

Local Government Elections in Tanzania: Why NEC Should Take Over their Management

Athumani Liviga and Rasul Ahmed**

Abstract

Any free and fair election should be managed by an organ or Electoral Management Body (EMB) that is respected and which does not have any bias for or against those who are contesting. The EMB should be above partisan party politics. This article notes that the manner in which elections at mitaa, vitongoji and vijiji levels have been conducted in Tanzania fell short of the aforementioned attributes. The current practice is that the Minister responsible for local governments has substantial authority over the supervision and coordination of local government elections. The Minister is one of the Members of Parliament and a member of a political party participating in the elections. This practice traverses acceptable democratic principles, which demand that the organ that manages an election should not side with any of the contestants and be above political parties. Democratic elections must be guided by the idea that the EMB has the trust and confidence of all stakeholders, and not otherwise. This was not the case in the three civic elections held in Tanzania in 1993, 1999 and 2004. The problems observed in these civic elections warrant the immediate need for reforms in managing grassroots elections. After going through the structure of local government authorities, the electoral system, and drawing on some practices of other countries in relation to the management of both general and local government elections, the article thus argues that the management of local government elections should be taken over by a reformed National Electoral Commission, whose independence will no longer be called into question.

Introduction

Different politicians, administrators, analysts, and scholars have devised varying definitions and descriptions for the concept of democracy. One widely accepted definition was provided by J. A. Schumpeter who defined

* Department of Political Science and Public Administration, University of Dar es Salaam.

* Department of Political Science and Public Administration, University of Dar es Salaam.

the concept of democracy as a system of obtaining political resolutions by giving people the power to make decisions through votes (Schumpeter, 1946/1976). The Schumpeterian view of democracy is therefore built on the foundation of elections (Hossain et al., 2003). Schumpeter captures the essence of democracy as a social process in which competition and participation are key pillars. However, competition and participation can only be transformed into democracy through good management of the two elements. Since we have associated the issue of democracy with elections and their management, a crucial test of the quality of a society's democracy is the competition for political leadership at the grassroots level (*mitaa, vitongoji and vijiji*) – local government elections.

Our interest in the grassroots levels is motivated by three factors. First of all elections at the lower levels is the best way to enable most of the citizens to exercise democracy because, as Sisk (2004) reveals, usually the voters know well those who are contesting and can express their views and communicate with them more easily and frequently than is the case with candidates in national elections. Another character of local elections is that they provide indications about the political direction of a society and the anxieties and values of voters. Local government elections, as with other elections, give citizens an opportunity to exercise their constitutional rights. They offer politicians an opportunity to articulate their policies and ideologies as well as to provide a training ground for future national leaders to sharpen their skills. Lower level elections are also “important in measuring the political competence of the citizens” (Kabagire, 2000).

It is obvious that the interests and expectations of citizens is that elections, at any level of governance, are free and fair. An election may be considered free and fair if, among other factors, it operates within an atmosphere that allows for competition and participation in accordance with fair and impartial regulations, laws and ethics. But let us not forget the other principal element, as Chaligha (2002) explains:

Any free and fair election should be managed by an organ that is respected and which does not have any bias towards any of those who are contesting. The election organ should be above political parties' politics. This means that the organ that manages elections should demonstrate that it is not favouring any contestant or political party. Therefore, the electoral organ should not side with any contesting side. Also, people who are administering the election

should not side with any political party in order to fairly fulfill their responsibilities according to election regulations and laws. [Our translation]

The question that we are trying to answer in this article is, have elections at *mitaa*, *vitongoji* and *vijiji* levels adhered to the attributes explained above? In the subsequent sections we provide the answer to this question. Moreover, we draw on the practices of other countries in relation to the management of both general and local government elections. We thus argue that the management of local government elections should be taken over by a reformed National Electoral Commission whose independence will no longer be called into question.

The Structure of Local Government Authorities and the Electoral System

The United Republic of Tanzania was formed by the two independent countries of Tanganyika and Zanzibar, which created their union in 1964. Local governments in Tanzania have gone through a checkered history of 'birth', 'death' and 'resurrection' since independence in 1961. In 1972 local government authorities were abolished and for ten years the central government took control of local development. Local government authorities were revived in the early 1980s and in 1983 elections took place under a one-party system at local government levels. This one-party system, legally endorsed in 1965, ended in June 1992 after the Eighth Constitutional amendment and the enactment of the Political Parties Act No. 5 of 1992. The amendment to the constitution and Act No. 5 provided the constitutional and legal framework for the re-introduction of a multiparty system in July 1992. Therefore, during the period between 1965 and 1992, political competition was within the ruling party, the Tanganyika African Union (TANU) and later (from 1977) Chama Cha Mapinduzi (CCM). During that era the familiar dictum was, "the Party's policies are correct and that if things go wrong it is because of bad leadership" (Van Donge and Liviga, 1986).

