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TANZANIA

A human rights brief for election observers

In the run-up to the presidential and parliamentary elections in Tanzania scheduled for 29 October 2000, Amnesty International is concerned at widespread and increasing reports of human rights violations in Zanzibar, including torture, arbitrary arrests and intimidation by the Zanzibar authorities against opposition Civic United Front (CUF) candidates and activists. There have also been some reports of abuses by CUF activists in Zanzibar against members of the ruling Chama Cha Mapinduzi party (CCM, Party of the Revolution). The level of political tension on the island is high and is likely to get worse in the coming months. The conduct of these elections will affect the human rights situation in Zanzibar for a long time to come and will have repercussions on the mainland, too.

During and after the 1995 elections in Zanzibar, which were widely seen as rigged, there was a pattern of human rights violations against CUF members. Donor governments refused to recognize the new government of Zanzibar President Salmin Amour and suspended aid to Zanzibar. This caused a political crisis in Zanzibar, exacerbated later by the imprisonment of 18 members of the CUF party. They are charged with treason and conspiring to overthrow the Zanzibar government (the Zanzibar Revolutionary Council). The delay of their trial, which has not properly started, has deprived the prisoners - who include the former CUF Vice-Presidential candidate, Juma Duni Haji - of the possibility of standing for election. Most of them have been in prison for over three years already and face a mandatory death sentence if convicted. Amnesty International is demanding their immediate and unconditional release as prisoners of

conscience, and urges the international community to intensify efforts to obtain their release before the elections.¹

Introduction

The following are general guidelines that have been drawn up by Amnesty International with the aim of encouraging an integrated and impartial election and human rights monitoring operation. The demands that are likely to be made on monitors during the immediate election period, particularly in Zanzibar where human rights violations have already occurred, will be great, so the monitors' human rights remit has been defined here as closely as possible. However, the conditions for free and fair elections depend ultimately on an adequate respect for human rights by both the Tanzanian government of President Benjamin Mkapa on the mainland and the Zanzibar government. Attempting to assess conditions pertaining to the freedom and fairness of elections while failing to take into account evidence of human rights violations committed in the context of those elections will inevitably undermine public confidence in the election monitoring process and its findings. Further, it will undermine confidence in the outcome of those elections. Human rights monitoring should be a key part of election monitoring. These recommendations apply generally to the monitoring of elections throughout Tanzania. However, the particular focus for concern will be the election on Zanzibar - still a responsibility of the Tanzanian government as well as the semi-autonomous Zanzibar government.

1. The role of the international community

¹See Amnesty International. *Tanzania: Prisoners of conscience face treason trial in Zanzibar*, January 2000 (AI Index: AFR 56/01/00) and the Amnesty International Reports 1998 -2000.

The inter-governmental organizations (IGOs) and others sending observers to the elections in Tanzania should give consistent and vigorous attention to human rights concerns when observing the elections.² Amnesty International is calling on these organizations to raise with the Tanzanian and Zanzibar authorities the many incidents of human rights violations that have already taken place in Zanzibar, and the concern that the failure of the police to take effective action to end the violations has fostered a climate in which further violations can be perpetrated with impunity.³

On arrival, observers should assess whether the context in which the elections are to be held meets certain fundamental requirements for free and fair elections, and keep these requirements under review after the elections, too. Such requirements would include:

- Clear public signals from the government as well as from the official electoral commission that abuses will not be tolerated.
- Public awareness of how to complain about intimidation or other abuses.
- Clear instructions issued to the police by senior police authorities to ensure that people are free from intimidation and pressure.

2. Proper preparation of observers

In addition to training in the technicalities of elections, election monitors should be given training in the international standards that guarantee basic fundamental rights such as the right to life, the right to be free from torture and ill-treatment, the right not to be subjected to arbitrary deprivation of liberty, and the right to freedom of expression, association, movement and assembly. They should be provided with the texts of relevant human rights standards⁴ and appropriate manuals.⁵

²Amnesty International notes that the Zanzibar authorities have refused to permit the European Union Electoral Observation Mission to monitor the elections on Zanzibar.

³This further emphasises the need for a human rights focus to any election monitoring.

⁴Relevant standards would include: the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Torture Convention), and the African Charter on Human and Peoples' Rights.

⁵For example, manuals prepared by the United Nations including the Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the "Istanbul Protocol") and the Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions; and manuals prepared by non-governmental organizations such as "Monitoring State-sponsored Violence in Africa - A Practical Guide", by Article 19.

3. No international "silent witnesses"

All international election observers should report through explicit and proper channels any human rights abuses they may witness or serious allegations they receive. Those involved should take appropriate steps to raise these issues with both mainland authorities and Zanzibar authorities without delay.

4. Broad human rights observation

All human rights, their exercise and their enjoyment, are indivisible and interdependent. In order for citizens to participate freely in elections, the authorities are responsible for ensuring that all the rights that are pivotal to such participation can be enjoyed by all without discrimination. Observers should have a copy of the Universal Declaration of Human Rights and other key human rights instruments noted above, and should record human rights abuses that occur both before and after the actual day of polling but which have a direct bearing upon the ability of people to exercise their electoral rights. Often abuses occur far away from polling stations. There should not only be monitoring of the actual voting procedure but of the environment and human rights conditions away from the polling stations as well.

