EISA gratefully acknowledges the generous financial support for this project from the Swedish International Development Agency (Sida), Harare and the Royal Danish Embassy (DANIDA), Pretoria

ISBN 978-1-920446-14-7

Order from: *publications@eisa.org.za*

PROMOTING THE EFFECTIVENESS OF DEMOCRACY PROTECTION INSTITUTIONS IN SOUTHERN AFRICA

TANZANIA'S COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE



Ernest T Mallya

EISA RESEARCH REPORT No 40

PROMOTING THE EFFECTIVENESS OF DEMOCRACY PROTECTION INSTITUTIONS IN SOUTHERN AFRICA

TANZANIA'S COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE

PROMOTING THE EFFECTIVENESS OF DEMOCRACY PROTECTION INSTITUTIONS IN SOUTHERN AFRICA

TANZANIA'S COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE

BY
ERNEST T MALLYA

Promoting Credible Elections and Democratic Governance in Africa

2009

Published by EISA
14 Park Rd, Richmond
Johannesburg
South Africa

P O Box 740
Auckland Park
2006
South Africa
Tel: 27 11 482 5495
Fax: 27 11 482 6163
Email: eisa@eisa.org.za
www.eisa.org.za

ISBN: 978-1-920446-14-7

© EISA

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of EISA.

First published 2009

EISA is a non-partisan organisation which seeks to promote democratic principles, free and fair elections, a strong civil society and good governance at all levels of Southern African society.



Cover photograph: Yoruba Beaded Sashes
Reproduced with the kind permission of Hamill Gallery of African Art, Boston, Ma USA

EISA Research Report, No. 40

CONTENTS

Preface vi

About the author xii

Acknowledgements xiii

Abbreviations xiv

Executive summary xv

1 Introduction 1

2 Methodology 3

3 Contextual background 4

4 Constitutional and legal framework 8

5 Institutional governance and effectiveness 13

6 Interaction with the government 19

7 Interaction with other democracy protection institutions 23

8 Interaction with the public and non-state actors 29

9 Key research findings 32

10 Conclusion 33

11 Policy recommendations 35

Endnotes 36

References 37

Appendix 39

About EISA 42

Other Research Reports 44

PREFACE

This research report is the culmination of a project that EISA embarked on over three years, from 2007 to 2009, focusing on 'Promoting the Effectiveness of Democracy Protection Institutions in Southern Africa'. The project, one of the components of a regional programme guided by the theme 'Consolidating Democratic Governance in the SADC Region: Phase II', has received financial support from the Swedish International Development Cooperation Agency (Sida) regional office in Harare, Zimbabwe, and the Royal Danish Embassy in Pretoria, South Africa. The seven elements of this regional programme are:

- Election quality
- Institutions of governance
- Gender equality and electoral processes
- SADC regional governance architecture
- The EISA annual symposium
- Regional resource centres
- The EISA democracy encyclopaedia

The overarching thrust of the programme is to improve governance architecture in Southern Africa, with a view to nurturing and consolidating democracy and sustaining peace and political stability, which are the key prerequisites for sustainable development and the eradication of poverty.
The focus of this regional programme is consistent with EISA's vision of 'an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment'. The primary goal is to enhance the quality of electoral processes, improve the capacity of key national and regional institutions that are central to the achievement of democratic governance in the SADC region, and help to reverse gender imbalances in political participation and representation. The specific objectives of the programme are to:

- improve the quality of elections, with a view to advancing democratic governance;
- enhance the effectiveness of selected governance institutions;

- improve gender equality in the realm of governance;
- promote democratic governance and political integration through the SADC Organ on Politics, Defence and Security and its strategic plan, SIPO;
- expand and deepen the knowledge base in relation to democratic governance in the SADC region.

The aim of this particular project is to contribute to enhancing the institutional effectiveness of governance institutions.

Conventionally, studies of and research relating to the state and governance have tended to focus on the traditional arms of government – the executive, the legislature and the judiciary – and the separation of powers among them, with some attention paid to the bureaucracy or civil service. This focus has reduced the role of the state in governance to these organs of government, to the exclusion of other equally important statutory bodies established by the government itself, namely the democracy protection institutions (DPIs).

Although the establishment of DPIs is one of the more effective methods of promoting democratic governance in the SADC region, these institutions have received little attention in the existing policy and academic discourse on democracy and governance. With this research project EISA aims to fill this lacuna in the democracy and governance debate in Southern Africa by restoring these institutions to their rightful place.

DPIs are those statutory institutions established by governments specifically to protect democratic governance. They may be enshrined in the country's constitution, supported by legislation, or created by legislation. The constitutional provisions and enabling legislation reinforce their significance in governance architecture at the national level.

At the continental level, the African Union (AU) has also come to realise and recognise the importance of DPIs to the promotion of democratic governance. Article 15 of the African Charter on Democracy, Elections and Governance, which was developed with technical assistance from EISA and was ultimately adopted by the AU Heads of State Assembly in Addis

Ababa, Ethiopia, in January 2007, specifically elaborates principles and best practice relating to DPIs.

This article commits AU member states to:

- establish public institutions that promote and support democracy and constitutional order;
- ensure that the independence or autonomy of the said institutions is guaranteed by the constitution;
- ensure that these institutions are accountable to competent national organs;
- provide the above-mentioned institutions with resources to perform their assigned missions efficiently and effectively.

The principles represent a clear commitment by African governments to strengthening the DPIs and promoting their institutional effectiveness. The aims are admirable, but, as the English aphorism goes, the proof of the pudding is in the eating. It is one thing for African governments to make such commitments, it is quite another to translate them into practice. In other words, as this report will illustrate, African governments do not always 'walk the talk'. Put somewhat differently, few African countries practise what the African Charter on Democracy, Elections and Governance preaches.

In 2008 EISA analysed three democracy protection institutions that are central to the achievement of democratic governance in the SADC region. These were: the Office of the Ombudsman, national human rights institutions (NHRIs), and electoral management bodies (EMBs) in 14 SADC member states. The analysis, which was guided by a list of questions, revealed different stages of institutional development in each country and established that the remit of the institutions differs from one country to another.

In 2009 the focus of the project shifted from the normative aspects addressed in the first stage to an assessment of the performance, effectiveness, independence and relationships of these institutions to other arms of government, other democracy protection institutions, and civil society,

within their operating environment. Empirical research was conducted by researchers in each country between March and July 2009 into two institutions – the Office of the Ombudsman and the national human rights commission – in the eight countries: Botswana, Lesotho, Malawi, Mauritius, Namibia, South Africa, Tanzania and Zambia.

Conventionally, the Office of the Ombudsman is established to protect the people against violations of human rights, the abuse of power by public institutions, error, negligence, unfair decisions and maladministration, in order to improve public administration with a view to making governments responsive to people's needs and public servants more accountable to members of the public. This office has emerged as an important avenue for individual complaints against the actions of public authorities.

Typically, national human rights institutions are mandated to protect and promote human rights. A number of countries have established NHRIs which use the Ombudsman concept. The genesis of NHRIs lies in a resolution passed in 1946 by the United Nations Economic and Social Council inviting member states to consider the desirability of establishing local information groups or human rights committees to serve as vehicles for collaboration with the United Nations.

In 1991 delegates to the first International Workshop on National Institutions for the Promotion and Protection of Human Rights agreed on the Paris Principles, which were adopted a year later. The Paris Principles are a set of broad general standards which apply to all NHRIs, regardless of their structure or type. They are adopted by NHRIs and endorsed by the UN Commission on Human Rights and the UN General Assembly. Among the main principles are that the NHRI must:

- be independent and be guaranteed by statute or the constitution;
- be autonomous from government;
- be plural and diverse in its membership;
- have a broad mandate based on universal human rights standards;
- have adequate powers of investigation;
- have sufficient resources to carry out its functions.

The mandates of these two DPIs to address administrative and executive impropriety and ensure the respect and promotion of human rights suggest that they play an important role in exercising oversight over the executive and in promoting democracy, human dignity, and the rule of law. The overall objective of this research project, therefore, was to investigate the extent to which they have translated their mandate into action, thereby advancing and protecting democracy. The research examined the performance of the two institutions with regard to the following: legal framework, the effectiveness of institutional governance, independence, resources, and interaction with the other arms of government, the public, and non-state actors.

In July 2009 EISA convened a one-day policy dialogue forum during which senior officials of the 12 DPIs covered in the research, as well as the researchers, came together to deliberate on the findings. Thereafter, the researchers refined their reports, taking into account the input of the DPI officials. The culmination of the research project is eight country reports, in which the political, operational and resource conditions and constraints under which these institutions function are analysed.

The mere presence of offices of the Ombudsman and NHRIs in the SADC region is, in itself, an encouraging step, although not all SADC countries have these institutions in place. Where they do exist they do so in a variety of forms, with different nomenclatures, and each has its own character.

I acknowledge with gratitude all those whose input resulted in the successful implementation of the project. First and foremost, EISA's Executive Director, Denis Kadima, who contributed immeasurably to the conceptualisation of the regional programme on consolidating democratic governance in the SADC region, of which the DPI project is a part. I am grateful too to Ebrahim Fakir, Manager of Governance Institutions and Processes at EISA, for guiding the research process and editing the reports, thereby ensuring their quality. Without the selfless commitment and dedication of the project coordinator, Catherine Musuva, this project would not have seen the light of day. I take my hat off to her for her hard work.

The project would not have succeeded without the dedication of our research associates, based in the eight countries, who conducted the fieldwork. I

am equally indebted to the officials and staff of the democracy protection institutions, who supported the project with information and participated in the policy dialogue, and to the various respondents who willingly supplied the researchers with additional insights.

It would be remiss of me not to extend a special word of thanks to Professor Kader Asmal, former member of the South African Parliament and former Cabinet minister, who is currently a professor of law at the University of the Western Cape and who, despite his busy schedule, graced our multi-stakeholder dialogue workshop with his presence giving a thought-provoking and insightful keynote address on DPIs and setting the scene for what proved to be a lively discussion among the participants. I am pleased to report that some of Professor Asmal's ideas and thoughts have found a place in the reports.