Administratively, Tanzania has 26 regions (*mikoa*). Twenty-one are situated in the Tanzania mainland and the other five regions are in Zanzibar. The regions are divided into districts (*wilaya*), which are also sub-divided into divisions, villages (*vijiji*), wards (*vitongoji*), and streets (*mitaa*). In the Tanzania mainland, local government authorities are divided into two major categories: urban and rural. In urban areas there are city, municipal and town councils whereas in rural areas there are district, township and village

councils. Elections of local government authorities are held after every five years.

Laws and Authorities that Govern Local Government Elections

There are four types of elections conducted in the United Republic of Tanzania. These include presidential, parliamentary, councillor, and local government (*vijiji, vitongoji, and mitaa*) elections. In Zanzibar there are three elections, which are presidential, House of Representatives and councillor elections. Different authorities are responsible for these elections. The presidential, parliamentary and councillor elections on the Tanzania mainland are managed by the National Electoral Commission. The Zanzibar presidential, House of Representatives and councillor elections are managed by the Zanzibar Electoral Commission, while elections at the local government, i.e. *vijiji, mitaa* and *vitongoji* are managed by the Prime Minister's Office - Regional Administration and Local Government (PMO-RALG) - through District Councils (NEC Report, 2005).

There are different electoral laws that provide the legal framework for the local government elections. The first is the Local Government Authorities Election Act No.4 of 1979, which relates to the election of councillors. The election of councillors is run concurrently with the presidential and parliamentary elections. The second and third Acts are the Local Government Authorities Act No. 7 and 8 of 1982, which guide the local, *vijiji* and *vitongoji* elections. Section 30(4) of the Local Government Act (District Authorities) No.7 of 1982 empowers the Minister responsible for Regional Administration and Local Government (RALG) to issue regulations for elections of *vitongoji* and *mitaa* chairpersons as well as their respective committee members. The Minister is given this authority in section 70(c) of the Local Government Act (Urban Authorities) No. 7 of 1982.

In accordance with the Local Government Act No.7 of 1982, *kitongoji* is the lowest level of political authority in the villages and in urban areas the lowest level is *mtaa*. The laws give the Minister responsible for RALG powers not only to manage and supervise the electoral process in these lower levels of governance but the Minister also has broad authority to monitor the implementation of government directives and development plans. This wide authority and powers given to the Minister to supervise and coordinate activities of local governments is in fact contrary to the spirit of decentralization by devolution, which is supposed to 'give power to the people'. The powers given to the Minister for managing and coordinating

elections at lower levels has raised serious concerns and debate among stakeholders in the country's political system. It is therefore pertinent to briefly look at the powers of the Minister regarding the electoral process for grassroots elections.

Preparing Guidelines for Elections

The Local Government laws give the Minister the responsibility of preparing rules that guide elections at the levels of *kijiji*, *mtaa* and *kitongoji*. So, the Minister prepares a draft of the guidelines and publishes it in the *Gazette*. This is followed by receiving observations and comments concerning that draft from different stakeholders. The Minister is responsible for organizing meetings with political parties, election supervisors, Association of Local Authorities of Tanzania (ALAT) members, and all councils in the Tanzania mainland. For the 1994 elections, the guidelines were published in the *Government Gazette* No. 314, 315, 316, 317, 318 and 319 of 3rd September, 2004. It is contended that the laws do not compel the Minister to take into consideration the views and comments from the stakeholders. The Minister who is representing the central government may take into consideration only those views and comments which do not go against the interests of his office and the Government. It should be noted that in the Tanzanian system, ministers are appointed from Members of Parliament. Therefore, the Minister responsible for RALG is a Member of Parliament from the ruling party. The fact that the occupant of the office, which has the authority to issue election guidelines, is a member of one of the contesting parties raises suspicions and mistrust from the other political parties. It should be remembered that practically all of those who are administering these elections are directors of specific councils assisted by Ward or Village Executive Officers. The latter are public servants who are expected to be neutral and loyal only to the Central Government. Confronted by complaints from the public the Minister responsible for RALG had this to say:

... there are murmurings that the Council Directors pay allegiance to the President's Office, Local Authorities and Regional Administration since it appoints them. The election of Directors is not done politically but rather it is through meritocracy as directed by the management of public servants policy. (Ngwilizi, 2004) [Our translation]

In actual fact the Minister defended the decision to use Directors by saying that they are public servants and therefore do not belong to or support the ruling party whose government is in power!

Registration of Voters

The most important stage for laying a firm foundation for the conduct of free and fair elections is the registration of voters. In Tanzania the registration of voters is directed by guidelines formulated by the Minister who is responsible for Local Government Authorities. Those guidelines state clearly the procedures for registering voters by preparing a list of *kijiji*, *mtaa* and *kitongoji* residents. This work is done by Ward and Village Executive Officers and the Village Executive Officers. This procedure is quite different from the one used to elect the president, Members of Parliament and councillors where a Permanent Voters Register is prepared. In the 2004 Local Government Election eligible voters did not go to register in stations, but were registered through the compilation of lists by officials from the *kijiji*, *mtaa* or *kitongoji* residents' register. The decision to use the residents' register was not accepted by the opposition political parties, and in fact, did not solve the problems of registering voters and this was evident in the 2004 election. On 5th October, 2004 leaders of 12 political parties lodged Constitutional Case No. 97 at the High Court of Tanzania. They sought an order barring the use of the residents' register to compile the voters' list. They argued that the list of voters should not be extracted from the residents' register and the Local Government Elections should not proceed until the Constitutional Case is decided by the Court. The High Court gave its ruling on 9th November, 2004 that the election, which was planned to take place on 21/11/2004 and on 28/11/2004, should proceed except that the residents' register should not be used to compile voters' lists for the 2004 elections. The elections were held on 21/11/2004 to elect *vitongoji* leaders and on 28/11/2004 to elect *vijiji* and *mitaa* leaders as planned (Ngwilizi, 2005).

The Government defied the court order and went ahead and conducted the elections in contravention of the constitution. Defending the decision by the Government to proceed with using the residents' register to compile a voters list as well as countering concerns of lack of transparency, registration being done while residents are at work, and claims that registration officials were paying visits mainly to CCM followers, the then Minister responsible for RALG gave the following explanation:

There are some recommendations and claims that villages, *mitaa* and *vitongoji* elections should be postponed so that the system of using a Permanent Voters Register is used instead of the said system (residents' register). There are genuine reasons to proceed with that system. First, election at the village, *mtaa* and *kitongoji* level will be done during public meetings and therefore, residents know each other. Second, all basic records of all respective residents are available in the village, *mtaa* and *kitongoji* residents' register, which will provide the list of all voters. Third, the residents of a specific location will have an opportunity to express any objection in order to ensure that those who are going to vote are only those who are eligible. Lastly, if the election is postponed in order to wait for the Permanent Voters' Register it will have a direct effect on the elections of the President, Members of Parliament and Councillors. (Ngwilizi, 2004) [Our translation]

Even after some Members of Parliament explained the difficulties of registering voters through the residents' register, the Government insisted that it had not received any formal complaint that the system was marginalizing citizens from other political parties. The Government overlooked the legality and efficiency of the registration system and instead based its argument on giving an opportunity for citizens to voice any objection after the list is displayed. Any attempts to examine loopholes that could distort registration and the special reasons of using the Permanent Voters Register were not considered. The arguments against using the government proposed list of voters were regarded as unimportant because there was an opportunity to lodge complaints against election irregularities. The government's position was underlined by an answer given by the Minister of State in the President's Office then responsible for RALG in Parliament as follows:

... But also, may I say that as I have mentioned in my explanation, this system is devised in such a way that it gives an opportunity for people to raise their complaints in order to correct any irregularities in that register. The system is that of posting on boards, trees, schools and everywhere, all names written in that register so that anybody who is aggrieved gets an opportunity to forward his complaints anywhere he deems fit, including the Government itself. Therefore, that may be taken to be our statement for now ... ¹ [our translation]

The problem is that the system is already disputed but the Government insists that there is nothing wrong with it. There is no fairness when the Minister advises that the Government can be one of the judges of a case in which it is actually the lead respondent!

Demarcation and Declaration of Boundaries of Vijiji, Mitaa and Vitongoji

Regulations for the local government elections, which were formulated by the Minister responsible for RALG, give him the responsibility to publish the names and boundaries of specific areas through the Director of a respective council. These regulations require the Director to publish the names and boundaries so that they are understood by returning officers, contestants and the residents of the specific areas. Due to the sensitivity of demarcating boundaries of *vijiji*, *mitaa* and *vitongoji*, this responsibility is entrusted to an independent commission which is composed of different stakeholders.

Issuing the Writ of Elections

According to the guidelines, the Minister for RALG is empowered to announce elections in the Kiswahili and English newspapers ninety days prior to the election day. This is followed by the Director of a council issuing directives on the election 28 days before the election day, which relate to applications to contest, campaign meetings and elections, objections to the selection of contestants, and other issues related to the election.

