



Economic Commission for Africa (ECA)
Southern Africa Office (SRO-SA)

28-29 November 2007
Lusaka, Zambia

REPORT

Workshop on Improving Electoral Quality in Southern Africa

The Workshop was organized by the United Nations Economic Commission for Africa Subregional Office for Southern Africa (UNECA-SA), International Institute for Democracy and Electoral Assistance (IDEA) and the Electoral Institute for Southern Africa (EISA). It was held at the Cresta-Golfview Hotel, 28-29 November 2007, in Lusaka, Zambia.



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Acronyms

ADF	African Development Forum
AGR	African Governance Report
APRM	African Peer Review Mechanism
AU	African Union
CNGO	Council of Non-Governmental Organizations (SADC)
CSO	Civil society organization
COMESA	Common Market for Eastern and Southern Africa
ECA	Economic Commission for Africa (United Nations)
ECF	Electoral Commissions Forum (SADC)
FODEP	Forum for Democratic Process
EISA	Electoral Institute of Southern Africa
EMB	Electoral Management Body
ICT	Information and communication technology
IDEA	International Institute for Democracy and Electoral Assistance
NEPAD	New Partnership for Africa's Development
PAP	Pan African Parliament
PEMMO	Principles for Election Management, Monitoring and Observation
SADC	Southern African Development Community
SADC PF	Southern African Development Community Parliamentary Forum

1. Background

The quality of an election constitutes one of the determinants for deepening democratic governance. Although elections do play a critical role in sustainability of democratic governance, democracy cannot be reduced purely to elections. Various other political processes play equally important roles for democracy to exist and be sustained, including respect for human rights, citizen participation, constitutionalism and rule of law, separation of powers, checks and balances and equal distribution of the national wealth. Taking cognizance of these broad dimensions of democracy, elections nonetheless can be the primary inter-linkage between representative democracy and political accountability. High-quality elections have a great potential for adding substantial value to accountable governance and realization of the expectations of the citizens.

While many countries that constitute the Southern African Development Community (SADC) have embraced multi-party systems and hold regular elections, the quality of these elections differ from one country to another. Low-quality elections may even become a political liability to democratization itself. There is, therefore, a critical need to focus the attention of key election stakeholders on the task of improving the quality of elections in the subregion for the purpose of sustainable democratic governance.

Elections are supposed to anchor sustainable democracy but, in some countries, they have become a cost to democracy itself. Elections become a political asset to a democracy if they institutionalize democratic culture and practice. However, if instead of institutionalizing democratic culture they fuel political instability, then they become a political liability to democracy. To what extent do electoral systems and institutions turn elections into political assets and not liabilities?

Some of the salient areas to which attention must be paid in order to improve electoral quality for the deepening of democratic governance in Southern Africa are the following:

- Ensuring that the legal frameworks are right and proper;
- Ensuring proper conduct by political parties, electoral commission, supporters at pre-election, polling day and post-election phases;
- Addressing the cost of elections and assessing the sustainability of elections given the internal and external resources available to election management bodies (EMBs);

- Evaluating the degree of citizen participation in elections and sharing strategies for increasing public education and interest in elections;
- Promoting a culture of constructive management of election disputes for purposes of maintaining political stability and peace; and
- Encouraging EMBs to move more towards the use of information and communications technology (ICT) for improving the quality of elections.

Broadly, stakeholders must pay particular attention to two key areas to improve elections in the subregion, namely *election administration* and *electoral system design*.

(a) Election administration

This is as critical as the electoral outcome itself. How are elections organized in Southern Africa? How are they managed? What regulatory frameworks are in place to ensure the credibility of the electoral process and the legitimacy of its outcomes? These questions speak to the democratic nature of electoral governance and the extent to which key democracy stakeholders have confidence in the electoral administration and institutions. The more stakeholders have confidence in the process and its outcome, the more do elections contribute positively to democracy and political stability. Conversely, the more the stakeholders exhibit low levels of confidence/or lack of confidence in the process and its outcome, the more do elections become highly contested and, in some instances, ignite conflict and fuel political instability.

All these issues are linked to the quality of elections. The quality of elections ranges from the administrative aspects of the process throughout all the stages and the management of the election. With regard to the management of elections, the EMBs have come to play a critical role since the on-set of the democratic transitions in the late 1980s and early 1990s. The ECA African Governance Report (AGR) and the deliberations that took place during the Fourth African Development Forum (ADF-IV) in October 2004 both noted numerous challenges facing the administration and management of elections in Africa in general and in Southern Africa in particular.

ADF-IV participants had noted with satisfaction that better electoral laws and procedures had emerged, and that election administration and management had increased significantly, particularly with regard to the adequacy of the legal and administrative apparatus in place for guaranteeing democratic electoral outcomes. Other questions raised had included whether electoral commissions should be made up of government appointees or be selected from broad segments and interests of society, what should be the appropriate length of tenure for electoral commissioners and how should electoral commissions be funded.

These and other concerns were further supported by the views of the general public that were captured in the AGR. The results from the AGR Survey regarding the legitimacy of electoral authorities showed that despite the 57.6 per cent of respondents of the opinion that parties mostly accepted the legitimacy of the electoral authority as the manager of the electoral process, there was still a fairly strong perception in Southern Africa that EMBs were far from legitimate and lacked independence. The reasons discussed included:

- Inadequate public funding going to EMBs;
- Unattractive remuneration to staff and poor conditions of service; and
- Government appointment of EMB heads, which particularly compromised EMB independence.

The number of guidelines, norms and standards in existence for the effective and efficient management of elections in Southern Africa that had been developed by various institutions in the sub region and that were clear on best practice was acknowledged. These included:

- The 2001 SADC-PF Norms and Standards for Elections;
- The 2003 EISA/ECF Principles for Election Management, Monitoring and Observation (PEMMO); and
- The 2004 SADC Principles and Guidelines Governing Democratic Elections.

(b) Electoral system design

This reflects the political history of Southern Africa and the concomitant political culture that shaped the nature of the electoral systems adopted by individual States since the independence period. Most Southern African States were under British colonial rule and upon independence, adopted the Westminster constitution and the political arrangements that went with it. It should therefore be noted that very few Southern African States have thus far made a deliberate effort to adopt electoral systems of their own choice that involve internal popular consultations.

The electoral systems they adopted were not a product of a broad-based internal debate in which citizens had a chance to make submissions on the kind of system they wanted to see in place in their country. Most electoral systems, electoral laws, and electoral institutions that govern elections in SADC countries were inherited from the era of colonialism. Where limited changes have been introduced, they were hardly

ever debated and, in most cases, were partial and cosmetic rather than comprehensive and substantive.

For an electoral system to add value to and deepen democracy, it must enhance the accountability of elected representatives to their constituencies and at the same time ensure broad representation of the key political forces in the representative bodies. In this way, a political system becomes more inclusive and participatory and accords the rulers the legitimacy to govern. SADC States must make deliberate efforts to address election-related conflicts and wars by, among other measures, effective reform of electoral systems. In defining the vision and objectives of the electoral reform process, Reynolds, Reilly and Ellis isolated 10 key criteria that could prove useful to guide the process, namely:

- Ensuring a representative parliament and inclusive government;
- Making elections accessible and meaningful;
- Providing incentives for conciliation and constructive management of conflicts;
- Facilitating stable, transparent and efficient government;
- Holding the government accountable and responsive;
- Holding the elected representatives accountable and responsive;
- Encouraging “cross-cutting” political parties;
- Promoting legislative opposition and oversight;
- Making the election process cost-effective and sustainable; and
- Taking into account international norms and standards (2005:9-14).

The above criteria were not meant to be prescriptive and applied by all countries, but rather, to serve as a guide for reforms. Countries were not compelled to consider all of them as the historical, socio-economic and political contexts of each country would play the critical role in choice of the primary criteria that propel the reform project. Again, without being prescriptive in terms of which electoral system is better suited for Southern African countries, it is fair to say that many of these countries need to undergo electoral reforms, taking the relevant criteria into account. Such a process would guide each country to an appropriate electoral system for deepening its democratic governance.

The main goal of the workshop was to share ideas, draw lessons from experience and make policy recommendations for improvement of electoral quality in terms of

deepening democratic governance in Southern Africa. The specific objectives of the workshop were to:

- Review electoral systems including legal frameworks and recommend electoral reforms where necessary;
- Review the electoral process that spans the three main cycles, namely, pre-election, polling day and post-election phases, and drawing lessons from election experiences and observations, teasing out the extent to which key election stakeholders make deliberate efforts to implement the recommendations of election observer missions;
- Review the cost of elections and assess sustainability of elections given internal and external resources available to the Election Management Bodies (EMBs);
- Evaluate the degree of citizen participation in elections and share strategies for increasing public interest in elections;
- Promote a culture of constructive management of election disputes for purposes of maintaining political stability and peace; and
- Encourage EMBs to move more towards the use of information and communications technology (ICT) for improving the quality of elections.