Various other colleagues at EISA played their own distinctive roles in supporting this project and their contributions deserve acknowledgement. They are Kedibone Tyeda, Nkgakong Mokonyane, Maureen Moloi, Jackie Kalley, Alka Larkan, Oliva Fumbuka, Edward Veremu, Dipti Bava, Wallen Chidawanyika and Usha Kala. Our editor, Pat Tucker, and typesetter, Sue Sandrock, have done a marvellous job controlling the quality of our publications, for which we are hugely thankful.

Finally, I am profoundly grateful to our partners, Sida Regional Office in Harare, Zimbabwe, and the Royal Danish Embassy in Pretoria, South Africa, for their generous financial support.

In conclusion, I hope and trust that this research report will assist policy–makers to identify areas of organisational and institutional reform in order to improve the effectiveness, efficiency and responsiveness of DPIs and, in the process, deepen and entrench democratic governance in the SADC region.

Dr Khabele Matlosa
Programmes Director-EISA, Johannesburg
September 2009

ABOUT THE AUTHOR

Ernest T Mallya is Associate Professor of Public Policy and Administration in the University of Dar es Salaam's Department of Political Science and Public Administration. He has worked and researched in the areas of public service delivery systems and civic/public service reforms in Tanzania; good governance issues (including ethics and corruption); elections and election monitoring; civic education; and training in capacity building. He has also been involved in projects with, among others, the Public Service Management (Tanzania), GTZ, ESRF (Tanzania), UNDP/Maastricht School of Management and Kvistgaard/Hedeselskabet (Denmark), IDASA and EISA. He teaches courses related to the administrative sciences and has been appointed Deputy Principal (Academics) at the Constituent College of Education of the University of Dar es Salaam.

ACKNOWLEDGEMENTS

The researcher appreciates the trust bestowed upon him to do this work on Tanzania's Commission for Human Rights and Good Governance (CHRAGG). He also appreciates the cooperation accorded to him by the chairman of the Commission, Judge Ramadhani Manento, and the executive secretary, Ms Mary Massay, for agreeing to a long telephone interview while they were upcountry inspecting prisons. Appreciation goes to the staff at the CHRAGG office, especially Mr F Nzuki, director of human rights at the commission, for time for an interview with Mr J Jingu, who was assisting the researcher, and Mr Mudogo, who was the linkman when it came to tracking down some respondents. The researcher is also grateful to those others outside the commission, from community service organisations, the media and academia, who spared time to talk to him.

ABBREVIATIONS

AG	Attorney General
ASP	Afro Shirazi Party
CCM	Chama Cha Mapinduzi
CHRAGG	Commission for Human Rights and Good Governance
CSO	Civil society organisation
DC	District Commissioner
DFID	Department for International Development
DPP	Director of Public Prosecutions
EMB	Electoral Management Board
FIU	Financial Intelligence Unit
GDP	Gross domestic product
ICCPR	International Covenant on Civil and Political Rights
LHRC	Legal and Human Rights Centre
NACSAP	National Anti-Corruption Strategy and Action Plan
NEC	National Electoral Commission
NGO	Non-governmental organisation
PCB	Prevention of Corruption Bureau
PCCB	Prevention and Combating of Corruption Bureau
RC	Regional Commissioner
SADC	Southern African Development Community
TAMWA	Tanzania Media Women's Association
TANU	Tanganyika African National Union
TAWLA	Tanzania Women Lawyers Association
TGNP	Tanzania Gender Networking Programme
URT	United Republic of Tanzania
ZEC	Zanzibar Electoral Commission

EXECUTIVE SUMMARY

The Electoral Institute of Southern Africa (EISA) is a not-for-profit organisation which strives to promote credible elections on the continent. This project is intended to promote the effectiveness of democracy protection institutions such as human rights commissions and those institutions charged with overseeing the integrity of the government bureaucracy which are normally called Ombudsman. This report concerns the Tanzanian Commission for Human Rights and Good Governance (CHRAGG), which covers both issues of human rights and the integrity of the government bureaucracy in Tanzania.

Tanzania is a union between two states – Tanganyika and Zanzibar; a union formed in 1964. Immediately after independence opposition parties withered away in Tanganyika and in Zanzibar there was only one political party after the 1964 revolution. Tanzania, therefore, remained a de facto single-party state until after 1977, when the Tanganyika African National Union (TANU) merged with the Afro Shirazi Party (ASP) to form the Chama Cha Mapinduzi (CCM).

Multiparty politics was reintroduced in Tanzania in 1992. The system that operates gives considerable power to the executive vis-à-vis the other arms of government. The government has created some institutions to sustain democracy but these are yet to be as effective as democracy activists wish them to be. One such institution is the CHRAGG.

The methodologies used to collect data include a review of literature, interviews, a questionnaire and informal consultations. The introductory remarks to the report are followed by background information on the country, especially the political aspects that led to the creation of the commission. The following sections consider the constitutional and legal framework under which the commission operates, how it is governed and its effectiveness.

These are followed by a section focusing on the institution and those with whom it interacts. These include the government and the three arms of state – the judiciary, the executive and Parliament.

The report focuses on other democracy protection institutions such as the Ethics Secretariat and the Prevention and Combating of Corruption Bureau, and looks at the interaction between the CHRAGG and the public at large as well as non-state actors like civil society organisations, among them the Tanzania Media Women's Association (TAMWA), the Tanzania Women Lawyers Association (TAWLA), the Legal and Human Rights Centre (LHRC) and the Tanzania Gender Networking Programme (TGNP).

The report sets out the key research finding and adds some policy recommendations. It ends with a number of conclusions. Firstly, that nascent democracies on the African continent must be carefully nurtured if real democracy is to be realised. This requires that institutions such as those that oversee elections, human rights and good governance be constitutionally recognised so that no other institution may interfere with their activities without fitting and justifiable reasons.

Secondly, the constitutional and legal mandates of the commission are clear, but a lack of resources has rendered it less effective than it should be.

Thirdly, the government must do a great deal to create an environment in which democracy can thrive. One area which requires attention is the legal system – certain draconian laws need to be repealed or amended.

Fourthly, cooperation and networking between and among government and non-governmental actors would contribute to the successful realisation of the goals of such institutions as the CHRAGG.

1

INTRODUCTION

EISA is a not-for-profit organisation established in the mid-1990s and based in Johannesburg, South Africa. Its mission is mainly to promote quality electoral processes in the SADC region. But electoral processes require other related and necessary processes, structures and conditions to obtain if elections are to be free, fair and democratic.

With this in mind EISA has been engaged in programmes targeting such structures as political parties, electoral management boards, civil society organisations of all kinds, governance institutions in African countries, and so on. EISA's vision is 'An African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment'.

EISA's stakeholders and partners include governments, electoral commissions, political parties, civil society organisations and other institutions operating in the democracy and governance fields throughout Africa. The project under which this research falls, 'Promoting the Effectiveness of Democracy Protection Institutions in Southern Africa', studies some of the key players in the protection of democracy – the Office of the Ombudsman and human rights commissions or their equivalents. These institutions keep a check on the misuse of office and the abuse of power by elected and appointed officials, take action when human rights are trampled upon and even prosecute the culprits where necessary.

In Tanzania, the institution which deals with this area of governance is the Commission for Human Rights and Good Governance. Luckily, perhaps, both human rights and good governance are overseen by one institution. The commission is, however, rather young – it only came into being in 2002.

The report begins by giving a background to the country, focusing particularly on the political aspects that led to the creation of the commission.

It then sets out the methodology used to collect data. This introductory section is followed by an outline of the constitutional and legal framework in terms of which the commission operates, the way it is governed and the extent to which it has been effective. The following sections look at the institution and those with whom it interacts, including the three arms of state; other democracy protection institutions; the public at large and non-state actors such as civil society organisations. Finally, the report sets out the key research findings and makes some policy recommendations.

2

METHODOLOGY

The researcher used the following data gathering methods:

- *Desk Research*
  A great deal has been written about human rights in Tanzania and the world at large. Although the commission is a mere seven years old substantial material has been compiled about it, the way it has performed and its relationship with other institutions. The researcher reviewed literature covering the commission, the Constitution and the commission, other institutions and the general political-economic profile of Tanzania.

- *Interviews with a few key stakeholders*
  There were interviews with the chairman of the commission, its director of human rights and the acting executive secretary of the Secretariat to the commission, among others.

- *Questionnaires given to respondents before face-to-face interviews*
  This method gave the respondents some freedom to express their views in a more confidential manner in that they were on their own when doing the exercise. This may have resulted in views being expressed that would not have been in a more public interaction such as an interview or focus group discussion.

- *Informal consultations*
  To supplement what transpired in the interviews the researcher held further discussions with some of the interviewees after the formal engagement was over. This led to clarification of some of the issues that came up in the interviews.

3

CONTEXTUAL BACKGROUND

THE COUNTRY

The United Republic of Tanzania comprises mainland Tanzania (formerly Tanganyika) and Zanzibar. The mainland attained its independence from the British under the leadership of the Tanganyika African National Union (TANU) on 9 December 1961. Exactly a year later the Westminster constitution was replaced by a republican one. In Zanzibar the Afro-Shirazi Party (ASP) staged a revolution on 12 January 1964, three months after the British handed power to an Arab-dominated coalition. A union was formed between Tanganyika and Zanzibar on 26 April 1964.

In terms of the law TANU was the sole political party on the mainland from 1965, while the ASP was the only political party in Zanzibar after the revolution. On 5 February 1977 TANU and the ASP merged to form Chama cha Mapinduzi (CCM), placing the two governments under a single political party. Constitutionally there have always been two governments: the Union Government and the Revolutionary Government of Zanzibar. The government of the United Republic has jurisdiction over union matters throughout the United Republic and over non-union matters on the mainland. The Revolutionary Government of Zanzibar has jurisdiction over all non-union matters in Tanzania Zanzibar. Foreign affairs is a union matter and therefore it is Tanzania (United Republic) that deals with the Commonwealth and not Zanzibar as a country.

