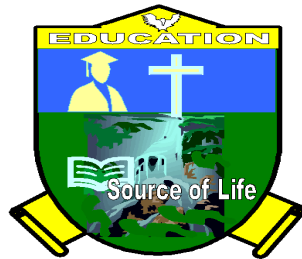


# **RUAHA CATHOLIC UNIVERSITY**



**RUCU**

**FACULTY OF LAW**

**CRITICAL ANALYSIS ON THE LAWS GOVERNING THE PROTECTION OF  
RIGHT TO PRIVACY OF BLIND PERSON IN PARTICIPATING TO A GENERAL  
ELECTION IN MAINLAND TANZANIA**

**A Research Paper Submitted in Partial Fulfillment of Requirements for the Award  
of Bachelor of Laws Degree (LL.B) of Ruaha Catholic University**

**By**

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**671/LLB/T/2018**

**Prepared Under the Supervision of**

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**At the Faculty of Law**

**OCTOBER 2022**

## CERTIFICATION

The undersigned certifies that he has read and hereby recommends for acceptance by Ruaha Catholic University a research paper entitled “**critical analysis on the laws governing the protection of right to privacy of blind person in participating to a general election in mainland tanzania**”in partial fulfillment of the Requirement for the Award of Bachelor of Laws Degree (LL.B) of Ruaha Catholic University (RUCU)

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MrBarongo

(Supervisor)

Date .....

## DECLARATION

I KIWOVELE GIFT B, do hereby declare that this is my own original work and that it has not been presented and will be not presented to any other university for a similar of any other degree award

Signature .....

(Researcher)

Date .....

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## ACKNOWLEDGEMENT

First and foremost I am indebted to the almighty Lord who gave me the ability and strength to complete this study

It has been an exciting and informative study period in the Ruaha Catholic University and I feel privileged to have the opportunity to carry out this study as a demonstration of knowledge gained during the period of studying for my bachelor's degree. The long and challenging journey that has led to the successful completion of this bachelor's program would not have been without the incredible support and encouragement of many people I interacted with.

First and foremost, I would also like to express my sincere gratitude to my supervisor Mr. Barongo whose professional guidance and wisdom made it possible for me to successfully undertake and complete the study.

## DEDICATION

I humbly dedicate my research to my Father BATHROMEOKIWOVELE and my Mother MATRIDAMKANA for their support, and the Encouragement and for shaping me to be morally good. I will cherish their love and encouragement that they offered me

## ABSTRACT

These study aimed at investigating the, **Critical analysis on the laws governing the protection of right to privacy of blind person in participating to a general election in mainland Tanzania”**

In chapter one researcher explain on the statement of the problem explained that blind person does not protected by right to privacy to participate in General election of Tanzania here by the election laws violate principles that govern the people with disabilities also a researcher explain the guarantee of section 4 to 7 of the People with disabilities act of 2010 to the right of privacy to blind person when it comes to participation in political matters. Also national election act is against the constitution of Tanzania Article 16. Then identify objectives of this research were specific object is to make a critical assessment of laws governing participation of blind person in General Election of Tanzania through the right to privacy.

In chapter two a researcher use to give the conceptual and legal framework from the problem here a researcher manage to show the short history govern election hence to blind person and views of different scholars on the election process also a researcher manage to show the domestic laws, regional and international laws govern the blind person on the right to vote independently

In chapter three a researcher establish findings on the related problem here by a researcher use the objectives of the research to govern the findings hence the main ere to find the barriers and hindrances that has contributed to the non-participation of the

people with visual impairment in the electoral process also analyzing the to assess the effectiveness of the laws governing Election in Tanzania and to determine how the electoral process made more inclusive for individuals with visual impairment.

Moreover in chapter four a researcher Based on the findings, the researcher made conclusion about the research topic by see the value of disabled people hence the blind person to have the equal right compared to those who are not blind when it comes to the political involvedness as stated to constitution Article 21 on freedom to participate in public affairs hence article 21 (2) states that “Every citizen has the right and the freedom to participate fully in theProcess leading to the decision on matters affecting him, his well-being or thenation” mainly by involve right to privacy through article 16 of the constitution

Also a researcher use to recommend that, the Election act Cap. 343 R.E 2015 section 61 (3) should be amended so as to avoid all loopholes which made blind person not having the full participation in election in Mainland Tanzania hence to have no privacy in their involvedness,also the researcher recommended that the electoral commission of Tanzania to work with other stakeholders then braille learning should be the party of school learning, then there supposed to increasing the budget to blind person in participating through election.



## LIST OF INSTRUMENTS AND STATUTES

### INTERNATIONAL INSTRUMENTS

Convention on the rights of persons with disabilities (crpd)

The united national convention on the rights of persons with disability 2006  
(UNCRPD)

### REGIONAL INSTRUMENTS

African charter on human and people's right 1981

### STATUTES

National election act 2010

People with disabilities act 2010

The constitution of the united republic of Tanzania of 1977;

### LIST OF CASES

*Califonia council of blind(CCB)et al. v Country of alameda et al* 21

*Phiri v daka and Anor* [2021] ZMHC 53

*Sata V Post Newspapers Ltd and Another* [1995] ZMHC 1

*Chisakula v Mabumba and Anor* [2021] ZMHC 53

## ABBREVIATIONS AND ACRONYMS

©	Copyright
All ER	All England Law Reports
Cap	Chapter
CAT	Court of Appeal of Tanzania
CURT	Constitution of united republic of Tanzania
Ed	Edition
GN	Government Notice
Ltd	Limited
WBU	world blind union
UNCRPDT	United national convention on the rights of persons with disability
CRPD	convention on the rights of persons with disabilities
R	Republic
PW	people with disabilities
NEC	National election commission
DRD	Direct recording electronic

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## CHAPTER ONE

### INTRODUCTION

#### 1.1 Background to the Problem

The United Republic of Tanzania is a union of two initially sovereign countries, Tanganyika and Zanzibar, formed on 26 April 1964 through an Act of Union signed by the first presidents of Tanganyika and Zanzibar, Mwalimu Julius Kambarage Nyerere and Sheikh Abeid Amani Karume, respectively. Tanganyika gained independence and became Tanzania from Great Britain in 1961. From the independence until the mid of 1980's Tanzania was only managed to be in the one party system, under the administration of Ali Hassan Mwinyi under took numerous of political reforms January 1992 government decided to adopt multiple democracy legal and the constitution change were led to the emergence of the political parties, in 1994 multiparty system was started under the supervision of fulfillment the right of person to participate into public affairs<sup>1</sup>. In 2000 up to 2005 Tanzania held the second multiparty general election which all emerged for sake to implement the right of person to vote, the multiparty election was continued to current time with the interval of five years here by the political system hampered the development and the civil right movement with political activism through that group of disabled people the blind person were not completely get their right through the political system developed under the law of election hence were faced with potential barriers to participate in social economic and political activities blind person were faced several

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<sup>1</sup>L.YMbogoni "Aspect of colonial Tanzania history" MkukinaNyota publishers, Tanzania 2012.



hindrances from the law of election emerged hence to have full participation in election process this by including inaccessible physical environment, insufficient of the protective laws, lack of customized electoral materials<sup>2</sup>, negative attitudes towards persons with visual impairment, cumbersome electoral procedures and lack of secret ballot.

Voting and participation in the electoral process is a fundamental aspect of the democratic process<sup>3</sup>. This provides individuals with a voice to influence decisions that affect their lives. However, blind person have often been discriminated against this regard. Several barriers to political participation have been identified. Tanzania have consistently linked lack of privacy, lack of financial resources, negative attitudes, low educational attainment and inaccessible physical environment to the low political participation of persons with visual impairment. Beside these factors, disability makes it difficult for blind person to participate full in election, thus limiting interaction with their peers and the opportunities to understand the political process<sup>4</sup> Electoral laws have also disenfranchised persons with visual impairment disabilities from participating in politics because they are deemed incapable to see and there is no conducive environment supported by the law hence they are discriminated to right of privacy<sup>5</sup>. A strategy towards creating a better understanding of the rights of persons with disabilities and eradicating attitudinal, physical, and institutional barriers will go a long way towards increase the participation of persons with disabilities in politics<sup>6</sup>. In reference to historical

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<sup>2</sup> H. Berrington "Political participation and democracy" routledge, Britain, (2013).

