PREVENTING AND MANAGING VIOLENT ELECTION-RELATED CONFLICTS IN AFRICA

Exploring good practices

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– CONFERENCE PROCEEDINGS REPORT –

EISA's 4th ANNUAL SYMPOSIUM

CROWNE PLAZA HOTEL, ROSEBANK, SOUTH AFRICA

17-18 NOVEMBER 2009

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EISA SYMPOSIUM

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This report, which was prepared by Dr Khabele Matlosa, Victor Shale and Dimpho Motsamai, is independent of specific national or political interests.

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ABBREVIATIONS

ADR	alternative dispute resolution
APRM	African Peer Review Mechanism
AU	African Union
AUC	African Union Commission
CAR	Central African Republic
CBOs	community-based organisations
CCM	Chama Cha Mapinduzi
CUF	The Civic United Front
CEDAW	The Convention for the Elimination of all Forms of Discrimination Against Women
CEWS	Continental Early Warning System
CSOs	civil society organisations
DANIDA	The Royal Danish Ministry of Foreign Affairs
DFID	The Department for International Development
DRC	The Democratic Republic of Congo
EAC	East African Community
ECOWAS	Economic Community of West African States
ECK	Electoral Commission of Kenya
EISA	Electoral Institute of Southern Africa
EMBs	election management bodies
FPTP	first-past-the-post system
IEC	Independent Electoral Commission
IREC	Independent Review Commission
MMP	mixed member proportional system
NEPAD	New Partnership for Africa's Development
OAU	Organisation of African Unity
PAP	Pan-African Parliament
PLC	party liaison committee
PR	proportional representation
PSC	Peace and Security Council
RECs	regional economic communities
SADC	Southern African Development Community
SIDA	Swedish International Development Agency

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INTRODUCTION

From 17-18 November 2009 at the Crowne Plaza Hotel, Rosebank, South Africa, the Electoral Institute of Southern Africa (EISA) convened its fourth Annual Symposium. The theme was 'Preventing and Managing Violent Election-related Conflict in Africa: Exploring Good Practices'. Like its three predecessors, the 2009 symposium was part of EISA's contribution to building democracy and advancing democratic governance, human rights, peace and citizen participation in Africa.

The inaugural symposium, held in November 2006, focused on the challenges of conflict, democracy and development in Africa. The second, in October 2007, examined the prospects for sustainable democratic governance in Africa against the backdrop of endemic poverty and socio-economic debility. The third, in October 2008, deliberated on the challenges of civil society engagement with the African Peer Review Mechanism (APRM).

The 2009 symposium was made possible by the generous support and contribution of EISA's partners, notably, the Swedish International Development Agency (Sida), the Department for International Development (DFID) and the Royal Danish Ministry of Foreign Affairs (Danida).

The primary goal of this symposium was to examine the intrinsic and instrumental value of elections by focusing on election-related conflicts and how they can be prevented, managed, and resolved with a view to deepening democracy, ensuring stability and promoting peace and security. The main objectives of the symposium were:

- to provide a platform for discussion about elections and conflict among key stakeholders in Africa, highlighting best practices and challenges;
- to share best practices for the prevention, management, and resolution of election-related conflict and propose appropriate electoral reforms;
- to explore constructive mechanisms to complement those that already exist in various African countries for managing election disputes and violent conflicts;
- to review the intervention strategies of continental inter-governmental bodies (the African Union, the Pan-African Parliament, the APRM and regional economic communities) for handling election disputes and conflicts and to propose reforms where appropriate;
- to review the intervention strategies of international development partners (donors) aimed at assisting African states to deal with election disputes and conflicts.

The 2009 symposium and its theme resonate with recent developments in Africa, relating, as they do, to the growing problem of persistent, violent election-related conflict on the continent

and the conundrum of preventing, managing and resolving such conflict. In order to garner a holistic analysis of the myriad issues facing electoral process in African countries, as well as to identify and share best practice from across the continent, EISA brought together stakeholders from different institutions and disciplines.

They included election management bodies (EMBs); members of the executive branch of government, the judiciary, the legislature, political parties and civil society organisations (CSOs); the media; the donor community; development agencies; United Nations agencies; the PAP; the APRM; RECs such as the Economic Community of West African States (ECOWAS) and the East African Community (EAC); universities; and research institutes.

In general, the theme of the symposium and the issues discussed contributed to the growing debate about the role of elections and the state of governance in Africa. Answers were sought to critical questions such as: Under what circumstances do elections become either political assets or liabilities to democracy? How are elections managed? Is the management of elections helping in the resolution of disputes and conflicts or worsening post-election crises?

This report summarises the symposium proceedings, highlighting key debates and deliberations and reflecting on best practice in the prevention and management of election-related violence in African countries. The report consists of six sections.

Section 1 discusses common explanations of the contexts, causes, patterns, and consequences of election-related violence in African countries, explores the conditions under which such violence can be expected to be particularly acute, and includes a discussion of the types of election-related violence, patterns of violence through the electoral cycle, and the determinants of a stable and peaceful political system. It also offers suggestions for concrete measures of conflict mitigation during the electoral cycle.

Section 2 focuses on the systemic and institutional dimensions of electoral administration. The section discusses the institutional framework in which electoral processes, and consequently, election-related conflicts, unfold; highlights the role of political competition and the management of relationships among the key protagonists; and examines the gender dimensions of election-related conflicts and mitigation strategies.

Section 3 examines the continental mechanisms for conflict prevention and management, offering specific case studies to assess the achievements and challenges faced by regional and continental structures with regard to resolving such conflicts. It focuses on the African Union, which has scheduled new procedures for the settlement of disputes connected with contested elections and unconstitutional changes of government, and new mechanisms through which political and or judicial bodies can intervene; the Southern African Development Community (SADC), with particular focus on its intervention in Lesotho (2007) and Zimbabwe (2008); and Economic Community of West African States (ECOWAS) interventions in Nigeria in 2007 and Guinea Bissau in 2009.

Section 4 looks at unconstitutional changes of government and power-sharing arrangements on the continent, the latter precipitated by the 2007 election in Kenya and the outcome of the

contested 2008 elections in Zimbabwe. The section discusses the resurgence of militarism and military coups and their implications for democracy generally and electoral processes in particular, as well as the utility and shortcomings of inclusive governance approaches as a mechanism for resolving post-election political impasses.

