁷ The committees were created during the single party era to advise the party on matters of peace and security in their respective areas. Although these committees were "de-linked" from the party and became government instruments after the introduction of multipartyism, practically they remain fused to the party albeit in the "new" law The National Security Council Act. 2010.

³⁸ TEMCO 2010b

³⁹ See Jamhuri ya Muungano wa Tanzania, Bunge la Tanzania, Majadiliano ya Bunge, Taarifa Rasmi (Hansard) Mkutano wa Ishirini, Kikao Cha Nane-Tarehe 10 Juni 2005. Kimetayarishwa na Kupigwa Chapa na Idara ya Taarifa Rasmi za Bunge, Ofisi ya Bunge, Dodoma.

⁴⁰ TEMCO 2006

⁴¹ TEMCO Election report 2001

press conference to threaten people on security. They said that no blood would be shed by any political party since they were full prepared to handle the situation. Gen. Shimbo said “There have been signs of disrupting peace and tranquility in the ongoing campaigns...some politicians have even dared threatening to shed blood. Let them be warned that we are firmly prepared to make sure that no single drop of blood will be shed during the ongoing campaigns, the Election Day and after that”.⁴² Although there were many parties contesting, this statement aimed at frustrating CHADEMA which seemed to offer stiff competition to CCM. In response to the threat, on 4 October 2010 CHADEMA wrote a letter with reference No. C/HQ/ADM/SG/02/79 to the Dean of Diplomatic Corps, international organizations and all parties to condemn this tactics.⁴³ The head of the European Union Election Observation Mission (EUEOM) to Tanzania, Mr. David Martin described the security threat as disappointment and frustration to democracy.⁴⁴ After the public outcry from politicians, activists and non-governmental organizations (NGOs) that the security forces were used to further the interests of CCM, proper authorities particularly the National Electoral Commission (NEC) maintained that there was no any threat with regard to peace.⁴⁵ Surprisingly, on its meeting of 10 October 2010, the Central Committee of CCM upheld that there was no threat to peace in both mainland Tanzania and Zanzibar with regard to elections.⁴⁶

Election Management Authority

A credible election should be managed by a body that is independent and impartial. In Tanzania, the impartiality and independence of the National Electoral Commission (NEC) is questioned by key stakeholders since its formation in 1993. In assessing NEC, we rely on the following criteria: appointment procedures of commissioners, mode of funding, security of tenure of commissioners and its location within or without the government structure.⁴⁷ Writing on the debate of whether or not the NEC is independent, Makulilo⁴⁸ evaluated arguments advanced by scholars and practitioners to conclude that the independence of NEC is highly compromised. Applying the criteria of independence we find the followings: that the commissioners of NEC are unilaterally appointed by the president⁴⁹ who, apart from being the

⁴² *Daily News* 1 October 2010

⁴³ *The Citizen* 7 October 2010

⁴⁴ *The Citizen* 7 October 2010

⁴⁵ *The Guardian* 7 October 2010

⁴⁶ CCM Statement on election campaigns in 2010

⁴⁷ S. Mozaffar “Patterns of Electoral Governance in Africa’s Emerging Democracies”, *International Political Review*, Vol. 23, n° 1, 2002, p. 85–101.

⁴⁸ A.B. Makulilo “Independent Electoral Commission in Tanzania: A False Debate?” *Representation* Vol. 45, n° 4, 2009, p. 435-453.

⁴⁹ Several government reports recommended for a participatory appointment procedure and a guarantee of security of tenure by commissioners; however, the government has yet to accept them. URT (United Republic of Tanzania). See the Presidential Commission on Single Party or Multiparty System in Tanzania, *Report and Recommendations of the Commission on the Democratic System in Tanzania* (Vol. I), Dar es Salaam University Press, 1991. See also

chairperson of the ruling party, has been in most cases a presidential candidate for the same party during general elections. Additionally, the security of tenure by commissioners depends on the goodwill of the president, something which is likely to affect their impartiality. Although Articles 74(7), (11), (12) of the URT Constitution of 1977 and the Elections Act No. 1 of 1985 section 4(2) seem to provide independence to NEC, practically, however, we maintain that NEC does not pass the basic tests of an independent institution. In 2009, CUF and CHADEMA wanted the disbandment of NEC and called for a new independent and impartial electoral authority prior to the 2010 elections (*The Citizen* 9 June 2009). Yet, on 17 December 2009, the NCCR-Mageuzi filed a case (*Miscellaneous Civil Petition No. 84 of 2009* against the Attorney General) in the High Court of Tanzania questioning the independence and impartiality of NEC.⁵⁰ When interviewed, Prof. Max Mmuya said “NEC is an instrument of the ruling party.” He furthered that “Tanzania is a single-party order where during elections CCM enters the race with full state system behind it while the new parties have nothing.”⁵¹

In the 2010 elections, NEC appeared to be incompetent especially with regard to voter registration and declaration of electoral results. For example, in Mbeya urban constituency there were three different figures of the number of registered voters: (a) 174,854 (b) 177,402 (c) 177,468.⁵² Similarly, delays by NEC to announce results in many constituencies culminated in riots as in Mwanza, Mbeya, Arusha, Dar es Salaam, and Kigoma. On 15 November 2010 CHADEMA declared not to recognise President Jakaya Kikwete on the ground that the election was rigged by NEC particularly through tempering with the voters register book. It boycotted the President’s inauguration speech of the parliament on 18 November 2010 by walking out immediately after he started addressing the members of parliament. Moreover, the CHADEMA party revived the old demand of a completely new constitution and an independent and impartial NEC.