<sup>3</sup>[http:// www.electionaccess.org](http://www.electionaccess.org) (accessed 19 January 2022)

<sup>4</sup>S. Meekosha, 'Political Activism and Identity Making The Involvement of Women in the Disability Rights Movement', Australia Law journal, 249, (1999), 513

<sup>5</sup> E, Sackey, "International Foundation for Electoral System" university of Bayreuth, 2014.

<sup>6</sup><https://www.richtmann.org/journal> (accessed 12 February 2022)

exclusion, the United Nations (UN) General assembly adopted the convention on the rights of persons with disabilities (CRPD) in December 2006. The CRPD report is an international human rights treaty, which promotes, protects, and ensures the full enjoyment of human rights by persons with disabilities<sup>7</sup>. The UNCRPD is the guiding international standard in disability inclusion. Article 29 of the treaty focuses on participation in political and public life. It calls on states to ensure that persons with disabilities can effectively and fully participate in political and public life<sup>8</sup>. It calls on states to ensure that all persons with disabilities can effectively and fully participate in political and public life on equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected (CRPD Protocol 2012). The right to vote and participate in the electoral process is critical to democracy and the United Nations Convention on the rights of persons with disabilities (UNCRPD) underscores the equal rights of persons with disabilities to participate in political life<sup>9</sup>. Yet, in many low income countries in Africa including Tanzania, persons with visual impairment are often unable to cast their vote or stand for political election in their local institutions and in other way fail to have a secret ballot<sup>10</sup>. They are therefore excluded from political and social engagement and cannot fully exercise and enjoy their guaranteed rights. Against this understanding, effective inclusion of people with visual impairment in the electoral process in Tanzania remains a pipe dream with chances of making it reality farfetched. It would seem a number of

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<sup>7</sup>World Report *Vietnam Human RightsWatch* : 2012

<sup>8</sup> <https://www.hrw.org> ( accessed 12 February 2022)

<sup>9</sup> United Nations Convention on the rights of persons with disabilities, social-political right

<sup>10</sup>H. Kuper, M.Walsham, S. Mesaki, M. Banks & K. Blanchet *Social protection for people with disabilities in Tanzania*, Oxford Development Studies, Tanzania 2016, 441-457.

barriers continue to stand in the way, thereby, closing the effective participation of people with visual impairment in the electoral process<sup>11</sup>. The grey areas that have largely to find out more about the electoral process and provisions for the visually impaired people in Tanzania include: Lack of privacy in the voting process; Being assisted to vote by total strangers; Lack of enlarged print for easy reading; Unavailability of magnifying material; Inaccessible polling stations; Lack of information on the electoral procedures; Lack of trained personnel to help people with visual impairment; and Fear of political violence on the part of the visually impaired<sup>12</sup>. Whatever other needs voters may have, participation in an election serves to reinforce their self esteem and self respect. The Constitution of the United Republic of Tanzania 1977<sup>13</sup> (as amended from time to time) Article 21(2) states that every citizen has the right and the freedom to participate fully in the process leading to the decision on the matter affecting him, his well-being or nation” in regard to this Article the Constitution gives on the basis of the fundamental right of citizens to vote hence to participate in election. So participation on electoral process is the constitution right in its dual dimension of Active suffrage (the possibility to vote) and passive suffrage (The possibility to be elected). The Constitution has also provided for the enactment of laws giving effect to the right to vote and be voted for, as well as the procedure for presidential and parliamentary elections<sup>14</sup> in so far the legal regulations of Tanzania limits to fulfill the basic right to vote especially to blind people, strictly limiting their scope to the cases that they have no protect their privacy by conducting secret

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<sup>11</sup>M.Pauline, Inclusion of the Visually Impaired Persons in the Electoral Process in Zambia, Commonwealth of Learning (COL), 09, (2019) 233

<sup>12</sup>Unpublished NASCOH, “National Association of Societies for the Care of the Handicapped” : A Human Rights Approach 2008, 17

<sup>13</sup> The Constitution of the United Republic of Tanzania 1977, Article 21(2)

<sup>14</sup> The Constitution of the united republic of Tanzania, 1977 Article 5(1)

ballot in the General Election despite the fact that section 51(1) of the Persons with Disabilities Act states that “Every person with disability who has attained the age of eighteen years and above shall be entitled to enjoy and exercise political rights and opportunity as any other citizen without any form of discrimination<sup>15</sup>” since political participation increases the social inclusion, it is an important human right based approach to eliminate the marginalization as well as increase participation of less privilege groups in decision making in society<sup>16</sup> thus if blind person participate in politics they are likely to be empowered to make decision about their lives on a right of liberty as at stake to choose the representative, the laws of election are missing to give out the protection of blind person to get their right hence to state on the proper factors and ground to participate in election<sup>17</sup> instead laws governing election mainly not protect their privacy to blind person

## 1.2 Statement of the problem

According to the Constitution of Tanzania of the United Republic of Tanzania under Article 16(1) provides that every person is entitled to respect and protection of his person, the privacy of his own person respect and protection of his private communications Sub Article (2) of the Article 16 provides further that, For the purpose of preserving the person’s right of privacy the state authority is required to lay down legal procedures regarding the circumstances, manner and extent that personal communication should be enjoyed.

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<sup>15</sup> Persons with Disabilities Act 2010, Act no 9 of 2010, section 51(1)

<sup>16</sup><http://www.issafrica.org> (accessed 19 January 2022)

<sup>17</sup>G.Orr, *Ritual and rhythm in electoral system a comparative legal account*, Routledge, 2017,238

The Parliament of the United Republic of Tanzania through Sections 4 to 7 of the Persons with Disabilities Act<sup>18</sup> provided some principles and obligations for realization of the right of persons with disabilities. To the extent that effective participation of blind person in processes during general and other elections should not only be in respect for individual's freedom to make own choices and independency of persons with disabilities but full, effective participation and inclusion of persons with disabilities in all aspects of elections being inclusive. Indeed all general elections accessibility is a mandatory principle.<sup>19</sup>

Tanzania has various legislative provisions for the facilitation of all persons of voting age to participate in electoral processes at all political levels; section 61 of National Election Act explain on the method of voting particularly section 61(3) (b) states that “ if a voter is incapacitated by blindness or other physical cause or unable to read, that voter may ask a person of his own choice other than the presiding officer, a polling officer, a polling assistant or polling agent, to assist such an incapacity person to record his vote in accordance to paragraph (c) to (k) of this subsection and a person chosen under this paragraph, shall assist not more than one voter<sup>20</sup>” provided that where a household there is more than one person who require assistance under this paragraph it shall be lawful for such members of the household to choose one person to assist them this section do not correspond to the Article 16 of the constitution of the Republic of united of Tanzania which quarantine right to privacy to duals.

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<sup>18</sup>The Persons with Disabilities Act, 2010

<sup>19</sup> Ibid.

<sup>20</sup> National election Act 2010

The participation of public affairs is the fundamental right to every citizen supposed to be independent on elect or be elected due to that it was not to blind person because mostly they violated their right of privacy as from Article 61 of National election Act guarantee the blind person to be assisted by a stranger who direct know the privacy of such blind person to who use to elect also Article 61 undermine the principle and obligation for realization of right of person with disabilities section 4 (a) guarantee person with disabilities to have freedom of make choice and independency in election process so from such circumstances laws governing election in Tanzania directly violate the right to privacy and it is against the constitution of United republic of Tanzania.

### **1.3 Literature review**

The literature reviewed in the course of research was aimed at bringing out the ideas which could be taken into account in the diagnosis of the problem of the protection of the disabled person through the franchisement law in Tanzania Many authors have written on right of Disabled people especially to blind person. They have used their efforts in discussing on the different right associated with the disabled people but However, they do not go further to the issue of the right to vote in relation to the right to privacy hence to blind person Whereas it is imperative to know the right to privacy are supposed to be given to any citizen of Tanzania with all the requirement as stated to constitution of Tanzania amended time to time, The following review attempts to shed some light on this argument.

**Compendium of Electoral laws and regulations of Tanzania by judiciary of Tanzania**<sup>21</sup>With The Support From The United Nations Development Programmed November, 2016 provide the election laws which give a person a right to vote but all the law which are written by associate the National Elections Act, The Local Authorities (Elections) Act, The Political Parties Act do not guarantee the right of privacy to blind person<sup>22</sup>section4 to 7 of people with disabilities Act of 2010 which were provide and influence the disabled people to participate in the Election process independently but national election act use to violate the section. The authors work shows how the laws involved in election including the mother law of Tanzania constitution of 1997 fail to provide on how the privacy of blind person can be protected.