Section 5 assesses the roles of the Pan-African Parliament, and the APRM process as tools for the prevention, management and resolution of election-related conflict. The section highlights the purpose and utility of the APRM and the PAP in terms of their opportunities to contribute to the prevention and management of electoral conflict. A case study of Zanzibar is provided to illustrate the practical challenges of interventions in historically complex political transitions.

Section 6 describes and gives examples of alternative dispute resolution mechanisms and their application in handling election-related conflicts. The section also suggests practical options for designing and programming early warning and conflict tracking tools.

The conclusion includes the main policy recommendations emanating from the symposium.

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WELCOME AND OFFICIAL OPENING

The symposium began with opening remarks by Denis Kadima, executive director of EISA, who welcomed all participants and noted EISA's work on elections and related processes on the continent. Leshele Thoahlane, chairperson of the EISA Board of Directors, delivered the keynote address and officially opened the symposium.

In his remarks, Thoahlane introduced EISA's continental work on democracy, elections and governance, highlighting the relevance and significance of the 2009 symposium in this regard. The symposium, he said, was timely, coming, as it did, on the heels of the adoption of the African Charter on Democracy, Elections and Governance by the Assembly of the Heads of State and Government of the African Union in 2007. He stressed the importance of the charter's 'unequivocal rejection of unconstitutional changes in governance' and subsequent instruments, specifically the decision of the African Union Panel of the Wise in July 2009 to play a more proactive role in preventing, managing and resolving election-related conflict in AU member states.

Thoahlane noted EISA's work in this regard, saying EISA contributed directly to the development of the African Charter on Democracy, Elections and Governance and to the strategy document for the AU Panel of the Wise. Outlining the objectives of the symposium he highlighted its significance by linking the theme with recent cases of election-related violence on the continent.

Elections, he pointed out, do not always promote democracy, as conventional wisdom would have us believe. While, in some cases, they add substantial value to democratic governance, peace, and political stability, in others they do exactly the opposite. Evidence abounds that in some instances elections become superficial processes aimed at legitimising undemocratic governance. This subversion of democracy through the manipulation of elections should be guarded against.

Thoahlane called for the need to examine the quality of elections, thereby differentiating between a contribution to democratisation and the legitimisation of autocracies. Elaborating on the 'problematic nexus' between elections and democracy, he stressed that whereas there is, indisputably, a positive correlation between elections and democracy a trend has emerged where elections lead not only to the 'retreat of democracy' but to spasms of protracted violent conflict, with dire socio-economic and politico-security consequences. It is, therefore, pertinent, he said, to have in place preventive mechanisms to ensure that electoral disputes are arrested in their early stages.

In this manner, and in the spirit of the symposium, Thoahlane noted, it is possible through dialogue and consensus building to find ways of transforming elections 'from a zero-sum game into a positive-sum game'. Finally, he expressed the hope that deliberations emanating from the symposium would inform the appropriate constitutional and electoral reforms on the continent, thereby deepening democratic governance, enhancing peace, security, and political stability and promoting sustainable human development in Africa. He then officially opened the symposium.

3

CONFERENCE PROCEEDINGS

SESSION 1

THEORY, CAUSES AND CONSEQUENCES OF ELECTION-RELATED CONFLICT

1.1

CAUSES AND CONSEQUENCES OF ELECTION-RELATED VIOLENCE IN AFRICA

Professor Gilbert Khadiagala of the University of the Witwatersrand outlined the causes and consequences of election-related violence, saying they could be found in an examination of the democratisation process on the African continent during the late 1980s and early 1990s. He noted that whereas elections have been integral to African politics and have been a key feature of the post-independence era they assumed a new dimension after the third wave of democracy in the late 1980s and early 1990s.

During this period constitutions in many sub-Saharan African countries were amended to include provisions for regular legislative/parliamentary and presidential elections. However, he noted that this type of democratisation would later become bittersweet: there was too much triumphalism over the demise of former dictatorial and one-party regimes in the 1990s and too little attention paid to building effective state institutions that would harness the democratisation gains.

Democratisation was hailed as a triumph and elections became a civilising exercise to the extent that it was envisioned that the 'future will take care of itself'. Thus, the third wave of democratisation and the euphoria that propagated democracy as inherently self-sustaining led to procrastination about institution-building and, as a result, sowed the seeds of the inability of countries to deal effectively with election-related violence.

Khadiagala went further, noting that while the electoral violence that has dominated Africa's transition to democracy in the past two decades may be attributed to contestation over the rules governing elections during the electoral cycle, there are deeper systemic and structural causes. Although violence ensues where there is uncertainty about the legitimacy and transparency of electoral rules election-related violence denotes the incomplete nature of democratic transitions, particularly the construction of durable institutions for conflict resolution and organised competition.

He indicated that, in addition to the broader issues of the quality of competitive institutions which have characterised the African political landscape, the upsurge of violence following the elections in Kenya and Zimbabwe, for example, bear testimony to the fact that violence is not a result purely of the electoral process *per se*, but, equally importantly, a manifestation of underlying political and societal issues. He further contended that while electoral violence may reflect teething problems in the establishment of stable competitive rules, without continent-wide efforts to stem the tide of electoral violence, incidences of violent contestations over elections are bound to proliferate.

Khadiagala identified three main contributing factors to election-related violence – socio-economic divisions, regimes which have no stake in political change, and weak institutions and institutional rules governing competitive elections – and described variations that explain why some elections are violent while others tend to be peaceful.

There are two types of electoral violence, he stated, adding that it is in a study of these that solutions can be found. The first is where a state has deep-rooted power asymmetries. In such cases, he said, there will be no structural change without revolutionary transformation. He therefore suggested that there should be a focus on fundamental institutional reforms across all spectrums. The second is where election violence occurs when the electoral management bodies (EMBs) mismanage elections by rigging, theft, and other forms of irregularity and manipulation. In these cases electoral reforms which correct these flaws can lead to sound electoral systems that prevent the recurrence of future electoral violence.

He asserted that most African conflicts fall into the first category rather than the second. The first type denotes structural flaws that may not be amenable to 'electoral engineering' and reforms; the second offers more opportunities for a wide array of institutional reforms because elites, for the most part, have already agreed on the fundamental rules that support political competition.

Reflecting on the potential for an imminent 'fourth wave of democratisation', Khadiagala said such an event would be characterised by growing mass intolerance of stolen and manipulated elections. He believed that a 'fourth wave' of democracy might be underpinned by a vigilant and engaged citizenry seeking sound rules of electoral competition which may enshrine more stable democratic rule. He went on to say that the only 'positive' element of the resurgence of election-related violence on the continent is that it might spread, demonstrating mass frustration with insufficient democratisation and thereby forcing many governments to learn from their neighbours about establishing structures and systems that, in the long run, may prevent electoral violence. In the short term, Khadiagala reiterated, violence may characterise most of the elections which will take place in African countries in the immediate future because the elections will take place in countries without solid democratic credentials.

1.2
WHAT IS NEEDED FOR AN ELECTION TO HELP RESOLVE RATHER THAN CAUSE CONFLICT

Professor David Leonard of the Institute of Development Studies, University of Sussex, outlined the elements required if an election is to help resolve, rather than cause, conflict. Professor Leonard began by reviewing the different theoretical postulations of ways in which peaceful electoral processes and legitimate outcomes may be guaranteed.

In setting the stage he indicated that the extant literature on electoral studies suggests that democracy can have a dual purpose: promoting representation and institutionalising conflict resolution. According to Leonard the latter has been less well studied, so he offered a review of experiences in other countries in the past decade, which might provide useful paradigms for African countries.

Leonard referred to recent books which argue that there is a considerable risk that elections

in post-conflict situations will re-ignite the conflict they are supposed to resolve, but that, paradoxically, elections are also demanded as a condition for conflict resolution. Most of the world's democracies, he said, had emerged during periods of civil disorder, not as a result of smooth institution-building or careful preparation by authoritarian rulers.

He stated that, according to the literature, strong preconditions (such as economic development, professional media and a well-functioning state, with the rule of law and an impartial bureaucracy) and sequencing were critical factors in mitigating electoral violence. Whereas some of the literature concurs with the notion of 'institutionalisation' before elections Leonard contended that it does not favour 'authoritarian' preparation but instead calls for extended period of international stewardship over post-conflict countries.

Borrowing from existing literature Leonard reiterated the criticism that the international community has been too anxious to see elections as a panacea for conflict resolution and, as a result, has been too quick to exit before sustainable democracy has been institutionalised. He also drew attention to Lindberg's argument that elections become more democratic the more often they are repeated, so there is a need to employ strategies which promote peaceful elections, including the involvement and intervention of the international community (institutions of global governance, donor partners, and so on).

Leonard referred to the work of Thomas Carothers, who emphasises the need for international involvement in post-conflict countries and also highlights the notion of 'gradualism'. He asked whether 'sequencing' should be chosen over 'gradualism' as an approach to institutionalisation in post-conflict countries. He cautioned, however, that theory tends to be prescriptive and there are challenges in putting it into practice. Both approaches are plausible, but solutions need to be tailored to the specific context of a country (ie, the structure of the electoral system, the transparency of the electoral process, etc). Leonard also maintains that the role of external players is paramount.

1.3
ELECTIONS AND CONFLICT IN AFRICA: ALTERNATIVE CONFLICT RESOLUTION MECHANISMS

Mr Vincent Tohbi, EISA, Democratic Republic of Congo (DRC), reviewed recent electoral conflicts and electoral conflict trends in Africa with the aim of categorising the causes of those conflicts and ascertaining the role of alternative dispute resolution mechanisms. Elections, he said, had acted as a trigger for violent conflict in, among other countries, Madagascar, Togo and Zimbabwe and the violence that followed Kenya's 2008 elections gave fresh impetus to conceptualising election conflict management in Africa. Elections may be an indirect cause of conflict, especially when the electoral process is mismanaged. Critically, Tohbi noted, the factors which contribute to electoral violence are to be found in the perceived and proposed function of elections in a particular country.

Tohbi highlighted the following general functions of an electoral process:

- To put an end to a conflict (Liberia, Sierra Leone, DRC, Burundi, Central African Republic [CAR], Sudan, Nigeria, Mali [1993], Eritrea, Rwanda).

- To prevent conflict or deter instability (for instance, in the case of a coup d'état) and to restore order to a fragile political environment (Niger – amendment of the Constitution), Mauritania (coup) Togo, Gabon (death of the head of state and family succession), Guinea Bissau (assassination of the president and the chief of staff).
- To initiate a democratic process (Swaziland, Angola, Somaliland, Uganda)
- To institute democratic normalcy (South Africa, Ghana, Mali, Tanzania, Namibia, Botswana, Mozambique).

Two important elements that should be noted are the factors that cause electoral violence and those that contribute to such violence (and its gradual progression). He categorised the causes of electoral conflict as:

- constitutional legislative;
- technical;
- old intra- and inter-community tensions;
- acrimony/lack of trust in institutional and electoral systems.

There is, he emphasised, no direct link between elections and violence. In some countries elections are not violent. But violence results when the state is unable to address some or all of the above mentioned factors. Tohbi advised against extolling 'alternative mechanisms' of conflict settlement over conventional ones, pointing out that the purpose of judicial and security systems is to address all conflict issues, including those related to elections. However, in many instances, both the security and judicial apparatuses have failed to prevent or manage electoral violence.

Focusing on the security mechanisms Tohbi said the security system in many countries is considered to be part of the conflict as, in many instances, security and defence forces are directly involved in, or, in some cases, cause electoral violence. He emphasised the role of the judicial system in the administration of justice, particularly in relation to election related matters, stating that in most African countries the system is confronted with serious challenges, including the way in which it is structured, managed and supported. In addition, he said, the general population frequently had a negative perception of the judicial system, which is often perceived as not being impartial, credible or independent and as being subject to manipulation. The management of electoral disputes within a legal framework is new to most African countries, hence, there is frequently an ambiguity about jurisdiction in the settlement of such disputes.

The factors that contribute to electoral violence and, hence, the failure of elections to contribute to stability include: weak institutional capacity and legitimacy of the judicial system, insufficient financial support for the electoral cycle, and insubstantial financial and technical support for conflict resolution mechanisms. Part of the solution to violent election-related conflict lies in the state's ability to address these factors and to develop 'social interventions' with all key stakeholders, particularly civil society components.

Tohbi explored conflict resolution mechanisms, including the EISA model, which, he said, may be used effectively to prevent or solve certain election-related conflicts. The EISA model emphasises, *inter alia*, the establishment of election-related conflict management panels at

various layers of society during the election cycle. Among the countries which use this model are South Africa and the DRC. The composition of the panels should reflect the diversity of the communities in which they operate. The approach is premised on early intervention mechanisms and entrenches the notion of mediation, arbitration and facilitation of conflict resolution. This, said Tohbi, should supplement existing conflict resolution structures in African countries.

1.4
KEY ISSUES AND RECOMMENDATIONS

During the general discussion at the end of this session participants raised a number of issues. Among these were the inherent problem of overstressing reliance on legal instruments and constitutions. One limitation of this approach is that countries do not always institutionalise laws and constitutions.

There was an imperative for countries to build strong institutions, which would increase the level of public trust and confidence in the electoral process. It was argued that judicial institutions, for instance, not only suffer from a lack of financial support and personnel (as reflected in some government budgets) but some are still embedded in colonial mindsets and consequently fail to be part of the broader democratisation process. So, part of the debate hinged on whether priority should be given to 'institutional' or to 'constitutional' prerequisites in terms of addressing the reasons why democracy-building through the electoral processes has proved to be retrogressive in some African states.

The example was given of India, where the paradox between electoral violence and democracy has been apparent. India is frequently referred to as the world's largest democracy and the question arises why persistent electoral violence does not appear to compromise the sustainability of its political and democratic system. The 'success' of democracy in India, despite recurrent electoral violence, seems to defy prevailing theories that stipulate preconditions for democracy. There is a need to examine this conundrum further.

Participants in this session reached several conclusions.

- Elections *per se* do not cause violence but the process of competing for political power often exacerbates existing tensions and underlying social grievances and escalates them into violence. Whether it is expressed as political or electoral, violence during elections centres on the criminalisation of the political process. The end result, among more serious and fatal consequences, is the disenfranchisement of the popular will.

- Elections offer a unique opportunity to create legitimate governments and serve as vehicles through which political power is retained or pursued.

- Candidates and parties highlight social differences as they campaign for popular support.

- Electoral processes may catalyse conflict by setting the stage for apparently spontaneous social clashes among rival supporters, which frequently have structural

social, economic, and political dimensions. Kenya, Zimbabwe and Nigeria all experienced endemic violence with widespread consequences and, in the worst cases (as in Zimbabwe), the failure of the state.

As a result it is necessary to emphasise the importance of building institutions rather than merely relying on legal instruments or prevention and management when electoral violence breaks out. To this end it was recommended that the approach include the provision of adequate financial and technical support to relevant institutions during an election cycle. More specifically, EMBs should be empowered and their capacity strengthened to enable them to play a decisive role in electoral processes and outcomes.

SESSION 2

KEY INSTITUTIONAL AND SYSTEMIC ISSUES

2.1
GENDER DIMENSIONS OF ELECTION-RELATED CONFLICT

Professor Sheila Bunwaree of the Centre for Conflict Resolution suggested a conceptual framework for analysing gender development and its interface with electoral violence. She emphasised that gender should not be perceived or understood as a 'women's issue' but should be considered a reflection of the power asymmetries between men and women. The consequences of such unequal power relations, which mark African societies, should be considered. Bunwaree reiterated that women are not a homogenous social group and so, in mainstreaming gender dimensions into policy instruments, factors like race, class and ethnicity should be recognised. The focus on gender, she said, was significant, as women, who are subjected to physical abuse, are often hardest hit during periods of electoral violence.

She emphasised the centrality of women in African politics, particularly their contribution to sustainable socio-economic development in a variety of ways. Although women's rights may be protected through national normative frameworks, namely constitutions and domestic laws, she argued that there is a disjuncture between legal regimes and the political culture and practice on the ground. Equally importantly, she stressed that, although the international and regional normative frameworks that states are party to supplement and support these national constitutions and laws, violence against women, particularly during elections, has persisted.

Bunwaree argued that although instruments such as the Convention for the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Additional Protocol on Women's Human Rights to the African Charter on Human and People's Rights are intended to be used strategically and proactively to build a reform agenda to address gaps in the protection of women's rights in Africa much more needs to be done. She further expressed discontent with the use of these instruments in the context of elections in Africa, specifically electoral violence, and reiterated that, currently, instruments are not being utilised effectively at national regional and continental levels to help strengthen gender equality in governance.

Bunwaree asserted that development, peace and democracy go hand in hand with political stability. Therefore, if the propagation of gender equality is not ensured, when there is conflict of any kind, particularly election-related, political instability tends to generate conditions which allow women's rights to be marginalised. She contended that conflict can exacerbate existing patterns of discrimination and violence against women and that, in situations of conflict, habitual abuses (such as domestic violence) take on new dimensions and distinctive patterns, as all forms of violence increase. She gave three examples, two negative:

- The election-related violence in Kenya was gendered in such a way that sexual violence against women was more prevalent.
- Election-related conflict in Zimbabwe and the adverse effects violent elections have on the long-term quest for gender equality.

and one positive example:

- In Rwanda, elections, which were held once the conflict was resolved, opened new spaces for gender equality through governance structures.

Bunwaree concluded by examining how best practices from the region can be utilised to mitigate the impact of election-related conflict on gender relations. The APRM was, she said, a tool which could be used to position women in politics and governance structures and consequently improve their participation in policy matters such as conflict resolution. She condemned the culture of impunity, which seems to subvert laws established to protect the rights of women.

2.2
ELECTORAL SYSTEMS AND CONFLICT IN AFRICA

As a point of departure **Professor Mpho Molomo** of the University of Botswana said that although electoral systems are important instruments for the consolidation of democracy in some instances they also tend to become a source of conflict. Some systems tend to reduce politics to a zero-sum game where 'losers' are excluded from government despite winning a sizeable proportion of the vote.

Electoral systems, he said, can be manipulative since they determine how elections are won and lost and, critically, the extent of representation and accountability of the ruling elite. Not all elections are democratic, he said, in some cases they are mere charades to legitimise authoritarian rule. Moreover, he asserted that in post-conflict situations elections are often imposed on people who are not ready for them and, depending on the type of electoral system, could be a source of conflict. According to Molomo the conundrum is whether electoral systems can engender democracy and whether they are the source of empowering or disempowering power dynamics.

The conceptual and theoretical bases of electoral systems, that is, how they can advance and/or prevent the institutionalisation of democratic governance, were also discussed. Molomo spoke of the three different political systems – first-past-the-post (FPTP), proportional representation (PR) and mixed member proportional (MMP), detailing the shortcomings of FPTP, using as an illustration the case of Lesotho where, until 1998, FPTP had perpetuated a one-party dominant system.

In an effort to redress the situation Lesotho put into motion a process of electoral reform, the result of which was the regeneration of the people's confidence in the electoral process. Of the three electoral systems, he argued, MMP was most representative of society and more likely to promote a democratic culture that is less susceptible to violent electoral conflict. FPTP, he argued, often produces election outcomes that do not mirror the popular vote and such outcomes tend to lead to tensions, which sometimes result in conflict.

Professor Molomo concluded that although elections are an essential feature of democracy they do not, in themselves, amount to democracy. It is one thing to talk about procedural and institutional democracy, of which electoral politics is a constituent, but quite another to talk about democratic politics. He stressed that democratic politics is about the conduct of politics within a framework of democratic values and practices and also about power relations in society.

2.3
ASSESSING AND MAPPING RISKS FOR ELECTION-RELATED VIOLENCE: EARLY WARNING MECHANISMS

Dr Abdul Lamin of UNESCO pointed out the paradox of holding frequent multiparty elections in Africa (which have been viewed as a healthy part of deepening democratic governance) on the one hand, and the violence that follows the practice of multiparty elections on the other. Elections, he said, have become, in and of themselves, triggers for conflict in Africa. Given this reality questions should be raised about the future of democratisation on the continent, since elections are a key feature of Africa's democratisation.

For Lamin, the debate about elections, or, more broadly, about governance in any geographical region, must be contextualised. To this end, he said, there is a need to recognise that Africa is a region of conflicting trends, particularly where governance is concerned. Generalisations about the African landscape ignore the fact that African states are diverse, in terms of both their historical experience and their local context. He alluded to the different, uneven and varying degrees of democratic consolidation on the continent and the problem of adopting a uniform approach to assessing and mapping the risks of election-related violence.

Secondly, Lamin said, democratisation in Africa should be contextualised in terms of political leadership. He alluded to the twin problems of political governance and security as perennial on the continent, maintaining that the problems are caused by poor and unaccountable leadership.

Four factors inimical to good governance are:

- a monopoly of state power residing in a small but influential elite;
- the inequitable distribution of state resources, which invariably leads to fierce contestation;
- the politicisation of identities (ethnic, religious, cultural, etc);
- the general lack of well-defined and predictable political succession mechanisms.

Lamin said the negative manifestations of political leadership have not only produced what some scholars have referred to as a subaltern culture and rent-seeking behaviour by a majority

of the population (particularly the youth), it has, in some cases, led to full-blown armed conflict. There were, he said, four categories/characteristics of governance models on the continent. These are:

- states on the path to consolidating their democratic gains, where successive elections have paved the way for a smooth and peaceful transfer of power from one regime to another (democratically elected);
- states where progress toward democratisation has limped along. In these cases there seems to be the political will to democratise but socio-economic constraints and the legacy of authoritarian rule and/or armed conflict derail the democratisation project in the long term;
- states where the political will to democratise is either lacking or diverted for the purpose of attaining minimalist gains;
- states where earlier gains or progress have been reversed because of violence, a return to military rule, or downright failure to transform the political process.

Building on the examples of Kenya, Zimbabwe, Sierra Leone and Ghana, he told the audience about the diverse applications of these categories of governance. He noted that in all four cases the elections were hotly contested. However, the manner in which issues were raised and subsequently addressed varied. For instance, in Sierra Leone and Ghana, the polls and their aftermath were generally peaceful and generally accepted. In Zimbabwe and Kenya, howeveer, there was controversy over the outcome which served as the basis for long-drawn-out political violence. Lamin concluded that international players played a crucial role in determining the outcome of elections, although, in some countries, their involvement was controversial and should, therefore, be properly managed.

2.4
KEY ISSUES AND RECOMMENDATIONS

There was broad agreement about the need to acknowledge the role of political leadership in security and governance in African politics. Where the power of the state is 'monopolised' to serve the interests of the ruling elite there is an inequitable distribution of resources which leads to fierce contestation for political power, to the politicisation of identities and eventually to conflict. Ruling elites are likely to reject an electoral outcome where they have lost and, where, when a political settlement follows an impasse, the settlement tends to become a permanent structure rather than a temporary transitional arrangement. Even when there is the political will to democratise, if underlying socio-economic challenges are not addressed they will increase tensions during election periods.

Participants affirmed that the approach to assessing and mapping the risks of election-related violence should also take into account realities of the society as a whole, not merely election-related events. Therefore, an electoral cycle approach should be adopted, focusing on, among other things, enhancing the overall efficiency of the electoral system and facilitating and promoting dialogue between the relevant local stakeholders as well as national institutions such as the judiciary, and the EMBs. The focus should be on reaching consensus about addressing election-related tensions before they deteriorate into violent conflict. To this end, the EMB's management of election is a crucial determinant of a peaceful electoral process and outcome.

Particular attention should be paid to the level of engagement of the EMB with political parties and the citizenry.

Another element was the need for election results to be announced as soon as possible. South Africa's 2009 parliamentary and legislative election results announcement was noted as a good example, in contrast to the delayed announcement of the results in Kenya in 2007.

There is a need for EMBs to harmonise the rules relating to the way poll results are announced and to strengthen the process of vote tabulation and the publication of results. It is also important to enhance popular participation in elections, especially of women and disadvantaged groups. Participants believed women should be empowered to play a more active role in electoral conflict management. There was consensus that gender issues are often on the backburner of policy discourse when they are, in fact, critical to shifting some of the structural and systemic issues facing African societies. Consequently, efforts should be intensified to create a political space for women in Africa.

Another subject of discussion was whether the choice of an electoral system can affect the potential for electoral violence. Participants agreed that, given the uncertain nature of elections, it can, but that no single electoral system is likely to be 'bullet proof'. So, the focus should be on the degree to which a particular electoral system is able to engender democratic politics and whether, in certain countries, it is likely to lead to conflict. In Lesotho in 1993 and 1998, Zimbabwe in 2008 and Kenya in 2007 the 'winner-takes-all' system was one of the factors which reduced politics to a zero-sum game where the losers, despite their sizeable percentage of the popular vote, are excluded from government. So, in addition to the type of electoral system, the potential for challenges and conflict depends on several identifiable factors specific to the country. These include the way and degree to which ethnicity is politicised, the intensity of political competition, and the degree of existing socio-economic disparities and grievances.

SESSION 3

THE ROLE OF INTERGOVERNMENTAL ORGANISATIONS

3.1
THE ROLE OF THE AU IN THE PREVENTION, MANAGEMENT AND RESOLUTION OF ELECTION-RELATED CONFLICT

Dr Francis Ikome of the Institute for Global Dialogue examined the role of the AU in preventing, managing and resolving violent election-related conflict on the continent, within the framework of its instruments on democracy, peace and conflict management. Setting the stage Ikome noted that in the post-Cold War environment issues of democracy, human rights and good governance have become regular items on the menu of inter-African relations. These issues have generated an increased propensity on the part of African leaders to enshrine a good governance ethos in their national constitutions and enabling laws. In the process, regional economic communities,

as building blocs of the AU, have also become lead actors in efforts to prevent and respond to the ever-threatening prospect that democratic governance will be subverted by recurrent electoral violence.

Ikome argued that elections on the continent have contributed, in some pollities, to the deepening of existing social cleavages and, in others, have been a source of open conflict, instability and insecurity. He argued that the balance sheet of post-1990 electoral democracy in Africa has been mixed because the AU has been able to evolve constructive responses to some conflicts but in other cases its responses have been either too slow or simply inappropriate.

Because of the principles and norms enunciated in its various legal instruments, programmes and processes the AU is expected to play a pivotal role in securing member states' commitment to democracy, the rule of law and constitutional government. The first of the AU instruments on democracy, peace and conflict management was the Kampala Declaration of 2000, developed out of the same processes as the 2000 Council for Security, Stability, Development and Cooperation in Africa (CSSDCA). Ikome argued that the CSSDCA Declaration encompasses three complementary principles which have helped shape the AU's overall approach to the prevention, management and resolution of conflict (including election-related conflict). These are that:

- the peaceful resolution of disputes must place emphasis on seeking African solutions to African problems;
- the prevention, management and resolution of conflicts provide the enabling environment for peace, security, stability and development to flourish;
- the responsibility for security, stability and the socio-economic development of the continent lies primarily with African states.

Subsequent AU instruments include the 2000 Lomé Declaration, the African Charter on Peoples' and Human Rights, the New Partnership for Africa's Development (NEPAD) Declaration on Democracy, the African Peer Review Mechanism (APRM) and the African Charter on Governance, Democracy and Elections. In appraising the AU's record thus far, Ikome said, it would be useful to consider the evolution of policies within the AU and their contribution to the ability to respond to challenges. Policies, he said, now seem to be more proactive, particularly involving the use of special envoys and special representatives, including the AU's Panel of the Wise, to intervene. With regard to the evolution of policy Ikome argued that the AU has become aware of potential sources of conflict and political violence emanating from socio-economic inequalities and politicised ethnic, religious and racial divisions. However, in spite of the volume and diversity of instruments and principles on democratic governance, there are still challenges in enforcing them. Ikome highlighted the following:

- Member states have the responsibility to facilitate early action by the Peace and Security Council, however, although there is a draft Roadmap for the Development of an AU Continental Early Warning System (CEWS), the early identification of the root causes of conflicts remains weak.
- The length of time it takes for the AU to intervene results in a failure to contain the escalation of electoral conflicts. This does not augur well for the efficacy of the

proposed CEWS, since the AU must go beyond information gathering and analysis to timely intervention.
- For several years the AU has only been able to intervene in national elections of its member states through observer missions.

3.2
THE ROLE OF SADC IN MEDIATING POST-ELECTION CONFLICT: A COMPARATIVE ANALYSIS OF LESOTHO AND ZIMBABWE

Dr Khabele Matlosa of EISA explored the interventions of the Southern African Development Community (SADC) in post-election political crises in its member states, comparing SADC's interventions in Lesotho (2007) and in Zimbabwe (2008) in order to extrapolate good practices SADC could use to better prevent and manage electoral conflict. He examined the successes and challenges of SADC's mediation efforts through its special envoys, the former president of Botswana, Sir Ketumile Masire (Lesotho), and the former president of South Africa, Thabo Mbeki (Zimbabwe).

Matlosa highlighted the need to focus on the political economy of electoral violence, which he sees as centred on three factors: state power, resources and identity. He argued that state power, which is the fulcrum of politics in Africa, tends to trigger tense and fiercely contested elections which often lead to violence. African political elites also perceive state power as a licence to accumulate wealth through access to state resources. While in some instances election-related conflicts emanate from the management of elections in others they are a manifestation of deep-seated contestation over the control and distribution of resources such as land.

African political elites exploit the social diversity of their countries for personal political gain by politicising ethnic identities. While ethnic diversity, in and of itself, is not a problem, the elites' deliberate politicisation of it in order to gain power and control state resources is a major problem. Matlosa stated that although the factors which contribute to electoral violence are specific to each country, in both Lesotho and Zimbabwe the violence did not stem from the elections *per se* but emanated from structural societal factors – the control of the political elite over the state and its resources and the amenability of state institutions to manipulation. In the case of both countries Matlosa touched upon issues relating to the institutional and legal framework, the political actors and their relationships, and the way elections were conducted.

Considering Lesotho, he noted factionalism, the informality of party coalitions, the distortion of the MMP electoral model and the distortion of the allocation of PR seats in Parliament. In Zimbabwe, he said, the factors were multifaceted and included the absence of public trust in the EMB, a low level of political tolerance, polarised and biased media, delays in the announcement of the election results, the negative role of the security forces during the elections and the controversial presidential run-off poll.

He noted that in both countries internal remedies to de-escalate the conflict and manage it constructively failed dismally and the parties were unwilling to reach a compromise even when it was clear that the political impasse and instability were leading to a severe decline in the countries' economies. As internal efforts to manage the post-election conflict failed SADC intervened.

Matlosa analysed SADC's response to the conflict in the two countries as well as its mediation agenda. After examining its mediation efforts in Zimbabwe he concluded that although (with the involvement of former-South African President Thabo Mbeki) a government had been formed including both the Movement for Democratic Change and the Zimbabwe African National Union-Patriotic Front its future in its present form was bleak.

In Lesotho there had been some positive developments, which he attributed to the sterling mediation efforts of Sir Ketumile Masire. However, despite the contribution made by the mediation efforts to the resolution (or management) of the conflict the situation now appeared to be in limbo, with the Christian Council of Lesotho (CCL) having taken up the mediation role. There was, Matlosa said, cause for cautious optimism about the internal mediation effort, but a resolution remained uncertain

There were five lessons to be learned from these two examples:

1. It is important to look at the political economy of a state and its contribution either to a peaceful electoral outcome or to electoral conflict. Struggles for power and resources were at the heart of electoral violence in Lesotho and Zimbabwe.
2. The fact that in both countries local remedies were ineffective highlights the need for SADC member states to build robust and effective institutional mechanisms to prevent and manage electoral violence. However, emphasis should be put on preventative, as opposed to managerial strategies.
3. The SADC intervention in both countries achieved modest results, primarily because of the high political stakes involved, and because of SADC's own internal capacity constraints. There is a need to strengthen mediation capacity substantially and it is encouraging that SADC is in the process of establishing a mediation support unit.
4. SADC mediation should be underpinned by inclusivity and transparency. Equally important is the need to address concerns about the partiality of the mediation process. A key recommendation is that SADC should rely on former heads of states and government (the 'Panel of Elders') rather than on sitting presidents to conduct mediations.
5. The fact that SADC member states tend to cling to national sovereignty is a major impediment to efforts to move towards political integration. The two countries were unwilling to accept and concede to SADC's recommendations, thereby putting their interests over those of the region. Attention must be paid to strengthening member states' commitment to the regional body.

3.3
ECOWAS AND ELECTION-RELATED CONFLICT: CASE STUDIES OF NIGERIA AND GUINEA BISSAU

Professor Ade Adefuye of the Economic Community of West African States (ECOWAS) summarised the challenges of election-related conflict among member states of ECOWAS. Although the presentation concentrated on general political trends in West Africa, Adefuye explored in detail the elections in Nigeria in 2007 and in Guinea Bissau in 2009 to elucidate his observations.

He questioned the capacity of ECOWAS to intervene effectively in conflict situations in member states by tracing the evolution of ECOWAS generally and its security mechanisms specifically. When the body came into existence in 1975 its initial preoccupation was the promotion of economic development and integration in the West African region. However, the outbreak of conflict, and later, civil wars in Liberia (1989-1996, 1999-2003) and Sierra Leone (1991-2002) compelled a re-conceptualisation and modification of ECOWAS's objectives, strategies and modus operandi.

The ECOWAS Treaty was revised in 1993 to accommodate the security imperatives in the region. The result was the Mechanism on Conflict Prevention, Management, Peacekeeping and Security. The mechanism includes a Supplementary Protocol on Democracy and Good Governance, which was adopted in 1999 and contains a section on constitutional convergence principles and articles on the conduct of elections. The ECOWAS Electoral Assistance Unit will observe elections if states request it to.

Adefuye said that whereas ECOWAS has a normative framework for the promotion of credible, transparent and violence-free elections, the application of this framework is rather limited. Part of the reason for this lies in the complexities and sensitive nature of politics in those countries, influence from the international community, which sometimes hampers the positive outcome of interventions, and ECOWAS's internal capacity constraints.

In the case of Guinea Bissau, for instance, there was a failure to intervene in a timely fashion, as much was left to the state, which was undergoing major political transformation after the death of its long-term president, Joao Bernardo Nino Vieira. With respect to Nigeria, Adefuye observed that since the country is a hegemonic force in West Africa it tends to undermine ECOWAS decisions, using (at times, abusing) its regional muscle. He stated that some observers have identified Nigeria's dominance in ECOWAS as an obstacle to ECOWAS's speedy intervention in that country.

Adefuye considered the preservation of state sovereignty by ECOWAS member states to be one of the main obstacles to the efficacy of its intervention provisions. He concluded that for ECOWAS's elaborate security instruments to be implemented effectively supra-national institutions should be established. This, in turn, would require ceding some state decision-making powers to these supra-national institutions.

3.4
KEY ISSUES AND RECOMMENDATIONS

It was concluded that, since election-related conflict may arise at any stage in the three-phase election cycle, there is a need to institute an enduring and useful process of checking electoral malpractice, develop instruments for managing conflict whenever it occurs, and maintain active engagement with various stakeholders involved in the electoral process throughout the electoral cycle. Participants said early warning systems should not focus solely on security but should have a strong pre-election assessment component which takes into account both political and socio-economic factors. Although SADC has developed an early warning system this has been criticised for focusing predominantly on security indicators (in the traditional sense), instead of taking a more comprehensive view which includes developmental and governance indicators.

Participants discussed the need for an adequate understanding of the various components, stages and entry points of a prevention and management strategy to be used by governments and inter-governmental organisations to better plan and respond to electoral crises and conflict. They lauded the existence of the written policies of the AU and regional bodies in relation to peace and security and early warning but felt the application of the policies was unsatisfactory.