Experiences from the 1993, 1999 and 2004 Grassroots Elections

The 1993 Election

From August to October 1993, for the first time in thirty years, Tanzanians had an opportunity to elect their representatives at the *kijiji*, *mtaa* and *kitongoji* levels. These elections were conducted fourteen months after the formal launching of multiparty politics in the country. Some of the most pertinent issues that emerged during the 1993 election that relate to the main theme of this article are as follows:

- The amendment of the Local Government Act of 1982 that gave the Minister Responsible for Local Governments the authority to supervise elections at the local level. By then it was the Prime Minister and the First Vice President. The Office of the Prime Minister through Notice No. 195 of July 1993 issued the election guidelines whose sections 20(4) and 45(14) gave Council Directors the responsibility to supervise and coordinate the village, *mitaa* and *vitongoji* elections.

- The Directors had substantial powers with regard to the system of filing appeals. They not only chaired the Appeals Committees but also appointed its members.
- Contestants were supposed to be recommended and sponsored by political parties. In July 1993 the Government announced that the election would not involve political parties, so any individual with the needed qualifications to participate would be given an opportunity to do so. Unfortunately, in August the Prime Minister's Office changed its position. Contestants had to be sponsored by registered political parties. It is reported that this change came as a result of CCM's wish to use local government elections as a yardstick to measure its popularity prior to the 1995 General Elections (REDET, 1997).
- Eleven political parties were registered but only nine participated in the elections.
- Some of the parties (CHADEMA, NLD and NCCR-Mageuzi) boycotted the election on the grounds that the elections were not managed by an independent commission and they opposed the pre-condition of an endorsement of candidates by a political party (REDET, 1997).
- Each political party was responsible for financing its candidates' campaigns. The Government gave each of the participating political parties a grant of five million shillings.
- The registration of voters was done on Election Day under the control of supervisors who were appointed by the Directors. Most of the election supervisors were primary school teachers.
- Polling stations were located at government offices, which belonged to the ruling party.

The 1999 Election

Elections at the *kijiji*, *vitongoji* and *mitaa* levels in 1999 were conducted from 8th to 30th November by using the guidelines prepared by the Ministry of RALG. Just like in the 1993 election, the guidelines were published in the *Government Gazette* as the Government Declaration No. 253/1999-256(A)/1999. The Ministry also published Document No. 3 of July 1999 that was followed by other directives on 26 August, 1999. Important issues that occurred in this election were:

- Registration was done by listing residents who had qualifications to vote through visiting their homes instead of

using voter registration centres. This system created “many complaints that the whole registration exercise was marred with bias ...” (Chaligha, 2002).

- Thirteen (13) political parties participated in the 1999 election, which was an increase of two political parties from 1993.
- Just like in the 1993 election, the contestants and their political parties had to pay their own campaign and related costs. But unlike the 1993 election, the Government did not directly give grants to each political party. This decision affected smaller political parties that did not have Members of Parliament and councillors and therefore could not use Government subventions to finance local government election campaigns.
- The use of simple plain papers as officially printed ballot papers for the purpose of minimizing costs implied a lack of seriousness attached to these elections.
- Campaign meetings took place on polling day, a situation which caused many voters to spend a lot of time before fulfilling their constitutional right of voting. There were some individuals who gave up and went home without voting.

The 2004 Election

The third local government election since the re-introduction of multiparty politics was held in November, 2004. Once again the election was administered by PO-RALG through council Directors. The election was conducted in two phases; the first involved the election of *vitongoji* chairpersons, and the second featured the election of *vijiji* and *mitaa* leaders. The following issues came up:

- The 2004 election did not have a clear guideline detailing the modality of registering voters. In the beginning the Government reviewed the 1999 election regulations and decided that the residents register in the *kijiji*, *kitongoji* and *mtaa* should be the legal source of information used by the supervisors of elections in order to obtain the names of residents eligible to vote.
- Twelve opposition political parties lodged a constitutional petition in the High Court of Tanzania rejecting the system of registration and seeking supervision of the election by an independent electoral commission as it was agreed in the meeting called by PO-RALG in Dodoma, on 17th to 18th April, 2004.
- The Court barred the use of residents’ register.

- There was an overload of activities on the polling day. In many places voters were required to register and vote on the same day. Consequently, voters and supervisors were exhausted (Chaligha, 2005).
- There were some incidences of disregarding election regulations and procedures causing the postponement of elections in the three municipalities in Dar es Salaam and the Moshi municipality. It was reported that “elections in the Tanga municipality also broke into violent scenes, including the burning of ballot papers. This situation compelled election supervisors to postpone the election to the following Sunday. Some of the areas where chaos occurred, such as Mkwakwani, was the outcome of supervisors being overwhelmed resulting in voters not getting the opportunity to exercise their right to vote. The would-be voters were incensed as by 3 pm in the afternoon they had not started to vote” (Alasiri, 29th November 2004).
- 16 out of 18 registered political parties participated in the election.
- The political parties and their candidates had to sponsor their campaigns.