The population of Tanzania stands at about 34-million according to the 2002 population census. The population includes some 120 ethnic groups, each with its vernacular. But Tanzania has a lingua franca in Kiswahili, which most of the 120 ethnic groups can speak. About 24 per cent of Tanzanians live in urban areas.

It is widely held that 50 per cent of Tanzanians live below a locally defined poverty line, while 36 per cent of them live in abject poverty (DFID 1999, p 1; URT 1999, p 7; Assey 1999, p 129). Studies indicate that poverty is likely to

persist for the foreseeable future. GDP per capita income is about US$700. Population growth is at 2.9 per cent, while the economy has been growing at about 6 per cent in the past four to five years. Of the rural population, which accounts for about 75 per cent of the total population, about 60 per cent live below the poverty line. Women, who comprise 51 per cent of the population, constitute 54 per cent of the economically active population and are known to bear the brunt of poverty.

POLITICAL LEADERSHIP

The Tanzanian system of political leadership is part presidential and part parliamentary. Some see it as being parliamentary or even having a Westminster format, since the Cabinet is chosen from among legislative representatives and the executive forms part of the legislative process. However, the head of government is chosen directly by the people, which is not the case in a strictly Westminster model where if a party wins an election its leader becomes the chief executive and leader of government business in the legislature. At independence this was the model used in Tanganyika. The head of state in its first year was the Queen of England, but, in 1962, a year into independence, the country became a republic although it remained a member of the Commonwealth. It now has an executive president and a prime minister whose duties include taking charge of government business in Parliament.

In terms of this system the leader of the government is given a mandate by popular vote and serves both as head of government and the head of state. In Tanzania, as, for instance, in France, the president appoints a prime minister, often from a majority party. If the majority party in the legislature is not that of the president, the prime minister may truly share executive power with the president. In both this type of government and in the 'pure' presidential type, such as that in the USA, the chief executive wields considerable power.

These powers have been said to infringe the powers of the other arms of government – the legislature and the judiciary. Much of the power of the executive president (in a presidential system) comes from the deliberate combination of the functions of head of government and head of state, which, in practice, means that there is no check or balance of power

within the executive in the sense in which the prime minister in a typical parliamentary system is limited by the presence of the head of state. Moreover, whereas the Cabinet is a body of peers formed more or less by the party caucus to assist the prime minister in a parliamentary system, in a presidential system such a body is often the creature of the president alone.

The fact that the president is usually popularly elected adds to this power, since he or she will be as legitimate as the legislators, perhaps even more so because of his or her national constituency. Countries such as Tanzania, which choose presidential systems, do so deliberately to give the chief executive a great deal of power within the executive branch. This has not been seen as a healthy feature in the attempt to build democracy and all these feature impinge upon the upholding of human rights.

Tanzania's current Ombudsman – the Commission for Human Rights and Good Governance (CHRAGG) – states in its vision statement that it intends to be 'committed to the creation of a just society and culture in which Human Rights and Principles of Good Governance are promoted, protected and preserved'. This is a vision with a noble goal in a world in which human rights and governance issues have come to the fore more than ever before.

The issue of human rights has been on the agenda in Tanzania for some time, particularly once a Bill of Rights was included in the Constitution. However, the instruments for ensuring that the rights were enforced were not very solid or effective. The then Ombudsman – the Permanent Commission of Inquiry (PCI) – was formed, among other reasons, to check the misuse and abuse of power by members of the public and the government. The PCI was established in 1965 and was incorporated in the Interim Constitution as an alternative to the incorporation of a Bill of Rights. It is believed that it was the first Ombudsman on the continent (Maloka 2005).

In 1984 a Bill of Rights was incorporated in the Constitution. However, the enforcement of these rights was hampered by the many oppressive and unconstitutional laws, some of which were identified by the Nyalali Commission. The government had, until 2000, been under pressure to create

a human rights commission and there were also demands for the removal of the claw-back clauses in the Constitution relating to certain human rights for which it provided. A committee formed by the government to look into these laws – The Kisanga Committee – disagreed with the government's stand on the need to retain some of the laws, which effectively derogate from some constitutional provisions on human rights. In the 13th Constitutional Amendment to the Tanzania Constitution this issue was comprehensively addressed and the CHRAGG was provided for.

4

CONSTITUTIONAL AND LEGAL FRAMEWORK

THE CONSTITUTIONAL PROVISIONS

A constitution stipulates the powers given to government. It usually includes a Bill of rights listing the rights of individuals and limits on the power of government. The Union Constitution and the Zanzibar Constitution are both written constitutions, each containing a Bill of human rights and duties.[1] Both constitutions embrace a multi-party system of democracy and the enforcement of human rights and the practice of multiparty democracy also falls under the so-called 'union matters'.[2]

The Commission for Human Rights and Good Governance was established under Article 129(1) of the Constitution of the United Republic of Tanzania of 1977 as amended by Act 3 of 2000. It became operational in June 2001 and was officially inaugurated in March 2002 following the appointment of commissioners by the president of the United Republic.

Because of constitutional and legal problems the commission initially only operated on the mainland but its mandate now extends to Zanzibar. It has established an office in Unguja and is in the process of establishing one in Pemba. Article 129 of the United Republic of Tanzania Constitution replaces the Permanent Commission of Inquiry with the CHRGG, article 130(1)(a)-(h) entrusts the CHRGG with the responsibility for protecting and promoting human rights in the country and article 130(2) provides that it is an independent department.

Article 130 stipulates that, in addition to promoting human rights and disseminating information about human rights the commission may institute an investigation into any area of violation of human rights. Those liable for investigation include civil servants in both governments, leaders of political parties, commissioners and workers on government commissions, parastatals, private companies, societies, and cooperatives. The commission, which feels that its educational programmes have been restricted by under-funding, believes even some central governance

organs like the Cabinet and Parliament need to be educated about its functions.

The decision to create a human rights commission was a partial response to longstanding protests about the ineffectiveness of the Permanent Commission of Inquiry and the need for a human rights watchdog. However, the new body appears to suffer from some of the shortcomings of its predecessor, including the fact that the President may order it to stop any investigation. Some argue that the commission should be supervised by Parliament, not the presidency.

In its favour is the fact that at least it exists. In addition, the complaint aired over many years that ordinary individuals cannot pursue their rights in the High Court because of the legal complexities and fees involved may now be answered in part by the commission, to which petitions may be brought and which may prosecute offenders, two actions which would previously not have been possible. It should also be mentioned that its existence does not mean that violation of human rights has stopped. There are many instances of such rights being violated by state agents like the police and people in power such as district commissioners and regional commissioners. There are examples of pastoralists who have been moved from their areas on the pretext that they are a hazard to the environment without their being resettled in areas which can accommodate their animals.

COMPOSITION OF THE CHRAGG

The commissioners and assistant commissioners are appointed by the president after consultation with the Public Service Commission. The appointment committee comprises the chief justice of the mainland, the speaker of the National Assembly, the chief justice of Zanzibar, the speaker of the House of Representatives (Zanzibar) and the deputy attorney-general. The chairman is appointed from among those persons qualified to be appointed a judge. The commissioners, whose number is limited to seven, are appointed from among people with experience and expertise in human rights, law, governance, politics and social issues. The appointment of commissioners takes gender into consideration. The current commission comprises six commissioners, three of whom,

including the vice-chairperson, are women, As at May 2009 the seventh position was yet to be filled.

POWERS, FUNCTIONS AND MANDATE OF CHRAGG

The CHRAGG Act gives the commission the following powers (URT 2001, p 241):

- To issue summons or other orders requiring the attendance of any person before it and the production of any document. record or anything relevant to an investigation or inquiry which may be in possession or control of that person;
- To examine. on oath or affirmation, any person in respect of any matter under investigation;
- To require any person to provide any information within his or her knowledge relevant to an investigation or enquiry;
- To make interim orders to preserve, pending determination of the matters at issue, the existing state of affairs between the parties to the proceedings or the rights of the parties;
- Subject to any other law, to enter upon, and inspect, any premises relevant to an investigation and to seize any relevant document, record or anything; and
- To cause any person, contemptuous of its proceedings or orders, to be prosecuted before a competent court.

According to Maloka (2006, p 131), whom we have quoted *in extenso* in this sub-section, the Constitution and the laws of Tanzania require CHRAGG to promote, protect and preserve the human rights of Tanzanians, improve the accountability of the government's administrative machinery, and make government more transparent.

It receives complaints about human rights violations and contraventions of the principles of administrative justice (such as abuse of power), and conducts enquiries or investigations. CHRAGG concludes each investigation with the formulation of recommendations (which are not legally binding). Following the publication of the recommendations the violating group or individual must submit a report within three months detailing what action has been taken to redress the violations.

If no significant action has been taken the commission may either bring the case to a court of law or recommend that a competent authority take the necessary action to enforce compliance with the recommendations. To date, CHRAGG has not instituted such legal proceedings, because no situation requiring such measures has arisen. In short, the commission's role is to protect people against human rights violations and the abuse of power.

CHRAGG also conducts research into human rights abuses as well as into problems relating to administrative justice and good governance, and seeks to educate the public about such issues. For instance, CHRAGG recently undertook research on child abuse in Tanzania. Once the research process has been completed a public inquiry will be conducted which will be followed by a national workshop for all relevant stakeholders. The aim of the workshop is to produce concrete recommendations about measures to be taken to address child abuse. CHRAGG also produces annual and thematic reports as part of its advocacy and human rights awareness work.

CHRAGG's mandate further requires it to visit prisons and places of detention in order to assess and inspect conditions and the way in which prisoners and detainees are treated. It is also required to make recommendations to address identified problems. In 2002 and 2003 CHRAGG inspected several regional and district prisons on mainland Tanzania and found severe overcrowding, inadequate bedding, poor ablution facilities, and inadequate clothing provided to prisoners. It also found that child prisoners were being held in the same sections as adults. The commission compiled a report, which included a series of recommendations to improve prison conditions. The government subsequently implemented some recommendations, including provision of mattresses, the installation of toilets in cells and improvements in prison uniforms and diet.