The scope and coverage of the workshop comprised six main thematic areas, organized around the topics and papers as illustrated in table 1, but focused particularly on *election administration* and *electoral systems design* as the two broad cross-cutting components.

Table 1: Thematic Areas

Thematic Area	Topics/Papers
1. Electoral Systems, Constitutional and Legal Frameworks	Models Structures Election norms, principles and standards
2. Electoral Process	Pre-election Election phase Post-election
3. Cost of Elections	Budgeting for elections Electoral assistance Cost effectiveness and sustainability Resource sharing
4. Citizen Participation in Elections	Voting behaviour Voter turnout Voter apathy Voter education
5. Electoral Disputes Resolution	Code of conduct Conflict management models and processes Role of internal and external actors
6. Technology and Elections	Electronic voting ICT and elections

2. Attendance

The workshop was attended by high-level EMB officials from the Electoral Commissions Forum (ECF) of Southern African Development Community (SADC) countries; representatives from the African Union; the Pan African Parliament; Zambian political parties; civil society organizations (CSOs); Common Market for Eastern and Southern Africa (COMESA); Forum for Democratic Process (FODEP); media and the University of Zambia. There were senior representatives from partner organizations, namely, the Electoral Institute of Southern Africa (EISA) and the International Institute for Democracy and Electoral Assistance (IDEA). Staff members of ECA headquarters and ECA-SA also participated in the Workshop. The list of participants is attached to this report as Annex 2.

3. Opening Session

Chair: Mr. Joram Rukambe, International IDEA

Mr. Joram Rukambe of IDEA welcomed participants to the workshop and indicated that the evaluation of democracy in the subregion was at the core of the tasks of the workshop. He acknowledged the different levels of democracy prevailing in SADC member States and the difficulties associated with evaluation of performance. He noted that election experiences varied among countries, ranging from those such as Angola that had only held one election, to Botswana that had gone through more than ten elections. Despite the varying election scenarios, there was room for optimism as great achievements had been recorded in many areas.

3.1 Opening Remarks

In her opening remarks, Ms Jennifer Kargbo, Director of the UN Economic Commission for Africa (UNECA), Southern Africa Office (ECA-SA), welcomed participants and thanked the co-organizers, EISA and IDEA.

She reminded the participants that a large gathering of representatives of member States had gathered in Addis Ababa in October 2004 at ADF-IV. In that Forum, participants had noted with satisfaction that better electoral laws and procedures were emerging and that competition in the electoral systems had significantly increased since the 1990s. With few exceptions, elections had become the sole basis for changing of governments, under the largely peaceful subregional environment.

However the representatives of member States at ADF-IV had highlighted such acute challenges in the electoral systems as:

- The legal and administrative apparatus currently in place in the subregion not inadequate for guaranteeing democratic electoral outcomes;
- Existing laws and regulations not fully applied in practice;
- Determination of the appropriate tenure for electoral commissioners; and
- Funding of the electoral commissions.

Ms. Kargbo informed the participants that ECA had undertaken an intensive and comprehensive study to gauge the views of ordinary citizens and a selected number of experts in various governance areas. The results of this study were captured in the African Governance Report (AGR). For example, the results from the AGR Expert Survey regarding the legitimacy of electoral authorities showed that despite the fact that 57.6 per cent of respondents were of the opinion that political parties accepted the legitimacy of the electoral authority as a manager of the electoral process, there was still a fairly strong perception in Southern Africa that Electoral Commissions were far from being legitimate.

Contributing to these views were such factors as:

- Inadequate public funding going to the Electoral Management Bodies (EMBs);
- Unattractive remuneration;
- Poor conditions of service; and
- Executive appointment Heads of EMBs, an issue that fuels the perception that the Commissions lack independence, as claimed recently by the losing political parties in elections in Lesotho, Zambia and Mozambique. This occurred despite the agreement by the SADC leadership contained in the Principles for Election Management, Monitoring and Observation (PEMMO) to promote political values through institutions that are democratic, legitimate and effective.

Ms. Kargbo outlined the scope and objectives and the expected outcomes of the workshop. She told participants that on the basis of the above issues and mandate, ECA had approached EISA and IDEA, who were the expert organizations on elections, with a view to helping to facilitate a forum to focusing on the issues critical in SADC.

She urged the workshop to discuss and reach agreement on such issues as:

- The ways in which authorities could fix deficiencies in legal and administrative election frameworks to achieve the important goal of making these frameworks legitimate?
- The lack of independence of Electoral Commissions that were often compromised by the Executive;
- The legal powers and instruments available to Electoral Commissions to deal with and punish violators of the Codes of Conduct, whether from political parties, their supporters or the electoral administrative bodies themselves during electoral campaigns and elections;
- The modalities for strengthening Electoral Commissions, including legal autonomy, funding and the procedures for staff appointments, the enormous financial costs and huge logistical outlays for elections, which many countries cannot afford; and
- The perceived and actual cases of election rigging and violence that make a mockery of the electoral process.

Ms. Kargbo challenged the participants to recommend concrete measures and identify areas where policymakers and other stakeholders could focus their actions in order to improve the electoral systems; ensure free, fair and credible conduct of elections; and find acceptable ways of resolving any post-election conflicts that might occur.

In conclusion, she thanked all the participants for taking time off their busy schedules to honour the invitation and address such critical areas of the emerging democracy in SADC.

3.2 Keynote Address and Official Opening

The Workshop was officially opening by Honourable Justice Irene Mambilima, Chairperson of the Electoral Commission of Zambia. In her keynote speech, Justice Mambilima welcomed all the participants attending the workshop and thanked the organizers of the workshop, UNECA, IDEA and EISA for having chosen Zambia as the venue.

She informed participants that the theme for the workshop, “*Improving Electoral Quality in the Southern Africa Region*” was not only timely but also appropriate to the electoral environment prevailing in Southern Africa. Most of the countries had definite electoral calendars. Angola and the Democratic Republic of Congo were coming out of civil strife. Angola was due to hold its first elections since the cessation

of hostilities in 2008 while the Democratic Republic of Congo successfully held its first elections in 2006. The democratic process had swept through the entire region and what remained was to consolidate the democratic momentum and improve upon the quality of the democratic processes in place.

She explained that it was universally accepted in modern societies that for any government to be legitimate, it must derive its authority and power from the people, could only govern or lead with the consent of the governed. She pointed out that even in monarchies, the general population still demand the right to elect those who preside directly over the affairs of government. The principal method by which the people's consent could be translated into government authority was through elections, making them, therefore, the cornerstone of any genuine democracy.

Honourable Mambilima further stated that the principle of governing with the consent of the governed was firmly entrenched in international law. The 1948 Universal Declaration of Human Rights stipulated that every person has a right to participate in the government of his or her country either directly or through his or her elected representatives. The Declaration went further to state that, "*The will of the people shall be the basis of authority of government, this will shall be expressed in periodic and genuine elections which shall be universal and equal suffrage and shall be held by secret ballot or by equivalent free voting procedure.*" This provision endorses the principle of representative democracy, which in essence calls for "*a government of the people, by the people, for the people.*" Since 1948, the principle of representative democracy has been echoed in various United Nations and regional instruments.

She added that the *African Charter on Human and Peoples Rights* of 1981 recognized the right of every citizen to participate freely in the government of his/her country either directly or through elected representatives. This was followed in 2004 by the *African Charter on Democracy, Elections and Governance* whose objectives included:

- The promotion and adherence, by each State Party, to the universal values and principles of democracy and respect for human rights;
- The promotion of the holding of regular free and fair elections to institutionalize the legitimate authority of representative government as well as democratic change of government;
- The prohibition, rejection and condemnation of unconstitutional change of government in any member State as a serious threat to stability, peace, security and development.

She noted that from the various international instruments and the widespread practices and norms in various States, the consent of the governed had been sought

through elections. However, a country would not be considered democratic simply by holding periodic elections. She emphasized that the concept of democracy was much wider than the elections. Beyond elections there were values and expectations. Citizens expected to enjoy human rights, get improved service delivery and prudent management of State resources for the benefit of all, and uplifting of their living standards.

Justice Mambilima quoted Alexander Veshnyakov, Chairman of the Central Electoral Commission of the Russian Federation, who had said that ... “*a State that is democratic in form and ruled by law in essence can hardly exist without free and democratic elections that comply with generally recognized international criteria of electoral rights and freedoms of a human being and citizen, as well as all participants of the electoral process.*” Such universal norms and principles in essence have the underlying objective of preventing the circumvention or frustration of the triumph of the true will of the people in elections.

She pointed out that most international instruments referred to “*genuine and periodic elections.*” This presupposes that there could be sham or fake elections, mounted for window dressing, and whose conduct threw to the wind or seriously compromised all recognized electoral processes. It went without saying that such elections could not bring out the true will of the people. At the end of the day, the litmus test for what truly mattered was whether the election was genuinely free and fair and with its results truly representing the will of the people. The question then became how to judge the quality of an election. What criteria should be used to judge a free and fair election?

She observed that Southern African countries had opened their electoral processes to election observers and monitors chiefly to enhance the transparency and the credibility of the elections and, to some extent, also to demonstrate their ability to conduct elections in accordance with acceptable international standards. It would appear also that stakeholders felt more comfortable in having neutral observers and monitors to oversee the electoral process.

She underscored that the premise that an election is a process, and not merely an event which occurs on polling day, one had to look at the processes in the entire election cycle, right from delimitation of the boundaries of constituencies or electoral districts to the post-results announcement phase.

She further pointed out that an election is a contest for State power. In some countries, this contest was presided over by a government department. In Southern Africa and many other parts of the world, the electoral contest was usually highly emotive, and was often characterized by suspicion among the various stakeholders. The battle lines were usually pitched between those in government and their colleagues in opposition.

The stakeholders could level all sorts of allegations against one another. It was not uncommon for the opposition to accuse those in power of abusing the privilege of incumbency to remain in power. All this had made it imperative that those presiding over the electoral process be independent and impartial. The EMB could thus become a non-partisan, neutral umpire encased in a legal framework guaranteeing its independence.

Notwithstanding such legal provision, persons appointed to EMBs must fully understand their role. Most SADC countries had electoral commissions that were by and large, independent electoral management bodies created by law and charged with the task of managing the various electoral processes as well as the actual conduct of elections. SADC countries, through ECF, were in the process of refining *Principles and Guidelines on the Independence of Election Management Bodies*. The objective was to come up with common standards on the attributes of an independent EMB.

She added that most EMBs within the region were mandated with the responsibility of demarcating boundaries for constituencies. The manner in which this was done could raise a lot of contention. Care must be taken to have manageable units without losing sight of local conditions and the population levels. The polling stations within the constituencies should be within reasonable reach of the voters.

Justice Mambilima also talked about another area of vital importance that usually came under the management of EMBs, namely, voter registration. She said that the law in most countries conferred universal adult suffrage on all citizens beyond a specified age. Some countries had recognized the right to vote as a distinct human right. In so far as the legitimacy of government was derived from the consent of the governed and every citizen had a right to take part in the affairs of their country, it followed that the task of registering voters must be seriously and prudently undertaken. All eligible citizens must be afforded an opportunity to place themselves on the voters' roll.

Since elections were a contest in which the combatants appealed for votes from the electorate, it was necessary that the electorate be assisted, through voter education, to make an informed choice. The high levels of illiteracy in some of the countries demanded more effort to reach out to the voters and educate them on the importance of their vote.

Another important area that she talked about was the elections campaign, focusing on the freedom of candidates to campaign, accessibility of the public media to all contestants, transparency on polling day of the voting process, whether political party agents were allowed to sit in the polling stations, access of monitors and observers to the polling stations, and transparency in such controversial aspects as the voting

process, the counting and tabulation of results, and the grievance procedure for those who might have cause to complain?

In Zambia, she pointed out, there were Conflict Resolution Committees functioning as mediator bodies. Otherwise, conflicts ended up in courts of law. In many countries, most of these electoral processes were not fully implemented due to lack of political will or lack of funds. In view of all the electoral process that has to be followed in the conduct of elections, it could be seen that there was a high price for democracy. The huge cost of running elections had also proved to be a serious strain on many national budgets, she said. In this respect, most countries have had to rely on donor support to fund some aspects of their electoral process.

In conclusion, Justice Mambilima reminded the participants that SADC countries, through the Election Commissions Forum and EISA, in November 2003, had come up with PEMMO. These Principles contained recommendations on all aspects of elections from the legal framework, the pre-election phase, the election phase up to the post-election phase and were the outcome of the efforts to improve electoral quality in Southern Africa.

She expressed her strong belief that the workshop would be enriching, as participants would exchange ideas and best practices for improving electoral quality in Southern Africa. She wished all the participants fruitful deliberations and declared the workshop officially open.

3.3 Vote of Thanks

Mr. Joram Rukambe gave a vote of thanks after the keynote speech by Justice Irene Mambilima. He thanked Justice Mambilima and echoed some of the challenges that she had mentioned in her speech, which SADC countries were facing. These challenges included: the role of government authorities in elections; funding of elections; cost-effectiveness issues; sustainability; and electoral justice.

Mr. Rukambe pointed out that before the 1980s, free and fair elections were held only in Botswana and Mauritius. Other countries had minority rule and one-party rule and the conduct of elections was left to a small government department. He informed the participants that this was now a thing of the past in most SADC countries and further, that even if globalization seemed to threaten what was locally suited, SADC countries had a responsibility to defend their democratic achievements. He then thanked all the participants for their attendance and participation.

4. Plenary Session 1

THEME: Are Elections an Asset or Liability to Democracy?

Chair: Ms. Keiso Matashane-Marite, ECA-SA

Presenter: Mr. Denis Kadima, Executive Director, EISA

4.1 Presentation: Key Elements for the Improvement of Electoral Quality

In the presentation entitled “*Key Elements for the Improvement of Electoral Quality*”, Mr. Denis Kadima covered the background to elections, election principles and standards, measuring election quality, and benchmarking election quality.

On the background to elections, Mr. Denis Kadima pointed out that prior to the 1990s, popular elections were the preserve of only a couple of SADC countries, Mauritius and Botswana. In 1980, there were elections in Zimbabwe and in 1989 there were elections in Namibia. This was followed by Zambia in 1991, Angola in 1992, Lesotho in 1993, South Africa, Malawi and Mozambique in 1994, Tanzania in 1995, and the Democratic Republic of Congo in 2006.

He pointed out that in the 1990s, needs were enormous and basic and mistakes were understood and excused. However, since 2000, the debate had become centred on election principles and standards. On election principles and standards, Mr. Kadima informed the participants that the 1998/1999 EISA Electoral Audit had inspired a proliferation of a number of principles and standards in SADC countries to ensure effective and efficient management of elections. For example, the 2001 SADC-PF Norms and Standards for Elections; the 2002 AU Principles; the 2003 EISA/ECF Principles for Election Management, Monitoring and Observation (PEMMO); and the 2004 SADC Principles and Guidelines Governing Democratic Elections.

All these principles and standards sought to promote transparency, inclusiveness, accountability, predictability, fairness, equal opportunity and other virtues that form a firm foundation for a democratic process.

On measuring election quality, Mr. Kadima informed the participants that there were many ways of measuring election quality, which included:

- Assessing the quality of various aspects of the electoral process;

- Comparing one election with another in the same country;
- Comparing election quality in two or more countries;
- Benchmarking;
- Using baseline data;
- Following objectivity and subjectivity;
- Documentation (laws EOM reports) and observations; and
- Adequate sampling for representative observations and findings.

On benchmarking election quality, he divided benchmarking election quality into two categories: *freeness* and *fairness*, as two sides of the same coin. Freeness refers to:

- Freedom of association;
- Freedom of assembly;
- Freedom of speech (candidates, media);
- Freedom of movement;
- Equal and universal suffrage; and
- Legal possibilities of complaints.

On the other hand, fairness refers to:

- No special privileges granted to any political party or social group;
- Fair, inclusive electoral process;
- No exclusion from the voters' list;
- An independent and impartial EMB;
- Impartial voter education programmes;
- Equal opportunities for parties and candidates;
- Impartial treatment of candidates by the police, the army and courts of law;
- An orderly election campaign (observance of a Code of Conduct);
- Access to all polling stations for representatives of parties, accredited observers and the media;
- Secrecy of the ballot;

- Absence of intimidation of voters;
- Adequate ballot papers and ballot boxes;
- Impartial assistance of voters;
- Proper counting procedure;
- Official and expeditious announcement of results;
- Impartial and expeditious treatment of complaints;
- Impartial reports on the election results by the media; and
- Acceptance of election results by all stakeholders.

In concluding his presentation, Mr. Kadima spoke about other considerations in assessing election quality, such as the:

- Overall country context (infrastructure, security situation, civil service, etc);
- Cost of elections and issues of sustainability;
- Management of elections;
- Technology; and
- Electoral cycle.

4.2 Plenary Discussion

His presentation was well received and in the ensuing discussions, participants expressed their agreement and amplified and endorsed the points presented, particularly on measuring election quality. Two ways of measuring election quality were emphasized, namely, comparing one election with another in the same country; and comparing election quality in two or more countries. It was felt that in making such comparisons election quality could be better understood and adequately measured.

The participants were again in agreement with Mr. Kadima's division of benchmarking of election quality into two categories essential in ensuring the integrity, establishment and sustainability of the electoral framework in SADC, namely, freeness and fairness. Under fairness, the participants specifically identified as essential:

- Proper vote counting procedure;
- Official and expeditious announcement of results;

- Impartial and expeditious treatment of complaints; and
- Impartial reporting of election results by the media, as being

The participants acknowledged that generally there had been an increase in the number of people participating in elections in SADC. The participants observed that attention should still be paid to the issues of:

- Independence of electoral commissions;
- Demarcation of constituencies;
- Equal suffrage; and
- Issues of the Diaspora.

It was concluded that:

- The number of people who were voting was increasing;
- Most issues of the Diaspora were costly;
- Voter education should be on-going;
- Elections in the SADC countries were an asset; and
- Access to public resources and independence of electoral commissions were a matter of degree in SADC countries.

5. Plenary Session 2

THEME: Representation and Participation in Elections. Do SADC elections enhance representation, participation, and accountability? Where and how can we improve?

Chair: Dr. Khabele Matlosa, EISA

Presenter: Professor Jotham C. Momba, University of Zambia

5.1 Presentation: Electoral Law and Democratic Participation in Southern Africa

In a presentation entitled “*Electoral Law and Democratic Participation in Southern Africa*”, Professor Momba examined the electoral systems in Southern African countries and their impact on the democratic process in the region. Specifically, he addressed the following issues of the electoral systems and the electoral processes:

- To what extent can electoral systems and processes engender political representation and inclusiveness: any good lessons and practices in the region?
- Is there a link between electoral systems and enhanced women participation: how could this link be consolidated and strengthened?
- Are there specific democratic challenges in SADC to which electoral systems and elections should seek to respond and specifically address?
- Is there an ideal electoral system in the world in general and in SADC in particular? Which one and why?

On electoral systems in Southern Africa, Professor Momba pointed out that there were two dominant forms of electoral systems: the single member constituency system and the proportional representation system. Each one of the two had its own variations. The single member constituency system could in turn be divided into the “*first-past-the post*” system and the majority system, while the proportional representation system also had its variations. The “*first-past-the post*” system and the proportional representation system were the dominant systems in Southern African countries.

Five countries, Botswana, Malawi, Tanzania (including Zanzibar), Swaziland and Zambia followed “*the first-past-the post*” system. Five countries, Angola, Democratic Republic of Congo, Mozambique, Namibia and South Africa had adopted the

proportional representation electoral system. Mauritius had a system which in principle is a “*first-past the post*” system but in practice it is the “*three-past-the post*” system. It has elements of both proportional representation and constituency representation. The Mauritius electoral system provided for election of 70 members of the National Assembly. Sixty-two (62) of these were elected for a four-year term in single-member constituencies.

Eight additional members known as “*best losers*” were re-appointed by the Supreme Court to ensure equitable representation of ethnic and religious minorities. The President was elected for a five-year term by Parliament.

On the impact of the electoral system, he argued that in general, there were advantages and disadvantages to both systems. There was no system that could be said to have the advantage in creating strong and stable governments and enhancing the accountability of individual members. The main downside to look out for was disadvantaging of small parties, and the situations where membership of the elected Members of Parliament (MPs) did not reflect the number of votes cast for each political party. There had been times when this distortion was significant, as was the case in Lesotho in the 1993 and 1998 elections. In 1993, the BCP won by 74.7 per cent and got all the 65 seats, while the BNP won 22.6 per cent of the vote and got no seat. In 1998, the LCD won by 60.5 per cent and won 79 out of the 80 seats, while the BNP with 24.5 per cent won only one seat. This was a factor in the political crises that ensued in that year in Lesotho when the election results were rejected by the opposition.

The proportional representation system catered for broad representation and reflected the true opinion of the voters. However, the major disadvantage is that MPs are accountable to the party rather than to the electorate, which weakens the representative principle and also tends to encourage minority governments.

The countries with the highest percentage of women MPs, South Africa, Mozambique and Namibia with over 30 per cent use the proportional representation system. With the exception of Tanzania, the countries with the lowest percentages of women MPs, including Zambia, Zimbabwe, Swaziland and Mauritius use the “*first-past-the post*” system. Examples from European countries show that countries that use the proportional representation system seem to have a greater number of women elected to the National Assembly, over 20 per cent. Tanzania has a notably high percentage of women MPs, yet it uses the “*first-past-the post*” system. This is principally the result of a constitutional gender quota system, which is meant to enhance women’s political participation. In order to enhance the representation of women, 75 seats are allocated to women through proportional representation.

On the other hand, proportional representation system has its own shortcomings. As indicated earlier, one of the major criticisms of the proportional representation system is the fact that it leads to fragmentation of the political system, as it tends to encourage many political parties including regional-based and one-issue political parties and discourages the development of a more stable two-party systems. The problem of weak government emerging from this kind of system is not yet a serious problem in Southern Africa, in part because of the dominant role of the ruling parties in the countries practising this system.

On the electoral process in the sub region, he argued that the electoral processes in all SADC countries follow more or less the same pattern in principle although in practice there are some variations. The SADC countries have established principles that are supposed to govern their elections democratically. These principles were adopted by the SADC Summit in Mauritius in August 2004. Among them are:

- Full participation by citizens in the political process;
- Freedom of association;
- Political tolerance;
- Regular intervals for election as per each respective national constitution;
- Equal opportunity for all political parties to access the state media;
- Equal opportunity to exercise the right to vote and be voted for;
- Independence of the judiciary and impartiality of the electoral institutions;
- Voter education;
- Acceptance and respect of the election results by political parties, proclaimed to have been free and fair by competent national authorities in accordance with the law of the land; and
- Challenging the election results as provided for in the law of the land.

However, there are still some principles regarding the management of democratic elections in SADC that are still a long way from being realized:

- There is the problem regarding the credibility of elections themselves. Observer Groups and national monitoring groups had not given favourable reports about the way elections had been managed in most SADC countries, including the 2001 elections in Zambia and the 2002 elections in Zimbabwe;

- The manner in which Electoral Commissions were appointed was critical in determining the amount of confidence that they would enjoy;
- The issues that related to the existence of an even playing field were many, such as the extent to which access to the public media was open to all competitors, the extent of the impartiality of the State institutions involved in the elections in one way or another and accessibility to campaign resources.
- The issue of the cost of running elections, a contentious issue in most SADC elections, as the question of elections financing was critical in any liberal democracy. Without proper financing for political parties, elections were generally a façade, not real.

One constant issue raised by opposition parties and civil society organizations (Coos) was the extent to which ruling parties have access to state resources, since lack of access greatly disadvantaged opposition political parties. The ruling parties tended to have some illegal access to state funds. An example of this came out in the reports of observer and monitoring groups in the 2001 elections in Zambia.

The 2001 Presidential and Parliamentary Elections were marked by the abuse of State resources by the ruling MMD leaders, for election campaign purposes. For example, in its report on the conduct of these elections, the European Union Observer Group made specific reference to the use of government vehicles for campaign purposes. The Group thus observed:

“The State resources have been openly used in support of the MMD, with, for instance, Government vehicles showing GRZ number plates noted in use in MMD campaigns... The MMD has at times failed to maintain a distinction between government and the party; at its opening rally in Kitwe, for instance, its published agenda showed (1) speech by President Chiluba; (2) speech by Levy Mwanawasa, the MMD presidential candidate; (3) distribution of leases on houses in the Copperbelt.”

There had been similar complaints in other countries as well. So far, only seven SADC countries had State funding for political parties for electoral purposes. These were Lesotho, Malawi, Namibia, Seychelles, South Africa, Tanzania and Zimbabwe. Political parties were expected to raise funds from other sources but these sources were not easy to come by and did not generate enough of the required campaign funds.

Another important issue raised was voter apathy in SADC and the factors responsible for it. Did this reflect just lack of voter education or was this lack of confidence

in both the electoral system and the political system in general? How effective and impartially applied were the existing electoral codes?

In conclusion, Professor Momba said that it appeared that there was no generally ideal electoral system. A constitutional arrangement should respond to the specific needs of countries. The constitutional arrangement needed in respect of election management was one that helped in consensus building, which was essential for political stability. He advised that concerted effort should be made to ensure that opposition political parties could play a useful role in the democratic process. The constitutional mechanism should not allow leaders of major political parties to have to operate outside State structures.

5.2 Plenary Discussion

Professor Mamba's presentation brought out useful conceptual frameworks that significantly helped to guide the discussion on SADC electoral systems. In the discussion that followed, the participants noted that after an election, a post-election review was necessary and the number of voters should be linked to equality. Participants felt that in order for the electoral system to enhance democracy, fairness and freeness should be strictly observed. The participants further proposed that given the state of democracy in many SADC countries, consideration should be given to adopting mixed electoral systems that combine the virtues of both the "first-past-the post" and proportional representation systems.