TABLE NO. 1: Highlights of the 1993, 1999 and 2004 Civic Elections.

	1993	1999	2004
POLITICAL PARTIES PARTICIPATED	11	13	16
SUPERVISOR OF ELECTION	The Office of the Prime Minister and the First Vice President	PMO-RALG	PMO-RALG
REGISTRATION OF VOTERS	Was done on election day There were no polling stations	There were no polling stations Registration by visiting voters at their homes	Register of residents was rejected in court Registration was done till polling day.
CAMPAIGNS COSTS	The Government gave each political party a grant of five million shillings	Political parties and candidates sponsored campaigns	Political parties and candidates sponsored campaigns

CAMPAIGNS AND VOTING	Campaigns were done on election day Secret ballot	Secret ballot There were no formal ballot papers	Secret ballot
WINNER	CCM [97.9%]	CCM [94.6%]	CCM [96.58%]

Source: Authors' compilation from various sources.

Major Lessons Learnt after the three Civic Elections

Since the re-introduction of multiparty politics, Tanzanians have experienced three *vijiji*, *mitaa* and *vitongoji* elections. In all three elections the ruling party - CCM - won with nearly all the votes (as can be seen in the table above). The local government elections for 1993, 1999 and 2004 provide several lessons on electoral management. The first lesson is that the authority given to the Prime Minister's Office, RALG to supervise and coordinate these elections is a contestable issue. At the top of the current hierarchy of the local government administrative structure is the Minister responsible for RALG, an arrangement which is contrary to the principle of *power to the people* (Mukandala and Peter, 2004). The Minister responsible for RALG has substantial authority over local government institutions. It is rather difficult to be convinced by the argument that allowing respective local government authorities, that is, council Directors with the assistance of Ward or Village Executive Officers, to administer and coordinate the *mitaa*, *vitongoji* and *vijiji* elections, the Government meets the requirements stipulated in Article 146 of the Constitution of the United Republic of Tanzania. Article 146(1) states that "the purpose of having Local Governments is to bring power to the people ..." merely stating that Directors are not servants of PMO-RALG and that their responsibility is limited to coordination and not the management of local government elections does not satisfy the purpose stated in the foregoing constitutional provision.

Furthermore, the argument that the role of the PMO-RALG in supervising the civic elections is practically administrative because it just sets the guidelines or regulations on how to conduct the election is weak. It is not easy to delineate the limits of the one who drafts the regulations that guide the local government elections nor the authority given to the council Directors who supervise the implementation of the regulations made by the Minister, who is in fact their "boss". Moreover, the Minister is one of the Members of Parliament and a member of a political party participating in the

elections. This practice traverses acceptable democratic principles, which demand that the organ that manages an election should not side with any of the contestants and be above political parties. Democratic elections must be guided by the idea that the organ that manages election needs the trust and confidence of all stakeholders, and not otherwise. This was not the case in the three civic elections held in Tanzania in 1993, 1999 and 2004.

Responding to the question why the local government elections were not managed by the National Electoral Commission and were instead administered by Directors, Brig. Gen. (Retired) Hassan Ngwilizi² outlined that: first, the residents of *kitongoji* know each other well. It is due to this reason a special organ has been formed to make sure that the rights of candidates contesting in areas different from their place of origin are safeguarded. Second, the Constitution has empowered the National Electoral Commission to manage presidential, parliamentary and councillor elections, and the authority to supervise local government elections has been left to special organs of local governments. Third, to assign the National Electoral Commission the responsibility of supervising local government elections will be a huge burden for the Commission to manage. Ngwilizi gave an example that if the 16 political parties which had permanent registration were to field one contestant each, there would be at least one and a half million contestants requiring the 12,721 local government officials (Ngwilizi, 2004).

The first argument that *vitongoji* residents know each other well and therefore, there is no need for local elections to be administered by an independent electoral commission has no weight specifically considering the chaotic scenes that emerged in several areas during the 2004 election. Often confusion was caused by political zealots who forced their way to vote in areas where they were not residents. The chaos was neither managed nor controlled by the local government organs. Eventually some elections were postponed. Residents knowing each other does not justify usurping the authority of managing elections from the electoral commission. The need to have “procedures which will make elections be conducted in a faster, easier, democratic, and fair manner” (Ngwilizi, 2004) has not been fulfilled by giving local government organs the responsibility to manage local government elections.

The tendency of defending the present arrangement just because it is provided for in the Constitution, and “turning a deaf ear” to complaints about deficiencies related to certain provisions of the Constitution, requires

rethinking. As it has been argued, the Constitution was passed under the one-party regime, under the supervision of a “state party” that had enshrined in the same Constitution the principle that the party has final authority with regard to all political matters! This is not the first time constitutional amendments have been recommended so as to give credence to giving *power to the people*.

On the argument that the electoral commission will be overloaded with electoral activities, this issue has not been thoroughly examined. The impression we get is that the ruling party and its government benefit from the current arrangements. It is now time to devise an appropriate arrangement for councillor, *vijiji*, *mitaa* and *vitongoji* elections to be held on the same day and be managed by a single electoral body that is accepted by all stakeholders. That electoral body must be a reconstituted National Electoral Commission acceptable to all stakeholders because the current National Electoral Commission has been blamed, especially by opposition parties, for not being independent. If local elections will be shifted to the present electoral commission without solving the complaints about its structure, it will lead to an intensification of the problems instead of reducing them.

The local government elections must be given their due significance, the same as elections at the higher levels, since they are “springs of water” for the growth of democracy. Therefore, trying to minimize the costs of registering voters, campaigns and voting, hinders efforts to consolidate democracy at the grassroots. Democracy comes with costs, it is expensive. The urge to minimize costs should not be at the expense of sacrificing peace and tranquillity, which can easily be lost due to deficiencies in the management of the elections.

Following the 2004 local elections several changes occurred in the country’s political circles. Among them is the establishment of the Permanent Voters’ Register; court litigation in favour of independent candidates, and the Ministry responsible for RALG relocating back to the Prime Minister’s Office. It is in the interest of most of the political parties to see the Permanent Voters Register, which was compiled at great cost by the National Electoral Commission, used in the local government elections. The confusion that emerged in the 1993 election about the participation of independent candidates will have been solved if the court’s ruling on this issue is not reversed following an appeal by the Government. The idea of making

grassroots elections a stage for political parties to weigh each other's strength is contrary to the spirit of nurturing democracy in our society. Political parties still can gauge each other's performances at the grassroots, even if there are independent candidates competing alongside those sponsored by political parties. Let us now turn to the experiences from other countries on managing elections, especially at the local government level.

Experiences from other Countries

In this section we examine the experiences of a few other countries related to the management of elections. Here we are concerned with who or which organ is responsible for managing elections in a particular country, its mandate, who appoints the returning officers of elections and who has the powers to demarcate boundaries. While we maintain the argument that a reformed NEC should oversee the management of local government elections, this does not mean that NEC should be a carbon copy of Electoral Management Bodies (EMBs) existing in other countries. Conversely, we advocate a reform agenda that takes on board the best practices from other EMBs to ensure that the political neutrality of the reconstituted NEC is not called into question. We carry out the analysis by comparing and contrasting the case studies with the prevailing Tanzania system.

Mandate to Manage Elections

As mentioned in the preceding section, the NEC has only statutory powers, under Article 74 (1) of the 1977 Constitution of the United Republic of Tanzania, over Presidential, Parliamentary and Councillor elections. In other countries, like Zambia, the national electoral commission, commonly known as *the Electoral Commission of Zambia (ECZ)*, is charged with the responsibility of managing both the general and local government elections. The responsibility is provided in Article 13 of the Election Act and Cap 282 of the Local Government Act. For local government elections, the body that manages them is the Local Government Electoral Commission that was formed by the Local Government Act of 1991. Among the responsibilities given to the electoral commission in the Republic of South Africa (the Independent Electoral Commission - IEC) is to administer any election in the country. This is according to Article 5 (1) of the Commission Act No. 51 of 1996. In Botswana *the Independent Electoral Commission (IEC)* is given the mandate to manage the general and local government elections as per section 65A of the Botswana Constitution.

In India, the Constitution gives the responsibility for managing Presidential, Vice-President and Members of Parliament elections to the Electoral Commission of India. For elections at the provincial level supervision is done under the guidance and administration of the Electoral Officer of the Province on behalf of the Commission. The Electoral Officer is appointed by the Commission from the local government officials of the respective province. At the district level and constituency levels there also are electoral officers, registration officers and supervisors. The Electoral Commission of India monitors the registration of political parties and makes sure there is democracy within the political parties by emphasizing holding internal party elections at regular intervals according to the respective party constitutions.

Composition and Independence of EMBs

According to the electoral Act which guides the operations of the ECZ (The Electoral Commission Act No. 24 of 1996) four members of the Commission are appointed by the President of Zambia and endorsed by the parliament of that country. The members of ECZ work in that position for a period not exceeding seven years. In neighbouring Botswana the IEC has seven members. The chairperson of this commission must be a Judge of the High Court and the vice-chairperson must be a lawyer. The two are directly appointed by the Judicial Service Commission. According to Article 103 of the Botswana Constitution, the Judicial Service Commission for Botswana consists of (a) the Chief Justice who shall be Chairman; (b) the President of the Court of Appeal (not being the Chief Justice or the most Senior Justice of the Court of Appeal); (c) the Attorney-General; (d) the Chairman of the Public Service Commission; (e) a member of the Law Society nominated by the Law Society; and (f) a person of integrity and experience not being a legal practitioner appointed by the President. This Commission also selects five other members from a list of persons recommended by the *All Party Conference*. The All Party Conference is a meeting of all registered political parties which is convened from time to time by the designated Minister.³ In case the All Party Conference fails to agree on all or any number of persons, then the Judicial Service Commission can appoint such a person or persons as necessary to fill any vacancy.

The Commission lasts for two consecutive periods of the Parliament, which is ten years. However, the person entitled to give the Writ of Parliamentary Elections is the President of the country for the general election and the Writ of local elections is issued by the Minister of local government. It should be noted that "both the president and the minister are interested parties and this

is perceived negatively in terms of the running of local democracy” (Maudeni, 2004).

Contrary to Zambia and Botswana, the South African IEC has five commissioners, one of them is a judge appointed by the President and other members are proposed by Parliament through a resolution which is passed by a majority of the Members of Parliament, and others are appointed by a parliamentary committee which has members from all political parties with representatives in Parliament. The committee selects from the list that has been prepared by a panel, which has the following members: the President of the Constitutional Court as its chair; a Representative from the Commission for Human Rights; a Representative from the Commission for Gender Equality; and a Public Protector as stated in section 110 of the national Constitution. That panel is required to propose four names. The tenure of office for commission members is seven years.⁴

In England members of the electoral commission are not supposed to be members of any political party or to have been in an elected post for the last ten years. The commissioners, according to the Commission Acts, are not to exceed nine and cannot be less than five. Commissioners are appointed by the Queen but they are not considered as her servants or representatives. So, they have no interests with the status and they have the protection of the Queen.⁵ In Canada, the organ that manages elections is called *Elections Canada*, which is formed by the Parliament. This is an independent organ that has been given many responsibilities in the political system of that country, including registration of political parties and monitoring the expenditures of contestants. This organ reports on issues related to managing elections and referendums to the Parliament. The House of Commons appoints the Chief Electoral Officer, who has an opportunity to appoint the Electoral Commissioner of Canada to supervise the implementation of the Canada Elections Act. In the Indian case, the President has power to select the Chief Electoral Commissioner and other commissioners and all these serve their posts for the period of six years. The Chief Electoral Commissioner can be removed from his position by a vote of no confidence by the Parliament.

One major difference between the above cases and the NEC is on the manner of its composition, which has been a subject of debate in domestic political circles. The seven-member body comprising a Chairman, a Vice-chairman and five members is appointed by the President. The preference is for a

Judge of the High Court or Court of Appeal to be the Commission's Chairman. One of the other Commissioners is to be a member of the Tanganyika Law Society but this is watered down by the fact that no other organ endorses the president's appointment of NEC Commissioners. The President, who is one of the interested parties in the elections, is not required to consult another body like the Parliament or a forum of all registered political parties as is the case in other countries.

Having practically experienced the limits of its independence, unlike in many Commonwealth countries, the Commission lacks a specific law that gives it special status for its legal existence (URT, 1995). Another issue that has raised concerns within the Commission itself is the question of financial independence. The Commission is obliged to request funds from the Treasury through the Office of the Prime Minister whenever an election is to be conducted. In the 1995 report, the NEC places blame for almost all its shortcomings on the untimely release of funds from both the government and donors. According to NEC, the "commission was not given early and timely funds to enable it to carry out its election activities in accordance with its timetable", and this situation was actually the "main cause of most of the problems which surfaced during the elections". In order to avoid financial difficulties and the inconsistent releasing of funds, NEC has rightfully recommended the creation of an election fund in which money would be deposited during the inter-election period for use during an election, rather than wait until an election year for the mobilisation of funds. A recommendation for setting up a Permanent Special Fund for overseeing elections activities appeared also in the Commission's 2001 report.