The commission is also mandated to promote Tanzania's accession to and ratification of international human rights treaties and conventions to which the country is a party, but the fact that the commission has only recently been established and has limited capacity has meant that very

little progress has been made towards fulfilling this function. Nevertheless, CHRAGG has assisted the government in fulfilling its reporting obligations in relation to treaties that have already been ratified. In terms of s 40 of the CHRAGG Act the commission is required to deal with cases carried over from the PCI and, as a result, guided by its mandate, it has had to prioritise those activities that will have an immediate and significant impact on society in terms of policy and legislative reform and development.

Like many other national human rights institutions CHRAGG is mandated to advise both public organs and private sector institutions on specific issues relating to human rights and administrative justice. In this way, the commission contributes to policy formulation by ensuring that the policies of government and private institutions comply with international human rights standards. CHRAGG has also suggested priority areas for reforming laws so that they comply with the Tanzanian Constitution and incorporate international best practice. It has entered into partnerships with international, regional and other national institutions that are competent in the areas of protection of human rights and administrative justice. Regionally, CHRAGG has become a member of the African Ombudsman Association, the African Secretariat of African National Human Rights Institutions and it has accreditation with the African Commission of Human and Peoples' Rights. It is also a member of the International Ombudsman Institution.

5

INSTITUTIONAL GOVERNANCE AND EFFECTIVENESS

PERFORMANCE

CHRAGG's performance record has been mixed, featuring some success stories and some distressing ones. As at 31 July 2008 it had received and dealt with 22 812 complaints relating to human rights and maladministration. Of these, 2 237 (10 per cent) were inherited from the defunct PCI. Of the total number of complaints received 22 322 (98 per cent) relate to the abuse of principles of good governance and 490 (2 per cent) relate to violations of human rights. A total of 14 954 complaints (70 per cent) have been resolved by the Commission since its establishment. About 7 755 are still under investigation.

The Commission's report reveals that by May 2008 about 64 per cent of cases had been resolved. An analysis of the figures in the report show that 20.7 per cent of the complaints were justified and the commission's recommendations were honoured.

On the other hand, the Commission found 13.3 per cent of complaints investigated to be unjustified and 45 per cent were referred to the appropriate authorities; 20.9 per cent were rejected. The relatively high rate of rejection suggests an apparent lack of goodwill among the authorities. The largest number of complaints (29 per cent) has come from the Dar es Salaam region, one of 26 regions, including the five in Zanzibar.

KEY PROBLEM AREAS HANDLED BY THE CHRAGG

The commission has handled a variety of cases. Complaints generally relate to the following:

- *Land use and ownership*: With Tanzania's shift in economic policy from socialist to more liberal policies, land has significantly increased in value and land ownership has become a key measure of wealth and security. Consequently, CHRAGG has dealt with complaints about

issues like unlawful evictions and conflicts between pastoralists and farmers over land ownership.

- *Abuse by police and prison officers*: CHRAGG has received complaints about police brutality and about refusal by the police to make arrests in certain matters. The abuse of human rights by prison officers has also been brought to its attention. In recent years several citizens have complained, through the media, about police brutality, with police officers throughout the country being accused of 'unjustified shootings', severe beatings, and unnecessarily rough physical treatment, with the majority of complaints emanating from Arusha, Dar es Salaam, Mbeya and Mwanza. A victim seeking redress faces obstacles at every point in the process, ranging from overt intimidation to the reluctance of prosecutors (themselves police officers) to take on police brutality cases. The recently appointed Presidential Commission of Inquiry to inquire into the alleged shooting and killing by some police officers of three mineral dealers and a taxi driver mistaken for suspected armed robbers who had earlier robbed a jeweller's shop in Dar es Salaam (*Daily News* 23 January 2006), may signify progress in addressing the problem.
- *Investor-citizens conflicts*: There have been conflicts between local communities and investor companies, especially with regard to minerals. These conflicts emerge when developers evict locals from their land, often by intimidating them and with little or no compensation and no consideration for the effect on their employment or for any resultant environmental degredation.
- *Natural resources*: Access to natural resources like water, forests, the sea, and so on has been the basis for complaints to the commission.
- *Gender related issues*: Tanzania is a patriarchal society and gender discrimination still takes place. As a result, despite laws promoting gender equality, women are disadvantaged when it comes to participating fully in civic life. In some parts of the country, especially rural areas, spousal abuse is common. CHRAGG plans to intervene, to educate the public about such issues, and to provide redress for those who have been harmed by such practices.
- *Youth and unemployment*: Tanzanian youth are particularly affected by the lack of employment opportunities, a situation that has

resulted, among other things, in drug abuse among young people. CHRAGG also deals with cases pertaining to statutory rape and the defilement of young girls and boys.

- *People with disabilities*: While the rights of disabled people are enshrined in the Tanzanian Constitution, no remedy or redress is provided for disabled people whose rights have not been respected. The Commission has a desk for children and people with disabilities, and has entered into a memorandum of agreement with UNICEF to address the issue. Through this partnership the CHRAGG seeks to persuade the government to provide protection for the human rights of people with disabilities. It will be remembered that Tanzania's name has been tarnished in recent months because of the killing of albinos. All human rights institutions have worked hard to stop these killings.
- *Labour*: As mentioned above, labour disputes account for 60 per cent of CHRAGG's workload, a fact that can partly be attributed to a shift in economic policies which has resulted in changing working conditions and/or job losses. CHRAGG also inherited a number of cases from the PCI, which are mostly labour related. It is not known whether the CHRAGG will hand over these cases to the proposed Commission for Mediation and Arbitration once it has been established.
- *Corruption*: Some complaints relate to judicial officers demanding bribes from citizens to investigate their cases. This has contributed to a loss of faith in the legal system and has led to incidents of mob and/or vigilante justice. Corruption is also reported in other sectors of the political system. A catalogue of public offices in which corruption was and still is rampant can be found in the Warioba Report of 1996.

There are two landmark cases in which the appropriate authorities failed to act on CHRAGG recommendations. The first is the Nyamuma case. In 2001 the commission received the first case brought by Nyamuma village in Serengeti District against the district-commissioner for Serengeti District, Office Commanding District and the attorney general. The case was brought by the village on behalf of 135 villagers who were evicted from their homes by the district authorities.

The commission investigated and found the district authorities responsible for violating human rights. The commission was satisfied that the complainants were lawful residents of the disputed area. In line with its findings the commission made a number of recommendations. These included: relocating the complainants in their areas, compensating them for the loss of their properties to the value of 890-million Tanzanian shillings and the provision of urgent humanitarian assistance to restore them to their normal way of life. The commission also ruled that the government should take action against some of its officers and ordered the district authorities to stop all incidence of violation of human rights such as persecution, degradation, discrimination, torture and intimidation.

The law requires the commission's recommendations to be implemented within three months from the date of issue. If the authority concerned fails to implement the recommendations the commission may initiate legal proceedings to enforce its recommendations. In this case the Commission's recommendations were issued on 13 December 2004 but after three months the government had done nothing to implement them. On 18 May 2005 the then attorney-general, informed the chairman of the commission that the government had investigated the issue and had found that most of the recommendations made by the commission were based on fabricated evidence. In essence, the government was denying any violation of human rights.

The AG's argument was interesting in view of the fact that the commission alone may determine whether human rights have been violated. Quite apart from that, a full hearing of evidence from the complainants and the district authorities was conducted in public; the government was well represented and at no time did the government succeed in shaking or disputing the complainants' evidence.

In another landmark case CHRAGG initiated an investigation after the death by suffocation of 17 convicted and remanded prisoners in Mbarali. After the investigations CHRAGG issued a report recommending an out-of-court cash settlement for relatives of the diseased and survivors of the incident. The appropriate authorities were, however, reluctant to take action and insisted that it would be prudent to wait for a court decision

about the case of manslaughter filed against the policemen who were on duty on the night of the incident. In 2008 some of the policemen were convicted of manslaughter and CHRAGG has revived the case by seeking administrative justice.

On the whole the commission's performance has improved, as has its image in the eyes of the public. In addition to hearing and successfully handling a number of complaints the commission conducted inspections of prisons and police stations. By May 2008 it had inspected 173 prisons and 282 police stations and made many recommendations for the improvement of living standards and human dignity of prisoners and detainees. Among the recommendations which have been implemented by the authorities are increasing the meal budget, increasing ablution facilities, reducing overcrowding, supplying more comfortable mattresses and using buses instead of unventilated trucks to transport inmates.

Furthermore, the commission has carried out limited programmes to make people aware of human rights and good governance, has conducted research, has made recommendations, monitored compliance with international and regional conventions on human rights and has collaborated closely with CSOs in monitoring human rights and principles of good governance.

LIMITATIONS

The powers and independence of the commission are limited in a number of ways. First, Article 130(3) provides that the president may order the commission to do anything he or she wishes. Similarly, Article 6 prohibits the Commission from investigating the president. These are serious limitations. Tanzania's president is head of state and government and chief of the armed forces and his directives may affect the impartiality or independence of the commission, especially when complaints are levelled against his government or another organ the president may not feel comfortable to have investigated by the commission.

Further, the fact that the commissioners are appointed by the president makes the whole commission accountable to the executive instead of to the people. The commission should be accountable to Parliament instead.

Secondly, the commission does not have its own budget. Article 131(3) provides that the commission's budget is determined by the minister responsible for human rights and good governance. The chairman of the commission noted, however, that the executive is very cooperative when he raises issues of inadequate budget and that the budget ceiling for the commission has been raised over the years, although not to the extent the chair would have liked.

Thirdly, the commission's decisions are not binding, it must take human rights violation cases to the courts. Although it is supposed to be a statutorily independent body, the commission is constrained by the political environment within which it operates. As the former chairman, Justice Robert Kisanga, noted in 2005, 'the lack of institutional cooperation and good faith by the Government impeded investigations as public servants either delayed in answering the Commission's letters of inquiry or outright refused to do so' (AI 2006). Apart from giving an advisory opinion the commission's only recourse is to take human-rights-related cases to the court. The current chair of the commission believes, though, that the commission's strength in relation to politicians lies with the chair. If the chair is strong politicians will not interfere with decisions. He also insists that since he is a retired judge he knows what the Constitution means by independence.

Apart from the political constraints inherent in working in a restrictive political environment in which the authorities are not receptive to its recommendations, the commission is also constrained by budgetary allocations and manpower. Funding has, to a large extent, not met the commission's needs. While it is sufficient to cater for salaries, rent and key utility costs like electricity, telephones and water, there is no money for public education – a serious problem.

6

INTERACTION WITH THE GOVERNMENT

THE EXECUTIVE

The CHRAGG interacts far more with the executive arm of government than with the other two branches. One reason for this is that the government has the coercive instruments which are the prime culprits when it comes to the abuse of human rights. It is the police force that enforces law and order and it is this area that elicits many of the claims and counter-claims with which the commission must deal. Another reason is that good governance is, to a great extent, related to government bureaucracy, which is what interacts with the electorate on a daily basis, and where resources are allocated. It is mostly the allocation of resources in the process of delivering social services which leads to many of the complaints against the bureaucracy in many governments.

With regard to the first, the police force and the prison services are usually prominent offenders when it comes to human rights abuses. The very nature of the police force, which is unleashed against the population when the government feels there is a threat to peace, and the manners, in which the force executes its task, frequently gives rise to complaints, many of which relate to excessive use of force, use of live bullets, police 'frame-ups (*kubambikizia kesi*)', heavy handedness and even killings (see CHRGG 2001/2002 and 2002/2003).

The main issue here is the extent to which the police, in their operations, respect human rights and abide by the rule of law. This might involve a broad and protracted public debate, particularly given the colonial origins of the police force and the need to reform it so as to ensure that its work moves from merely being to enforce law and order to being more service oriented. The powers of the Tanzania Police Force, a union state organ (First Schedule to the Union Constitution Item 4 in list of 'union matters), are enshrined in various statutes, including the Police Force Ordinance, and various other national laws.

The force also has a major role to play in terms of the Political Parties Act of 1992. These powers have, to large extent, had an impact on the constitutionally guaranteed right of association, freedom of speech and the management of political parties. The powers given the police under state laws are immense and can, if not properly checked, open the door for abuse. While most effective constitutions include provisions to prevent state organs from abusing their powers, the Tanzanian Constitution does not, although the president has the authority under the Commission of Inquiry Act to establish a presidential commission to enquire into any allegations of misuse of power by any state organ, including the police.

GOOD GOVERNANCE OFFICE WITHIN THE PRESIDENT'S OFFICE

The President's Office includes a Good Governance Office, part of a corruption strategy and action plan to monitor the ethics of public leaders and abuses of power, to coordinate state organs involved in the fight against corruption, to strengthen the legal regime for fighting corruption and to link government and civil society efforts against corruption. The Good Governance Office is headed by the Minister of Good Governance, a political appointee of the president. This ministry was placed under the President's Office to give it more power vis-à-vis other offices. Thus far, though, it has delivered little. There has been no reduction in corruption in the public service, independent departments or agencies and complaints about the public service are a daily occurrence.

OTHER GOVERNMENT MINISTRIES

Other ministries that have a role to play in the areas mentioned as being possible incubators for human rights abuses are:

- Ministry of Community Development, Gender and Children (rights of women, children)
- Ministry of Education and Vocational Training (rights of children and young people to education)
- Ministry of Labour, Employment and Youth Development (youth and employment)
- Ministry of Health and Social Welfare (right to health)
- Ministry of Home Affairs (police, prisons, and security in general)

THE JUDICIARY

Article 107A(1) of the URT Constitution of 1997 states that the judiciary has the final say on the administration of justice. Moreover, Article 13(3) of the Constitution states that human rights will be protected and adjudicated by the judiciary and other organs of the state established by law for that purpose.

Minimum Human Rights Guarantees

Both the Union Constitution (Article 13(6)(1)(b), (c), (d) and (e)) and the Zanzibar Constitution (Article 12(6) (a), (b), (c) and (d)) provide for the minimum constitutional guarantees for the protection of the human rights of any person coming into contact with the criminal justice system. These are:

- Entitlement to a fair hearing and right of appeal or other remedy.
- Not to be punished for any act which at the time of its commission was not an offence under the law.
- Not to be given a penalty not in force at the time the offence was committed.
- Respect for human dignity during criminal investigations and processes and when restrained, or in executing a sentence.

Curiously, while the Union Constitution protects citizens from being subjected to torture or inhumane or degrading punishment or treatment, the Zanzibar Constitution does not and Tanzania has yet to ratify the United Nations Convention Against Torture.

The judiciary is limited in a number of ways. Firstly, it is more reactive in most cases than proactive. Aggrieved parties must bring their matter to the attention of the judiciary for its reaction. The second limitation is that human rights cases must be heard by three High Court judges, a problem since Tanzania has a limited number of High Court judges and these are distributed among zones spread throughout the country. This makes it difficult for ordinary citizens, especially those from rural areas, to bear the expenses involved in reaching zonal courts. In addition, judges of specialised tribunals such as the High Court Land Division,

Commercial Division, and Labour Division, are only located in Dar es Salaam and travel to the High Court zones depends on the availability of funds, which results in long delays in resolving land, commercial and labour related disputes. This problem is aggravated by the fact that there is insufficient funding allocated to the judiciary. The third limitation is related to costs. An ordinary citizen cannot afford to hire an advocate. Thus, on the whole, in spite of some improvements in the past few years as a result of institutional reforms, access to justice is still limited. However, there are civil society organisations which offer legal aid and other legal support to people who, for one reason or another, cannot access the legal system easily. Among these are the Tanzania Women Lawyers Association (TAWLA), the Legal and Human Rights Centre (LHRC), the Tanzania Gender Networking Programme (TGNP) and the Tanzania Media Women Association (TAMWA).

THE LEGISLATURE

The relationship between the legislature and the CHRAGG relates primarily to the funding of the commission. The relevant ministry must present the proposals to Parliament for approval before the commission can receive funding. The second key area of interaction is that the commission presents its reports to Parliament for review and discussion. However, according to those interviewed, Parliament does not normally discuss the reports – it is left to individual members to read them. This failure is problematic in that if Parliament had considered the reports and if members had been made aware of the work, challenges and potential of the commission it would have been taken more seriously and funding might have been increased. The third area of interaction would be if the need arose for Parliament to change the law establishing the commission.

With regard to accountability on the part of the commission, activists and other human rights stakeholders believe it should be accountable to Parliament and not to the appointing authority – which is now the Presidency. The thinking is that if it were accountable to Parliament the commission would be freer and more independent. Also, many see one role of the commission as 'policing' the executive, whose chief is the appointing authority, thus raising questions about the impartiality of the commission despite the constitutional guarantees of its independence.

7

INTERACTION WITH OTHER DEMOCRACY PROTECTION INSTITUTIONS

THE PREVENTION AND COMBATING OF CORRUPTION BUREAU

Legal and institutional measures to combat corruption in Tanzania can be traced back to the colonial era. In 1958, for example, the colonial government enacted the Prevention of Corruption Ordinance (Cap 400) as a tool to fight corruption in the country. At that time corruption was more prevalent among lower- and middle-grade officers, particularly those responsible for public service delivery. That legislation was retained after independence in 1961. In 1971 the government enacted the Prevention of Corruption Act No 16. The law was adopted partly in response to changes in the socio-economic and political environment following the adoption of the Ujamaa policy[3] in 1967.

In addition, the need for a specialised enforcement institution to implement the requirements of the Prevention of Corruption Act of 1971 made the government amend the Act in 1974 to provide for the establishment of an Anti-Corruption Squad – the first specialised anti-corruption body in the country. It was established in 1975 under the Prime Minister's Office and was later relocated to the President's Office. The squad was charged with investigating and prosecuting offences under the Prevention of Corruption Act and other offences involving corrupt transactions. It was also required to take necessary measures to prevent corruption in all sectors of the country and to advise the government and parastatal organisations on ways and means of preventing corruption. However, its authority to investigate corruption cases was subordinated to the authority of the Director of Public Prosecutions (DPP).

In 1991, 20 years after the enactment of the Prevention of Corruption Act of 1971, the law was amended to establish the Prevention of Corruption Bureau (PCB), which replaced the Anti-Corruption Squad. The PCB was mandated to perform several functions, including investigating corruption, conducting research on matters related to corruption, raising

public awareness about corruption and prosecuting and giving advice to any entity in the fight against corruption in the country. The bureau was located in the President's Office and was headed by a director-general who was an appointee of the president. No procedure was stipulated under the law for the appointment of the head of the PCB.

Changes in the domestic, regional and international context of the war against corruption and recognition of the weaknesses of the 1971 Prevention of Corruption Act necessitated the repeal of the Act in 2007. Among the weaknesses was the fact that the Act did not cover many types of corruption. Moreover, the law focused on the public sector and little attention was given to the private sector. There was no provision for involving citizens in the war against corruption by protecting informers and whistle blowers and promoting civic awareness. In addition, the DPP had enormous powers over the bureau's prosecution process, which effectively made the department fall under that directorate. Finally, the National Anti-Corruption Strategy and Action Plan (NAACAAP) 1999-2005 had come to an end and the adoption of NACSAP II 2006-2010 contributed to the need for a new legal instrument.

At the regional and international levels a number of anti-corruption instruments were adopted, to which Tanzania was a signatory. These include the Southern African Development Community (SADC) Protocol Against Corruption 2001; the African Union Charter on Prevention and Combating Corruption 2003 and the United Nations Convention Against Corruption 2003. Moreover, technological changes in science and communication have not only made corruption cases more complex but have also created conditions conducive to the development of national, regional and global networks of corruption. All these call for a significant improvement in the anti-corruption legal framework and institutions to make them more efficient and effective in the war against corruption in the country. The 1971 Prevention of Corruption Act was outdated and inadequate to accommodate all these changes.

