

SUPERVISION OF LOCAL GOVERNMENT ELECTIONS IN TANZANIA: THE PLIGHT FOR INDEPENDENT ELECTORAL ORGANS

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Abstract

Local government elections provide an opportunity for people to choose their immediate leaders at the grass-root level. They are means to ensure democracy at such levels. Prompted by events and results of the 2019 local government elections, this study examines the efficiency of the existing laws and regulations on local government elections in ensuring free and fair elections. The results point out to lack of independence and neutrality of election supervisory bodies at the said levels. The study recommends review of the whole election system at grass-root level in order to ensure free and fair elections.

Key Terms: Local Government Elections, Election Supervision, Independence of Election Supervisors

1. GENERAL INTRODUCTION

1.1 Introduction

In October 2019, Tanzania held historical local government elections. The elections were historical not only because of events that transpired before and during such elections but also because of the extent to which the ruling Party won. In the said elections, the leading opposition Parties boycotted the elections¹ by alleging

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¹ On the circumstances and the boycott itself, see Paget, D. "Why Tanzania's Local Elections are More Important than they Might Seem." Available in the Internet at: <https://africanarguments.org/2019/11/15/why-tanzanias-local->

government manipulation and mass rejection of candidates due to errors in nomination forms.² In particular, the said elections did not take place in the regions of Katavi, Ruvuma and Tanga as a result of boycott by the opposition.³ Such circumstance gave the ruling Party a majority vote of 99.9 percent in all seats in the said local government elections. Such results meant that either many citizens from the opposition Parties may not have participated in the elections or as the case may be, did not have a better choice, following withdrawal of their candidates. The said elections woke this researchers' interest to examine rules of the game.

According to the Constitution of the United Republic of Tanzania of 1977, the local governments are established in order to consolidate people's power by granting them an opportunity to fully participate in planning and implementation of their development.⁴ Furthermore, local governments aim at ensuring, *inter-alia*, good management of resources with a view of attaining economic development as well as maintenance of law and order.⁵ Location of local governments at the so-called grass-root level of

elections-are-more-important-than-they-might-seem/. Accessed on 6th December, 2019.

² See Al Jazeera News, "Tanzania to Hold Local Elections Amid Opposition Boycott." Available in the Internet at: <https://www.aljazeera.com/news/2019/11/tanzania-hold-local-elections-opposition-boycott-191123052345878.html>. Accessed on 6th December, 2019.

³ Africa news and News Agencies, "Tanzania Holds Local Elections Boycotted by the Opposition." Available in the Internet at: <https://www.africanews.com/2019/11/24/tanzania-holds-local-elections-boycotted-by-the-opposition/>. Accessed on 6th December, 2019.

⁴ See article 146(1) URT Constitution 1977.

⁵ See article 146(2) URT Constitution 1977.

governance⁶ makes the local government authorities in Tanzania to have both direct and indirect impacts on people's daily lives. However, based on impacts on people's lives, it is imperative that local government authorities should be brought into existence through legitimate ways accepted by people.

The most acceptable of all ways of doing this in modern States is to conduct free and fair democratic elections. Holding of democratic elections is considered to be a pathway through which people transfer their authority to other persons who, in principle, should represent and defend their interests.⁷ Thus, it may be submitted that taking part in elections of local government authorities is one of ways through which people participate in the process of bringing their own development at local levels.⁸

Holding of free and fair democratic elections presuppose fulfillment of various conditions including presence of appropriate election supervision organs. According to the African Commission on Human and People's Rights, democratic elections are supposed to be, *inter-alia*, supervised by impartial, which are all-inclusive, competent and accountable electoral institutions.⁹ Thus,

⁶ Comprehensive on the significance of local government authorities see Mukandala, R. *ibid.* p. 7.

⁷ On democratic elections as the basis of authority for representative governments, see African Commission on Human and Peoples' Rights, *Guidelines for African Union Electoral Observations and Monitoring Missions*, EX.CL/91(V), ANNEX II, paragraph 1.2 i. Available in the Internet at: <https://www.achpr.org/legalinstruments/detail?id=31>. Accessed on 2nd November, 2019.

⁸ Compare Mukandala, R. "Grassroots Institutions of Governance", in: Mukandala, R & Gasarasi, C. (eds) *Governance and Development at the Grassroots in Tanzania*, REDET Book Series, Dar es Salaam University Press, Dar es Salaam 2000, p. 25 et seq.

⁹ Compare African Commission on Human and Peoples' Rights, *Guidelines for African Union Electoral Observations and Monitoring Missions*, EX.CL/91(V),

coordination and supervision of elections are essential components of free and fair democratic elections.

A free and fair election presupposes certain qualities to be attributed to the elections supervisor and the supervision process. They include, *inter-alia*, effectiveness, independence and neutrality of the supervisor. The purpose of this article is to examine institutions involved in supervision of elections in local governments alongside these lines. In particular, it examines issues of independence and neutrality of supervisory bodies of local government elections.

1.2 Conceptual Framework on Supervision of Local Government Elections

Good understanding of raised issues in this article requires understanding of terminologies used. They include the concept of “local government authorities,” “supervision of local government elections” and “independence of the local government elections” in the context of the legal framework obtaining in Tanzania.

1.2.1 Local Government Authorities

Articles 145 and 146 of the Constitution of the United Republic of Tanzania (URT) establish and provide for functions of local governments in Tanzania. The legal framework obtaining in Tanzania envisages two types of local governments. One type exists for rural areas (district authorities) and the other exists for urban areas (urban authorities). Consequently, there are two local

government laws, which establish local government authorities in Tanzania. On the one hand, the Local Government (District Authorities) Act of 1982 (hereinafter: LGD Act) provides for establishment and the functioning of district authorities in Tanzania. In this law, two levels of local government authorities are distinguished. They include the district councils (alongside township authorities) and the village councils.¹⁰ On the other hand, the Local Government (Urban Authorities) Act of 1982 (hereinafter LGU Act) provides for establishment and functioning of urban authorities. The local government urban authorities are of three types, namely, the city, municipal and town councils.