4a. Freedom of expression, association and movement of candidates and their party staff

This was a major obstacle for the CUF in Zanzibar in the 1995 elections. In some areas they were prevented from registering as candidates and local party officials were harassed. It is important, therefore, to monitor if there is a balance between the various government and opposition parties and between candidates, particularly with regard to access to print and broadcast media, the ability to address voters and freedom of operation and movement - including access to all areas within the constituency.

Issues to consider include the following:

- Do all political parties, candidates and their supporters have equal access to print and broadcast media, national and local press - especially in the Kiswahili media?

- Do all political parties, candidates and their supporters have equal access to the area?
- Do all political parties at a local level have local offices, local party officials, party cards and the ability to hold meetings and walkabouts?
- Can all political parties, candidates and their supporters campaign through informal and formal gatherings throughout the area?
- Are all candidates and their supporters able to meet regularly with anyone they choose?
- What is the response of the authorities when complaints are made? Are these followed up? Is the response the same for different political parties?

4b. The right to peaceful assembly at public election gatherings

In the run-up to the presidential and parliamentary elections in October 1995 CUF was repeatedly denied permits by the authorities to hold public meetings in the north of Zanzibar. It is particularly important therefore to establish if any meetings are prevented or restricted.

Where ill-treatment of candidates or members of the public at meetings is witnessed by monitors or reported by contacts, monitors should document the incident and collect such evidence as is readily available (such as testimony from the victims, photographs, names of witnesses) and include it in their reports.

Election observers should monitor the conduct of the national police and security forces, to verify their adherence to international human rights standards and criminal justice standards when dealing with any human rights abuses arising in the context of the elections. Such observers should note whether the police or security force action is prompt, appropriate and proportionate in accordance with international policing standards. Election observers should be encouraged to carry with them the texts of international human rights standards relevant to the conduct of the police and security forces.⁶

⁶Relevant standards include: the UN Code of Conduct for Law Enforcement Officials, the UN

Issues to monitor include the following:

- Have meetings been prevented or restricted in the past?
- Has this been the case for all or only some political parties?
- Identify the reasons why. Are these similar to restrictions/reasons in other areas where meetings were prevented or restricted?
- Are any public meetings or rallies being prevented or stopped at present? If so why?

Public meetings:

Monitors should attend meetings organized by different political parties at short notice and by surprise.

- Have any political parties experienced problems trying to hold their meeting, for example, obtaining permission with sufficient time to advertise?
- How frequently are different political parties able to hold meetings?
- How many police and security officials attend political meetings? Is their presence consistent with practice at meetings organized by other political parties?
- What is the role of police and security officials at these meetings?
- What is the role of the local administration, if any, in the meeting?
- What is the number and behaviour of party supporters, such as Youth Wingers?
- Is there evidence of any other group present, such as supporters of another political party?
- What is the response of the authorities, particularly the police, to the behaviour of different party supporters?

Incidents of confrontation or conflict between rival candidates and their supporters, and the response of the authorities to any violence, should be monitored to ensure the

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Torture Convention, and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. A compilation is available from Amnesty International.

protection of candidates. Election observers should maintain close and regular (ideally, daily) contact with candidates and their headquarters in order to log any reported incidents of harassment, ill-treatment or arrest. Election observers should attempt, as far as practicable, to verify such reports through independent sources.

If the right to peaceful assembly is denied, follow up with local police officials as to the reasons why. If candidates or their supporters are arrested during a public meeting, identify why and try to establish the pattern for such arrests, number of people arrested and investigate any allegations of excessive use of force. If arrests are made on a regular basis then focus on one arrest in detail. The conduct of security forces at public meetings, incidents of harassment and ill-treatment of candidates, party workers or their supporters, and arbitrary detention or arrest of election candidates or their party workers should be documented. Arrests should be lawful, suspects brought to court within the permitted 24 hour period and charged with a recognized criminal offence or released without delay.

5. On-site human rights monitoring

On the days of the voting, election observers should have unhindered access to all polling stations, to be able to observe any human rights abuses, such as violence between opposing party supporters and intimidation of voters including threats and assertions that their voting is not secret. The observers should be mandated to be able to ask the authorities urgently to take remedial action. They should record and report what action the authorities take (or refrain from taking).

- Monitor incidents of harassment or intimidation, including death threats.
- Establish how threats are received and if families are also targeted.
- Establish what form the harassment takes and who is or may be responsible. Monitor the response of the authorities to allegations of harassment. Are any arrests made? Do these result in prosecution? Are all political parties and their supporters treated equally?
- What is the situation for women candidates and their women supporters?

6. If there are serious and continuing human right violations

Where there is compelling evidence of serious human rights violations, consideration should be given to making these public at the time. Clearly, potential human rights violations in the context of these elections will not be restricted to the short period in which votes are cast. In 1995 over 100 members of CUF were arrested in the aftermath of the elections. Reprisals and human rights violations related to the elections could continue following the elections. Election observers should therefore remain, particularly in Zanzibar, as long as practicable after the elections.

KEYWORDS: ELECTIONS1 / HARASSMENT1 / FREEDOM OF EXPRESSION1 /
FREEDOM OF ASSOCIATION1 / UDHR / NON-GOVERNMENTAL
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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM