

T The Tanganyika Law Society

TANGANYIKA LAW SOCIETY (TLS) ELECTIONS MANIFESTO (ENGLISH)

GENERAL NOTE REGARDING THIS MANIFESTO

With the General Elections scheduled to be held on 31st October 2010, a short period away, it is key that the rights of individuals within our democratic society be preserved. The Tanganyika Law Society (“TLS”) operates with a vision of “a society where justice and the rule of law are upheld”, where free and fair elections are a prerequisite for a flourishing democracy. In line with this view, elections – when held freely and fairly - are tantamount to a litmus test of public support for current government policies and programmes and are, therefore, reflective of the will of the people. Elections provide citizens with an opportunity to choose who governs them and how they are governed; so for a democracy to flourish, key institutions of democracy must be strong, accountable and sustainable – this is also a pre-condition for rule of law.

As the law society and a key stakeholder in the justice sector, the TLS voice is a critical one in the legal sector. To this end, the TLS will be observing the upcoming General Elections to assess their fairness, freeness and legitimacy.

The TLS presents this manifesto to the public as a guiding document of the TLS’s purpose and contribution to the General Elections.

THE TANGANYIKA LAW SOCIETY (TLS)

The TLS is the Bar Association of Tanzania Mainland, founded in 1955 by an Act of Parliament. The main purpose of the TLS is to:

- maintain and improve the standards of conduct and learning of the legal profession in Tanzania;
- facilitate the acquisition of legal knowledge by members of the legal profession and others;
- assist the Government and the Courts in all matters affecting legislation, administration and practice of the law in Tanzania;
- represent, protect and assist members of the legal profession in Tanzania as regards of practice and otherwise; and
- protect and assist the public in Tanzania in all matters touching, ancillary or incidental to the law.

The TLS works to secure a society where the rule of law and justice are upheld and is engaged in various public projects focused on bringing access to justice for Tanzanians.

TANZANIA – HISTORY AND POLITICS

On 9th December 1961, Tanganyika (now mainland Tanzania) became an independent nation under the Tanganyika African National Union (TANU) and one year later it became a Republic headed by a President. In Zanzibar the Sultanate was overthrown on 12th January 1964 and the Afro-Shirazi Party (ASP) came into power. In April of the same year the two independent states merged to form the United Republic of Tanzania. On 5th February 1977, TANU and ASP merged to form Chama Cha Mapinduzi (CCM) which has been the ruling party ever since.

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In 1985 President Nyerere retired from the presidency and Mr. Ali Hassan Mwinyi was elected the President of the United Republic of Tanzania. He served two terms of five years each. In 1995, Tanzania held its first multi-party election and CCM won the elections with its candidate Mr. Benjamin William Mkapa, who was sworn in as the third Government President of the United Republic of Tanzania on 23rd November 1995. Ten years later in December 2005, Mr. Jakaya Mrisho Kikwete was elected the fourth Government President of Tanzania for a five-year term.

The political (governance) structure of Tanzania is divided into three separate entities: the Executive, Legislature and Judiciary. The President is the head of state and government. The President and Members of the National Assembly are elected by direct popular vote for a five year term. The last election was held in 2005 and the CCM held 84.1% of the seats in the National Assembly.

Fifteen years after the re-birth of multi-party politics in Tanzania and almost a half-century since independence, the Tanzanian political landscape continues to be dominated by the ruling party, Chama Cha Mapinduzi (CCM), on both the Mainland and the Isles. However, more than seventeen registered political parties exist today although only two political parties are viewed as credible opposition to the CCM. These are Chama cha Demokrasia na Maendeleo (CHADEMA) and Civic United Front (CUF).

Media reports and expressed public opinion show a waning public confidence in government especially in the wake of alleged corruption and political scandals, mired by what appears to be a lack of political will to bring the perpetrators to account. This aggravates voter apathy evinced by the low voter registration, which is especially apparent in the rural towns and villages of Tanzania.

President Kikwete's CCM party has over the years maintained an aura of invincibility but in the run-up to the campaign period, at least one of the presidential candidates, Dr. Willibrod Slaa of CHADEMA, has emerged as a likely front runner. Also in the presidential race is Prof. Ibrahim Lipumba, chair of CUF, who is making a fourth bid for the post since the introduction of multi-party elections in Tanzania.

GOALS OF THE TLS

As its mandate, the TLS advocates for a society for justice and the rule of law are upheld. The main concern for the TLS is that the elections should be conducted in a manner, which upholds the rule of law and is in accordance with international best standards.

It is the TLS' position that the will of the people shall be the basis of the authority of government.

1. RULE OF LAW

The Rule of Law is integral to any functioning democracy. The Rule of Law is based on the notion that laws are supreme, and all citizens are subject to those laws; disputes between citizens and the government are to be determined by the law; and that citizens should enjoy fundamental rights of the person, association and speech.

The TLS works to ensure that ordinary citizens have the protection of the law. When the government, or the elected members of the government, step outside the rule of law, then the TLS will be there, not only to criticize those actions, but to hold the government accountable.

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2. DEMOCRACY & GOOD GOVERNANCE

A democratic society is based on free elections, functioning political parties, independent media and active NGOs that can operate freely. People in positions of power should be held politically accountable for their actions. Good governance flows from a truly democratic society in that the institutions which govern must curb the abuse of power and corruption and guarantee equality of all persons before the law.

The TLS takes the position that the government of Tanzania should be working to ensure that the values embedded in democracy and good governance are upheld at all times. In a truly working democracy, citizens not only have the ability to exercise power, but they do so because they are given the opportunity to voice their opinion and concerns.

It is in this regard that the TLS is working for a society where the government is held accountable for its actions, with openness and transparency at all levels.

3. FREE AND FAIR ELECTIONS

One of the main cornerstones of a democracy is the ability of citizens to choose an individual to hold public office. The rule of law means nothing without the ability to exercise one's right to vote. Genuine elections are an expression of active citizenship and the free expression of the free will of the people, which provides the basis for the authority and legitimacy of a sitting government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are recognized human rights. Therefore, achieving genuine, democratic elections is part of establishing broader processes and institutions of democratic governance.

Elections are the usual mechanism by which modern democracies operate. In any State, the authority of the government can only derive from the will of the people as expressed in genuine, free and fair elections held at regular intervals on the basis of universal, equal and secret suffrage. The TLS will be observing the upcoming General Elections to ensure that they are carried out in a manner consistent with local and international law and standards.

4. ACCESS TO JUSTICE

Access to justice is not just having a court system in place that citizens can access on their own. It is also about providing citizens, especially those who are not traditionally represented in politics and government, with the ability and tools to access the court system and seek justice on their own behalf. It is also about providing early access to information and services to help people prevent and resolve disputes.

One of the integral pieces of the TLS' mandate is to work to provide further access to justice for those individuals who may not have the knowledge or resources to access the courts or legal advocates. It is in this regard that the TLS provides Legal Aid and information to citizens so that all citizens have access to these services.

What is election observation and what can you expect from the TLS Observation Activity?

Election observation usually focuses on civil and political rights and is generally a part of human rights monitoring. The TLS has officially been granted Observer Status for the 2010 General Elections by the National Electoral Commission.

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The TLS will participate in the election observation process to assess the electoral process, with a particular emphasis on compliance with regulations, laws and procedures. 200 members of the TLS will be deployed to 10 regions across the country, including: Tanga, Arusha, Mwanza, Dodoma, Dar Es Salaam, Tabora, Mbeya, Kilimanjaro, Mtwara and Mara. The TLS Secretariat will provide overall coordination, quality assurance and training. Observation will be conducted in areas where there has historically been a low turnout of women, youth and other marginalized groups and areas, which are historically known to have post-election conflict.

An observation report will be produced within two weeks of the completion of the observation mission's assignment. The primary audience for the report will be the National Electoral Commission and the office of the Registrar of political parties, before wider dissemination to the general public through the mass media.

To ensure consistency in the observation process, the TLS will hold a training session for its members on election monitoring/observation guidelines and election related regulations received from the National Electoral Commission and the office of the Registrar of political parties. Lessons will be drawn from previous election observation missions, which have been undertaken by the TLS, its members and its partners in the country and elsewhere on the African continent.

The main areas of focus during the observation will include:

1. Evaluation of the compliance with laws, rules and regulations by the key players; and
2. Evaluation of the participation of citizens especially women, youth, people living with disabilities and People Living with HIV/AIDS (PLHAs).

Specifically, the observers will be monitoring for voting irregularities, ballot box safety and tampering, vote counting irregularities and tabulation of results.

Given the history of Tanzania and the domination of politics and government by one party, the TLS wants to ensure that all election protocols are followed in the upcoming General Elections, and that all international standards are met.

How can you reach the TLS?

For further information regarding the TLS or its election observation activity, please contact the TLS at:

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Dar es Salaam
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ILANI YA CHAMA CHA WANASHERIA TANZANIA BARA (TLS) (KISWAHILI)

UTANGULIZI WA JUMLA KUHUSU ILANI

Ingawa Uchaguzi Mkuu utafanyika tarehe 31 Oktoba 2010, kipindi kifupi kijacho, haki za kila mtu katika jamii ya kidemokrasia hazipaswi kusahauliwa. Chama cha Wanasheria cha Tanzania Bara (kwa kifupi "Chama") kinafanya shughuli zake kwa lengo la kuwepo "jamii ambapo haki na utawala wa sheria huheshimiwa", ambapo chaguzi huru na za haki ni sharti la msingi kwa demokrasia endelevu. Kwa mantiki hii, chaguzi –endapo zitaendeshwa kwa uhuru na haki – ni mithili ya kipimo sawia cha kukubalika na umma kwa sera na utendaji wa sasa wa Serikali, na hivyo kuwa dalili ya kushabihiana na matakwa ya umma. Uchaguzi pia ni fursa kwa raia kuchagua nani awatawale na namna gani watawaliwe. Hivyo basi, ili demokrasia istawi, taasisi za msingi lazima ziwe imara, ziwajibike na ziwe endelevu- hili pia ni msingi wa utawala wa sheria.

Kama chama cha wanasheria na mdau muhimu katika sekta ya sheria, Chama kina sauti kama chombo kikuu katika sekta ya sheria. Chama kitashiriki uangalizi wa Uchaguzi Mkuu tarehe 31 Oktoba 2010 ili kuhakikisha unafanyika kwa haki, uhuru na uhalali.

Chama kinatangazia umma Ilani hii kama mwongozo wa malengo ya Chama na mchango wake katika Uchaguzi Mkuu ujao wa tarehe 31 Oktoba, 2010.

CHAMA CHA WANASHERIA CHA TANZANIA BARA

Chama hiki ni Taasisi ya Wanasheria wa Tanzania Bara, iliyoanzishwa mwaka 1955 kwa Sheria ya Bunge. Shabaha kuu ya Chama ni:

- Kuendeleza na kuboresha viwango vya maadili na uelewa miongoni mwa wanataaluma wa sheria nchini Tanzania;
- Kurahisisha upatikanaji wa elimu ya sheria kwa wanachama wa taaluma ya sheria na wengineo;
- Kusaidia Serikali na Mahakama katika masuala yote yanayohusu sheria, utekelezaji na utendaji wa sheria Tanzania;
- Kuwakilisha, kulindana kusaidia wanataaluma washaria Tanzania kuhusu utendaji na vinginevyo; na
- Kulinda na kusaidia umma wa Tanzania katika hoja zote zinazogusia, zinazohusu na zinazofungamana na masuala ya sheria.

Chama cha Wanasheria kinafanya kazi kuhakikisha utawala wa sheria na haki unalindwa, na pia Chama kinashiriki katika shughuli mbalimbali za umma zinazolenga kufikisha haki kwa Watanzania. Chama kinajishughulisha kwa lengo la kuwa na jamii ambapo utawala wa sheria na haki unalindwa. Aidha Chama kinashiriki katika shughuli mbalimbali za umma zinazolenga kufikisha haki kwa Watanzania.

TANZANIA – HISTORIA NA SIASA

Tarehe 9 Desemba, 1961 Tanganyika (inayojulikana sasa kama Tanzania Bara) iligeuka kuwa taifa huru chini ya Tanganyika African National Union (TANU), na mwaka moja baadaye ikawa Jamhuri inayoongozwa na Rais. Kule Zamzibar usultani ulipinduliwa tarehe 12 Januari 1964 na Chama cha Afro-Shirazi (ASP)

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kikatwaa madaraka. Mwezi Aprili mwaka huohuo nchi hizo mbili ziliungana kuwa Jamhuri ya Muungano wa Tanzania. Tarehe 5 Februari 1977 TANU na ASP zikaungana kuwa Chama Cha Mapinduzi (CCM) ambacho kimekuwa chama tawala hadi leo.

Mwaka 1985 Rais Nyerere alistaafu urais, na Bwana Ali Hassan Mwinyi alichaguliwa kuwa Rais wa Jamhuri ya Muungano. Alitumikia vipindi viwili vya miaka mitano mitano. Mwaka 1995 Tanzania *ilirejea mfumo wa uchaguzi wa vyama vingi*, na CCM ilishinda uchaguzi na Bwana Benjamin William Mkapa aliapishwa kama Rais wa Awamu ya Tatu ya Jamhuri ya Muungano wa Tanzania tarehe 23 Novemba 1995. Miaka kumi baadaye mwezi Desemba 2005, Bwana Jakaya Mrisho Kikwete akachaguliwa kuwa Rais wa Nne wa Serikali ya Tanzania kwa muhula wa miaka mitano.

Mfumo wa siasa (utawala) wa Tanzania umegawanyika sehemu tatu tofauti: Serikali, Bunge na Mahakama. Rais ni kiongozi wa taifa na Serikali. Rais na Wabunge huchaguliwa kwa kura ya moja kwa moja za wananchi kwa muhula wa miaka mitano. Uchaguzi wa mwisho ulifanyika mwaka 2005, na CCM ilinyakua 84.1% ya viti Bungeni.

Miaka kumi na mitano tangu kurejeshwa kwa siasa ya vyama vingi Tanzania, na takriban nusu karne tangu kupata uhuru, mandhari ya siasa Tanzania bado inatawaliwa na chama tawala cha CCM huku bara na Visiwani pia. Lakini kuna zaidi ya vyama kumi na saba vilivyosajiliwa, ingawa vyama viwili tu vinavyoonekana kama mbadala wa CCM. Vyama hivi ni Chama cha Demokrasia na Maendeleo (CHADEMA) na Civic United Front (CUF).

Taarifa za vyombo vya habari na maoni yaliyotolewa na wengi zinaashiria kudhoofika kwa imani ya wananchi, hususan baada ya tuhuma za rushwa na shutuma za kisiasa zinazoongezewa matope kwa hisia kwamba hakuna utashi wa kisiasa wa kuwawajibisha watuhumiwa. Hali hii inawaongezea wapiga kura dhamira ya kutojali, jambo linalodhihirika wazi katika miji midogo na vijiji vya Tanzania.

Chama cha CCM cha Rais Kikwete kimejijengea miaka iliyopita sifa za kutoweza kushindwa, lakini katika kipindi cha kampeni kinachoendelea, angalau mgombea mmoja wa urais, Dr. Willibroad Slaa wa CHADEMA, ameibuka kuwa mshindani wa mbele. Pia katika kugombea urais yumo Profesa Ibrahim Lipumba, mwenyekiti wa CUF anayegombea kwa mara ya nne tangu kuanza kwa chaguzi za vyama vingi Tanzania.

MALENGO YA CHAMA

Ikiwa ni jukumu lake, Chama kinapigania jamii panapoheshimiwa haki pamoja na utawala wa sheria. Lengo la muhimu zaidi kwa Chama ni kwamba chaguzi zifanyike kwa mchakato unaolinda utawala wa sheria na unaoshahibiana na vigezo bora vya kimataifa.