This article is focused on supervision of local government elections only. Hence, it covers the elections at ward, village, *Mtaa* and *Kitongoji* (hamlet) levels. The concerned elected positions comprise the ward councilors, village chairpersons, village council members, *Mtaa* chairperson, *Mtaa* committee members and *Kitongoji* chairpersons.

1.2.2 Local Government Election Supervision

The term “supervision” has various meanings, depending on the context of the user of the word. Normally, supervision is aimed at attaining or maintaining a certain standard in order to achieve a certain goal or delivering a particular outcome.¹¹ Supervision, in most cases, is procedural as opposed to substantive attribute. It aims at ensuring that the process is perfect. The Constitution forms the basis upon which the fundamental right of every citizen

¹⁰ See section 3(1) LGU Act.

¹¹ Compare Venice Commission, *Supervising Electoral Processes, Science and Technique of Democracy*, No. 48. Available in the Internet at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD\(2010\)048-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD(2010)048-e). Accessed on 20.11.2019.

to vote and to be voted for in elections can be realized.¹² Article 8(1) of the Constitution states that sovereignty resides in people. This Principle accounts for the need for elections as means through which people would give mandate to the elected leaders who shall then exercise the people's power.

In relation to LG elections, the term supervision should be linked with types of elections obtaining in Tanzania: multiparty democratic elections¹³ and the goal of achieving free, fair and just elections. In this regard that supervision is not for the sake of supervision but it is a supervision, which should guide the process of ensuring attainment of free, fair and just elections in eyes of voters, candidates and political Parties. The supervision has to ensure attainment of this goal in the whole election process from voters' registration, through nomination of candidates and election campaigns to actual voting, counting and announcement of election winners.

1.2.3 Attributes of the Supervisors of Local Government Elections

The role played by election supervisors presupposes that not every person may become a good elections supervisor. An elections supervisor needs to know rules of a fair game and also, be ready to apply them without partiality. He is expected to display, among others, attributes of competence and

¹² See Article 5 read together with Article 21 Constitution of the URT.

¹³ Tanzania is a multiparty democratic state since 1992 after the 8th Amendment to the Constitution of the URT and the enactment of the Political Parties Act 1992.

effectiveness,¹⁴ accountability,¹⁵ transparency and integrity,¹⁶ credibility and trustworthiness,¹⁷ and above all, neutrality and independence.

Also, it is important to note that election supervisors should not be interfered or be dictated upon by anyone, including, the government or any political Party. Furthermore, their functions should not be caused by corruption or bribery.¹⁸ Therefore, these attributes oblige independence. Independence of elections supervisors is the corner stone of free and fair elections because it is within this component that neutrality and impartiality of the

¹⁴ This attribute requires it to have enough powers from the laws, Compare Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 4.

¹⁵ On this point, the African Commission on Human and Peoples' Rights insists on competent accountable electoral institutions staffed by well-trained personnel and adequate logistics, Compare African Commission on Human and Peoples' Rights, *Guidelines for African Union Electoral Observations and Monitoring Missions*, EX.CL/91(V), ANNEX II, paragraph 1.2 iv. Available in the Internet at: <https://www.achpr.org/legalinstruments/detail?id=31>. Accessed on 28th November, 2019.

¹⁶ The people must be able to identify the reasoning and criteria used by supervisors in making decisions, Compare Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, pp. 5-6; Compare also African Commission on Human and Peoples' Rights, *Guidelines for African Union Electoral Observations and Monitoring Missions*, EX.CL/91(V), ANNEX II, paragraph 1.2 ix. Available in the Internet at: <https://www.achpr.org/legalinstruments/detail?id=31>. Accessed on 28th November, 2019.

¹⁷ It is argued that trust on the electoral process has to be developed and nurtured, Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 2.

¹⁸ Corruption and bribery in the electoral process may seriously impair not only the objectivity of the election candidates and voters and they make supervisors to ignore ethics of fairness and impartiality, compare Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 4.

elections supervisor is anchored.¹⁹ It is emphasized here that supervisors of elections are supposed to be referees or umpires rather than players or partisans.²⁰ On this basis, the African Commission on Human and Peoples' Rights requires the African Union (AU) member States to establish, among others, impartial electoral bodies.²¹ It further requires mechanisms to be put in place to ensure that public powers of election supervisory bodies are not abused.²²

The legal foundations of fairness of elections in Tanzania are first and foremost, entrenched in Article 13 of the Constitution, which guarantees equality. These foundations are also provided for in election laws and general administrative law. In addition, it is important to note that fairness of elections presupposes attainment of justice. Considering fairness in the lenses of justice, the general rule requires that justice must not only be done, but also it must be seen to be done.²³ Therefore, election supervisors are required to observe and be seen to observe the rules of

¹⁹ See Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 4.

²⁰ The position of a supervisor resembles more or less that of an invigilator of an examination.

²¹ See African Commission on Human and Peoples' Rights, *Guidelines for African Union Electoral Observations and Monitoring Missions*, EX.CL/91(V), ANNEX II, paragraph 1.2 iv. Available in the Internet at: <https://www.achpr.org/legalinstruments/detail?id=31>. Accessed on 28th November, 2019.

²² Compare Venice Commission, *Supervising Electoral Processes, Science and Technique of Democracy*, No. 48. Available in the Internet at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD\(2010\)048-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD(2010)048-e). Accessed on 20.11.2019.

²³ Compare Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 3.

fairness²⁴ in order to maintain integrity, legitimacy and acceptability of the electoral process.²⁵ Where fairness in this context is observed, it becomes difficult to contest election results.²⁶

2. Legal Framework for Supervision of Local Government Elections in Tanzania

There are many laws regulating supervision of elections in local governments in Tanzania. The most important ones for the purposes of this paper include the Constitution of the United Republic of Tanzania, 1977, the Local Government (Elections) Act,²⁷ the Local Government (District Authorities) Act²⁸ and the Local Government (Urban Authorities) Act.²⁹ In addition to these principal legislation, there are several subsidiary legislation, which deal with local government elections. This article examines aforementioned principal legislation together with specific subsidiary legislation on local government elections.

²⁴ Fairness should not only be guaranteed under the law, but must also be perceived to be so by contestants, parties and the public, compare Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 4; Compare Barkan, J. "African Elections in Comparative Perspective" in *Elections: Perspectives on Establishing Democratic Practices*, United Nations, New York 1997, p. 17.