Civic incompetence

This is CCM’s political capital.⁵³ Since the advent of multipartyism the party has been reluctant to provide civic education as per recommendations by the Nyalali Commission 1991. Studies have shown that Tanzanians exhibit subject culture.⁵⁴ This culture prevents people from demanding their basic rights and questioning the national leadership. This problem is so

the URT (United Republic of Tanzania), *Review of the 1995 General Election in Tanzania, A Report Prepared by Jorgen Elklit, Mark D. Bomani, and Chris Peter*, 28 January 1998. Dar es Salaam: Ministry of Justice and Constitutional Affairs. See also Jamhuri ya Muungano wa Tanzania, *Kamati ya Kuratibu Maoni Kuhusu Katiba, Kitabu cha Kwanza: Maoni ya Wananchi na Ushauri wa Kamati*, Dar es Salaam, 1999.

⁵⁰ *The Guardian* 18 December 2009

⁵¹ Interview with Prof. Max Mmuya, Department of Political Science and Public Administration, University of Dar es Salaam 23 February 2010

⁵² TEMCO 2010c

⁵³ Interview with Prof. Mwesiga Baregu, Independent Analyst, Dar es Salaam 23 December 2009.

⁵⁴ Chaligha et al, “Uncritical Citizens...”, 2002.

significant particularly in rural areas. It is argued that the ruling party benefits from incompetence of citizens to question the government and seek for alternative parties. Mallya aptly posits “For the majority of Tanzanians in the rural areas, the only political party they know is CCM. They also know the founders and would like to allow them continue in office”.⁵⁵ This partly explains why the CCM government has been reluctant to provide civic education. This also explains why CCM is still dominant in the rural areas where about 80% of Tanzanians live.

Yet, CCM is uneasy with the provision of voters education. In 1995, Baraza la Wanawake Tanzania (BAWATA), a Non-Governmental Organisation provided voters education to women and urged them to vote in office those candidates that would further women’s interests. The government de-registered the organisation on the ground that it was operating like a political party contrary to the NGO Act No. 24 of 2002. BAWATA went to the court of law. In the case of *Baraza la Wanawake Tanzania and Five others v. Registrar of Societies and others (1997)* the court ruled in favour of BAWATA. It has to be pointed out that women form the core supporters of CCM since independence in 1961. In the 2010 elections, the first lady, Ms. Salma Kikwete popularised the slogan “Women are the big army of CCM. CCM 2010 victory is must.” It is argued that CCM would not want to lose this support at any cost.⁵⁶ We observed that women formed the majority of supporters during the 2010 CCM’s rallies.

Religion

Tanzania is a secular country. However, religion has remained a prominent feature of Tanzania’s politics. In 1995, TEMCO noted that “some politicians decided to appeal to the ethnic or religious sentiments of voters in order to attract them”.⁵⁷ In the 2000 elections, religion still defined electoral politics. TEMCO observed: “Election 2000 enhanced a new culture; sheikhs and priests cast aside their cassocks and left the pulpits to climb onto the campaign dais. What is noteworthy is that when Mtopea campaigned for CCM all was well and quite; when Mtikila took to the CUF dais, murmurs began to be heard and when finally Kakobe climbed onto the bandwagon in support of TLP, first CCM and then NEC and the Registrar of Political Parties cried foul. The religious leaders continued to do their act with impunity, because the code of conduct does not address this issue.”⁵⁸

Yet, in the 2005 elections, religion played a significant role particularly in favour of the ruling party. TEMCO observed “In the 2005 general elections, religious leaders took an active role in the campaigns. Bishops, Sheiks, etc. pronounced openly that the CCM presidential

⁵⁵ E. Mallya “Religion and Elections in Tanzania Mainland”, in Mukandala, Rwekaza S. *et al.* (eds), *Justice, Rights and Worship: Religion and Politics in Tanzania*, Dar es Salaam, E&D Limited, 2006, p. 395-415.

⁵⁶ A.B. Makulilo “Whose Affirmative Action is Affirmative? Lessons from Tanzania”, *The Central European University Journal of Political Science*, Vol. 4, n° 4, 2009, p. 606-637.

⁵⁷ TEMCO Election report 1997

⁵⁸ TEMCO Election report 2001

candidate was the 'choice' of God."⁵⁹ Moreover, the party made "Kadhi's court" its agenda. Section 108(b) of its manifesto stated that CCM government would address the issue of Kadhi's court in favour of Muslims. Principally, this promise contravened the secularity of the state.

Towards the 2010 elections, the issue of religion and politics was acute. Muslims were divided after the failure by CCM to start the Kadhi's Court as stipulated in the 2005 manifesto. The Muslim National Council (BAKWATA) which is pro-state preached Muslims to be patient while the matter is handled. However, a faction of radical Muslims protested CCM and issued guidelines to Muslims on how to vote in the 2010 elections.⁶⁰ Similarly, Christians who were against the court and especially the Roman Catholic Church issued a manifesto to its members and non-members on priorities of issues to be considered by candidates.⁶¹ The Full Gospel Church went a step further to postpone church services on the voting day so as to allow its members to vote. The Bishop of the Church, Mr. Zacharia Kakobe seemed to support opposition parties. As it can be seen, in the 2010 elections, unlike in the past, religions were indifferent with CCM. By any account, it partly explains why opposition parties could relatively gain support.

⁵⁹ TEMCO 2006

⁶⁰ Muslim Guidelines 2010

⁶¹ Roman Catholic Manifesto 2010