**Report on the Participation of People with Disabilities in Tanzania's 2010**<sup>23</sup> General Election conducted to challenge the law associate with the Participation of persons with disabilities In Tanzania's 2010 General Election A Report were based on the observations and recommendations made by voters with disabilities in the regard to challenge with different provision found to give explanation about the disabled person this in a way that the provision challenged were not support blind person in Election process<sup>24</sup> as United republic constitution of Tanzania of 1997 amended time to time The survey was mainly motivated by inadequate participation of people with disabilities in previous elections which has resulted in their low representation in various decision and policy

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<sup>21</sup> "Tanzania Tanzania Compendium of Electoral Laws and Regulations"  
<https://www.politicalpartydb.org/wp-content/uploads.pdf>

<sup>22</sup> Constitution of united republic of Tanzania 1997 article 5(1)

<sup>23</sup>CCBRT Report *The participation of person with disabilities in Tanzania :2010 General election database*

<sup>24</sup><https://aceproject.org/ace-en/focus/elections-and-disability>

making bodies<sup>25</sup>. Prior to the election, the National Electoral Commission (NEC) had only promised to address some of the challenges encountered by people with disabilities that limit their effective participation in election processes but law assist them violate the right of privacy <sup>26</sup>. The problem is worse in Tanzania for two main reasons. Firstly, for blind person fail to have the ground to participate in election Secondly, work use to challenge the laws enacted by the commission hence national election Act on way to deal with the privacy disabled people especially the blind person.

**KaganziRutachwamagyo**<sup>27</sup>a consultant on his workshop handout review of People with Disability Participation in General Elections 2016 provide specifically, challenges that have been identified by researchers include:, (i) Lack of supportive infrastructure to enable them to participate in the political sphere example. poor accessibility facilities, equipment and facilities like tactile clues for visually impaired people, iii) Lack of safety and security to the PWDs is one of the hindrances<sup>28</sup> largely also The Constitution of the United Republic of Tanzania, 1977 (URT 1977 Constitution) and the Tanzania National Elections Act, 1985 (as amended 2010) recognize the rights of all other disability groups to vote or be voted except blind person hence does not state on how can be able to vote<sup>29</sup> but the laws available for election violate right to privacy of blind person. However, the URT 1977 Constitution state that “An Act of Parliament may provide for the disqualification of any citizen from exercising the right to vote on any of the

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<sup>25</sup> Article 5 of constitution of United republic of Tanzania 1997 amended time to time

<sup>26</sup> J. Ewald, “*Challenges for democratization in Tanzania*” MkukinaNyota publisher Tanzania, 2013 ,75.

<sup>27</sup> K. Rutachwamagyo , “*information centre on disability icd*”Arusha, Tanzania 2009,39

<sup>28</sup>Degener, T, *A New Human Rights Model of Disability*, : Springer, Switzerland,A commentary, pp. 41–60.

<sup>29</sup> Tanzania National Elections Act, 1985 (as amended 2010)



following grounds, namely (b) His suffering from mental infirmity<sup>30</sup>. Nothing other than any of those grounds may operate to disqualify a person” and the Tanzania National Elections Act<sup>31</sup> states that “a citizen can be disqualified to vote; if under any law in force in Tanzania, is adjudged or otherwise declared to be of unsound mind and not the disabled person so the provision fail to provide provision for protection of method to be used by blind person. The work use to challenge the URT 1977 Constitution for failure to recognize the laws which may provide the protection of privacy of blind person on participation of election

**Janet E Lord, Stein and Butora**<sup>32</sup>on their journal of Human Rights Practice in Facilitating an Equal Right to Vote for Persons with Disabilities in electoral processes provide unique opportunities for assessing and monitoring blind person in inclusion of voting processes. Moreover, the participation of marginalized groups in observation can be a highly effective way of enhancing the visibility of groups in a political process in order to leverage monitoring to advance the political rights of persons with disabilities specific measures are required to ensure that election monitoring privacy and practice is made fully accessible and inclusive<sup>33</sup>. Electoral process monitoring likewise must be comprehensive in scope if it is to helpfully assess the multitude of possible barriers to inclusion for marginalized groups<sup>34</sup>.from the journal the writer were used to see the disabled people as the valuable group hence influence to take into account hence use to challenge all the laws involved in election. The authors of the work use to show the way

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<sup>30</sup> Article 5 (2) of the Constitution of United Republic of Tanzania of 1977

<sup>31</sup> Tanzania National Elections Act 2010, Cap 324,Section 11

<sup>32</sup> E. Janet,M. stein &J. butora ,Journal of human right practice, 6 pages 115-139 (2014 ) 679

<sup>33</sup> <https://doi.org/>( accessed 27 January 2022

<sup>34</sup><https://www.researchgate.net/>( accessed 27 February 2022)

in which the government should deal with blind person in the election process hence the gap shown is where the failure of treatment of the blind person in participation of the political matter to guarantee privacy.

#### **1.4 Hypothesis**

It seems that laws govern election in Tanzania discriminate the right of privacy to blind person in participating General election

#### **1.5 Objective of research**

##### **1.5.1 General objective**

The general objective of this research is to make a critical assessment of laws governing participation of blind person in General Election of Tanzania through right to privacy

##### **1.5.2 Specific objectives**

To establish the barriers that has contributed to the participation of the people with visual impairment in the electoral process

To assess the effectiveness of the laws governing Election in Tanzania

To determine how the electoral process can be made more inclusive for individuals with visual impairment

#### **1.6 Significance of the study**

The findings of this research are provides a depth information that will be used as a reference material for the future researchers in similar field or related discipline which will bring awareness in the issue of Election

The research filled the gap which left by the other previous researchers on the part of Election, specifically in the participation of the blind person in election. Furthermore, the study may be used by

- i. Citizen of Tanzania specifically the blind person to be aware on the matter affects their decision making
- ii. The research may serves as the catalyst to policy and law makers to think again on making amendment of laws dealing with disabled people to participate in election
- iii. The study may help students and scholars to develop knowledge of the laws governing Election in participation of the blind person
- iv. Since right to vote is fundamental constitutional right the study may manage to give awareness the individuals of Tanzania to discuss more, debate ideas and find more important information about election process

## **1.7 Research methodology**

This is pure doctrinal, the researcher analyzed various literature and documents on the problem. The researcher uses the secondary source as a method o collecting data this helped researcher to arrive at solution to the problem.

### **1.7.1Types of Data Collection**

#### **1.7.2 Secondary Data**

A number of literatures relevant to the subject were sorted and read by the researcher in library (both physical and online library). Internet was visited several times to get online

material. Also, various documents, articles and newspaper were read for the subject. Relevant materials were taken for the purpose of an assessment so as to come up with a conclusion regarding the problem such as reports journals articles paper presentation and websites. In respect to library research researcher searched from various libraries such as the Library of Ruaha catholic University. In such libraries researcher searched by reading various books, dissertations theses, journals and various articles

### **1.7.3 Research method**

The researcher uses the following method

### **1.7.4 Documentary review**

In order to understand the concept of the participation of blind person in general election of Tanzania a researcher use to review various published source such as books journals articles academic report of various institution so as to know well the conceptual terms related to the participation of blind person in general election of Tanzania.

The researcher use the different laws govern election as the method in order to understand whether the law of Tanzania state clear the participation of blind person in general election. The researcher analyze the international instrument, regional instrument and domestic instrument that regulate the participation of blind person in general election of Tanzania

### **1.7.5 Research Design**

This study used a qualitative design that focuses on collecting, analyzing and explore data in a single study. The method sought to assess the participation of blind

persons in electoral processes in Tanzania. The purpose of adopting qualitative design approach was to obtain a broader and better understanding of the research problem and generate sufficient data on the study objectives

## **1.8 SCOPE OF THE STUDY AND LIMITATION**

### **1.8.1 Scope**

The research was intended to cover and confine mainly to the protection of disabled people associated with blind person in the Election law through the right of privacy in Tanzania the researcher in this study mainly focused on the protection of blind person on right to vote in Tanzania<sup>35</sup>. The aim of this study is to come up with a good finding of how to solve the problem of blind people in full participation on process of Election regarding to get their right<sup>36</sup>In order to make the research manageable, the scope of this research work comprises the location Tanzania, in all General elections since independence and major concern is to challenge the law of Election by using statutes People with disability Act and The Constitution of the United Republic of Tanzania, 1977 as amended from time to time

### **1.8.2 Limitations**

This research has been limited by the number of factors

Several limitations occurred in the course of conducting this research this by including

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<sup>35</sup> People With Disability Act 2010

<sup>36</sup> Constitution of united Republic of Tanzania 997 amended time to time

Inadequate information on participation of blind person on General elections, there is not enough required reports and information which give the details of the participation of blind person in General election this led difficult on the way of collecting the data of analysis to bring the solution during the proceeding research. Thus shortage of the materials in the library create difficulties on the way to complete a research as concern

#### Overcome of the limitation

The overcome of the limitation of the research are by visit the different library such Iringa university library in order to get materials.