²⁵ Comprehensive on just and legitimacy aspects of elections and professionalism of the election officials see Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 3 et seq.

²⁶ Compare Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 5.

²⁷ Local Authorities (Elections) Act, Cap. 292 R.E. 2015.

²⁸ Cap. 287 R.E. 2002.

²⁹ Cap. 288 R.E. 2002.

Other election laws in Tanzania such as the National Elections Act,³⁰ the Elections Expenses Act³¹ and the Political Parties Act³² have been excluded in the discussion because they are not directly linked to the topic on supervision of local government elections.

2.1 The Constitution

Local governments were inherited from the colonial powers at independence. However, they have undergone a lot of changes over time.³³ One of the fundamental changes on the status of local governments has been incorporation of the local governments in the URT Constitution in 1984.³⁴ In relation to elections supervision, Article 74 provides for establishment of the National Electoral Commission, its composition and its status. Furthermore, the constitution provides for the powers of the Parliament to enact laws regulating the procedure for supervising elections.³⁵ To ensure neutrality, the constitution forbids the chairperson, the vice chairperson, members of the National Electoral Commission, the director of elections, employees of the National Electoral Commission and all elections supervisors in local government from joining political parties.³⁶ Also, the constitution provides for

³⁰ National Elections Act, Cap. 343 R.E. 2015.

³¹ Elections Expenses Act 2010, Cap. 278 R.E. 2015.

³² Political Parties Act, Cap. 258 R.E. 2002.

³³ Comprehensive on the post independence structures of local governments in Tanzania see Mukandala, R. "Grassroots Institutions of Governance", in: Mukandala, R & Gasarasi, C. (eds) *Governance and Development at the Grassroots in Tanzania*, REDET Book Series, Dar es Salaam University Press, Dar es Salaam 2000, p. 18 et seq.

³⁴ This was among the reforms brought by the Fourth Constitutional Amendment Act, Act No. 15 of 1984.

³⁵ See articles 5(2), 74(8) Constitution, in relation to elections of the Members of Parliament in constituencies.

³⁶ See Article 74(14) and (15) Constitution.

powers of the courts to determine election petitions and the rights of appeal against court decisions court in such cases.³⁷

2.2 The Local Government (District Authorities) Act, 1982 and The Local Government (Urban Authorities) Act, 1982

These two legislation regulate elections in the local governments. The Local Government (District Authorities) Act contains various provisions on elections in district authorities, while the Local Government (Urban Authorities) Act regulates elections in urban authorities. Elections regulated by these laws are those of village chairman, *Mtaa* Chairman, Village Council, *Mtaa* Committee and *Kitongoji* Chairman. However, it should be noted that these laws provide for skeleton procedures of such election only. The material provisions on supervision and procedures of local government elections are provided for in regulations made by the Minister for local governments under the provisions of these two laws.³⁸

2.3 The Local Government (Elections) Act

The Local Government (Elections) Act (hereinafter: LGE Act) is another legislation regulating elections in local governments. In relation to elections supervision, it provides for appointment and coordination of election officers to supervise elections carried out under this law. Notably, although the name sounds comprehensive,³⁹ in practice, this law regulates the local government elections at the Ward level only.

³⁷ See Articles 83 and 115 Constitution.

³⁸ The provisions enabling the Minister to make such regulations include s. 201A of the Local Government (District Authorities) Act, 1982 and s. 87A of the Local Government (Urban Authorities) Act, 1982.

³⁹ The *prima facie* reading of this law, in its current form gives an impression that it is a law applicable to all local government authorities. It is only when one goes

2.4 Subsidiary Legislation

As already noted, most substantive and procedural aspects on supervision of local government elections are contained in subsidiary legislations. The powers of making subsidiary legislation relating to local government elections are vested either in the National Elections Commission (NEC) or in the Minister for local government, depending on provisions of the enabling legislation. Generally, there are many regulations on local government elections. They include the Local Authorities (Councilors Elections) Regulations 2015,⁴⁰ Regulations for Election of Chairman of *Kitongoji* in Township Authorities 2019,⁴¹ Regulations for Election of *Mtaa* Chairman as well as Members of *Mtaa* Committee in Urban Authorities, 2019,⁴² Regulations for Election of the Village Chairman, Members of the Village Council and *Kitongoji* Chairman in District Authorities, 2019⁴³ and Regulations for Election of the Village Chairman, Members of

to the historical background beginning 1979, that he discovers that this law applies only to ward elections.

⁴⁰ Made under s. 125 LGE Act. It came into force through GN No. 306 Published on 31st July 2015.

⁴¹ *Kanuniza Uchaguzi wa Mwenyekiti wa Kitongoji Katika Mamlakaza Miji Midogo za Mwaka 2019* (in English: Election Regulations for Chairman of Kitongoji in Township Authorities 2019), Government Notice No. 371 of 26/04/2019.

⁴² *Kanuniza Uchaguzi wa Mwenyekiti wa Mtaana Wajumewa Kamati ya Mtaa Katika Mamlaka za Mijiza Mwaka 2019* (In English: Regulations for Election of Mtaa Chairman and Members of Mtaa Committee in Urban Authorities, 2019), Government Notice No. 372 of 26/04/2019.

⁴³ *Kanuniza Uchaguzi wa Mwenyekiti wa Kijiji, Wajumbewa Halmashauri ya Kijijina Mwenyekiti wa Kitongoji Katika Mamlakaza Wilaya za Mwaka 2019* (In English: Regulations for Election of the Village Chairman, Members of the Village Council and Kitongoji Chairman in District Authorities, 2019), Government Notice No. 373 of 26/04/2019.

Village Council and the Chairman of Kitongoji in Urban Authorities Act of 2019.⁴⁴

3. Local Government Elections Supervisory Bodies: Analytical Perspectives

Broadly speaking, two election schemes for local governments may be identified. On the one hand, there is a scheme covered by the Local Government Elections Act and its attendant regulations. This scheme regulates the elections of ward councilors. On the other hand, there is a scheme covered by the LGD Act and the LGU Act together with its regulations. This scheme regulates elections of the Village Chairman, members of Village Council, *Mtaa* Chairman, *Mtaa* Committee members and *Kitongoji* Chairman.

An examination of the supervision process of local government elections involves identification of supervisory bodies, their powers and functions. This is because supervisory powers are vested to specific electoral supervisory bodies. Supervisory bodies regulate and control other institutions that are involved in the local government elections process. It is important to note that a common terminology for the election supervisory bodies adopted in the Tanzanian local government legislation is “Electoral Authority.” Therefore, in the following discussion, this terminology is utilized.

⁴⁴ *Kanuniza Uchaguzi wa Mwenyekiti Wa Kijiji, Wajumbewa Halmashauri ya Kijiji an Mwenyekiti wa Kitongoji Katika Mamlaka za Miji za Mwaka 2019* (in English: Regulations for Election of the Village Chairman, Members of Village Council and the Chairman of Kitongoji in Urban Authorities, 2019), Government Notice No. 374 of 26/04/2019.

3.1 Election of Ward Councilors

3.1.1 Electoral Authority

Section 7 of the LGE Act provides that every election shall be subject to the directions and supervision of the Electoral Authority having jurisdiction in the area where the election is conducted. The term “Electoral Authority” is defined in Section 2 of the LGE Act to mean the National Electoral Commission (hereinafter NEC) established by Article 74 of the URT Constitution. Furthermore, Article 74(6)(d) of the Constitution requires the NEC to supervise and coordinate elections of ward councilors. In the elections supervision process, the Electoral Authority has many powers. At this juncture, we may explore some of them.

To start with, the Electoral Authority has power to make regulations, directions and notices. Particularly, according to Section 125(1) of the LGE Act, the Electoral Authority may make regulations for better carrying out of the LGE Act.⁴⁵ The Local Authorities (Councilors’ Elections) Regulations of 2015 (LACE Regulations) are made under Section 125 of the LGE Act and they aim at regulating the elections of Ward Councilors.

Secondly, the Electoral Authority has appointment powers. In particular, Section 9(2) of the LGE Act empowers the NEC to appoint by office, such number of Assistant Returning Officers as it may deem fit. Also, NEC has power to appoint Assistant

⁴⁵ By analogy, s. 124 of the National Elections Act, a law which regulates Presidential and Parliamentary Elections, empowers the National Elections Commission to make regulations for the better carrying out of the provisions of the National Elections Act.

Registration Officers from amongst public officers.⁴⁶ Likewise, the Local Authorities (Councilor's Elections) Regulations of 2015 (LACE Regulations), which are made under Section 125 of the LGE Act also provide for appointment of Returning Officers and Assistant Returning Officers. However, questions on aspects such as qualifications of persons to be appointed and the meaning of the phrase "appointment by office" remain open. In practice, NEC appoints Assistant Returning Officers amongst public officers to assist the Returning Officer.⁴⁷ In addition thereto, Regulation 6 of Local Authorities (Councilor's Elections) Regulations of 2015 (LACE Regulations) provide that NEC may appoint in writing, a public officer to be a Regional Elections Coordinator who shall be responsible for coordination of activities in election process in the concerned region. Furthermore, NEC may revoke the appointment and replace a Returning Officer by reason of his incapability to perform his duties.⁴⁸

Thirdly, the Electoral Authority has administrative powers, including quasi-judicial powers, in relation to election officials and the election process. Regulation 7(2) of the LACE Regulations requires NEC to inform the Returning Officer in writing of the date of commencement of his duties and tenure of office and any other directives determined by the NEC or the Director of Elections. In addition, NEC specifies the nomination date,⁴⁹ determines appeals against decisions of Returning Officers relating to nominations,⁵⁰ specifies and may revoke as well as appoint another election

⁴⁶ See s. 10(2) LGE Act.

⁴⁷ Regulation 9(1) LACE Regulations.

⁴⁸ Regulation 8(1) and (2) LACE Regulations.

⁴⁹ Regulation 21 LACE Regulations.

⁵⁰ Regulation 28 LACE Regulations.

date⁵¹ and supplies of all election equipment and materials to the Returning Officers.⁵²

However, designation of the NEC as the Electoral Authority under the LGE Act is not without controversies. The first confusion comes in when one tries to conceptualize local government. For a Ward being a local government structure, one expects that the election will be carried on in a uniform procedure for all local governments. The reason for putting supervision of Ward elections under the NEC and leaving the other levels of local government out is not clear.

Furthermore, in a number of provisions of the LGE Act, the term “Commission,” which also carries the same meaning with NEC is used. Also, the LACE Regulations use this term “Commission” instead of the term Electoral Authority. Although this interpretation is identical in meaning, it presents ambiguities in some provisions, which may be interpreted to mean that the term Commission is different from the term Electoral Authority in practice. For instance, Sections 63(2) and 73(1) of the LGE Act requires that a representative Electoral Authority and a representative of Commission are among persons who are allowed to witness processes of voting and vote counting, respectively. This gives the impression that the two are different institutions.

3.1.2 Returning Officers, Registration Officers and Staff under LGE Act

The process of local government elections requires appointment of election officials and staffs who should work under the

⁵¹ See Regulations 38 and 39 LACE Regulations.

⁵² Regulation 43 LACE Regulations.

supervision of the Electoral Authority. Hierarchically, the Electoral Authority stays at the top and below it there are the Returning Officers and the Assistant Returning Officers. Section 2 of the LGE Act defines “Returning Officer” to mean a person appointed under Section 9 of the LGE Act and it includes, in so far as it is provided in that Section, an Assistant Returning Officer. Furthermore, Section 9(1) of the LGE Act states that

every City Director, Municipal Director, Town Director and District Executive Director shall be a Returning Officer for the local government authority in respect of which he is a director. Moreover, these directors are also designated as Registration Officers for the local government authority in their areas.⁵³

Therefore, they are also responsible for registration of voters and creation of the voters’ list.

In addition, Section 9(6) of the LGE Act empowers NEC to appoint any person by name or office to be a Returning Officer, where the circumstances require. It shall do so by notice in the Gazette. It should be noted that where these powers are applied, the City Director, Municipal Director, Town Director, or District Executive Director as the case may be, shall cease to be the Returning Officer of such local authority. Likewise, NEC may appoint any person holding a public office by name or by office to be a Registration Officer, the eventuality of which shall make the named Director of the local government in that area also to cease from being the Registration Officer in that local authority.⁵⁴

⁵³ See s. 10(1) LGE Act

⁵⁴ See s. 10(3) LGE Act.

Surprisingly, these circumstances are not disclosed, they remain discretionary to NEC.

Regulation 7(1) of the LACE Regulations provides that the Returning Officers are responsible to conduct, coordinate and supervise elections in wards. In their capacity as directors, such Returning Officers are also Registration Officers for the local government authority in their areas.⁵⁵ Returning Officers have enormous powers in relation to election supervision. In particular, they are empowered to issue directions and to employ as many staffs as they may require in performance of their functions. However, the powers of Returning Officers to employ staff are subject to the directions of the NEC.⁵⁶

Furthermore, the LACE Regulations require the Returning Officers to appoint in writing, the presiding officers, Polling Assistants, and direction clerks for the purposes of election.⁵⁷ These appointment powers of the Returning Officer are also subject to directives issued by the NEC or the Director of Elections.

3.2 Elections of Village Chairman, Members of Village Council, Mtaa Chairman and Members of Mtaa Committee Kitongoji Chairman

According to the statement issued by the President's Office Regional Administration and Local Governments' Permanent Secretary to various mass media in early November, 2019, local government elections in Tanzania were to be held in 12, 319 Villages, 4,264 *Mitaa* and 64,384 *Vitongoji*. The details of election

⁵⁵ See s. 10(1) LGE Act

⁵⁶ See s. 9(4) LGE Act.

⁵⁷ See regulation 10(1) LACE Regulations.

supervision at *Kitongoji*, Village and *Mtaa* level are provided for in the Regulations made by the Minister for local governments under Section 87A of the LGU Act and section 201A of the LGD Act.

There are four regulations, which were issued by the Minister for local government in 2019 to regulate local government elections. They include the following:

- (1) *Kanuniza Uchaguzi wa Mwenyekiti wa Kitongoji Katika Mamlakaza Miji Midogo za Mwaka 2019* [in English: Election Regulations for Chairman of Kitongoji in Township Authorities of 2019, Government Notice Number 371 of 26/04/2019 (hereinafter: GN No. 371/2019)];
- (2) *Kanuniza Uchaguzi wa Mwenyekiti wa Mtaana Wajumbewa Kamati ya Mtaa Katika Mamlakaza Mijiza Mwaka 2019* [In English: Regulations for Election of Mtaa Chairman and Members of Mtaa Committee in Urban Authorities, 2019), Government Notice No. 372 of 26/04/2019 (hereinafter: GN No. 372/2019)];
- (3) *Kanuni za Uchaguzi wa Mwenyekiti wa Kijiji, Wajumbewa Halmashauriya Kijijina Mwenyekiti wa Kitongoji Katika Mamlakaza Wilayaza Mwaka 2019* [In English: Regulations for Election of the Village Chairman, Members of the Village Council and Kitongoji Chairman in District Authorities, 2019, Government Notice No. 373 of 26/04/2019 (hereinafter: GN No. 373/2019)]; and
- (4) *Kanuniza Uchaguzi wa Mwenyekiti Wa Kijiji, Wajumbewa Halmashauriya Kijijina Mwenyekiti wa Kitongoji Katika Mamlakaza Mijiza Mwaka 2019* [in

English: Regulations for Election of the Village Chairman, Members of Village Council and the Chairman of Kitongoji in Urban Authorities, 2019, Government Notice No. 374 of 26/04/2019 (hereinafter: GN No. 374/2019)].

A scrutiny of these regulations leads to the conclusion that the nomenclature of the supervisory bodies is similar. Furthermore, these regulations cover the areas of township authorities, district authorities and urban authorities. Urban authorities are covered by two regulations, in which one of the regulations deals with elections of the village entity⁵⁸ and the other deals with *Mtaa* entity.⁵⁹ The reason is that both entities may exist in urban areas at the same time. The *Kitongoji* level is covered by three regulations,⁶⁰ the reason being that such level exists in all areas.⁶¹ However, despite these similarities, there are no conflicts in the structure of supervisory bodies or procedures.

3.2.1 Electoral Authority

The term “Electoral Authority” appears in the LGD Act and in the LGU Act for many times in relation to elections. However, neither the LGD Act nor the LGU Act defines the term “Electoral Authority.” It should be noted that regulations made by the

⁵⁸ See Government Notice No. 374/2019.

⁵⁹ Government Notice No. 372/2019

⁶⁰ See Government Notice No. 371/2019; Government Notice No. 373/2019; and Government Notice No. 374/2019.

⁶¹ Since Kitongoji/Hamlet level was introduced in 1994, the Kitongoji/Hamlet Chairpersons, were first elected in 1994 multi-party elections, see Mukandala, R. “Grassroots Institutions of Governance”, in: Mukandala, R & Gasarasi, C. (eds) *Governance and Development at the Grassroots in Tanzania*, REDET Book Series, Dar es Salaam University Press, Dar es Salaam 2000, p. 31.

Minister for local governments under Sections 87A of the LGU Act and 201A of the LGD Act to regulate elections in local governments provide definition of this term. Accordingly, the term Electoral Authority is defined to mean the Minister for local governments.⁶² Thus, the Minister for local governments is the supervisor of elections at the levels of Hamlet (*Vitongoji*), Village and *Mitaa* under the LGU Act and the LGD Act.⁶³

An examination of the two statutes reveals that the Minister for local governments plays very significant roles in local government elections. Firstly, he is entrusted with the task of developing a democratic government.⁶⁴ Secondly, the Minister is a regulatory authority in respect of elections at these levels. In particular, he is empowered to prescribe procedures for elections of Village Chairmen and Village Councils,⁶⁵ *Mitaa* Committee⁶⁶ and *Vitongoji* Chairmen.⁶⁷ Also, he has powers to make regulations to prescribe procedures of convening meetings of Village Assemblies for election of new members of the councils upon expiry of tenure of five (5) years.⁶⁸ In addition thereto, he may postpone elections of Chairmen of *Mitaa* and of Village Councils under Section 16(5) LGU Act and Section 57(4) LGD Act respectively. Furthermore, the Minister declares casual vacancies of seats of members of

⁶² See regulation 3 of Government Notice No. 371/2019; Regulation 3 of Government Notice No. 372/2019; and regulation 3 of Government Notice No. 374/2019. However, Government Notice No. 373/2019 is silent on the definition of Electoral Authority.

⁶³ Compare Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 14.

⁶⁴ See s. 4 LGD Act and s. 4 LGU Act.

⁶⁵ See s. 16(4), 19(3)(4) LGU Act and s. 56(3) LGD Act.

⁶⁶ See s. 17(1) LGU Act.

⁶⁷ See s. 18(2) LGU Act.

⁶⁸ See s. 57(3) LGD Act.

District Councils, upon information by Chairmen of the Councils by virtue of Section 42(1) of the LGD Act.

Regulations made under Section 87A of the LGU Act and Section 201 of the LGD Act concretize the fact that the Minister for local government is both an electoral and a regulatory authority.⁶⁹ Under the regulations, the Minister stays at the top of the process of Elections by making regulations specifying the elections procedures and announcing the elections,⁷⁰ election timetables and important conditions for elections.⁷¹ Above all, he appoints Returning Officers from public servants.⁷²

It should be noted that despite a clear definition in the laws and regulations already explained, there are provisions, which stand in conflict with the conclusion that the Minister is the Electoral Authority under the LGU Act and the LGD Act. For instance, the two organs are entrusted with different roles in some provisions. See, for instance Section 31(3) of the LGU, which requires the Electoral Authority to consult Minister.

⁶⁹ This is evidenced in the definition sections as already pointed out. See Regulation 3 of Government Notice No. 371/2019; Regulation 3 of Government Notice No. 372/2019; and Regulation 3 of Government Notice No. 374/2019.

⁷⁰ See Regulation 4(2),(3) of Government Notice No. 373/2019; See also regulation 4(2),(3) of Government Notice No. 371/2019; See also Regulation 4(2),(3) of Government Notice No. 374/2019; See also Regulation 4(2),(3) of Government Notice No. 372/2019.

⁷¹ Applies to all Regulations, see for example Regulation 4(3) of Government Notice No. 373/2019.

⁷² This applies in all Regulations, see for instance Regulation 3 of Government Notice No. 373 of 26/04/2019;

3.2.2 *Returning Officers, Assistant Returning Officers, and other Officers*

The laws and Regulations on local government elections at levels of *Kitongoji*, Village and *Mtaa* already discussed also provide for appointment of Returning Officers, Assistant Returning Officers and Presiding Officers. These election officials are bound by Regulations issued by the Minister for local government and other laws in fulfillment of their functions.⁷³

The four Regulations discussed above provide that Returning Officers are appointed by the Minister for Local Government from public servants, while Assistant Returning Officers are appointed by the Returning Officers.⁷⁴ Also, certain persons are disqualified from becoming Returning Officers or Assistant Returning Officers. They include leaders of political Parties, election candidates, magistrates or judges, religious leaders, army officers, District Administrative Secretaries, Regional Administrative Secretaries, District Commissioners and Regional Commissioners.⁷⁵

The specific functions of election officials are also similar. In particular, Returning Officers, Assistant Returning Officers and Presiding Officers are tasked to supervise local government elections.⁷⁶ Additionally, the Returning Officer appoints voters registration officers, who register and prepare a list of voters in relevant entities.⁷⁷ In this connection, it is also important to note

⁷³ See Regulation 8 *ibid*; see also regulation 7 of Government Notice No. 371/2019; and also regulation 8 of Government Notice No. 374/2019.

⁷⁴ See Regulation 3 in all four regulations.

⁷⁵ See Regulation 6(2) of Government Notice No. 371/2019 and Regulations 7(2) of the remaining three regulations.

⁷⁶ See Regulation 6(1) of Government Notice No. 371/2019; See also regulation 7(1) of all other three Regulations.

⁷⁷ See Regulation 9(2) of Government Notice No. 371/2019; See also regulations 10(2) of all other three remaining regulations.

that certain officers are disqualified from becoming registration officers. They comprise the Village, *Mtaa* and Ward Executive Officers.⁷⁸

Furthermore, the Returning Officers are required to announce names and boundaries of the voting entities within the relevant council for the purposes of elections.⁷⁹ Moreover, they are required to announce the date for collection of nomination forms, while the Assistant Returning Officers distribute the forms, receive the filled forms from the applicant candidates and appoint the candidates for the relevant posts.⁸⁰

The Returning Officers are required to coordinate election campaigns by receiving time tables of meetings from participating political Parties, discussing with them to reach an agreement on the same and deliver the time table to the District Police Commander.⁸¹

The Presiding Officer is entrusted with the function of supervising the process of elections at the polling station. He is particularly required to ensure emptiness of the ballot box before elections, to identify every voter and to give the ballot papers to qualified voters.⁸² In addition, the Presiding Officer is involved in the

⁷⁸ See for instance Regulation 9(3) of Government Notice No. 371/2019. See also Regulation 10(3) of all other regulations.

⁷⁹ See Regulation 5 of all four regulations.

⁸⁰ See Regulations 16 and 17 of Government Notice No. 371/2019; See also Regulation 17 and 18 of all other regulations.

⁸¹ See Regulation 26 of Government Notice No. 371/2019; See also regulation 27 in all other three regulations.

⁸² See Regulations 31 and 33 of Government Notice No. 371/2019; See also Regulations 32 and 34 of all other three Regulations.

process of counting the votes.⁸³ Furthermore, the Presiding Officer is required to announce election results of the *Kitongoji* Chairman.⁸⁴ However, the election results for the rest of posts are announced by the Assistant Returning Officer.⁸⁵

3.3 Loyalty of the Election Supervisors

To whom should these officers be loyal? The election officers should be loyal to the nation. This kind of loyalty is an indication of non-partisanship, impartiality and neutrality. In this way, they will be able to work without compromising the laws and Regulations. The issue is, how is loyalty ensured under the law? Various provisions have been incorporated in the laws to ensure this. Thus, Article 74(14) of the Constitution prohibits persons involved in the conduct of elections from joining any political Party. Likewise, Regulation 12 (1) of LACE Regulations require the Regional Elections Coordinators, Returning Officers, and Assistant Returning Officers to take an oath of secrecy, and also, to declare non-membership or withdrawal from a political Party, before a magistrate or a commissioner for oaths. Surprisingly, the regulations are silent on whether the Presiding Officers and Polling Assistants should also declare non-membership to political Parties or withdraw from political parties. Furthermore, Section 92 of the LGE Act requires the election officers, clerks, interpreters, candidates and Party agents to take an oath of secrecy before the Returning Officer.