Ni msimamo wa Chama kwamba matakwa ya wananchi yawe msingi wa mamlaka ya Serikali.

1. UTAWALA WA SHERIA

Utawala wa sheria ni sehemu ya demokrasia yoyote hai. Utawala wa sheria unatokana na dhana kwamba sheria ni juu ya yote, na kwamba raia wote wanawajibika nazo; migogoro baina ya raia na Serikali itatuliwe na sheria; na kwamba raia wafaidike na haki za msingi za binadamu, waweze kujumuika na kutoa maoni.

Chama kinajizatiti ili kuhakikisha kwamba kinafuatilia shughuli za Serikali, ili raia wa kawaida wapate ulinzi wa sheria. Endapo Serikali au wawakilishi wake wanatoka nje ya utawala wa sheria, Chama kitajitokeza pale, siyo tu kulaani vitendo hivyo, bali pia kuiwajibisha Serikali.

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2. DEMOKRASIA NA UTAWALA BORA

Jamii ya kidemokrasia inajengwa juu ya chaguzi huru, vyama hai vya siasa, vyombo huru vya habari na mashirika yasiyo ya kiserikali (NGOs) yenye utendaji huru. Watu walio madarakani wawajibike kisiasa kwa utendaji wao. Utawala bora ni matunda ya jamii yenye demokrasia halisi, yaani taasisi zinazotawala zizuite matumizi mabaya ya mamlaka na rushwa, na zihakikishe usawa wa wote mbele ya sheria.

Chama kinachukua msimamo kwamba Serikali inawajibika kuhakikisha manufaa yaliyo katika demokrasia na utawala bora yanalindwa wakati wote. Katika demokrasia ya kweli inayofanya kazi, siyo tu kwamba raia wana uwezo wa kutumia mamlaka, bali wanafanya hivyo kwa kuwa wana uhuru wa kueleza maoni yao na haja zao.

Chama kinapigania pawe na jamii ambapo Serikali inawajibika kwa utendaji wake kwa uwazi katika kila ngazi.

3. CHAGUZI HURU NA ZA HAKI

Kipengele mojawapo muhimu cha demokrasia ni wananchi kuwezesha kuchagua mtu atakayeshika madaraka. Utawala wa sheria hauna maana kama hakuna fursa ya kutumia haki ya kupiga kura. Chaguzi za kweli ni dalili za uraia hai na ni udhihirisho wa matakwa halisi ya wananchi, jambo ambalo ni chimbuko la mamlaka na uhalali wa Serikali iliyopo madarakani. Haki ya wananchi kupiga kura na kuchaguliwa katika chaguzi za kidemokrasia halisi kwa vipindi maalum ni haki ya binadamu inayotambuliwa. Ndiyo maana kufanikisha chaguzi halisi za kidemokrasia ni sehemu ya kuimarisha michakato na taasisi za utawala wa kidemokrasia.

Chama chetu kitasimamia Uchaguzi Mkuu ujao kuhakikisha unafanyika kwa namna inayokidhi sheria na viwango vya nchi na vya kimataifa. Chaguzi ni chombo cha kawaida kinachotumiwa na demokrasia za kisasa. Katika taifa lolote, mamlaka ya Serikali yanapatikana tu kutoka kwa matakwa ya wananchi kwa njia ya chaguzi za kweli, huru na za haki zinazofanyika kwa vipindi vya mara kwa mara kwa msingi wa upigaji kura wa raia wote, kwa usawa na kwa siri. Chama kitahakikisha jambo hili linatimizwa katika Uchaguzi Mkuu ujao.

4. UPATIKANAJI WA HAKI

Kupatikana kwa haki siyo tu kuwapo kwa mfumo wa mahakama ambako wananchi wanaweza kwenda wao wenyewe. Ni pia suala la fursa kwa wananchi, hasa kwa wale ambao kwa kawaida hawana uwakilishi katika siasa na Serikali, nao wapate nyenzo na vifaa kuwasilisha katika mfumo wa mahakama na kudai haki kwa ajili yao wenyewe. Aidha ni suala la kutoa mapema taarifa na huduma zinazosaidia watu kuzuia na kusuluhisha migogoro.

Mojawapo ya shabaha za Chama ni kufikisha kwa watu fursa ya kupata haki ambao pengine hawana uelewa na nyenzo za kwenda mahakamani, au wa kutumia mawakili wa taaluma ya sheria. Chama pia kinatoa misaada ya kisheria na taarifa kwa wananchi ili wananchi waweze kupata huduma hizi.

Je, uangalizi ni nini, na unaweza kutegemea nini katika shughuli za uangalizi wa Chama?

Kwa kawaida uangalizi wa uchaguzi unazingatia zaidi haki za kiraia na kisiasa, na kwa jumla ni sehemu ya ufuatiliaji wa haki za binadamu. Chama kimepata rasmi Hadhi ya Uangalizi wa Uchaguzi Mkuu kutoka

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kwa Tume ya Taifa ya Uchaguzi.

Chama kitashiriki katika shughuli za uangalizi ili kutathmini mwenendo wa uchaguzi, kwa msisitizo maalum juu ya utekelezaji wa kanuni, sheria na taratibu. Wanachama watasambazwa katika mikoa 10 nchini, yaani Tanga, Arusha, Mwanza, Dodoma, Dar es Salaam, Mbeya, Kilimanjaro, Mtwara na Mara. Sekretarieti itakuwa mratibu wa shughuli zote, itasimamia ubora wa shughuli na wa mafunzo. Uangalizi utafanyika katika maeneo ambako kihistoria awali kumekuwa na ufinyu wa mahudhurio ya wanawake, vijana na vikundi vingine vinyonge, na katika maeneo ambako kihistoria pamekuwa na migogoro inayofuata baada ya uchaguzi.

Taarifa ya uangalizi itatolewa kipindi cha wiki mbili baada ya kukamilika zoezi la uchaguzi. Walengwa wa kwanza wa taarifa watakuwa Tume ya Uchaguzi na Ofisi ya Msajili wa Vyama vya Siasa kabla taarifa kutangaziwa umma kwa jumla kupitia vyombo vya habari.

Ili kuhakikisha uwiano katika shughuli ya uangalizi, Chama kitatoa mafunzo kwa wanachama juu ya utaratibu wa uangalizi wa uchaguzi, ikiwa pamoja na maelekezo mahsusi kutoka kwa Tume ya Uchaguzi na Ofisi ya Msajili wa Vyama vya Siasa. Uzoefu wa uangalizi katika utendaji wa awali utazingatiwa ambao ulifanywa na Chama au wanachama wake nchini na nje ya nchi katika Bara la Afrika.

Mambo muhimu yatakayotiliwa mkazo katika uangalizi ni yafuatayo:

1. Tathmini ya utekelezaji wa sheria, kanuni na taratibu kwa watendaji muhimu; na
2. Tathmini ya kushiriki kwa wananchi, hususan wanawake, vijana, watu wenye ulemavu na wanaoishi na virusi vya ukimwi.

Hususan, waangalizi watazingatia ukiukaji wa taratibu za uchaguzi, usalama na hujuma kwa makasha ya kupigia kura, mapungufu ya kuhesabu kura na kuainisha matokeo ya upigaji kura.

Kutokana na historia ya Tanzania na utawala wa siasa na Serikali chini ya chama kimoja, Chama chetu kinalenga kuhakikisha kwamba taratibu zote za uchaguzi zinazingatiwa katika Uchaguzi ujao, na kwamba viwango vya kimataifa vinafuatwa.

Je, utafikaje ofisi ya Chama chetu?

Kwa taarifa zaidi juu ya Chama au shughuli za Chama, tafadhali wasiliana nasi kwa anwani ifuatayo:

Sekretariati ya Chama
Nym. Na. 299, Mtaa wa Ruhinde, Ada Estate
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