### 1.9 CONCLUSIONS

Vote has its roots from both spiritual and human development concepts. It is the matter of law and practice that, any person who has the entire requirement needed as stated on the constitution should be ensured and protected by the law to attain their right. Also inaccessible voting technologies create difficult and facilitate to violation of right to vote hence to blind Paper ballots are not always available in Braille format (assuming that all voters with visual impairments make use of Braille), and alternatives such as a Braille ‘template’ that can be placed over the paper ballot are not consistently supplied.

## CHAPTER TWO

### CONCEPTUAL AND LEGAL FRAMEWORK GOVERNING THE PARTICIPATION OF BLIND PERSON IN GENERAL ELECTION OF TANZANIA THROUGH RIGHT OF PRIVACY

#### 2.1 INTRODUCTION

As a consequence of its colonial history and legacy, Tanzania political culture and system adopted from the British and Germany respectively. Since independence in 1961, Tanzania had only six presidents. The country was a one party state until the early 1990s when the 'freedom laws' that allowed multiparty politics were introduced. Since the introduction of multiparty politics, Tanzania has been under the leadership of strong autocratic executive presidents who exercise extensive control over the other arms of government and other institutions<sup>37</sup>; these conditions seem to have severely curtailed the participation of minority groups such as persons with disabilities in political activities. Apart from a political system which has hampered the development and growth of civil rights movements and political activism, generally, blind person face additional barriers including the right to privacy in election<sup>38</sup>. The origin of election started approximately 508 B.C in Greek where by Ancient Greece seems to have implemented the earliest form of democracy. Greeks had a "negative" election that is, each year voters, who were the male land owners, were asked to vote for the political leader or "candidates" they most wanted to be exiled for the next ten years. The early ballot system was voters wrote their choice on broken pieces of pots. Since voters were only male land owners, the

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<sup>37</sup> P. Jones, "*Issues in Political Theory*". Mac Milan, London. (1979)

<sup>38</sup><https://www.electroralcommusion.org.uk/> (accessed 14 February 2022)

number of voters was small. If there was a fairly even spread of votes, no one would be exiled, so usually only very unpopular political leaders were or exiled<sup>39</sup>. In Tanzania Election adopted soon after independence where there practice of the multiparty system which were emerge different opposing parties. Election make a fundamental contribution in a democratic government in a manner that it create the government which the political decision made directly by the entire body of qualified citizens<sup>40</sup>. Election enables the voters to select the leader and hold them accountable for their performance in the office the general elections will be the country's sixth since multiparty democracy was re-introduced in 1992. the elections were taking place in the context of laws passed by parliament that Tanzania marked a new history of elections management in 1992,Consequently, multiparty democracy called for the establishment of the body entrusted with authority to conduct and supervise elections processes<sup>41</sup>. Such a body should be perceived to be free, independent, transparent, principled, accountable and credible. Hence the Constitution of the United Republic of Tanzania was also amended to establish an independent body which will carter for the administration of elections under the multi-party political system<sup>42</sup>. From that laws governing election were started to be used hence in election of 2000 up to 2020 were by the laws used seem to have lacuna it not protect the right of privacy to the blind person start from national election act of 2010 and other laws like of people with disability act 2010.

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<sup>39</sup>Election (2014) Encyclopedia Britanica Encyclopedia Britannica Ultimate reference suite. Chicago: Encyclopedia Britannica

<sup>40</sup>[www.britannica.com/election](http://www.britannica.com/election) (accessed on 12 may 2022)

<sup>41</sup>Ahuluwalia P, Zegeye A, 2001, Multyparty Democracy In Tanania, Africa Security Review,No.3

<sup>42</sup>NEC (2001).The Report of the National Electoral Commission on the 2000 Presidential, Parliamentary and Councilors Elections. National Electoral Commission, Dar es Salaam



In order to arrive solution of entitle problem it is important to have the knowledge of the key concepts of which the study is based. Therefore, this parts of chapter offers to provide the explanation on the terms that have been used in the research to make clear on the doubts that might appear confusing and to make the research knowledgeable to each and every person who has interest in the research including the person who does not understand the issue of the law.

## 2.2 DEFINITIONS OF TERMS

### 2.2.1 The meaning of blind person

Isa person with a severe visual impairment due to different causes such as injuries, infections, and diabetes and traumatic. The state of blindness can be temporary or permanent. Blind person as the other human beings have the rights to participate in election as stated to the people with disabilities act 2010 but they face numbers of challenge which act as the barriers to vote privately and independently<sup>43</sup>. The disability movement is well established. The Tanzania Federation of Disabled People's Organizations (SHIVYAWATA) regularly takes part in discussions with the government. Official recognition of the federation has increased over the past years and recently led to the involvement of the organization within the Coordination and steering of the Non-State Actors support programme<sup>44</sup>. It supports development of a constructive dialogue between government, partners and civil society organizations (CSOs). The Federation

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<sup>43</sup> M. FedrickCCBRT *Report on The Participation of People with Disabilities in Tanzania 2010General Election: 2011* surveyed by

brings together ten member-based national disabled persons organizations were by the blind person were governed by the Tanzania League of the Blind (TLB)<sup>45</sup>, and the other were supported by association Tanzania Association of the Physically Handicap (CHAWATA), Tanzania Association of the Deaf (CHAVITA), Tanzania Association of the Deaf – Blind (TASODEB)<sup>46</sup>

### **2.2.2 The meaning of Vote**

Vote is a formal indication of the choice between two or more candidates or course of Action expressly through ballot. Vote is a right the right to vote means the suffrage of the political franchise. Suffrage is granted to qualified citizens once they have reached the voting age and what constitutes a citizen depend on the government decision and the deprivation of the right to vote must observe certain condition in democratic regulation<sup>47</sup>. Voting takes place at a polling station but also in an electoral voting systems depending to the rules of the state. In govern of democracy a government is the result of the voting in the election which supposed to be in two opposing parties through that people use to represent their policies<sup>48</sup>.

### **2.2.3 National Election commission (NEC)**

National Election Commission Is Established under the United Republic of Tanzania Constitution Article 74, There Is No Specific Legislation dealing with the

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<sup>45</sup> <https://www.tandfonline.com/doi/pdf/10.1080/14662046608447033>

<sup>46</sup> African Disability Rights Yearbook 2013, <http://www.adry.up.ac.za/index.php/2013-1-section-b-country-reports/tanzania>

<sup>47</sup> [www.gov.uk](http://www.gov.uk) (accessed 14 march 2022)

<sup>48</sup> S.Kumar&E.Walia “Analysis of Electronic voting system in various country” international journal,1830,5

Structure and the Operation of the Commission<sup>49</sup>. The Commission is responsible under the Electoral Act for key overarching electoral functions including providing information and advice to the Assembly, the Speaker, the Minister responsible for electoral matters (the Special Minister of State), the Executive, agencies, political parties, Members of the Legislative Assembly and candidates; conducting education and information programs; conducting research; publishing electoral material; providing fee-for-service electoral goods and services; and conducting ballots for prescribed organizations, to make regulations and guidelines that facilitate the effective operation of day to day electoral duties. The Commission is also responsible for undertaking key electoral roles, such as taking part in the electoral boundaries redistribution process; and sitting as a review body where appeals are made challenging decisions made by the Commissioner or the Commissioner's delegates

#### **2.2.4 General Election**

Is an election which the people living in the country vote to choose the government. In Tanzania the general election is done at regular interval of 5 years after the new government to get the representatives who can present the people interest and concerns. The general election is governed by the laws of the state hence constitution and other provision related to the election. General election is the one that held in the whole state that not limited with the voters in a particular party or the specific locality,

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<sup>49</sup>[www.nec.go](http://www.nec.go) (accessed march 24 2022)

the purpose of general election is to make a final choice among the various candidates who have been nominated by the parties<sup>50</sup>

### **2.2.5 The meaning of Democratic Election**

The democratic government is a body of representatives. These representatives are chosen through a system of regular, free and fair elections. The party or candidate receiving majority of votes in an election is declared a leader or representative of the voters<sup>51</sup>. The thing that makes democratic election, the minimum conditions for a democratic election are: Everyone is entitled to one vote and each vote has equal value.

Also this part a researcher established different legal analysis on the different domestic laws, Regulations, Guidelines and the International Guidelines governing laws to blind person in participation of general election in Mainland Tanzania

## **2.3 INTERNATIONAL LEGAL FRAMEWORK**

Tanzania is also followed the international principles and standards relating to election matters. in relation to disabled people hence blind person Tanzania makes reference to the principles under world blind union (WBU) and the united national convention on the rights of persons with disability 2006 (UNCRPD) and convention on the rights of persons with disabilities (CRPD)

### **2.3.1The World Blind Union (WBU)**

To date, there is no universal multilateral legally binding document governs the participation of the blind person to the election of Tanzania. However, the World Blind

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<sup>50</sup> <https://www.tandfonline.com/doi/pdf/10.1080/14662046608447033>

<sup>51</sup> [http://www.accesdemocracy.org/libray\\_005\\_delemetion.pdf](http://www.accesdemocracy.org/libray_005_delemetion.pdf)

Union (WBU) have definitely made an impact on the protection of the blind person by introducing different strategies on how the blind person can have right to participate in election hence the establishment of a process for developing a comprehensive and integral international Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities<sup>52</sup>, the Consultation within the World Blind Union and its Regional Member Organizations and co-ordinate by the WBU Working Group on Relations with the United Nations and its Agencies<sup>53</sup>. For the purpose of this manifesto, every reference to “blind and partially sighted people” should be taken to include in election process hence the Right to political Participation was given priority, This by includes: The right to stand as candidates in elections The right to join political parties and social organisations The right to work as paid officials in public administration The right to participate in all aspects of the life of the community on basis of equality with other citizens. is The World Blind Union (WBU) not automatically applicable in Mainland Tanzania, it is only applicable where there is inconsistency between the regulations found under the constitution of united republic of Tanzania 1997 amended time to time Article 21<sup>54</sup>

### **2.3.2 The united national convention on the rights of persons with disability (UNCRPD)**

While the matter of Election done in a purely domestic context, political participation is predominately an international matter<sup>55</sup>. Therefore, when considering the design, implementation and application of the countries, it is important the relevant

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<sup>52</sup>T.Muira, A.kitagami&T.Nagoya “Acessibility,efficacy and improvement in voting methodology for visually impaired person” Fujinawa publisher,2016,75-83

<sup>53</sup><http://umc.once.es/home.cfm> (accessed 18 March 2022)

<sup>54</sup> The constitution of the republic of united Republic of Tanzania 1997 amended time to time

<sup>55</sup>Convention on the Rights of Persons with Disabilities ( participation of blind person in election)

international legal framework<sup>56</sup>. The United National Convention on the Rights of Persons with Disability (UNCRPD) are the most influential source of to show protection of disabled person in political issue , they provides protection of the human rights and dignity of persons with a disability (PWD)<sup>57</sup>. The convention is written under the paradigm that PWD are not passive recipients of medical treatment and charity, but autonomous individuals with the right to actively participate in society ,the convection recommended that person with disabilities supposed to have full participation on political and public life hence article 29 o the convection<sup>58</sup>

### **2.3.3 The convention on the rights of persons with disabilities (CRPD)**

The Convention work to change attitudes and approaches to persons with disabilities<sup>59</sup>. It takes to a new height the movement from viewing persons with disabilities as “objects” of charity, medical treatment and social protection towards viewing persons with disabilities as “subjects” with rights, who are capable of claiming those rights and making decisions for their lives based on their free, and informed consent as well as being active members of society.<sup>60</sup> Convention is intended as a human rights instrument with an explicit, social development dimension. It adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. It clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their rights and areas where their

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<sup>56</sup><https://www.un.org/development> (accessed 18 March 2022)

<sup>57</sup><https://www.physio-pedia.com> (accessed 19 March 2022)

<sup>58</sup> UN, The right of person with disability

<sup>59</sup>idem

<sup>60</sup><https://www.un.org> (accessed on 19 march 2022)

rights have been violated, and where protection of rights must be reinforced. Article 29 of the CRPD guarantees the political rights of persons with disabilities. It notes that states should ensure the right of persons with disabilities to “stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate<sup>61</sup>. Article 29 also specifies that states actively promote “an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs,” including in “the activities and administration of political parties. Article 12, on “Equal recognition before the law”, notes that “State Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.<sup>62</sup>” Unfortunately, persons with disabilities who have limited legal capacity are often restricted or prohibited from exercising their political rights, a practice not in line with CRPD standards.

### 2.3.4 United Nations treaties in 1948

The Universal Declaration of Human Rights was adopted by the United Nations. Among other rights, the Declaration notes that all people have the right to a voice in government<sup>63</sup>. Article 21 affirms that “everyone has the right to take part in the government of his [or her] country, directly or through freely chosen representatives” and that “everyone has the right of equal access to public service in country.”<sup>18</sup> These

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<sup>61</sup>K.Emmer, “*Securing the secret Ballot blind and Visually Impaired voters challenge Election system that prevents blind and visually impaired voters from independently casting a secret Ballot*”. Baltimore, PR, (2003)

<sup>62</sup> Article 12 of the Convention on the Rights of Persons with Disabilities

<sup>63</sup>United Nations Treaties in 1948 (participation in public affairs)

rights are repeated in Article 25 of the International Covenant on Civil and Political Rights<sup>64</sup>, a UN treaty that was adopted in 1966.<sup>19</sup> 17 OSCE Parliamentary Assembly Berlin Declaration, Berlin, 7-11 November 2018, .United Nations Universal Declaration of Human Rights, 10 December 1948, 19 UN Human Rights Office of the High Commissioner; ICCPR, 16 December 1966, 29 While these treaties established that all citizens have the right to participate in public and political life, it was recognized that further treaties were needed to clarify that traditionally excluded and underrepresented communities were equally entitled to these rights.

## **2.4 REGIONAL LEGAL FRAMEWORK**

### **2.4.1 The African charter on people's Right**

Election is also governed by regional instrument, through the right of participating in political life, the African charter on people's Right is used as the regional As with all of the rights discussed in the Toolkit on Disability in Africa, the right to participate in political and public life is interrelated, interdependent and indivisible with other rights set out in the CRPD<sup>65</sup>. This means that violations of the right to participate in political and public forum can lead to violations of the enjoyment of other human rights by persons with disabilities Article 13 of the African Charter protects the rights of all citizens to participate in government directly or through freely chosen representatives and guarantees all citizens the right of equal access to public service of the country The State parties to the African Union may soon provide additional specifications regarding the rights of persons with disabilities to participate in political and public life: The African

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<sup>64</sup> International Covenant on Civil and Political Rights(communities rights in political life)

<sup>65</sup>S.Dev, "Disability Toolkit on Participation in Political Public life" <https://www.un.org/esa/documents/.pdf>



Charter's Draft Protocol on the Rights of Persons with Disabilities in Africa<sup>66</sup> (Draft II, 14 March 2014) includes a specific article on this issue. the instrument used to curb participation on political life schemes in regional level, particularly under East Africa Community (EAC) of which Tanzania is a State Partner<sup>67</sup>

## 2.5 DOMESTIC LEGAL FRAMEWORK

In domestic level there are also some legislations and Guidelines which provides for the participations of the blind person in general election which aims to cuter the problem protection their right in Mainland Tanzania. These are like The Constitution of the United Republic of Tanzania (CURT) of 1977; National Election Act (NEC), People with disabilities act 2010

### 2.5.1 The Constitution of the United Republic of Tanzania (CURT) of 1977

Any government requires protection of the people's right in order to provide for the public services and the good governance For that reason, governments enact various laws in the country. Constitutional law is among the law governs such protection of the peoples right hence in participation of the public affairs.<sup>68</sup>

The fact that constitution is the backbone of the country laws becomes of quasi-constitution nature. Thus, the basic principles in exercising protection of the peoples right must be clearly established in the constitution of the country.