⁸³ See Regulation 37 of Government Notice No. 371/2019; See also Regulation 38 in all other three Regulations.

⁸⁴ See Regulation 38(1) of Government Notice No. 371/2019; See also Regulation 39(1) of Government Notice No. 374/2019.

⁸⁵ See Regulations 39 and 40 of Government Notice No. 372/2019; See also Regulation 39 and 40 of Government Notice No. 373/2019; See also Regulations 40 and 41 of Government Notice No. 374/2019.

The four Regulations already discussed require election officers, including the Returning Officers, Assistant Returning Officers, Presiding Officers, Chairmen and Members of Appeals Committees, political Parties agents and every public officer appointed to supervise the elections to take an oath of faithfulness (*kiapo cha Uaminifu*) and secrecy before a Primary or District Court Magistrate or in absence thereof before the Returning Officers.⁸⁶

It is also important to note that unlike the position under the LACE Regulations, none of the four Regulations (regulating local government elections) contain a requirement of declaration of non-membership to a political Party or withdrawal from political Parties. This also appears to be a serious gap in these Regulations. The issue is whether or not the named election officials may continue to be members of their parties as a result of these gaps. The answer to this issue lies in the interpretation of Article 74(14) and (15) of the Constitution. The said Article 74(14) of the Constitution prohibits persons associated with conduct of elections from joining political parties. This being a constitutional provision, it may be argued that it overrides all other provisions from any other existing laws applicable to elections. By virtue of Article 64(5) of the Constitution, all laws are required to conform with the constitution and in the event of conflicts between any law and the Constitution, the Constitution prevails. However, the Constitution proceeds to define the prohibited persons in Article 74(5). Accordingly, the persons prohibited from joining political

⁸⁶ See regulation 44 of Government Notice No. 371/2019; See also regulation 46 of Government Notice No. 372/2019; See also regulation 47 of the remaining two regulations.

parties include the Chairman and Deputy Chairman of the NEC, members of NEC, Director of Elections and all other employees of NEC together with all election supervisors in all Towns and Districts. The *prima facie* conclusion is that the leadership, NEC officers and employees and all election supervisors in all Towns and Districts are not allowed to join political Parties. The problem with this conclusion is on the last phrase “election supervisors in all Towns and Districts.” Does this include elections at the local government levels?

The interpretation of Article 74(6) of the Constitution leads us to the conclusion that NEC has responsibility to supervise Presidential and Parliamentary elections and elections of Ward Councilors only. In this way, the phrase may be construed accordingly to mean that the supervisors named therein are in respect to such named elections only. That is to say, so long as Article 74(6) of the Constitution does not mention supervision of local government elections, then Article 74(15) of the Constitution does not extend to supervisors of local government elections, except those of Ward Councilors. Thus, while the LGE Act and LACE Regulations’ loopholes in this respect are covered by the constitution, those in respect of the LGD Act, LGU Act and the four regulations continue to linger.

4. Independence and Neutrality of the Local Government Elections Supervisors: A Critical Perspective

The issue is whether or not the supervisory bodies and officers of local government elections are independent and neutral. This study observes that the existing legal and institutional framework can hardly guarantee independence and neutrality of the local government supervisory bodies and officers. This article attempts to prove this by analyzing the laws and regulations.

4.1 Independence and Neutrality of the NEC

To begin with, the article noted that the composition of the National Elections Commission (NEC), (the electoral authority for the election of Ward Councilors)⁸⁷ neither reflects independence nor neutrality. The NEC is required to have seven Commissioners in total. However, both the Chairman of NEC and the Commissioners of NEC are appointees of the President of the United Republic of Tanzania. Invariably, the President of the United Republic of Tanzania is the Chairman of the ruling party. The Constitution requires further that the Chairman and Vice Chairman of NEC should be Judges of the High Court of Tanzania or Justices of Appeal. It also disqualifies Ministers and Deputy Ministers, persons holding offices prohibiting appointment to Electoral Commission, Members of Parliament, Councilors, and Leaders of Political parties from being eligible for appointment to the NEC.⁸⁸

Section 4 of the National Elections Act provides additional restrictions. One of these restrictions is that one of the Commissioners must be a member of the Tanganyika Law Society. It is worthy noting that the remaining conditions in that provision are very broad, discretionary and vague. Accordingly, they require possession of adequate experience in the conduct or supervision of Parliamentary Elections or such other qualifications as the President considers necessary for or prerequisite to effective discharge of the functions of the NEC. It is submitted here that such broad discretions may easily be abused by the

⁸⁷ See Article 74(6)(d) and (e) which requires the NEC to supervise and co-ordinate the registration of voters and the conduct of the election of Councilors.

⁸⁸ See article 74(1) and (3) URT Constitution.

President. For instance, as pointed out before that the President is the Chairman of the ruling Party, it may not be surprising to see the president appointing only persons who are aligned to his/her Party. This is because the President is not barred from appointing only people who have allegiance to his/her Party. However, the only restriction, as mentioned already, is that such appointees should not be leaders of the Party.

Since there is no anybody to approve the appointment of Commissioners currently, it is observed that a legal requirement such appointments should be approved by the Parliament of the United Republic of Tanzania. In due regard, it could be a move to the right direction in trying to check and balance the appointment powers and discretions of the President. However, this may not be free from weaknesses because the decisions of the Parliament may be based on political and not legal criteria. Furthermore, it requires a well-composed Parliament because if the majority of Members of Parliament are from the ruling Party and if the opposition is weak, this approach may not meet the expectations.