Furthermore, the participants raised the issue of the dilemma between representation and accountability in the whole democratic process with respect to the two electoral systems. Also questioned was the common tendency in political parties of selecting people based on political co-optation rather than competencies. This reduced the relevance of both vertical and horizontal accountability within the government system.

The participants felt that given the strengths and weaknesses of each of the two electoral systems, the decision to adopt any one approach should take into account the issues of context, participation and how the particular electoral system can enhance democracy. What was important was to conceptualize the election process and promote an all-inclusive process in which all stakeholders participate. While observing that elections are an important part of the democratic process, participants also observed that elections could be a source of conflict and instability both during and after the voting process.

In discussing approaches to elections, the "best loser" approach applied by Mauritius was identified as a possible best practice in ensuring general representation. It could

help avoid election-related conflicts in a society with diversified and fragmented political and social groups, by providing such safeguards.

The sustainability and cost-effectiveness of electoral systems was discussed and participants agreed that it was important to find ways to reduce costs without compromising the overall quality of the electoral process. The issue of the Diaspora vote was also discussed. Although participants felt that it was important for all citizens to participate in the electoral process, the costs involved in ensuring participation by those in the Diaspora were prohibitive for most countries.

The importance of an all-inclusive election was emphasized, especially the participation of disadvantaged groups including women, youths and people with disabilities. The participation of these groups should receive special attention to ensure that political parties promote candidates who were representative of the society's demographics. A quota approach could be a starting point, especially as a way to get women candidates and representatives of people with disabilities.

The importance of introspection through post-election audits and reviews to ensure that constraints are addressed and preparations improved for future elections was emphasized as vital in the electoral reform agenda. Such introspection should include all stakeholders.

The need to promote better competition, accountability and participation in the electoral process was clearly stated. The participants felt that it was important to define the quality of representation beyond the constitutional basis. The strategy to promote gender equity within political parties was seen as key to this.

Finally, the participants noted that all the concepts and principles related to the electoral process could be linked to integrity issues. It was, therefore, important to define the starting point for establishing integrity as the basis of a credible electoral process.

6. Plenary Session 3

THEME: **Group Discussion Feedback**

Chairperson: Dr. Said Adejumobi, UNECA, Addis Ababa

In this plenary session, workshop participants were divided into four groups and each group was given a topic and its related questions. All the four group discussions took place simultaneously and each group elected a chairperson and a rapporteur to facilitate the group discussion and reporting process. The topics of Groups A, B, C and D were, respectively, Electoral Systems, Constitutional and Legal Frameworks, Electoral Process and Citizen Participation, Cost of Elections and Elections and Technology; and Electoral Justice Promotion.

The group rapporteurs were tasked with reporting the recommendations on “*concrete measures and areas where policymakers and other stakeholders could focus their actions in order to improve the electoral systems in SADC*”. The following were the consolidated key discussions and recommendations arising from both group discussions and plenary feedback.

6.1 Group A Feedback

THEME: Electoral Systems, Constitutional and Legal Frameworks

Under this theme, the group had the following six questions:

- Do SADC electoral systems help or hinder electoral quality?
- Where and how could be improved?
- Do party systems in SADC contribute to electoral quality or not: how effective is our multiparty system – or do we only have ‘partyism’ (many parties but without electoral impact)?
- Is SADC EMB design, structuring/administration adequate to strengthen electoral quality: any specific country challenges and how do we address these?
- Can we cite any country/specific good practices and positive lessons?
- Is there need for reforming SADC EMB mandates and responsibilities to ensure enhanced electoral quality? Is there an ideal EMB model and structure?

6.1.1 Key Group A Discussions and Recommendations

Group A considered its questions under the following sub-headings:

The pre-election preparatory phase

- Inclusion of all stakeholders, community-base organizations (CBOs), political parties and joint efforts, in an open manner;
- Active participation of all stakeholders to enhance the credibility of the electoral process;
- Legislative barriers (restrictive legislation) against people who are not resident in a country, or are not registered and those who are registered but are not in the country during elections;
- Noting that a ripple effect is exclusion of people who are affected by HIV and are unable to come to polling stations;
- Election observation arrangements to be made easy for observers;
- Civic education to be on-going, cover broad issues and be incorporated into the school curriculum;
- Noting that voter education is important. People should know the electoral system and stakeholders should be involved in voter education; and
- Accessibility to registration and polling station should be made easy.

Election Day

- Announcement of elections results should be timely.
- For countries that do not have an election results announcement period, this should be put into the constitution, in order to remove doubt and suspicion that elections are being tampered with;
- Counting and aggregation process should be inclusive and consultative; and
- Involvement of political party agents and security officers should be ensured.

Post-election phase

- Civic and voter education should be continuous and content should be monitored so that leaders become accountable to their electorate;

- Election audit and introspection should be an inclusive process;
- Conflict management should be encouraged; and
- Institution capacity building should include strategic planning and people with special needs.

Multi-party system

- Democracy within political parties is sometimes a challenge;
- No Conflict Resolution Mechanisms to deal with intra-party conflicts;
- A high number of political parties does not necessary deepen democracy; and
- The lack of political tolerance between and among political parties.

SADC EMB

- The design may be good and structural involvement may also be there. However, election management study is limited (shortage of election professionals) and, therefore, officers are learning on the job;
- Administrative arrangements are a challenge (e.g., expansion of registration and civic education may be a limitation; and
- EISA as a SADC election resource institution should provide support for EMBs and platforms for learning.

Country- specific challenges

- By-elections keep EMBs on the run, without adequate capacity building;
- Lack of opportunity to develop capacity and to develop systems that insulate an EMB from being manipulated; and
- Systems are important to keep EMB professionals and independent.

Country-specific good practices

- High involvement of stakeholders in the appointment of Commissioners.

Key recommendations

- Continuous civic education;
- Inclusive election audits;
- Institutional capacity building of EMBs and development of systems that help to retain professionals and maintain the independence of EMBs;
- Strengthen the capacity of political parties to enhance democratic values;
- Reforms needed that conform to the EMB guidelines developed by ECF;
- Development of in-house policies and strategies, and civic and voter education curricula should be promoted; and
- Strengthen links with stakeholders, especially CSOs, for running civic education.

6.1.2 Plenary Reaction to Group A Discussion Outcomes

In the discussion, the participants generally agreed with most of the suggestions and recommendations that the group made. The discussion underlined the feeling that in order to have a significant representation of women, a mixed system was needed. It was also pointed out that in considering the majority vote, inclusiveness should be the standard.

6.2 Group B Feedback

THEME: Electoral Processes and Citizen Participation

Under this theme the group had the following six (6) questions:

- Are there specific activities that EMBs could undertake in between elections to improve electoral quality: any role for civil society, political parties and other stakeholders?
- What concrete steps could EMBs take during the election phase to ensure proper planning and organization of key electoral activities in line with their mandate and responsibilities; any room for synergy with other stakeholders?
- Any activities for the EMB during the post-election phase: who could be EMB partners and stakeholders in undertaking such activities?
- What may adversely affect voter turnout in various SADC countries?

- What steps could be taken, and by whom, to enhance citizen participation in democracy building in general and in elections in particular?
- Any country-specific positive experiences and lessons we can learn and adopt toward enhancing citizen participation in democracy/elections?

6.2.1 Key Group B Discussions and Recommendations

Pre-election period: EMB role in between elections

- Post-election review and evaluation;
- Voter and civic education;
- Study tours on other electoral systems/methods/processes;
- Electoral law review and reform; developing Code of Conduct for electoral stakeholders (e.g., political parties, observers and media);
- Delimitation activities (mandated EMBs);
- EMB staff capacity development activities;
- Updating voters roll (verification);
- Training of political party agents; and
- Training of observers/monitors.

Election phase: EMB role during elections

- Consultation with stakeholders on (e.g., nomination of candidates);
- Code of conduct – enforcement and compliance; and
- Determination of polling stations.

Post-election phase: EMB role

- Management of post-election conflicts (courts of law, CSOs, political parties);
- Post-election review (media, CSOs, political parties); and
- Consideration of the reports of observer missions.

Voter turnout

Voter turnout is affected by many factors including the following:

- Conflict situation (e.g., war, threats, intimidation, violence);
- Poor infrastructure (polling stations, distances);
- Dominant party syndrome;
- When leadership fails to deliver on election promises;
- Voter apathy;
- When candidates are imposed on voters;
- Inadequacy of civic education programmes;
- Lack of public trust in EMBs;
- Impact of HIV/AIDS;
- Impact of poverty;
- Choice of election date; and
- Manipulation of the election date.

Citizen participation

Activities	Actor (s)
Civic/voter education	EMB/CSO, P/P, Media
Improve voting infrastructure (Accessibility of stations)	EMB
Ensure security during electoral process	EMB, Security Apparatus
Improving intra-party nomination Procedures to increase woman participation	Political Party
Voter registration (continuous and targeted)	EMB

Best practice

- Hotlines - Mauritius.

Key recommendations

- There is need for continuous voter and civic education programmes to enhance citizen participation in the electoral process;
- Provide adequate electoral infrastructure in collaboration with stakeholders to ensure access and efficiency;
- SADC governments must guarantee the independence of EMBs to enhance public trust;
- EMBs should be well resourced in order to enhance institutional capacity to deliver quality elections;
- Enhance stakeholder consultations and develop credible conflict management mechanisms;
- EMBs should ensure the availability of a credible and reliable voters roll;
- SADC governments must guarantee the security of all stakeholders during the electoral process; and
- Undertake electoral reforms and entrench intra-party democracy to ensure gender equality.

6.2.2 Plenary Reaction to Group B Discussion Outcomes

The participants, in the discussion that followed, agreed with most of the suggestions and recommendations of the group. However, they added that civic and voter education should be ongoing and that voter registration registers should be published.

6.3 Group C Feedback

THEME: Cost of Elections and Elections and Technology

Under this theme the group had the following six questions:

- What good practices stand out in terms of election budgeting/financing?
- What is the role of donors in election financing: what, where, when, how should donors fund elections?
- Any ways and in what areas could SADC countries share electoral resources as a cost-saving measure? Who would coordinate?
- What technology is appropriate and relevant to enhance electoral quality in SADC?

- Is SADC ready for electoral voting, including e-voting?
- What specific good practices and lessons exist in the region – who is doing what and how could this benefit us all?

6.3.1 Key Group C Discussions and Recommendations

Group C considered its questions under the following sub-headings:

Current practices

- There are only about six SADC countries that fully finance their elections. The others depend on donor support, to a large extent.
- The financial base or capacity of countries differs and how countries prioritize elections also differs;
- Donors play a key role in financing the electoral process in many countries including voter registration, voter education and the actual elections;
- Political parties do not receive state funding towards elections in most SADC countries;
- SADC countries are already sharing resources, which include equipment and human capital;
- There are several good practices in election financing. These include countries with a regular budgetary cycle for elections and those which make use of national financial reserves to fund the cost of elections during the election period rather than rely on donors.
- Technology has been adapted to the electoral process in various countries although at different levels and scales;
- SADC is yet to take a position on electronic voting including e-voting but the possibility exists in a technology age which SADC countries cannot ignore.

Core principles and benchmarks

Financing of elections should conform to the following principles:

- National ownership of the electoral process;
- Sustainability;
- National priority;

- Accountability and transparency;
- Public-private sector partnership involving all stakeholders including local communities; and
- Technology should conform to local peculiarities and circumstances and be aimed at reducing the cost of elections.

Key recommendations

- Countries should take primary responsibility for financing their elections, in particular, the electoral commission and the core election cost which include constituency delimitation, voter registration and register, actual elections and post-election activities;
- Donor support should be given mostly through non-state institutions involved in the electoral process, such as EISA and ECF, to reinforce their capacity and undertake electoral support activities such as voter education;
- Donor elections support for resource-constrained governments should be pooled in a basket and made public, and should be channelled mostly to non-core election activities;
- The funding of political parties should be given priority in order to create a level playing field amongst political parties and prevent the abuse of incumbency with regard to the use of State resources;
- Changing technology is unavoidable and should be deployed progressively in management of the electoral process, which includes voter registration and electronic voter register, voter recording, data analysis, and a national network for election result management;
- The technology used in the electoral process should have credibility and consensus among major stakeholders including political parties. so that there is public confidence;
- Civic and voter education should be extended to political parties so that their members can better appreciate the electoral process and have the ability to initiate electoral reform when and where appropriate;
- SADC countries should increasingly share electoral resources, which include capacity reinforcement, information sharing, a database of available electoral resources in SADC countries (human and material), and establishment of an 'Elections Fund' to be used to support countries with a weak financial base; and

- Major regional institutions such as ECA, AU, SADC, EISA, ECF, SADC-PF and IDEA should consider documenting best practices on financing elections and electoral practices and laws.

6.3.2 Plenary Reaction to Group C Discussion Outcomes

In the ensuing discussion, the participants brought out interesting issues regarding cost of elections and elections and technology. The participants were mostly in agreement with the group recommendations. **The participants agreed with the group recommendations that donor funding of elections could compromise some aspects of sovereignty.** However, the participants added that electoral commissions should calculate the unit cost of elections, before and after an election, to enable governments to know if they could fund an election 100 per cent or otherwise; state funding of political parties should be seriously considered in order to make them accountable; and countries should come up with their own funding criteria, which could be borrowed from elsewhere.

The participants also observed that some countries used such criteria as post-election funding and equal distribution of the votes and electoral performance seats that political parties have in parliament. On election technology, they recommended that technology used should be unpacked and investigated to see the various possible uses for addressing such issues as building media confidence in the technology and enhancing public confidence in the context and transparency of the overall technology.

6.4 Group D Feedback

THEME: Electoral Justice Promotion

Under this theme, the group had the following seven questions:

- What specific electoral dispute resolution mechanisms function in SADC and how effective (both from cost and timeframe points of view) are these?
- What disputes are best resolved through formal administrative (including EMB) and judicial court structures and what disputes are best dealt with through informal structures (sometimes party liaison committees, traditional leadership, etc)?
- Any specific steps the EMB, civil society, political parties could take to minimize disputes and conflicts in elections?
- How could we make the code of conduct for voters, parties, civil society and observers more effective? Any good practices at country level?

- Beside electoral disputes, are there other threats to electoral justice in general? How about incumbency abuse, which causes an unlovely playing field between electoral contestants, such as unequal access to state resources, media, etc?
- How can we ensure a fair environment and a level playing field for participants in elections: voters, parties, candidates, observers, media, etc?
- Besides domestic instruments and national laws, are there international/ supranational instruments that could be brought to bear on SADC countries to improve the quality of their democracy in general and elections in particular?

6.4.1 Key Group D Discussions and Recommendations

Specific electoral dispute mechanisms

- Conflict management committees that are locally based;
- Presence of NGOs;
- National and international mediation;
- Political party liaison committees;
- Electoral courts/courts of disputed returns;
- Electoral tribunals and
- EMBs.

Administrative and judicial issues

Administrative

- Political party rallies issue and access to the state media;
- Local issues such as identity of voters;
- Violations of the code of conduct.

Judicial

- Specific issues covered in the electoral acts and laws of the country (e.g., disputes about nomination of candidates; and
- Disputed election results and seat allocations.

Informal/Alternative

- Mediation
- Arbitration
- Conciliation
- Self-regulation (media)

How to minimize disputes and conflicts in elections

- Establish structures (e.g., conflict-management committees, inter-party liaison committees) that meet regularly to resolve disputes in time
- Engage and regularly brief all stakeholders;
- Promote adherence to the code of conduct by all stakeholders including EMBs;
- Actively collaborate with law-enforcement agencies (e.g., the police).
- Learn and apply good practices from other countries;
- Maintain transparency and equal EMB treatment of political parties and candidates; and
- Involve local and international observers;

How to make the code of conduct effective

- Should be binding, legally enforceable and signed by all electoral contestants;
- Media self-regulation should be encouraged;
- Wide circulation of information about the code of conduct;

Other threats to electoral justice

Funding:

- Funds from different donors might determine the leaders of a country;
- Media;
- Illiteracy of voters;
- Violence during elections;

- Corruption and vote buying;
- Lack of democracy within political parties and poor inter-party relations; and
- Deficiency in public service delivery, courts of law, police and civil service.

Ensuring level playing field:

- Consistence in the application of laws especially by EMBs and the courts;
- Professionalism, adherence to rules and regulations;
- Equal treatment of stakeholders and equal access to information and the media;
- Encouragement of media self-regulation;
- An independent regulatory body for public media should be encouraged;
- High quality and integrity of election materials (e.g., voters register, ballot papers);
- Independence of EMBs;
- Public financing of political parties and control of expenses; and
- Transparency in nomination of candidates.

Supranational Instruments:

- African Charter on Democracy, Elections and Governance;
- Dialogue among EMBs and other stakeholders at regional level and beyond;
- Regional instruments adopted by SADC governments, EMBs, Parliamentary Forum and civil society;
- Intergovernmental instruments at the level of the African Union, Commonwealth and Francophone;
- United Nations instruments; and
- International instruments governing election observation and monitoring.

Key recommendations:

- Train members of the courts on electoral law to improve understanding;

- Promote electoral justice by adequately equipping and funding courts to enhance their independence and efficiency.
- Improve dialogue among stakeholders;
- Conduct civic and voter education;
- Foster increased EMB independence, impartiality and professionalism;
- Promote sharing of experiences on best practices;

6.4.2 Plenary Reactions to Group D Discussion Outcomes

In the discussion that followed, the participants added to the recommendations already made by the group regarding the promotion of electoral justice For example:

- The Chief Justice should not be both the returning officer and head of the country's judiciary, as was the case observed in Zambia, because this was seen to be problematic and a cause of conflicts.;
- The need for intra-party democracy and justice;
- Transparency in leadership selection and nomination of candidates;
- Ruling parties becoming more inclusive and tolerant; and
- The need to create a forum for political interaction between political parties and EMBs.

7. Plenary Session 4

PANEL DISCUSSION THEME: Elections, Democracy, and Development in the SADC Region

Chair: Mr. Gabriel Seeletso, IEC-Botswana

Panellists: Mr Terry Tselane, IEC-South Africa
Mr. Leshele Thoahlane, IEC-Lesotho
Reverend A. Malumalu, IEC-DRC

7.1 Presentations: South Africa and Lesotho

In his presentation, the representative from the Independent Electoral Commission (IEC) of South Africa, Mr. Terry Tselane, stressed that transparency and democracy should start from within the EMB and the latter's establishment should be in line with democratic tenets. He indicated that the appointment of the EMB in South Africa was transparent; interviews were conducted by the Chief Justice and members of the church whose recommendations went to parliament with the president appointing the Chair of the EMB. The existing EMB structures included: party liaison structures, delimitation, voting and counting. He highlighted the fact that commissioners could not recall members if they were not held accountable and that dissatisfaction and lack of confidence in the electoral system had led people to cross the floor.

Mr. Tselane went further to show the increase in the numbers of women registering as voters in elections. The figure had risen from 9.8 million in 1999 to 11.5 million in 2006. In conclusion, he informed the workshop of the commitment of IEC to development programmes targeted at women, the youth and the disabled. Two activities involved donation of computers to schools that have been used for voting and training purposes and planting of 300 trees in schools used as voting centres.

Mr. Leshele Thoahlane, representing the IEC of Lesotho, informed the meeting that his Commission organized and prepared for elections. It holds party delegates meetings and during the election process it holds Committee meetings to look at data, security and voters' education.

He further noted that the constitutional engineering of the last 10 and the changes in Lesotho had brought about relative stability and improved electoral quality making the environment conducive for development. He indicated that over the period 1965 to 2007 most of the conflicts and instability that had been witnessed in Lesotho arose from the lack of room for peoples to express their views and non-acceptance of results.

In particular he singled out the “*first past the post*” system as one that was not popular and led to conflicts and violence, which in turn led to economic regression in the country.

In conclusion, he acknowledged that in the period 2002 to 2007, relative stability had obtained due to the inclusiveness of the system where more parties had participated and increased representation in parliament had existed. Despite this, the allocation of seats was still a contentious one.

7.2 Plenary Reactions to the Plenary Presentations

In the discussion that ensued, the participants raised issues of concern about elections, democracy and development for South Africa, Lesotho and the Democratic Republic of Congo (DRC). The presenters from these three countries recognized those issues of concern and acknowledged the need for improvement in those areas. The participants wondered what was being done in South Africa to raise the confidence levels of groups who have the view that the ruling party is dominant, with centralized power and no space for others in the political arena. This group also believes that the ruling party has not translated into concrete results issues of employment and wealth creation, land reforms and poverty reduction. The participants also enquired whether the provincial elections system in South Africa would continue in view of the obtaining funding challenges. In response, the representative from IEC-South Africa acknowledged the challenges that the ruling party was facing in funding and delivery of services to the citizenry. However, he indicated that measures were in place to meet people’s expectations.

Noting the critical role of local government as a vehicle (e.g., facilitation of the election process; maintenance of access public roads so that people can easily access polling stations; maintenance of municipal polling stations; transparent counting of votes in municipal polling stations; enhancement of local participation in decision-making and democratic culture; and ensuring safety of election results) for delivery of democracy and development, the participants recommended that EMBs play a facilitating role to link local government with the power base at the national level. The participants also underscored the need for the local government system to be capacitated with resources.

On the proportional representation system, the representative from IEC-Lesotho indicated that the conceptual and legal framework was well formulated and was working well. He further pointed out that the conflicts and challenges witnessed at the 2007 elections were a result of other factors outside the conceptual and legal framework, and acknowledged the need for improvement of the system and for more dialogue among stakeholders.

8. Plenary Session 5

CLOSING SESSION: Summary of Proceedings, Key Recommendations and Closing Statement

Chair: Ms. Bertha Chiroro, EISA

8.1 Summary of Proceedings

The workshop Rapporteur, Dr. Lawrence Mukuka, presented a bird's eye view of what the workshop had discussed thus far. He reminded the participants that the central theme of the workshop was to evaluate the extent to which electoral systems and processes promote accountability, political representation and inclusiveness, and share lessons learned.

Dr. Mukuka summarized the discussion issues of the workshop according to the following six themes:

1. Electoral Systems, Constitutional and Legal Frameworks

- Limited integrity
- Lack of independence of legal frameworks
- Need to reform SADC EMB mandates

2. Electoral Proces

- More people voting (voice)
- Minimum hindrance to vote
- Universal suffrage generally followed.
- Electoral cycle recognized
- Pre-, during and post-election activities identified.

3. Citizen Participation

- Open and credible
- Participation of women and other disadvantaged groups

4. Cost of Elections

- Funding of elections and its ramifications to be examined

5. Elections and Technology

- Technology is welcome; however, its uses should be identified.

6. Electoral Justice Promotion

- Level playing field
- Promote intra-party justice
- Encourage dispute resolution

Dr. Mukuka concluded that in the last ten years a lot had been achieved and a lot still remained to be achieved in the area of democracy and good governance. The outstanding challenges included:

- Voter registration
- Independence of EMBs
- Need for professionalism
- Voter accessibility
- Diaspora issues
- Access to public media
- Sustainability issues
- Donor funding of elections
- ECF guidelines
- Election quality;
- Incumbency abuse
- People's confidence in the system
- Funding support to political parties
- Enhancing a democratic culture
- International instruments

- Narrowing the gap between concepts and practice and
- Integrity concerns.

Dr. Mukuka reminded the participants that while SADC countries may have come late into the game of governance, it was better late than never. There was, therefore, a strong need for a sense of optimism.

8.2 Summary of Overall Recommendations of the Workshop

Electoral Systems, Constitutional and Legal frameworks

- Continuous civic education
- Inclusive election audits
- Institutional capacity of EMB and development of systems that help to retain professionals and to maintain the independence of EMBs;
- Strengthen capacity of political parties to enhance democratic values;
- There is need for reform to conform to the EMB guidelines developed by ECF;
- Development of in-house policies and strategies, and civic and voter education policies and curricula should be promoted;
- Strengthening of links with stakeholders, especially CSOs, for running civic education;
- In order to have a significant representation of women, there is need to have a mixed electoral system;
- Under the majority vote system, inclusiveness is vital.

Electoral Processes and Citizen Participation

- There is need for continuous voter and civic education programmes to enhance citizen participation in the electoral process;
- Provide adequate electoral infrastructure in collaboration with stakeholders to ensure access and efficiency;
- SADC governments must guarantee the independence of EMBs to enhance public trust;

- EMBs should be well resourced in order to enhance institutional capacity to deliver quality elections;
- Enhance stakeholder consultations and develop credible conflict management mechanisms;
- EMBs should ensure the availability of a credible and reliable voters roll;
- SADC governments must guarantee the security of all stakeholders during the electoral process;
- Undertake electoral reforms and entrench intra-party democracy to ensure gender equality;
- Ensure consultative, transparent and inclusive process of voter registration and maintenance of the voters roll.

Cost of Elections and Elections and Technology

- Countries should take primary responsibility for financing their elections. In particular, the electoral commission and the core election cost which include constituency delimitation, voter registration and register, actual elections and post-election activities;
- Donor support should be mostly through non-State institutions involved in the electoral process, such as EISA and ECF, to reinforce their capacity and undertake such electoral support activities as voter education;
- Donor support for resource-constrained government on elections should be pooled in a basket and made public, and be channelled towards mostly non-core election activities;
- The funding of political parties should be given priority in order to create a level playing field amongst political parties and prevent the abuse of incumbency with regard to the use of State resources;
- Technology is unavoidable and should be deployed progressively in the management of the electoral process, which includes voter registration and electronic voter register, voter recording, data analysis and national network of election result management. Technology adapted to the electoral process must enjoy public confidence and credibility and consensus among major stakeholders including political parties;
- Civic and voter education should be extended to political parties in order to better appreciate the electoral process and initiate the process of electoral reform when and where appropriate;

- SADC countries should increasingly share electoral resources which include capacity reinforcement and information; create a data base of available electoral resources in SADC countries (human and material), and establish an ‘Elections Fund’ that may be used to support countries with weak financial bases;
- Major regional institutions such as ECA, AU, SADC, EISA, ECF, SADC-PF and IDEA should consider documenting best practices on financing elections and electoral practices and laws;
- Electoral Commissions should calculate the unit cost of running an election, before and after an election, in order to enable governments to know if they could fund an election 100 per cent or otherwise.