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<sup>66</sup> Protocol to the African charter on the human and peoples right on the right of persons with the disabilities 2014

<sup>67</sup> J, Moyo, "*Voting and Democracy A study of Electoral Politics in uganda*", MakeleleUniversity Publications, Kampala, (1992)

<sup>68</sup>The Constitution of the United Republic of Tanzania (CURT) of 1977

In Mainland Tanzania, right of person to involves in public affairs is very important hence to choose the representatives Therefore, it requires the regulation of law duly enacted by the legislative authority which will guide and protect the blind person in general election.

The CURT of 1977<sup>69</sup> recognizes the right of person to participate in public

The provision of Article 21(1) and (2) of the CURT of 1977 provides that:

*(1) Every citizen of the United Republic is entitled to take part in matters pertaining to the governance of the country, either directly or through representatives freely elected by the people, in conformity with the procedures laid down by, or in accordance with, the law.*

*(2) Every citizen has the right and the freedom to participate fully in the process leading to the decision on matters affecting him, his well-being or the nation.*

Due to that article supported by article 5 Constitution of the United Republic of Tanzania of 1977 which provides that *(1) Every citizen of the Untied Republic who has attained the age of eighteen years is entitled to vote in any election held in Tanzania. This right shall be exercised in accordance with the sub article (2), and of the other provisions of this Constitution and the law for the time being in force in Tanzania in relation to public elections.*

Generally therefore, the CURT confers right to any person to participate in public affairs but there is no proper methodology instead blind person has not get the right as the CURT provide

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<sup>69</sup> Cap. 2 R.E 2002

### 2.5.2 People with Disability Act 2010<sup>70</sup>

In Tanzania, all matters related to rights of the people with disabilities are vested to Tanzania peoples with disability Act of 2010. This Act establishes person with any kind of disabilities are supposed to providing for health care, social support, accessibility, rehabilitation, education and vocational training, communication, employment, work protection and promotion of the basic rights of persons with disabilities<sup>71</sup>. These provisions do not correspond to the submissions made by the disability movement which required more specific writings on social security language, voting and political participation. They also advocate for disability rights to be a union matter. In 2010 a Disability Act was launched in Tanzania Mainland providing A person with disabilities has the right to: be respected, recognized and treated in a way which does not lower his dignity; an education through special equipment and participate in social affairs; have infrastructure and environment which allow him to go wherever he pleases, use transport facilities and get information; use sign languages, written language by the aid of special machines or other methods that are appropriate; learn with persons without disabilities; and get a job and contest leadership posts in various sectors<sup>72</sup>.

### 2.5.3 National Elections Act

An act to provide for the law regulating the election of a president and elections to the national assembly, the provisions of the Act relate to Presidential and Parliamentary elections<sup>73</sup> as one the Constitution, 1977 (hereinafter referred to as "the

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<sup>70</sup>People with disability Act 2010 Act No 9 section 51

<sup>71</sup> <http://www.investopedia.com> (accessed 21 March 2022)

<sup>72</sup><http://www.cbm.org> (accessed 21 March 2022)

<sup>73</sup>National Elections Act [ cap 343 R.E 2015]

Constitution"). The Act applies throughout the United Republic of Tanzania<sup>74</sup>. Electoral law is the legal instrument used to develop the majority of electoral topics that are relevant for a nation. Electoral laws are enacted by ordinary legislators (legislative branches of government, chambers, congresses, assemblies, parliaments) in order to develop the general principles established by the Constitution<sup>75</sup>.

Often, since electoral systems have to be legitimate, strong and permanent electoral laws have to be enacted by at least a two-thirds majority of congressional members. There is neither a model to follow in order to enact electoral laws, nor a recipe to follow regarding their contents and structure. The election process will require involvement of institutions and procedures that are based on other parts of the national legal system.” Mostly the election act have to describe on the laws associated with the election and direct on Individual rights to vote, to be voted, to associate freely with others and to affiliate to political parties, Characteristics of the voting system, Conditions that must be addressed by candidates to be elected Legal requirements for political parties (such as the requirements that they have to fulfill to be registered, members’ rights and duties, funding, coalitions, and so on) Electoral authorities main features (such as their structure, organization and powers) Geography and elections d voters, Voter education, Electoral process (campaigning, election day, counting, and electoral result Elections and the media Electoral integrity, Disciplinary measures system of appeals Electoral courts<sup>76</sup>

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<sup>74</sup> Ibid p 28

<sup>75</sup><https://aceproject.org/>accesed 21 march 2022)

<sup>76</sup> idem

## CHAPTER THREE

### RESEARCH FINDINGS

#### 3.1 INTRODUCTION

This chapter provides a comprehensive data interpretation and analysis of the findings in response to the information available in the discussion of the findings. The study assessed the level of participation of blind person in political activities in Tanzania. The findings of the study indicate that several interrelated factors inaccessible physical environmental, lack of ant discriminatory policies and laws, low formal education, communication barriers, lack of privacy. This chapter also analyses the field data using qualitative and simple quantitative approaches and examines on the Critical analysis on the laws governing the protection of right to privacy to the blind person in participating to a general election in Mainland Tanzania

#### 3.2 PRESENTATION AND ANALYSIS OF DATA

The finding analyzed as follows mainland Tanzania and it is coupled with number of challenges in effective protection of right to privacy in participation of blind person in general election

It is clear that voter privacy is of the utmost importance, even for the disabled. However, visually impaired voters in Tanzania are currently unable to vote by a secret ballot in governmental elections. The only method of voting currently used in Tanzania is the paper ballot. In order to fill out and cast their vote under the current system, a visually

impaired voter in Tanzania requires the assistance of a third party. This system of voting inherently violates the blind voter's right to privacy.

Below, researcher describes the numerous challenges that a Tanzanian visually impaired voter face when voting with the current voting process.

Furthermore, we will discuss how the current voting process for visually impaired voters came about, and what its implications are with regards to voter privacy.

### 3.3 LAWS GOVERNING PARTICIPATION OF BLIND PERSON IN GENERAL ELECTION OF TANZANIA

One of the challenges is found under section 61(3) of National election, the lack of laws to protect the rights of persons with disabilities in Tanzania has denied them the opportunity to exercise their rights., because it allow the strangers to help the blind person which totally discriminate the right to privacy as stated to constitution. there is lacuna in this law regarding section 51 of the person with disability Act which dealing disabled person, The provision on these section states as *“Every person with disabilities who has attained the age of eighteen years old and above shall entitled to enjoy and exercise political right and opportunity as any other citizen without any form of discrimination<sup>77</sup>”* the laws are insufficient to promoting participation of blind person in politics they were unable to exercise their rights to political participation. The laws do not respect disabled people as equals to those without disabilities so when it comes to access to government, are highly excluded and no one comes to aid. For example

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<sup>77</sup> Person with disabilities Act of 2010

Tanzania League of the Blind (TLB)<sup>78</sup> use to implement the Equal participation in decision making for persons with disabilities who have faced exclusion and who have been marginalized for a long time, political participation would possibly open up opportunities for them to participate in other spheres of life. In view of this, actions towards their inclusion should be paramount to the state in order to create the good and proper way which can ensure the blind person associated with the law which enable them to enjoy political life.

### **3.3.1 THE TANZANIA ELECTORAL SYSTEM**

In order to understand the roots of the problem of visually impaired voting in Tanzania, it is necessary that the Tanzania electoral system be understood. Tanzania is a constitutional monarchy that follows a parliamentary system of rule. As is common with many parliamentary systems, there are a multiple major parties that appear on the Tanzania ballot each election. While having more parties to choose from does increase the likelihood that a voter will find a candidate or party that adequately represents the voter's views, it also result in a more complicated electoral system than simply determining because does not provide protection to disabled person failure of the laws which govern the people with disabilities especially blind person as the study use to find it challenge the participation of blind in political activities through some of barriers which mostly occurred depend on the nature of government and the surrounded community as follows

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<sup>78</sup><http://www.aaionline.org>(accesed 16 April 2022)

### 3.3.2 Communication and information accessibility related challenges

Blind face peculiar communication challenges on account of their visual impairment blind persons will find it challenging accessing information such as policy documents without brailing services, the name of the candidates and the other information printed related to the election process<sup>79</sup> This barrier excludes persons with disabilities from the opportunity to influence the development and implementation of laws and policies which shape their daily lives in their society. The findings from the study have revealed that inaccessible infrastructure such as polling stations as one of the many challenges that blind person face in taking part in the electoral process. This challenge continues to act as a barrier and hinders blind person to be active citizens and be able to engage in the political life of their communities<sup>80</sup>. This finding is in line with the observation made blind person who do manage to register to vote may find further barriers at the polling place<sup>81</sup>.

### 3.3.Lack of voter Education, public awareness and lack of suitable electoral equipment

It is very difficult for the visually impaired persons to participate and to be included in the electoral process because this group of people has surely no adequate information with regards the electoral process because mostly of them they lack education hence the tactile material when it comes to education is difficult to them. There is need to equip this group of people with information so that they are able to

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<sup>79</sup>H, Klein, “ *The Right to Political Participation and the Information Society*”, (2005)

<sup>80</sup>H.Kuper, M.Walsham, atl Blanchet *Social protection for people with disabilities in Tanzania*, Oxford Development Studies, Tanzania 2016, 441-457

<sup>81</sup>M ,Baffoe, stigmatization, discrimination and marginalization: gateways to oppression of persons with disabilities in Ghana, westafrica. *journal of education and social research*, 187-198(2013), 9



make well informed decisions and then we can be able to say that no one has been left behind also sensitization has not been well handled in Tanzania regards the visually impaired and the electoral process because most of the times, issues to do with the elections information is either in normal font or on billboards or posters stuck all over the cities. This is a very big barricade for the visually impaired persons because as much as others are partially blind and others completely blind, both need a package, for example large font for the partially blind and Braille materials for the completely blind, though this calls for the literate blind.

### 3.3.4 Relationship between education and political participation by PWDs

The level of formal education to participation in politics has identified to contending perspectives that link formal education to political engagement<sup>82</sup>. These include: the civic education hypothesis. According to Hillygus “*the most prominent explanation for the link between education and political participation is the civic education theory*” In the words of Hillygus, ‘the civic education hypothesis is rooted in the belief that education provides both the skills necessary to become politically engaged and the knowledge to understand and accept democratic principles’<sup>83</sup> The proposition is that educated persons participate in politics at higher rates because their educational background enables them to understand the abstract subject of politics<sup>84</sup> Hillygus however maintained that not just any education but rather a civic education is what endowed citizens with the capacity to appreciate and participate more in politics, as

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<sup>82</sup>D.Hillygus, Exploring the relationship between higher education and political engagement ,Springer, 23, (2005), 25-47

<sup>83</sup>H,Alvarez , “political right and participation” [https://elections.itif.org/ AVTI-001.pdf](https://elections.itif.org/AVTI-001.pdf) <http://www.electionaccess.org>

<sup>84</sup>idem

compared to those without education all such word o Hillgus can take into action in Tanzania by make availability of Braille to the blind person

### **3.3.5 Insufficient of protective laws and Legal Framework**

Insufficient legal instrument that mandated the right of blind people to vote independently, blind person in Tanzania has denied the opportunity to exercise their rights because there were insufficient laws protecting the rights to privacy they were unable to exercise their rights in political participation:, There is lacuna in laws where blind person can cast their vote through the strangers this is direct denial their influence in decision making use to get their rights. In such a society, they are bound to be excluded from national affairs, Establishment of the supportive legal framework is crucial promoting and protecting the right of person with disabilities, Supportive legal framework help to establish clear legal hierarchy and directly contribute changing the public perception about the disabilities

### **3.3.6 Lack of secret ballot to a blind person**

One of the important things to an election to a blind person is secret ballot such right is the right of blind voters to have a Privacy in election. Despite the fact that the legal framework in Tanzania provides for the conduct of elections but does not provide means of a secret ballot only it allow a blind person to have an assistance which direct the practice has been that blind voters are being deprived of this right of privacy as per section 61 (3) b, During elections, blind voters are subjected to the assistance of a third

party that is required to mark the ballot paper on their behalf<sup>85</sup>. By both international and domestic standards, Tanzania is in breach of its obligation to ensure that blind persons take part in the political affairs of the country on an equal basis rights with. Although the requirement that someone assist the blind voter in casting their ballot violates the voter's right to privacy, many visually impaired voters were content with this requirement<sup>86</sup>. However, a law that restricts fundamental human rights must be shown to be reasonably justified in a democratic society and must also not be discriminatory in its effect or application. The secret vote is the foundation of every democratic election and its violations undermines the very principles of democracy. Further, depriving blind voters of the secret ballot is discrimination on the grounds of class. Therefore, depriving blind voters of their right to a secret ballot is unlawful and not justified in a democratic state. In this regard, there is need to adopt alternative voting mechanisms that will allow blind voters to vote independently and exercise the right to a secret ballot<sup>87</sup>. Without a secret ballot, voters are open to intimidation from outside forces.

### **3.4 THE EFFECTIVENESS OF THE LAWS GOVERNING ELECTION IN TANZANIA**

The laws governing election in Tanzania including the mother law of constitution use to state the participation of every person equally to the political activities as in regard to give their full right through that it effectiveness should be measured by the practical laws stated from that can have the achievement to protect the people right.

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<sup>85</sup>K. Emmer ,securing the secret ballot , blind and visually impaired voters sue to overturn discrimination at the polling place; voters challenges election system that prevents blind and visual impaired voters from independently casting a secret ballot, Baltimore PR, Newswire 2013

<sup>86</sup> Unpublished : M.Arthur, J. Keller D. Mertz, "Privacy Issues in an Electronic Voting Machine", (2004),120

<sup>87</sup> <http://dspace.unza.zm/handle/123456789/3119.pdf>

### 3.4.1. Allocation of Voting Rights to the Blind Person

The peoples with disability act and the constitution of Tanzania 1977 that Tanzania have concluded specify standards for allocation of blind person rights for participating in election of Tanzania<sup>88</sup>The standards require that any person required to have the full political participation.<sup>89</sup> This means that every citizen has the right and the freedom to participate fully in the process leading to the decision on matters affecting him, failure to include the blind person completely cannot be the right per se. <sup>90</sup>The right to partake in the political affairs of one's own country is one of the central principles of democracy. The right to participation embodies the idea that everyone is able to play a part in the decision making of one's government and that no citizen should be excluded from making their voice heard<sup>91</sup>. It is meant to ensure that each citizen's views are fairly represented, and that everyone is able to be a member of the body politic. While this involvement generally comes in the form of voting for representatives or referenda in state elections, this is not to only way one is able to influence the political activities 5 of their country. Indeed, Article 21(1) states that everyone should not only be able to vote for representatives, but may become a representative themselves. This means that anyone is able to appear on the ballot and be elected to public office

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<sup>88</sup>CCBRT "Report on The Participation of People with Disabilities in Tanzania's 2010 General Election"

<sup>89</sup> Constitution of united republic of Tanzania 1977

<sup>90</sup> <http://www.academia.edu.co>(accessed 14 April 2022)

<sup>91</sup> H. Buchstein , "Public voting and political modernization: Different views from the 19th century". Private and Public Debate and Voting, (2010)

This implies that Tanzania as democratic country are denied their right of blind person to participate in public affairs. Arguably, this is the effect to blind person based to their rights because such standards were set to reflect development in country.

### **3.4.2 Why people with disability act have failed to protect blind person?**

People with Disability act to some extent have failed to deal with the problem of blind person in participating in election in Mainland Tanzania. This is due to the challenges which that laws faces during administration of Election People with Disability act is a statutory created by the law and is functioning through enabling If the enabling law is not effective this organ cannot perform its activities in a good way<sup>92</sup>. The presence of loopholes under the provision of section 61 of national election Act is one among the reason which causes this failure.

The provision of section 61 of national election Act which allow the other person to assist blind person in election, However, the noted drawback to this section is that the Act discriminate the right of privacy for the blind person as among of the special group to disabled people . There is no explicit requirement in the legislation for the blind person to participate in general election of Tanzania<sup>93</sup>. This could be taken to imply that adequate documentation must be available to support the blind person to have full acquirement the right of participating in public affairs including election process in Mainland Tanzania.<sup>94</sup>

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<sup>92</sup><http://shivyawata.or.tz> (accessed on 27 April 2022)

<sup>93</sup> [http://www.nbs.go.tz/DISABILITY/SUMMARY DISABILITY RESULTS.pdf](http://www.nbs.go.tz/DISABILITY/SUMMARY%20DISABILITY%20RESULTS.pdf)

<sup>94</sup><http://disabilityintanzania.blogspot.se/p/research.html> (accessed on 27 April 2022)

The PWDs maintain meaning of people with the disability act as it provided.. Accordingly, both PWDs and CURT do not protect the privacy to blind person on casting vote subject to participating in the general election of Tanzania

### **3.4.3 HOW THE ELECTORAL PROCESS MADE MORE INCLUSIVE FOR INDIVIDUALS WITH VISUAL IMPAIRMENT**

To made the blind person more inclusive in the participation of the general election Tanzania different implementation should taken into consideration this by implementation of the policies and the laws emerged to develop the methodology which the blind person can used into participation of the election in Tanzania and a way in which their right can be protected.

### **3.4.4 Why Tanzania should implement participation of blind person in election?**

Democracy in any of its meanings requires the existence and free exercise of certain basic individual and group rights without discrimination, however perceived, can exist. These basic rights are inter alia: political life, liberty, and property, due process of law, equality; non-discrimination, freedom of expression and assembly, and, judicial access and review. Each one of these basic rights in turn given rise to other substantive rights. But all substantive rights are dependent for their fair and effective implementation on procedural rights. These rights are contained in the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Social Economic and Cultural Rights, and other human rights instruments, norms and standards."

In absence of blind person participation in election, decision making easily drive the development process through the representative which chosen, while exploiting such right to a blind person can lower down the situation of development in other side consumers. That is why it a must to implement as a provided in section 51 of people with disability Act of Tanzania 2015<sup>95</sup>, requires that Every person with disability who has attained the age of eighteen years and above shall be entitled to enjoy and exercise political rights and opportunity as any other citizen without any form of discrimination” member states to co-operate and implement the participation of blind person in general election of Tanzania also the article prohibit activities that will affect the participation of blind person to participate in election. The same blind person voting on a machine that can read the ballot and which has accessible functionalities might be considered equally functional to a person with perfect vision<sup>96</sup>. It is the person-environment interaction that matters. The environment in which they operated, and the level of participation that they have in various political activities can manage the inclusiveness to the blind person in participation of election the issues the disabled population faces with participation in the political process involve a complex interaction between their health condition and the environment within which they engage in political activity<sup>97</sup>

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<sup>95</sup> People with disabilities act 2010 act no 9

<sup>96</sup>[http://news.bbc.co.uk/2/hi/programmes/bbc\\_parliament/2442905.stmpdf](http://news.bbc.co.uk/2/hi/programmes/bbc_parliament/2442905.stmpdf)

<sup>97</sup>idem

### 3.5 CONCLUSION

The chapter has shown findings of the study. Basing from the findings to some extent the Laws governing election in Tanzania not effective to cutter for the problem of participation of the blind person in General election of Mainland Tanzania due to presence of many challenges as explained in this chapter from that the study use to develop vies which Can manage the inclusion of the blind person in participation of political life through election.



## CHAPTER FOUR

### CONCLUSION AND RECOMMENDATIONS

#### 4.1 CONCLUSION

The study found that persons with disabilities were generally apathetic to politics and many barriers obstructed participation. The study found that persons with disabilities and their organizations were not involved in decision making and so their views were not as well considered in decision making. Despite the fact that political participation is a fundamental human right for citizens of Tanzania and despite the fact that collective decision making is important in any political dispensation, blind person in the study area have been excluded. They have lost an important mechanism that would have helped them to engage various political actors and duty bearers to advance their interests. Civic rights are fundamental to every human being and so persons with disabilities cannot continue to be neglected from participating. It is therefore essential that pragmatic measures such as public education to change perceptions about disability and affirmative action are undertaken to promote the political rights of blind person in participation of the General Election of Tanzania.

This study has shed light on the participation of the Visually Impaired in the electoral process in Tanzania. The following are the four objectives set in Chapter One that anchored this study: to determine the level of participation of the blind person in the electoral process, analyze the legal framework guaranteeing the participation of the visually impaired persons in national affairs, to determine the challenges that hinder the

participation of the Visually Impaired in the electoral process and finally to identify the strategies or measures that have been put in place to ensure effective participation of the Visual impairment in the electoral process

## **4.2 RECOMMENDATIONS**

Basing from the findings the following are necessary recommendations in reforming the existing legal framework for the purpose of creating a friendly legal regime on participation of blind person in political life in Tanzania regarding to their privacy The right to vote with a secret ballot is essential to upholding the legitimacy of a Democratic election. Without the privacy of a secret ballot, voters can feel intimidated or even embarrassed when voting.

### **4.2.2 Election commission should imply the use of direct record electronic systems**

Direct Recording Electronic voting systems present a potential solution to the challenge of providing private voting to the visually impaired. Direct record systems are fully accessible by those who are blind or partially sighted, Furthermore, Direct record systems can prevent voters from accidentally over voting or under voting, resulting in a spoiled ballot. Direct record systems also have the advantage of being able to calculate election results instantly and automatically, eliminating the need to hire election officials to count votes by hand. This process may be done in a special place for the blind person to vote hence employing advance technology which can allow to get the information of the disabled person who can use to speak and such his word to be recorded directly this can highly ensure the privacy of such blind person direct record systems would be a best solution to influence and manage the blind person to participate in election

independently this method is adopted in Brazil, Belgium, India and Venezuela and bring the large impact on the protection of right of privacy to blind person .

#### **4:2:3 The electoral commission of Tanzania to work with other stakeholders**

Lack of proper guidance during national ID registrations affected some blind person who failed to check for establishment of their disability status, thus missing out in the elections. The Electoral Commission should work with NIDA to improve the registration form to clearly indicate all disability categories; the same should appear on the voter registers for all elections in the country also there is a need for political parties to be trained in accessibility of information and the physical infrastructure. This will guarantee their respect for the rights of their members with disabilities during party elections

#### **4.2.4 Advocate for more inclusion in policymaking and decision-making processes**

The recognition of exclusion of people with disabilities in the electoral laws grants an opportunity to make provisions which can improve equality of participation in the electoral process for this sake there is need to amendments of Laws and policies that relate to the participation of the visually impaired in the electoral process For example, a voter with visual impairment or Visually impaired registered voters may, where available, use assistive tactile facilities. Then Participatory strategies must be used, where the visually impaired countrywide will be effectively included in the electoral process from grass root level up to the commission level.<sup>98</sup>

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<sup>98</sup>[http://www.ifes.org/publications/equal access howinclude persons disabilities elections And political process](http://www.ifes.org/publications/equal%20access%20how%20include%20persons%20disabilities%20elections%20and%20political%20process)

#### **4.2.5 There should be a special place for the blind person to vote**

Government can allocate the special place where can manage to all blind person to participate in election this can manage to have the clear influence to the blind person to participate in election without interference with any other environment this is where the place can be settled directly to enable the blind person to vote example the designed room which may have the permanent tactile ballot and other infrastructure for blind person.

#### **4.2.6 Government should increase the government budget on political matter to blind person**

Because of doubts about the capabilities of persons with disabilities, there is little interest in their development leading to low investment in their education. Many persons with disabilities therefore have low educational attainment and hence, lacking the means to engage in activities that require huge financial investment such as politics. According to Miller (2010), the ability model, which links socio-economic status to political participation, is one of the most widely accepted models for explaining the level of participation of people in politics. According to the model, people with higher socioeconomic standing are mostly likely to be active participants in politics than those with lower education, because they have the time, financial resources, and/or civic skills to participate.

#### **4.2.7 Make Braille an integral part of learning.**

Study suggested that Braille to be introduced in school syllabus systems this can be a potentially an acceptable solution to the issue of visually impaired voter privacy

because many can be able to interpret the language available and not include the stranger who can help the part.

#### **4.2.8 Remote Voting**

Remote voting is the process of voting or casting one's ballot from a location other than the polling station. There are numerous methods of remote voting, the most common being a postal ballot. Telephonic voting has also been used in recent years to allow the visually impaired to vote in private. Finally, with recent advances in technology, some countries have found it more feasible to use the internet as an online polling station

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