In 2007 the 1971 Act was repealed and replaced with the Prevention and Combating of Corruption Act, which gave the prevention and the combating of corruption equal weight; a move that necessitated a

change in the name of the anti-corruption bureau from the Prevention of Corruption Bureau (PCB) to the Prevention and Combating of Corruption Bureau (PCCB). The PCCB, however, remains a government department in the President's Office.

The new legislation has given the bureau more legal force to prevent and combat corruption in the country and has increased the power and mandate of the bureau. It has also widened the scope of corruption offences, thus providing room for prosecuting more corruption and related offences. The repealed Act detailed only three corruption offences and no corruption related offences. The new Act details 15 offences, including corrupt transactions in general, in contracts, in procurement, in auctions, in employment, bribery of foreign public officials, the use of documents intended to mislead, obtaining an advantage without lawful consideration or for an inadequate lawful consideration, advantage received on behalf of an accused, sexual or any other favours, possession of unexplained property, embezzlement and misappropriation, the transfer of the proceeds of corruption and impersonating an officer. Furthermore, the new law gives the bureau the power to require that any public official give an account of all properties in his or her possession as well as in the possession of his or her agent and the way such an official acquired such property. If the official fails to comply with the requirement of a notice addressed to him or her to declare the property alleged to have been acquired corruptly, the officer will be committing an offence and shall be liable on conviction to a fine not exceeding five-million Tanzanian shillings or imprisonment for a term not exceeding three years, or both. The new law also provides for cooperation with international anti-corruption agencies.

The PCCB makes use of investigators with advanced training in different professions, among them law, sociology, accountancy, education, political science and engineering. It has offices in all regions and districts on the mainland and, using its own prosecutors, may investigate corruption cases and bring them to court.

Section 57 of the Act compels the PCCB to seek the consent of the Director of Public Prosecutions to prosecute cases of grand corruption. It may

only institute prosecutions in cases of petty corruption and even here, the DPP has the power to halt a criminal case. Grand corruption offences are committed by powerful people in government, who may be connected to the president and the president appoints the DPP. These weaknesses may limit the power of the PCCB to fight corruption. It should be given the power to investigate and prosecute all corruption cases, without being required to seek consent from any other body.

Section 37(1) of the Act prevents the media, civil society organisations and individual persons from reporting alleged offences under investigation by the PCCB. Yet it does not describe the procedures that are to be followed in relation to the announcement or publication of cases or the names of people under investigation by the PCCB. This provision may be used to protect people alleged to be involved in corruption and also presents the risk of excluding the public from the war against corruption and thus should be removed. These weaknesses in the new Act make it more likely that the bureau will be used as a political tool, at the expense of its mandate.

In another of its efforts to curb corruption the government has enacted anti-money-laundering legislation. The Anti-money-laundering Act of 2006, which came into force in 2007, requires banks and financial institutions to maintain proper records of their customers in order to enable state apparatuses to track dirty transactions. The legislation establishes the Financial Intelligence Unit (FIU) to track suspicious movements of money that involve a predicate offence[4] in the banks and other financial institutions. Currently, commercial banks operating in the country require details in addition to basic banking information from clients seeking to open new accounts. This information includes signature specimens, thumb prints, voter registration cards, passports and tax identification numbers. The regulation requires banks to seek advice from the embassy or consular officer of the country of origin of foreigners seeking banking services in the country.

The FIU is responsible for receiving, analysing and disseminating reports on suspicious transactions and other information about potential money laundering received from sources within and outside the URT. The general

administration of the FIU falls under the commissioner of the FIU who is appointed by the president from among experts in economics, monetary affairs, finance, law, financial crimes and other fields considered beneficial to the execution of the unit's mandate.

THE ETHICS SECRETARIAT

An Ethics Secretariat was created to monitor corruption among the country's leaders. Its mandate is to curb the misuse by officials of public office. The body came into being in terms of the Public Leadership Code of Ethics Act No 13 of 1995. The secretariat, established in accordance with s 132 of the Constitution, is primarily designed to deal with breaches of ethics by public officials, which may or may not be corruption related.

All high-ranking elected and non-elected officials are required to declare their assets and liabilities. Section 9(1) of the Act holds that every public official shall, within 30 days after taking office and at the end of each year and at the end of his or her term of office, declare, in a prescribed form, all assets owed by, or liabilities owed to him or her and to his or her spouse and unmarried minor children. Section 12 of the Act bars a public leader from acquiring dishonestly any pecuniary advantage or assisting any other person to acquire any pecuniary advantage.

A public official is also obliged, in terms of s 14, to declare any interest in an existing or proposed government contract. The interest of the individual includes the interest of his or her spouse or spouses or children.

All declarations required from public officials are submitted to the commissioner of the Ethics Secretariat. Failure to make a declaration or making a false declaration constitutes a breach of the code and shall result in a warning and caution or demotion, suspension, dismissal, resignation or the imposition of other penalties provided for under the rules of discipline related to the office of the official and to the institution of action under the appropriate law. However, since the establishment of the secretariat there has been no evidence of any leader having been held accountable for breaching the public leadership code of ethics despite growing public concern about an increasing number of breaches of the code on the part of the country's leaders.

The head and chief executive of the Ethics Secretariat is the ethics commissioner, who is appointed by the president from among persons of proven or provable integrity who hold or have held or are eligible for appointment to the office of permanent secretary, judge of the High Court, or any other high public office. The commissioner holds office for five years and may be reappointed for a second term. The president may remove the commissioner from office for good cause.

THE ELECTORAL MANAGEMENT BODIES: NEC AND ZEC

In recent years we have seen, in both Kenya and Zimbabwe, the damage that can be caused by an electoral management board (EMB) that is not managed by people of integrity. What we have learned from the two cases is that the election laws and the EMB have a crucial role to play in the realisation of human rights and good governance. In Tanzania the EMB, known as the National Electoral Commission (NEC), is assigned a number of roles, governed by the Elections Act of 1985.

The duties of the NEC are:

- to supervise and coordinate the registration of voters in the presidential and parliamentary elections in the United Republic;
- to supervise and coordinate the conduct of the presidential and parliamentary elections;
- to demarcate the United Republic into constituencies for parliamentary elections. Article 75(3) and (4) of the United Republic of Tanzania empowers the NEC to review the delimitation of constituencies at least once every ten years;
- to supervise and co-ordinate the registration of voters and the conduct of the elections of local councillors in the Tanzania Mainland (s 74 URT Constitution 1977);
- to provide voter education (s 4(c) URT Elections Act 1985).

Zanzibar has its own EMB, called the Zanzibar Electoral Commission (ZEC), with similar responsibilities to those of the NEC.

8

INTERACTION WITH THE PUBLIC AND NON-STATE ACTORS

CIVIL SOCIETY ORGANISATIONS

There is a host of civil society organisations (CSOs) working in some of the areas that fall under the mandate of the CHRAGG. Most of these have been formed by lawyers. Among those that have been involved in human rights activism, advocacy and legal aid and, necessarily, civic education, are TAWLA, TAMWA the TGNP and the LHRC, all of which operate nationally. There are others which are either regional or operate at a lower administrative level.

We discuss their areas of focus briefly and indicate how they relate to the CHRAGG's activities with regard to human rights and good governance. It is important to note that these CSOs do network and work together and all are concerned to some extent with human rights. The commission has a good working relationship with CSOs. It has signed memoranda of understanding with 12 NGOs working on human rights, including the Tanganyika Law Society. At the time of writing, though the projected work had not yet started because of the financial constraints faced by the commission.

TAMWA

Since its inception in 1990 the Tanzania Media Women's Association has worked tirelessly to uplift the status of women by highlighting the issues that act as barriers to full and equal membership of society. They carry out their work by means of research, meetings and seminars, news reports and features, radio and television programmes, and outreach campaigns. TAMWA disseminates information and education via several forms of media, including Radio Tanzania Dar es Salaam, on which it has a weekly programme called *KIOO (Mirror)*, on women and gender issues. It also uses local television stations for lobbying on specific issues. The organisation produces education videos on human rights and other issues, and newspapers which cover issues on gender and on features like

family planning. Finally, it publishes a quarterly magazine called *Mama Sitti*. It occasionally publishes leaflets and fliers aimed either at educating or delivering an important message.

TAWLA

The Tanzania Women Lawyers Association was established on 2 October 1992 by women lawyers who felt the need to have a united front and to provide legal aid to women and children. Its main objective is to ensure that human rights, women's rights and children's rights are respected in Tanzania. The organisation also aims to educate women about their rights and about the law, since women are the caretakers and educators in the family, and to carry out research on specific areas of women's human rights. TAWLA conducts workshops and seminars, conducts paralegal training and operates a legal aid programme for women and children. It also offers counselling, and adult and popular education

TGNP

The Tanzania Gender Networking Programme (TGNP), established in 1993, is 'committed to contributing to the social transformation leading to the creation of a vibrant Tanzania society. It seeks to promote gender equality and social equity through the empowerment of women and other marginalised sectors of the community'. The organisation strives to enhance the mainstreaming of gender at all levels of society from grassroots communities to the highest levels of national policy-making and legislation. The TGNP's vision is the existence of 'A transformed Tanzanian society in which there are gender equality and equity; equal opportunities; access to and control over resources for all citizens'.

LHRC

The Legal and Human Rights Centre is registered as a non-governmental, non-partisan and non-profit-making organisation. It has been an autonomous entity since its registration in September 1995. The centre was established when it was realised that the majority of the people of Tanzania were unaware of their rights. It was also intended to help the indigent, who could not afford the legal representation to enable them to pursue their rights in court. It is both a legal and a human rights organisation and was created to contribute to the process of democratisation in Tanzania.

It also strives to promote, reinforce and safeguard human rights. The primary task of the centre is to empower socially, economically, culturally and spiritually disadvantaged and marginalised groups within Tanzanian society by means of legal and human rights training, the provision of legal aid, the generation and dissemination of information through publications and radio programmes, research on legal and human rights issues and networking and alliance-building with other institutions which share this mission. The centre has a television programme called *pambanua* (Analysis), during which experts are invited to discuss issues of national interest for the benefit of the public in general. Such issues include legislation which is likely to have a negative impact on sections of society and requires lobbying of relevant bodies in order to have sections changed.

THE GENERAL PUBLIC

The commission was intended to be an agent of the public in addressing human rights violations and abuse of power in the country. However, it is not well known to the man or woman in the village. Members of public can access its headquarters in Dar es Salaam, its territorial office in Zanzibar, and the branch offices in Mwanza and Lindi. Of the 21 regions on the mainland the commission has offices in only three, precluding the possibility of making the work of the commission better known. The result is that CSOs have a huge job filling the gap – either by disseminating information about the whereabouts of the commission or by taking issues from the public to the commission, as the LHRC did in the case of the hunter-gatherer communities who were being deprived of their land by farming communities, or in cases where mining companies displaced communities. The commission's meagre budget complicates the situation, as it cannot increase the number of offices nor can it advertise itself effectively enough through civic education programmes to make itself and its work broadly known.

9

KEY RESEARCH FINDINGS

1 There is a clear constitutional and legal framework to guide the commission with regard to its mandate, powers and functions.
2 The operations of the commission have been hampered by an unsupportive environment – including a community that is unaware, lack of adequate financing, understaffing and sometimes political interference.
3 The government and the commission operate in a relatively harmonious manner, but there is a need for each to carry out its responsibilities more effectively, for example, Parliament should debate the commission's reports.
4 While there are several other democracy protection institutions there is little effort to coordinate and synergise their efforts in order to entrench good governance and a human rights culture.
5 The general public has little awareness of the existence of the commission or of its activities – there is little civic competence among Tanzanians.
6 Relevant civil society organisations are familiar with the commission and would want to work with it in its attempts to ensure good governance and to uphold human rights in Tanzania.

10

CONCLUSION

The nascent democracies on the African continent need to be carefully nurtured in order for real democracy to be realised. This nurturing requires that institutions such as those that oversee elections, human rights and good governance be constitutionally recognised to such a degree that no other institution may interfere with their activities. Tanzania has tried to create such an atmosphere and such institutions, one of which is the Commission for Human Rights and Good Governance, but there is much work to be done to make the institutions effective.

The constitutional and legal mandates of the commission are clear, but its current capacity makes it appear to be a white elephant because it has been prevented from being as effective as it should have been. Basically, it lacks the resources to implement its mandate, though it has succeeded in pursuing some of the human rights and good governance issues brought to it.

While it is clear that many governments in sub-Saharan Africa are starved of resources, especially financial resources, it is necessary to pay closer attention and provide adequate resources for institutions such as those which work for human rights and good governance because when they become effective their impact on good governance is considerable. Put another way, when good governance is attained, resources are likely to be managed more effectively, making the prospects for socio-economic development far brighter. Thus, institutions that work for and protect democracy should top the list of priorities of a country.

The government of Tanzania has much to do to create an environment in which democracy will thrive. With regard to the legal system, for example, certain laws, some of them quite draconian,[5] still restrict the enjoyment of human rights. Some of these laws, which were thoroughly scrutinised by the Nyalali Commission (1991), fall under the competence of the Union Government, others under that of the Revolutionary Government of

Zanzibar. Some have been repealed, some amended, but new ones have also been enacted, which, to a great extent, threaten the enjoyment of human rights. A case in point is that of the Prevention of Terrorism Act 21 of 2002.[6]

The cooperation and networking between and among government and non-governmental actors plays an important role in the successful realisation of the goals of such institutions as the CHRAGG. Civil society organisations have a critical role to play in educating the population, in doing advocacy work, and in mobilising resources for programmes aimed at the realisation of good governance and the upholding of human rights. These organisations are deserving of government support.

11

POLICY RECOMMENDATIONS

1 Civic education should be provided so people know their (human) rights and duties as citizens.
2 The capacity of the commission should be strengthened so that it can perform its duties as per its mandate. Adequate funding, for example, should be a priority, or the commission will become a white elephant, offering no real benefit to the people of Tanzania.
3 Parliament should be obliged to discuss the commission's annual reports in order for the reports to have an impact, especially in the case of matters which should be followed up.
4 The commission should be accountable to Parliament rather than to the president who appoints it.
5 Human rights should be included in the curricular of police/prison training colleges and human rights training should be provided for in-service police officers.
6 The government should make a deliberate effort to equip the police force with modern working equipments and tools and to improve the working conditions of police officers, including the provision of adequate housing and transport and salary increases, which would reduce the level of corruption which makes them ineffective as a human rights protection agency.
7 The degree to which a police officer has abided by human rights and democratic principles in performing his or her duties should form part of his or her individual performance appraisal for the purpose of promotion.
8 Human rights and democracy stakeholders need a forum in which they can formulate strategies for effective lobbying and advocacy geared towards enhancing the effectiveness of the commission and other related democracy protection institutions in Tanzania.

ENDNOTES

1 Articles 12-29 of the Union Constitution contain a catalogue of fundamental rights, including political rights, and duties. Similarly, the Constitution of Zanzibar incorporates basic human rights and duties in articles 11-15.

2 The First Schedule to the Union Constitution lists 22 'union matters', twice as many as the initial 11 agreed to by the 'Founders of the Union' in 1964. This has been a bone of contention and has given rise to heated debate. It is one of the 'union problems', which are now being dealt with by the newly created Ministry for Union Matters in the Vice-President's Office.

3 *Ujamaa,* a Swahili word, means socialism. Tanzania experimented with a socialist policy from 1967 until the economy was liberalised in 1986.

4 A predicate offence is a criminal offence as a result of which proceeds are generated that may become the subject of a criminal charge, as in money laundering.

5 Examples are the Deportation Ordinance, which empowers the president to order the internal deportation of any person from one part of the country to another; the Preventive Detention Act (1962), which empowers the president to order the detention of any person; and the Regional Administration Act (1977), which confers detention powers on regional and district commissioners.

6 Section 28(2) of the Act broadens the category of police officers by declaring that a 'Police Officer' for purposes of arresting without warrant a suspected terrorist, includes a police officer of or above the rank of Assistant Superintendent, an immigration officer, or a member of Tanzania intelligence security service.

REFERENCES

Publications, Reports and Legislation

Amnesty International. 2006. Global Integrity Report

Assey, P. 1990. 'Poverty Alleviation Initiatives in Tanzania'. In V S Vyas & Pradeep Bhargava (eds). *Poverty Reduction in Developing Countries: Experiences from Asia and Africa*. New Delhi: Rawat Publications, pp125-151.

Daily News. 2006. 'JK Orders Dar Killings Probe'. No 8946, Monday 23 January.

Department For International Development (DFID UK). 1999. *Tanzania: Country Strategy Paper.*

Legal and Human Rights Centre. 2006. 'The Human Calamity of Evictions at Nyamuma-Serengeti'. March, p 65.

Maloka, V. 2006. 'Paradigm shift? Building capacity for conflict management and peacebuilding: The Tanzanian Commission for Human Rights and Good Governance'. In V Maloka, M Parlevliet & G Lamb (eds), *National Human Rights Institutions in Africa: Defenders of Human Rights, Managers of Conflict, Builders of Peace?* Cape Town: University of Cape Town Press.

Munishi, G K. 1997. *Private Health Care in Tanzania: Private Health Sector Growth Following Liberalization in Tanzania.* Washington, DC: International Health Policy Program.

Mwase, Nkunde. 2006. 'An Empirical Investigation of the Exchange Rate Pass-Through to Inflation in Tanzania'. IMF Working Paper No 06/150.

Nyalali Commission. 1991. *Taarifa ya Mapendekezo ya Tume Kuhusu Mfumo wa Siasa Nchini Tanzania.* Dar es Salaam: The Nyalali Commission Report.

United Republic of Tanzania. 1977. The Constitution of the United Republic of Tanzania. Dar es Salaam: Government Printer.

———. 1985. The Elections Act.

———. 1992. The Political Parties Act.

———. 1992. *The Report and Recommendations of the Presidential Commission on Single Party System in Tanzania*. Dar es Salaam: Dar es Salaam University Press.

———. 1995. The Public Leadership Code of Ethics Act.

———. 1996. *The Report of the Presidential Commission of Inquiry Against Corruption* (Warioba Report). Dar es Salaam: Government Printer.

———. 1998, *The National Poverty Eradication Strategy*. Dar es Salaam: Vice-President's Office.

———. 1999. *Poverty and Welfare Monitoring Indicators*. Dar es Salaam: Vice-President's Office.

———. 1999. Kisanga 'White Paper' Commission Report.

———. www.chragg.go.tz

———. 2001. The Commission for Human Rights and good Governance Act No 7.

Interviewees

Judge (rtd) Ramadhani Manento – Chairman CHRAGG
Ms Mary Massay – Executive Secretary CHRAGG
Mr F Nzuki – Director, Human Rights Directorate CHRAGG
Mr J Jingu – Assistant lecturer teaching human rights course at the University of Dar es Salaam
Mr B Kaiza – FORDIA, an NGO for development and good governance
Mr Epson Luhwago, journalist, Uhuru Publications

APPENDIX

Questionnaire

A. General
1. How long has your institution been in existence? How and why was it established?
2. Please provide a description of your understanding of your institution's constitutional/legal mandate. Does it include a right of initiative?
3. What role or function does your institution perform that is not carried out by other institutions, whether in government or civil society?
4. What other democracy protection institutions exist in your country? How does your institution relate to them?
5. In what way, if any, does the role and function of your institution overlap with or potentially overlap with that of the other democracy protection institutions?
6. Does the founding legislation provide a clear, workable and comprehensive legal framework that supports and empowers the institution to successfully fulfil its core mandate?
7. What outcomes do you strive for in order to realise the constitutional/legal mandate set out in 1 above? How often do you engage in strategic planning?
8. What have been /are the major constraints facing your institution and how have these impacted on its ability to achieve its mandate?
B. Institutional effectiveness
9. What mechanisms are in place to deal with public complaints, to follow through on such complaints and to successfully resolve them?
10. How many cases/ complaints have been brought to you over the last year?
11. How many of these were resolved? How many are outstanding and what are the reasons for this?
12. How do you measure and assess your own effectiveness? What instruments do you use for monitoring and evaluation purposes?
13. Have you carried out any external evaluation looking at the successes or otherwise of your functions?
14. Do you produce annual reports? If so, are they publicly available?
15. What strategies do you employ in carrying out public outreach and ensuring public trust of your institution?

C. Independence
16. How do you view your relationship with the executive and parliament?
17. How do you view your relationship with political parties (both ruling and opposition)?
18. What legal and other mechanisms are in place to ensure and strengthen the institution's independence?
19. Who is your institution accountable to?
20. What is the extent of collaboration and coordination of the work carried out by your institution and similar / related work carried out by other institutions of a similar nature?
21. What safeguards exist to protect your institution from political encroachment?
D. Institutional governance
22. What are the institutional governance arrangements in your institution? Are these arrangements clearly set out and do they allow for a smooth running of the institution? Do you embrace gender issues? What suggestions do you have to improve institutional governance arrangements?
23. Is there a clear, logical and workable division between the members of your institution appointed by President (on advice of the National Assembly) and the Secretariat?
24. Does your institution have mechanisms in place to deal with internal conflict in your institution? If yes, what are these mechanisms and are they effective?
25. What mechanisms are in place for Chief Executive Officers, Chairpersons and Commissioners to disclose and / or seek permission for private / commercial / financial interests or involvement as well as membership in any organisation? Are such mechanisms effective or sufficient to ensure transparency and avoid conflict of interest?
E. Interaction with the public and non-state actors
26. What is the extent of collaboration and coordination of the work carried out by your institution and similar / related work carried out by non-state actors?
27. What was the intended relationship between your institution and the public? To what extent has this relationship been realised?
28. Does your institution have mechanisms in place to deal with complaints by the public about the work done by your institution or the failure to attend to issues?
29. How accessible are the offices of your institution to the public?
30. What kind of complaints do the public bring to you?

31. Do the public have a sufficient appreciation of your role and mandate?
32. Are public expectations of your institution realistic/ unrealistic?
F. Resources
33. Is your institution funded through a designated ministry / government department or through the consolidated fund voted directly by parliament?
34. Please give an indication of your budget allocation, additional funding and expenditure over the past five years.
35. Please illustrate the budget process followed by your institution, including the process of allocation of funds.
36. Please provide detailed information of the remuneration packages for office-bearers and Commissioners.
37. Are the current budgetary and administrative arrangements sufficient to ensure autonomy of democracy protection institutions?
38. To what extent are the resources allocated to your institution directly spent on meeting its key responsibilities?
39. What are the resource constraints faced by your institution?
40. How does this hamper the work of your institution?

ABOUT EISA

EISA is a not-for-profit and non-partisan non-governmental organisation which was established in 1996. Its core business is to provide technical assistance for capacity building of relevant government departments, electoral management bodies, political parties and civil society organisations operating in the democracy and governance field throughout the SADC region and beyond. Inspired by the various positive developments towards democratic governance in Africa as a whole and the SADC region in particular since the early 1990s, EISA aims to advance democratic values and practices and to enhance the credibility of electoral processes. The ultimate goal is to assist countries in Africa and the SADC region to nurture and consolidate democratic governance. SADC countries have received enormous technical assistance and advice from EISA in building solid institutional foundations for democracy. This includes: electoral system reforms; election monitoring and observation; constructive conflict management; strengthening of parliament and other democratic institutions; strengthening of political parties; capacity building for civil society organisations; deepening democratic local governance; and enhancing the institutional capacity of the election management bodies. EISA was formerly the secretariat of the Electoral Commissions Forum (ECF) composed of electoral commissions in the SADC region and established in 1998. EISA is currently the secretariat of the SADC Election Support Network (ESN) comprising election-related civil society organisations established in 1997.

VISION

An African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment

MISSION

EISA strives for excellence in the promotion of credible elections, participatory democracy, human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa

VALUES AND PRINCIPLES

Key values and principles of governance that EISA believes in include:

- Regular free and fair elections
- Promoting democratic values
- Respect for fundamental human rights
- Due process of law/rule of law
- Constructive management of conflict
- Political tolerance
- Inclusive multiparty democracy
- Popular participation
- Transparency
- Gender equality
- Accountability
- Promoting electoral norms and standards

OBJECTIVES

- To enhance electoral processes to ensure their inclusiveness and legitimacy
- To promote effective citizen participation in democratic processes to strengthen institutional accountability and responsiveness
- To strengthen governance institutions to ensure effective, accessible and sustainable democratic processes
- To promote principles, values and practices that lead to a culture of democracy and human rights
- To create a culture of excellence that leads to consistently high quality products and services
- To position EISA as a leader that consistently influences policy and practice in the sector

CORE ACTIVITIES

- Research
- Policy Dialogue
- Publications and Documentation
- Capacity Building
- Election Observation
- Technical Assistance
- Balloting

OTHER RESEARCH REPORTS IN THIS SERIES

No. 1: Electoral System Reform, Democracy and Stability in the SADC Region: A Comparative Analysis
Khabela Matlosa

No 2: From Military Rule to Multiparty Democracy: Political Reforms and Challenges in Lesotho.
Edited by Claude Kabemba

No 3: Swaziland's Struggle with Political Liberalisation.
Edited by Claude Kabemba

No 4: Gender and Elections in Lesotho: Perspectives on the 2002 Elections.
Puleng Letuka, Mats'eliso Mapetla, Keiso Matashane-Marite

No 5: Governance Quality and Government Commitment to the NEPAD African Peer Review Mechanism.
Grant Edward Thomas Masterson

No 6: Elections and Democracy in Zambia.
Edited by Claude Kabemba

No 7: Dilemmas of Political Transition: Towards Institutionalisation of Multiparty Democracy in Tanzania.
Edited by Shumbana Karume

No 8: Gender, Women, and Electoral Politics in Zimbabwe.
Rudo Gaidzanwa

No 9: Negotiating the Impasse: Challenges and Prospects for Democratisation in Zimbabwe.
Edited by Wole Olaleye

No 10: Elections and Democratisation in Malawi: An Uncertain Process.
Edited by Nixon S. Khembo

No 11: Democratic Consolidation in SADC Botswana's 2004 Elections.
David Sebudubudu and Bertha Z. Osei-Hwedie

No 12: South Africa's 2004 Election: The Quest for Democratic Consolidation.
Edited by Laurence Piper

No 13: Multiparty Democracy and Elections in Namibia.
Debie LeBeau and Edith Dima

No 14: Multiparty Democracy in Mozambique: Strengths, Weaknesses and Challenges
Edited By Adriano Nuvunga

No 15: Political Parties and Democratisation in the Southern African Development Community Region: The Weakest Link?
Khabele Matlosa

No 16: Political Parties and the Democratisation Process in Zimbabwe
Lloyd M. Sachikonye

No 17: Political Parties and the Quest for Democratic Consolidation in Zambia
Jotham Momba

No 18: Political Movements and the Challenges for Democracy in Swaziland
Joshua Bheki Mzizi

No 19: Political Parties and Democracy in Mauritius
Sheila Bunwaree and Roukaya Kasenally

No 20: Parties and Political Transition in the Democratic Republic of Congo
H Kabungulu Ngoy-Kangoy

No 21: Political Parties: Development and Change in Malawi
Nandini Patel

No 22: Parties and Political Development in Mozambique
Eduardo J. Sitoe, Zefanias Matsimbe, Amilcar F. Pereira

No 23: Parties and Political Development in Lesotho
Khabele Matlosa

No 24: Parties and Political Development in Tanzania
Rose Shayo

No 25: Political Parties and Democratic Governance in South Africa
Tom Lodge

No 26: Parties and Political Development in Namibia
Victor L. Tonchi and Albertina N. Shifotoka

No 27: Political Parties in Botswana
Gloria Somolekae

No 28: Political Parties and Political Evolution in Angola/*Os Partidos e a evolução politica em angola*
Augusto Santana

No. 29: Enhancing the Effectiveness of Political Parties in the SADC Region Through Public Outreach Programmes
Denis Kadima, Khabele Matlosa & Victor Shale

No. 30: Consolidating Democratic Governance in Southern Africa: Zimbabwe,
Lloyd M. Sachikonye with Shingi Chawatama, Charles Mangongera, Norbert Musekiwa & Choice Ndoro

No. 31: Consolidating Democratic Governance in Southern Africa: Botswana,
Zibani Maundeni with Dorothy Mpabanga, Adam Mfundisi & David Sebudubudu

No. 32: Consolidating Democratic Governance in Southern Africa: Lesotho,
Tumelo Tsikoane, Tefetso H. Mothibe, 'Mamoeketsi E. N. Ntho & David Maleleka

No. 33: Consolidating Democratic Governance in Southern Africa: Malawi,
Nandini Patel, Richard Tambulasi, Bright Molande & Andrew Mpesi

No. 34: Consolidating Democratic Governance in Southern Africa: Namibia,
Phanuel Kaapama, Lesley Blaauw, Bernie Zaaruka, Esau Kaakunga

No. 35: Inter-party Relations and Democracy in Botswana
Onalenna Doo Selolwane and Victor Shale

No. 36: Consolidating Democratic Governance in the SADC Region: Transitions and Prospects for Consolidation
Khabele Matlosa

No. 37: Consolidating Democratic Governance in the SADC Region: Mauritius,
StraConsult

No. 38: Consolidating Democratic Governance in the SADC Region: Swaziland,
Patricia Joubert, Zwelibanzi Masilela & Maxine Langwenya

No. 39: Promoting the Effectiveness of Democracy Protection Institutions in Southern Africa: The Office of the Ombudsman in Lesotho
Motlamelle Anthony Kapa