Electoral Justice Promotion

- Improve the understanding of electoral law by members of the courts through training;
- Promote electoral justice by adequately equipping and funding courts to enhance their independence and efficiency;
- Improve dialogue among stakeholders and conduct civic and voter education;
- Foster increased EMB independence, impartiality and professionalism;
- Promote sharing of experiences on best practices;
- The Chief Justice should not be both the returning officer and head of the country’s judiciary because this is seen to be a cause of conflicts and other problems;
- Ensure intra-party democracy and justice and transparency in leadership selection and nomination of candidates; and
- Create a forum for political interaction between political parties and EMBs.

8.3 Closing Statement

Ms. Jennifer Kargbo reminded the participants of the need to form high-level partnerships and networks. She informed the participants that the task calls for commitment and responsibility, and that all have a part to play. She emphasized consistence in the application of the law, adherence to rules and regulations, and information management and dissemination.

In conclusion, she challenged the participants to keep in touch with at least one new person that he/she met at this workshop. She thanked all the participants and declared the workshop officially closed.

Annex 1: Workshop Programme

Regional Workshop on Improving Electoral Quality in the SADC Region, 28-29 November 2007, Cresta Golfview Hotel Lusaka, Zambia

WEDNESDAY, 27 NOVEMBER 2007:

- Arrival of participants
- Media briefing on the workshop themes, objectives and expected outcomes
- Meeting of key role players: workshop organizers, session facilitators and rapporteurs – working dinner

WEDNESDAY, 28 NOVEMBER; DAY ONE

MORNING

08h30 - 09h00: Registration

09h00 - 10h00: Opening Session (Open to the Media)

Chair: Joram Rukambe, International IDEA

Welcoming Remarks: Ms. Jennifer Kargbo
Director, UNECA-SA

Keynote Address and Official Opening: Justice Irene
Mambilima, Chairperson of the Electoral Commission of Zambia

10h00 - 10h30: COFFEE/TEA BREAK

10h30 - 11h30: Plenary 1 (Closed to the Media)

Chair: Ms Keiso Matashane-Marite, UNECA

Are elections (defined in broad sense, including electoral systems) an asset or liability to democracy in SADC?

The session will address key issues and considerations in improving electoral quality, starting with electoral systems as defined in broad terms, such as the right to vote (based on universal suffrage); translation of votes into seats; norms and standards for voting (electoral laws and rules, etc); and electoral models (including election management structuring and design issues); and electoral processes. The key questions that this session will seek to address include:

- a. Have elections in the SADC regions, over the last decade or more, added value to or have they devalued democracy; how and why?
- b. To what extent are elections key determinants of democratic quality: can there be democracy without elections and vice versa?

Presenters: Mr. Denis Kadima, Executive Director, EISA

11h30 - 12h30 Plenary 2 (Closed to the Media)

Chair: Dr. Khabele Matlosa, EISA

**Presentation: Representation and Participation in Elections:
Do SADC elections enhance representation, participation,
and accountability: where and how can we improve?**

This session will seek to tease out issues about the interplay between elections, electoral systems and issues of political representation, participation and accountability. Specific questions include:

- a. To what extent can electoral system and processes engender political representation and inclusiveness: any good lessons and practices in the region?
- b. Is there a link between electoral systems and enhanced women participation: how could this link be consolidated and strengthened?
- c. Are there specific democratic challenges in SADC to which electoral systems and elections should seek to respond and specifically address?
- d. Is there an ideal electoral system in the world in general and in the SADC region in particular: which one and why?

Presenter: Prof. Jotham Momba, University of Zambia,
Lusaka, Zambia

**12h30 - 12h45 (Plenary discussion to prepare for break away groups
discussions on specific issues/topics identified below)**

Facilitator: Dr. Lawrence Mukuka, Consultant

Guidelines

- a. Each group will elect a chairperson and a rapporteur. The chairperson will facilitate the group discussion, while the rapporteur will take minutes of the discussion and report back to the plenary session the next morning;
- b. Each group is encouraged to capture its notes on a laptop and to make its presentation to the plenary using the same;
- c. Each rapporteur is required to make his/her presentation within 15 minutes;
- d. The plenary will spend about 15 minutes discussing each group report,
- e. before making recommendations.
- f. There will be a resource person assigned to each group to assist with difficult questions and issues.

12h45 - 14h00: LUNCH

AFTERNOON

14h00 - 15h00: Group Discussions (Closed to the Media)

15h15 - 16h30: TEA/COFFEE BREAK

15h30 - 16h30: Group Discussions continue

Group	Topic	Questions
Group A Venue:	Electoral systems Constitutional and Legal Frameworks	<p>Do SADC electoral systems help or hinder electoral quality? Where and how could they be improved?</p> <p>Do party systems in SADC contribute to electoral quality or not: how effective is our multi-party system – or do we only have ‘partyism’ (many parties but without electoral impact)?</p> <p>Is the SADC EMB design, structuring/administration adequate to strengthen electoral quality: any specific country challenges and how to address these? Can we cite any country-specific good practices and positive lessons?</p> <p>Is there need for reforming SADC EMB mandates and responsibilities to ensure enhanced electoral quality? Any ideal EMB model and structure?</p>
Group B Venue:	Electoral Processes Citizen Participation	<p>Are there specific activities that EMBs could undertake in between elections to improve electoral quality: any role for civil society, political parties and other stakeholders? What concrete steps could EMBs take during the election phase to ensure proper planning and organization of key electoral activities in line with their mandate and responsibilities; any room for synergy with other stakeholders?</p> <p>Any activities for the EMB during post-election phase: who could be EMB partners and stakeholders in undertaking such activities? What may adversely affect voter turnout in various SADC countries?</p> <p>What steps could be taken, and by whom, to enhance citizen participation in democracy building in general and in elections in particular? Any country-specific positive experiences and lessons we can learn and adopt toward enhancing citizen participation in democracy/elections?</p>
Group C	Cost of Elections Elections and Technology	<p>What good practices exist in terms of election budgeting/financing? What is the role of donors in election financing: what, where, when, how should donors fund elections? Any ways and areas where SADC countries could share electoral resources as a cost-saving measure? Who could coordinate?</p> <p>What technology is appropriate and relevant to enhance electoral quality in SADC? Is SADC ready for electoral voting, including e-voting? What specific good practices and lessons exist in the region – who is doing what and how could this benefit us all?</p>

09h45 - 10h15: COFFEE/TEA BREAK

10h15 - 11h30: Plenary 4 (Closed to the Media)

Chair: Mr. Gabriel Seeletso, IEC-Botswana

Panel Discussion: Elections, Democracy and Development in the SADC region

Panellists:

Mr. T. Tselane (IEC-South Africa)

Mr. L. Thoahlane (IEC-Lesotho)

Rev. A. Malumalu (IEC-DRC)

The 10 years or more have seen a much-celebrated return to multiparty democracy and a commitment to good governance, human rights and efforts to engender developmental democracy in SADC. We have seen more people than ever before, including the rural and urban poor, women, the youth and minority groups going to the polls to express their right to vote. We have seen ordinary people voting and being voted for with minimal hindrances.

That is a stupendous achievement, but despite this, a number of key questions remain unanswered such as:

- a. Whether these newly acquired voting rights have given the citizenry a voice in democracy?
- b. If there is adequate transparency and accountability in our electoral systems to guarantee increased public trust and confidence that is necessary for democracy consolidation?
- c. If elections and democracy are able to imbue the citizens with confidence about improved material conditions and a brighter future?
- d. The panellists will discuss these issues and questions and also seek to stimulate and generate a broad discussion involving the whole plenary around these and related issues.

The session will seek to capture the democratic-electoral experiences of three countries in SADC (i.e., South Africa, Lesotho and DRC), which over the last few years have undertaken wide-ranging, democratic-electoral reforms with far-reaching

implications for representation, participation and the promotion of good governance and development. Such reform processes have been embedded in a collaborative framework involving key electoral stakeholders such as political parties, civil society and the international community.

11h30 - 12h30: Plenary 5
Closing Session (Open to the Media)

Chair: Ms Bertha Chiroro, EISA

Summary of Proceedings, Key Recommendations and
Closing Statement: Ms Jennifer Kargbo, UNECA-SA

This session represents the conclusion of the workshop. This will be a presentation on the way forward, addressing the challenges of promoting electoral quality in the region and teasing some lessons learned and conclusions.

12h30 - 14h30: LUNCH

AFTERNOON

14h40 - 16h30: CITY TOUR

-End-

Annex 2: List of Participants

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