4.2 Independence and Neutrality of the Minister for Local Governments

A critical analysis of the discussed laws and regulations reveals that elections at Villages, *Mitaa* and *Vitongoji* levels can hardly be regarded to be taking place under independent, neutral and autonomous electoral authorities. This revelation is not only based on the fact that local government authorities in Tanzania function under the general supervision of central government ministry [the President's Office Regional Administration and Local Government (PORALG)],⁸⁹ but also on the fact that the four election regulations

⁸⁹ Compare Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 10.

made under the LGD Act and LDU Act designate the Minister for Local Governments to be the Electoral Authority.⁹⁰

The practice of placing the local governments under a central government ministry started in 1999 following the Local Government Laws (Amendment), Act Number 5 of 1999. This practice has taken away the autonomy of local governments. However, it is argued that even before this amendment, there was no autonomy of local governments from the central government because they were placed under the supervision of the Regional Commissioners and the District Commissioners in their areas of jurisdiction.⁹¹ That is to say, since Regional and District Commissioners are appointees of the President, it would have been impossible to talk about autonomy of the local governments from the central government. According to Chaligha, local governments were and have continued to be considered to be mere extensions of the central government rather than independent governments at the lower level.⁹² He argues further that over domination of the ruling party and central government in village governments has made the village government to lose its qualities of being regarded as a center of democracy.⁹³

⁹⁰ See regulation 3 of the three regulations: Government Notices Nos. 371/2019, 372/2019 and 374/2019 discussed above.

⁹¹ Comprehensive on this see Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 10.

⁹² See Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 10.

⁹³ Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 9.

We argue in this article that so long as the Minister for local governments, a member of the ruling party and part of the central government is empowered to make regulations to govern the procedures of elections in local governments, one can neither talk of independence nor neutrality of the electoral authority or electoral supervision. The article sets a number of questions, including the issue of fairness of the said Regulations. In particular, what is the participation of the opposition Parties in the process of making of these Regulations? Even if they are or would have been fair, the rule against bias appears to strongly work against them. If people, especially those from opposition Parties perceive that the elections are being controlled by the ruling Party, they lose hope and decide not to vote. Writing on the Hamlets and Village Council elections of 1999, Chaligha argues, for example, that:

When voters realize that their votes do not make much difference on how things are managed at the Hamlet and Village government levels, the grassroots elections appear meaningless. This disenchantment with grassroots elections demoralizes citizens, causing them to lose confidence in democracy and in their government.⁹⁴

Confidence is lost because the rules of the game are made and supervised by one of the players. It is important to note that in a multi-Party State like Tanzania, the confidence to participate and the hope to win the elections build on autonomy of the local

⁹⁴ Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 11.

government election process from the central government, which is under the ruling Party. In particular, supervision and control of elections by the central government under the ruling Party do not appear to be right in the eyes of the citizens at the local levels, especially those from the opposition parties. This is something, which is expected because, the supervisor appears to be partial from the beginning. How can the opposition Parties have faith in such a partisan electoral body?

4.3 Independence and Neutrality of Election Supervisors and Officials

The nature of appointments of the election supervisors and officials of local governments can hardly guarantee independence and neutrality. The appointing authorities under the LGE Act and the LACE Regulations create a direct link between such officers, the central government and the party. The Returning Officers in this case, include the Town Directors, Municipal Directors and City Directors, all are appointees from the executive. Furthermore, the officers appointed are public servants who, under normal circumstances, are loyal to the executive and the ruling party rather than persons from the opposition Parties.⁹⁵ Although the NEC may appoint Returning Officers who have the effect of replacing them,⁹⁶ the weaknesses of the NEC identified in this work before negate their independence and autonomy.

The independence and autonomy of Returning Officers, Assistant Returning Officers and other election officials in Villages, *Mitaa* and *Vitongoji* elections are also not guaranteed. The fact that the Returning Officers are appointed by the Minister for local

⁹⁵ See s. 9(1) LGE Act

⁹⁶ See ss. 9(2) and 9(2) Ibid.

government⁹⁷ who is also a member of the ruling Party makes it is hard to think that he can appoint a person who has allegiance to an opposition Party. Likewise, it is hard to think of the Returning Officer,⁹⁸ appointing a person or persons to these positions from the opposition Parties.

5. Conclusion

The article shows that the Ward election supervisory organ (NEC) is better in terms of independence and neutrality than the Minister for local government who supervises the Village, *Mtaa* and *Kitongoji* elections. In this way, NEC may be considered to be a better option to supervise all elections in local governments. If NEC is to be opted as the sole efficient and effective supervisor of LG Elections who could win trust and confidence of all stakeholders, it must be significantly reformed.⁹⁹ The appointment process and the composition of the NEC as well as the appointments of various election officials by NEC need to take into account components of multiparty system. In particular, NEC is yet to achieve the independence needed to win trust and confidence, especially of the opposition Parties, operating in a multi-party democracy, and convince them that the LG Elections supervised by such a body guarantees free and fair results. In the alternative, there might be a need to establish a new independent election supervisory body for LG Elections.

⁹⁷ See regulations 3 of all four regulations governing the elections in villages, *mitaa* and *Vitongoji* discussed above.

⁹⁸ The Returning Officer is the appointing authority for Assistant Returning Officer and other election officials, see regulation 3 of all four regulations governing elections in villages, *mitaa* and *Vitongoji* discussed above.

⁹⁹ Compare Liviga, A. and Ahmed, R. "Local Government Elections in Tanzania: Why NEC Should Take Over Their Management". *The African Review* 2006, Vol. 33 Nos. 1 & 2, pp. 43-64.

Moreover, the article shows that the requirement of political Party sponsorship has direct impacts on independence and neutrality of the supervisor of local government elections. This is compounded by the powers of the Minister for local government to make Regulations prescribing procedures for local government elections. The Minister is not even legally obliged to consult the Village Council or the Village Assembly when making such Regulations.¹⁰⁰

On the basis of the weaknesses identified in this article in relation to independence and the autonomy of the current election supervisory bodies in local governments, it is recommended that the system should be changed in order to enhance the image and autonomy of local government elections.¹⁰¹

¹⁰⁰ Compare Mukandala, R. Op. cit. p. 23.

¹⁰¹ Compare Chaligha, A. *The 1999 Neighbourhood, Hamlet and Village Council Elections in Tanzania*, REDET Monograph Series No. 2, Dar es Salaam University Press, Dar es Salaam 2002, p. 5.