Delimitation of Boundaries

Establishing boundaries and determining the criteria and circumstances under which boundaries might change is an important but sensitive exercise in an electoral system. If not handled carefully, boundary delimitation can lead to political gerrymandering and thus undermine the electoral process. Boundary delimitation is an area where the freedom of the NEC is constrained. Despite the fact that section 75(6) of the URT Constitution states that the NEC is not subject to the order or directions of any person and "no court shall have the power to inquire into anything done by the Electoral Commission in its discharge of the function of demarcating the United Republic into constituencies", nonetheless when it comes to demarcating parliamentary election constituencies, the Commission has to seek approval from the President of URT before announcing them to the public.

In other countries in the region there are Demarcation or Delimitation Commissions, specifically tasked to review the electoral boundaries. An elaborate description of the mandate, role and composition of the Delimitation Commission is provided in the Botswana Constitution. The Judicial Service Commission is empowered, at intervals of not less than five nor more than 10 years, to appoint a Delimitation Commission consisting of a Chairman and not more than four other members (Article 64 of the Botswana Constitution). The Commission's report is to be submitted to the President who "shall as soon as practicable after the submission of the report of the Delimitation Commission, by Proclamation published in the Gazette, declare the boundaries of the constituencies as delimited by the Commission." More importantly, it is provided in the constitution that the Delimitation Commission shall not be subject to the direction or control of any other person or authority in the exercise of its functions. The method of composing its members and the protection accorded to the Delimitation Commission in the constitution provides no room for interference by interested parties, including the president. We posit that Tanzania has something to learn from the Botswana set up.

Conclusion

This article makes the case that NEC should take over the management of local elections by looking at the problems associated with the 1993, 1999, and 2004 local government elections. It is better for the body with the authority to manage the election to be above political parties and it should be non-partisan in the hearts and minds of the stakeholders of the political system. This also means that the electoral body should not be administered or coordinated by anyone with a direct interest in the outcome of the elections, unlike the current arrangement where a Minister has the responsibility to administer the local government elections and may affect their outcome as a result of partisanship.

Most of the problems observed in the 1993, 1999 and 2004 civic elections warrant the immediate need for reforms in managing grassroots elections. These reforms should go hand in hand with the ongoing local government reforms. Identifying priority reform areas, like employment, service provision and better utilization of natural resources, without paying attention to issues of free and fair elections will hinder efforts to promote good governance at the *mitaa*, *vitongoji* and *vijiji* levels. We have observed that the three local government elections lacked special ballot papers, while

the crucial electoral stages of registration, campaigns and voting were conducted concurrently. The conclusion that we draw from local government elections is that the Government is undermining not only the integrity of grassroots elections but also trampling on key principles of democracy.

The experience from other countries shows that there are variations in the management of elections. However, they provide some important lessons on managing elections. One is the principle that the mandate for organizing and supervising elections should be left to special commissions formed for that purpose. Second, the organs that administer the electoral process operate under a legal framework. The legal basis of any electoral body is the constitution of the respective country and other electoral laws that do not contradict the constitution. Third, the appointment of the members or commissioners of the electoral bodies varies from one country to another. In Tanzania, the President of the United Republic is empowered to appoint the members of the National Electoral Commission and the Minister Responsible for Local Governments. However, for some of the countries we have cited as examples (like Zambia and India), they allow the President to appoint the members of the Commission but there is another organ that endorses the appointments. One of the organs involved is the Parliament of that country. In some countries, for example in Botswana, political parties are involved through a specially devised system. Fourth, the qualifications of the members of the electoral Commission are stipulated in the laws establishing the Commission. Several examples show that most of the countries prefer the Electoral Commission to be led by Judges or they accord members of the Commission status of Judges of the High Court (for example, in India). Fifth, the Electoral Commissions from other countries are given substantial responsibilities not worrying about if they can be overwhelmed. For example, the Electoral Commissions in England, Canada and South Africa are even charged with the responsibility of registering political parties and demarcating boundaries for electoral constituencies. The important thing is to form independent organs within the Commission which will fulfil certain roles in the election process. For example, the issue of setting boundary demarcations for constituencies, hamlets and streets is left to a special board called the *Boundary Demarcation Board* in South Africa.

The experience of Tanzanian local government elections should be taken as a challenge to reform the management of local government elections while taking into account the pros and cons of the experiences from other

democracies, be it from developed countries (England and Canada), or developing countries (Botswana, South Africa or Zambia).

The challenge Tanzania is facing is time. The time to revisit our election procedures and regulations is now since the next local government elections is not far away (2009). Complaints and murmurings from stakeholders should be solved before we get into the fourth round of multiparty local government elections. In other words, it is time for the managers of all elections in Tanzania to be independent electoral commissions and not a ministry headed by a partisan politician.

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