

SADC Principles and Guidelines Governing Democratic Elections

1. INTRODUCTION

SADC region has made significant strides in the consolidation of the citizens' participation in the decision-making processes and consolidation of democratic practice and institutions. The Constitutions of all SADC Member States enshrine the principles of equal opportunities and full participation of the citizens in the political process.

The Southern African countries, building upon their common historical and cultural identity forged over centuries, agreed to encapsulate their commonality into a single vision, that of a SHARED FUTURE. In this context, in 1992 the Southern African countries meeting in Windhoek, the Republic of Namibia, signed a Treaty establishing the Southern African Development Community (SADC).

Article 4 of the Treaty stipulates that “human rights, democracy and the rule of law” are principles guiding the acts of its members. Article 5 of the Treaty outlines the objectives of SADC, which commits the Member States to “promote common political values, systems and other shared values which are transmitted through institutions, which are democratic, legitimate and effective. It also commits Member States to “consolidate, defend and maintain democracy, peace, security and stability” in the region.

The Protocol on Politics, Defence and Security Cooperation provides that SADC shall “promote the development of democratic institutions and practices within the territories of State Parties and encourage the observance of universal human rights as provided for in the Charter and Conventions of the Organization of African Unity [African Union] and the United Nations.”

In addition, the Strategic Indicative Plan for the Organ (SIPO), as the implementation framework of the Protocol, emphasizes the need for democratic consolidation in the region. The development of the principles governing democratic elections aims at enhancing the transparency and credibility of elections and democratic governance as well as ensuring the acceptance of election results by all contesting parties.

The Guidelines are not only informed by the SADC legal and policy instruments but also by the major principles and guidelines emanating from the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa – AHG/DECL.1 (XXXVIII) and the AU Guidelines for African Union Electoral Observation and Monitoring Missions – EX/CL/35 (III) Annex II.

2. PRINCIPLES FOR CONDUCTING DEMOCRATIC ELECTIONS

- 2.1 In the event a Member State decides to extend an invitation to SADC to observe its elections, this shall be based on the provisions of the Protocol on Politics, Defence and Security Cooperation.
- 2.2 SADC Member States shall adhere to the following principles in the conduct of democratic elections:
 - 2.2.1 Full participation of the citizens in the political process;
 - 2.2.2 Freedom of association;
 - 2.2.3 Political tolerance;
 - 2.2.4 Regular intervals for elections as provided for by the respective National Constitutions;
 - 2.2.5 Equal opportunity for all political parties to access the state media;
 - 2.2.6 Equal opportunity to exercise the right to vote and be voted for;
 - 2.2.7 Independence of the Judiciary and impartiality of the electoral institutions; and
 - 2.2.8 Voter education.
 - 2.2.9 Acceptance and respect of the election results by political parties proclaimed to have been free and fair by the competent National Electoral Authorities in accordance with the law of the land.
 - 2.2.10 Challenge of the election results as provided for in the law of the land.

3. MANDATE AND CONSTITUTION OF THE SADC OBSERVERS MISSION

- 3.1 In the event a Member State deems it necessary to invite SADC to observe its elections, the SADC Electoral Observation Missions (SEOM) have an Observation role. The mandate of the Mission shall be based on the Treaty and the Protocol on Politics, Defence and Security Cooperation.
- 3.2 The Chairperson of the Organ shall officially constitute the Mission upon receipt of an official invitation from the Electoral Authority of a Member State holding the elections.
- 3.3 The Chairperson of the Organ shall mandate the Executive Secretary to issue a Letter of Credential to each Member of the SEOM prior to their deployment into the Member State holding elections.
- 3.4 The constitution of the Mission should comply with the SADC policies relating to gender balance. While recognising that the Members of the Mission may come from different political parties in the home countries, they should behave as a team.

4. GUIDELINES FOR THE OBSERVATION OF ELECTIONS

- 4.1 SADC Member States shall be guided by the following guidelines to determine the nature and scope of election observation:
 - 4.1.1 Constitutional and legal guarantees of freedom and rights of the citizens;
 - 4.1.2 Conducive environment for free, fair and peaceful elections;
 - 4.1.3 Non-discrimination in the voters' registration;
 - 4.1.4 Existence of updated and accessible voters roll;
 - 4.1.5 Timely announcement of the election date;
 - 4.1.6 Where applicable, funding of political parties must be transparent and based on agreed threshold in accordance with the laws of the land;
 - 4.1.7 Polling Stations should be in neutral places;
 - 4.1.8 Counting of the votes at polling stations;
 - 4.1.9 Establishment of the mechanism for assisting the planning and deployment of electoral observation missions; and
 - 4.1.10 SADC Election Observation Missions should be deployed at least two weeks before the voting day.

5. CODE OF CONDUCT FOR ELECTION OBSERVERS

- 5.1 The code of conduct for the elections observers of SADC are consistent with those of the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa - AHG/DECL. 1 (XXXVIII). In this regard, the SADC Election Observation Missions shall adhere to the following code of conduct:
 - 5.1.1 Must comply with all national laws and regulations;
 - 5.1.2 Shall maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties and candidates in contention in the Election process. Furthermore they will not display or wear any partisan symbols, colours or banners;
 - 5.1.3 Shall neither accept nor attempt to procure any gifts, favours or inducements from a candidate, their agent, the parties or any other organisation or person involved in the electoral process;
 - 5.1.4 Shall immediately disclose to the relevant SADC structures any relationship that could lead to a conflict of interest with their duties or with the process of the observation and assessment of the elections;
 - 5.1.5 Will base all reports and conclusions on well documented, factual, and verifiable evidence from multiple number of credible sources as well as their own eye witness accounts;
 - 5.1.6 Shall seek a response from the person or organisation concerned before treating any unsubstantiated allegation as valid;
 - 5.1.7 Shall identify in their reports the exact information and the sources of the information they have gathered and used as a basis for their assessment of the electoral process or environment;

- 5.1.8 Shall report all information gathered or witnessed by them honestly and accurately;
- 5.1.9 Shall, when meeting election officials, relevant state authorities and public officials, parties, candidates and their agents shall inform them of the aims and objectives of the SEOM;
- 5.1.10 May wish to bring irregularities to the attention of the local election officials, but they must never give instructions or countermand decisions of the election officials;
- 5.1.11 Will carry any prescribed identification issued at all times, and will identify themselves to any interested authority upon request;
- 5.1.12 Will undertake their duties in an unobtrusive manner, and will not interfere with the election process, polling day procedures, or the vote count;
- 5.1.13 Will refrain from making personal or premature comments or judgements about their observations to the media or any other interested persons, and will limit any remarks to general information about the nature of their activity as observers;
- 5.1.14 Must participate in the briefings/training provided by the SEOM;
- 5.1.15 Must provide their reports on time to their supervisors and attend any debriefings as required; and
- 5.1.16 Should work harmoniously with each other and with observers from other organisations in their area of deployment.

6. RIGHTS AND RESPONSIBILITIES OF SADC ELECTION OBSERVERS

- 6.1 The rights and responsibilities of the SOEM are based on the SADC experience and the AU Guidelines for Electoral Observation and Monitoring Missions. Accordingly the following shall be the rights and responsibilities of the SADC Elections Observers:
 - 6.1.1 Freedom of movement within the host country;
 - 6.1.2 Accreditation as election observers on a non-discriminatory basis;
 - 6.1.3 Unhindered access to and communicate freely with the media;
 - 6.1.4 Free access to all legislation and regulations governing the electoral process and environment;
 - 6.1.5 Free access to electoral registers or voters' roll;
 - 6.1.6 Unimpeded and unrestricted access to all polling stations and counting centres;
 - 6.1.7 Communicate freely with all competing political parties, candidates, other political associations and organisations, and civil society organisations;
 - 6.1.8 Communicate freely with voters without prejudice to the electoral law proscribing such communication in order to protect the secrecy of the vote;
 - 6.1.9 Communicate with and have unimpeded and unrestricted access to the National Election Commission or appropriate electoral authority and all other election administrators;
 - 6.1.10 The SEOM shall be headed by an appropriate official from the Office of the Chairperson of the Organ who shall also be the spokesperson of the Mission;
 - 6.1.11 Send regular reports on the electoral observation process to the Representative of the Organ on issues that may require urgent consideration;

- 6.1.12 Issue a statement on the conduct and outcome of the elections immediately after the announcement of the result; and
- 6.1.13 Prepare a Final Report within 30 (thirty) days after the announcement of the results.

7. RESPONSIBILITIES OF THE MEMBER STATE HOLDING ELECTIONS

- 7.1 Take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of the country;
- 7.2 Establish where none exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters and compilation of voters' registers, would be addressed;
- 7.3 Establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- 7.4 Safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes as provided for under 2.1.5 above;
- 7.5 Take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices throughout the whole electoral process, in order to maintain peace and security;
- 7.6 Ensure the availability of adequate logistics and resources for carrying out democratic elections;
- 7.7 Ensure that adequate security is provided to all parties participating in elections;
- 7.8 Ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and/other observers/monitors;
- 7.9 Encourage the participation of women, disabled and youth in all aspects of the electoral process in accordance with the national laws;
- 7.10 Issuing invitation by the relevant Electoral Institutions of the country in election to SADC 90 (ninety) days before the voting day in order to allow an adequate preparation for the deployment of the Electoral Observation Mission;

- 7.11 Ensure freedom of movement of the members of the SEOM within the host country;
- 7.12 Accreditation of the members of the SEOM as election observers on a non-discriminatory basis;
- 7.13 Allow the members of the SEOM to communicate freely with all competing political parties, candidates, other political associations and organisations, and civil society organizations;
- 7.14 Allow the members of the SEOM to communicate freely with voters except when the electoral law reasonably prescribes such communication in order to protect the secrecy of the vote;
- 7.15 Allow the members of the SEOM an unhindered access to and communicate freely with the media;
- 7.16 Allow the members of the SEOM to communicate with and have unimpeded access to the National Election Commission or appropriate electoral authority and all other election administrators;
- 7.17 Allow the members of the SEOM free access to all legislation and regulations governing the electoral process and environment;
- 7.18 Allow the members of the SEOM free access to all electoral registers or voters' list;
- 7.19 Ensure that the members of the SEOM have an unimpeded and unrestricted access to all polling stations and counting centres.

Vote of thanks by Mr F.G Mogae, President of Botswana at the SADC Summit, Mauritius

Vote of Thanks by His Excellency MR. Festus G. Mogae, President of the Republic of Botswana and the Next Host of the Southern African Development Community (SADC) Summit, Deliverd on Tuesday 17th August 2004, at Grand Baie, Mauritius, at About 18:00 CAT

Right Honourable Paul Berenger, Chairperson of SADC
Your Majesty and Inkhosikati Lagija
Your Excellencies Heads of State and Government and First Ladies Honourable Ministers Deputy Chairperson of the African Union Commission Excellencies Heads of Diplomatic Mission and International Organisations Distinguished Ladies and Gentlemen

It is an honour and privilege to have the opportunity, on behalf of the SADC Heads of State and Government, to give a vote of thanks. We have come to the end of two days of hard work, which were preceded by intensive preparatory work by Ministers and

Senior Officials. When we meet every year, we are mindful of the hopes, expectations and aspirations of our peoples for better living conditions through employment creation and poverty eradication. This year was no different. As we converged on this one of the gems of the Indian Ocean, Mauritius, we were as always conscious of these obligations and responsibilities to our peoples. We are, therefore pleased, that as we conclude our deliberations it is clear that we are continuing to advance the process of economic co-operation and regional integration for the benefit of our peoples.

I must therefore begin by expressing our deep gratitude to our host and Chairperson of SADC Prime Minister Paul Berenger, the Government and people of Mauritius for their warm welcome, friendship and hospitality. The arrangements and facilities put at our disposal for our convenience and comfort have certainly required a lot of preparations and contributed in no small measure to the success of this Summit. There is no doubt that the Government and people of Mauritius devoted considerable time and energy to these arrangements because of their strong belief in SADC and the common future of our peoples.

Your Majesty, Your Excellencies, Ladies and Gentlemen, let me also express our commendation to the immediate former Chairperson of SADC H.E. Mr. Benjamin William Mkapa for his illustrious stewardship of our organisation for the past twelve months. Although the President was very modest in his speech during the official opening ceremony, that his Chairmanship was encumbered by ill-health, it must be placed on record that considerable progress was achieved during this period. In spite of his ill-health, President Mkapa personally launched the Regional Indicative Strategic Development Plan and chaired the Extra-ordinary Summit on Agriculture and Food. And above all, our Chairperson found time to chair the World Commission on the Social Dimension of Globalisation, a Commission which made a profound contribution to highlighting the challenges brought about by globalisation and proposed practical solutions.

All these are vital to accelerating the process of making SADC a region of peace and stability, a region engaged in eradicating hunger, disease and poverty as well as intensifying economic co-operation and regional integration. We, therefore salute you, Mr. President, for the sterling contribution you made to our common objectives. And I am delighted to note that you now use only one stick and even then the role of the stick is slowly becoming irrelevant! I am sure I speak on behalf of all my colleagues when I say that we pray that you walk on two legs soon!

Your Majesty, Excellencies, Ladies and Gentlemen we are delighted that the baton has been passed on to Prime Minister Paul Berenger. Mauritius has demonstrated beyond any shadow of doubt that it is committed to the SADC Treaty by signing and ratifying most of the Protocols as well as paying its assessed contributions in full, and on time. We, therefore, look forward to your dynamic and able leadership of SADC both in terms of the implementation of policies and programmes as well as in dealing with our international co-operating partners. I assure you of the full support of Botswana and that of the rest of the Member States in carrying out your mandate as Chairperson of our Organisation.

The trust and confidence we repose on you to move our programmes forward is based on your country's success in implementing its development programmes and projects.

SADC on the other hand is weakest in getting things done. For instance, the programme for restructuring was approved in Windhoek in 2001, when President Nujoma assumed the Chairmanship. Today, four years later, on the eve of President Nujoma's retirement, the heads of the directorates that were envisaged are still vaguely said to be under recruitment. The year before last, it was agreed that something must be done about a new headquarters building, whereupon the Botswana government donated an 11,343 square metres fully serviced plot in the Central Business District. I was once informed that the Republic of South Africa government had offered to have the building designed for SADC but when I asked President Mbeki on progress achieved to date on the design, he had never heard of any such offer. A residence for the Executive Secretary was budgeted for almost five years ago, to date SADC is still paying rent to a Botswana citizen, a good thing for the Motswana but is it really in the best interest of SADC as an organisation. The progress that has been achieved in adopting principles and making decisions must be reflected on the ground, in terms of buildings designed and constructed, posts created and filled and operations undertaken. The phenomenon of permanent transition, whereby everybody is permanently temporary is not acceptable and should not be countenanced. We should be as good as our word. For words are like leaves, where they most abound little fruit of substance resides. In our countries, as politicians, we have to account to the electorate every five years, we therefore would like a situation in SADC, in which we can include in our accomplishments what was done during our tenure of political office. In my case, like Gladstone, I am an old man in a hurry.

In conclusion, let me thank you for the confidence you have shown in my country in electing us Vice-Chairperson. I accept it with humility. I must however confess to some nervousness. I am preparing for a national election and my immediate pre-occupation is in winning those national elections and being re-elected President of Botswana! We are, however, ready to shoulder the responsibilities that come with the Chairpersonship of our Organisation. We are however encouraged by the fact that we will be working with Prime Minister Berenger, Leader of a country that we in Botswana consider as a role model. As a country, we are irrevocably committed to the ideals and principles set out in the SADC Treaty. We are convinced that economic co-operation and regional integration are the imperatives of our time in this globalising world. In this respect, we will do everything possible to make a contribution towards those goals for the common good of our region.

Before I forget, Mr. Chairman, Ladies and Gentlemen, let me congratulate and associate myself with the steps that Government of Mauritius is taking to integrate its black citizens of African origin into the economic mainstream.

May I also pay due tribute to the Republic of South Africa for their peace-making efforts in all the troubled spots in our sister Republics of the Democratic Republic of Congo, Burundi, Ethiopia/Eritrea, Comoros, Uganda, Liberia, Madagascar and Sudan. They have committed to these efforts not only their top national leadership, in the persons of Former President Mandela, President Mbeki, Vice President Zuma, Foreign Minister Dlamini-Zuma, but also their foreign affairs and military experts and their national defence force. I acknowledge with gratitude South Africa's recognition that the rest of Africa was involved to a greater or lesser extent in its own liberation. The totality of resources South Africa is expending on these efforts are impressive by any standards. The resources are human, financial, military, logistical, etc.

Let me end by stating that Botswana looks forward to seeing you at the next Ordinary SADC Summit. The Government and people of Botswana would be honoured and more than happy to receive and welcome you in Gaborone, the home of SADC.

I thank you for your attention.