The discussion particularly highlighted the ineffectiveness or limited effect of the AU, SADC and ECOWAS in the domain of conflict resolution. While there was consensus about the utility of the African Charter on Democracy, Elections and Governance, the reluctance of African governments to commit fully to the charter by ratifying it was seen as a major stumbling block. Thus far Ethiopia and Mauritania are the only two countries to have ratified the charter, the irony being that Mauritania's coup d'état took place subsequent to this ratification, highlighting, again, the AU's ineffectiveness in conflict situations.

It was recommended that efforts should be intensified to persuade a significant number of member states to sign and ratify the AU charter and then to popularise it nationally and locally.

It was recommended that SADC define the criteria for selecting mediators and choose former heads of state as opposed to sitting presidents who might encounter conflicts of interest in their efforts to intervene. The protection by SADC member states of their sovereignty was considered to be subverting and undermining SADC's ability to prevent and manage electoral conflicts effectively. The challenge, given the diverse bilateral and multilateral political and economic engagement of member states with international partners, is how to 'pool' sovereignty as part of regional integration efforts. For example, bilateral engagements such as those with China might not coincide with SADC policies on governance and human rights.

SESSION 4

UNCONSTITUTIONAL CHANGES OF GOVERNMENT AND POWER-SHARING AGREEMENTS IN AFRICA

4.1
DEMOCRACY IS NOT ENOUGH: THE LEGITIMACY CRISIS AND THE RESURGENCE OF MILITARY COUPS IN AFRICA

The resurgence of militarism and military coups, said **Professor Mwesiga Baregu** of the University of Dar-es-Salaam, Tanzania, is a response to the crisis of legitimacy of governance in African countries. The first wave of military coups in Africa, between the 1960s and the early 1980s, he said, was driven by discontented middle-rank officers within the armed forces. From the 1970s and early 1980s, however, the coups coincided with the imposition of IMF/World Bank structural adjustment programmes. Now a new wave of military interventions has swept over the continent, these coups rooted in the persistent failure and/or the diminishing legitimacy of states. Whether this phenomenon is transient or more permanent will depend on the conditions that have given rise to it and on the forces that drive it. There are, he said, four types of military interventions in politics in Africa, namely:

- *Type A:* Military intervention in which the state, finding itself increasingly unable to maintain rule by consent, calls in the army and reverts to rule by force. Since the state has lost legitimacy it relies increasingly on the security apparatus rather than on civilian institutions to govern. It steadily concentrates power in the presidency and politicises the security institutions, transforming them into instruments of rule. Authoritarianism replaces democracy. In Latin America, this process, practised, for instance, by Fujimori in Peru, is described as *aotogolpe*.
- *Type B:* The 'indignation of the generals', in which the commanders respond to the loss of authority by the state and the breakdown of law and order and intervene independently to avert anarchy and restore order. This was the case with successive coups in Nigeria in which generals such as Buhari, Babangida and Obasanjo claimed to have intervened in order to clean up the government.
- *Type C:* The 'rage of the ranks', in which a progressively dissatisfied rank and file organises against its commanders and purportedly joins forces with the aggrieved masses to overthrow the existing order. This is what happened in Liberia under Samuel Doe and, more recently, Hugo Chávez in Venezuela and Evo Morales in Bolivia.
- *Type D:* This may be termed the 'resurgence of foreign intervention', in which mercenaries, private military companies and foreign armed forces are deployed on missions to overthrow governments in targeted African countries. This is what happened in 2004 when conflict entrepreneur Mark Thatcher, in collaboration with the mercenary Simon Mann and others, attempted to overthrow the government in oil-rich Equatorial Guinea.

Baregu argued that the above scenarios entail not only the supplanting of democracy but the reversal of all the democratic and human rights gains made in the past two decades. He underscored the imperative to avoid all of them as they could mark the beginning of a return to authoritarianism. He further noted that the existence of constitutions does not seem to be a significant deterrent of coups, primarily since most countries' constitutional frameworks had been heavily influenced by colonial legacies and are thus, not truly representative of the society and the state. Rather, he said, they are institution-centric and exclude the very people they are intended to serve.

4.2
POST-ELECTION CONFLICT AND POWER-SHARING DEALS IN AFRICA: A NEGATION OF DEMOCRATIC ELECTORAL OUTCOMES

Mr Victor Shale of EISA examined the effectiveness of power-sharing deals as a post-electoral conflict management mechanism, focusing on the experiences of Kenya (2007) and Zimbabwe (2008). He noted that although there is some value in power-sharing agreements in post-conflict situations, such agreements can have the effect of subverting the democratic outcome of conventional electoral processes. The trend emerging on the continent to capture power through negotiated power-sharing deals was disturbing, he said.

Shale noted that in some countries the electorate is 'blackmailed' into accommodating politicians who lose elections, 'so as to avert civil unrest'. Thus, power-sharing negotiations produce outcomes which have less to do with the people's interests than with those of the political elites.

Shale set out four main contributory factors to election-related conflict:

- Political leadership which serves narrow and selfish interests. This is also apparent in the manner in which incumbent politicians embark on extending their terms beyond the stipulated periods.
- A culture of undemocratic governance where politicians regard the state as an avenue to the accumulation of wealth.
- Weak institutions which are amenable to being circumvented.
- Procedural shortcomings in the electoral cycle, for example, in the delimitation of boundaries, political campaigns, media coverage of elections, voter registration, the voters' roll and the management of results.

Taking a leaf from Arend Lijphart's theory of consociational democracy, Shale offered a theoretical perspective on power-sharing, which explains how culturally-segmented societies can establish peace and democracy by prescribing power-sharing among the various cultural segments.

He underlined four types of power-sharing arrangements: grand coalition, cultural autonomy, proportionality and minority veto. Shale argued that neither Kenya nor Zimbabwe fits into the scope of 'deep societal cleavages' proposed by Lijphart's consociational democracy theory and stressed that the post-election conflict in the two countries was not necessarily triggered by chronic cleavages and that power-sharing deals were not necessarily the appropriate mechanisms for resolving the problems. He noted that in both countries deficiencies in the management of the electoral process contributed to the violent aftermath of the elections.

He concluded that the power-sharing approach is a short-term solution to post-electoral conflict and is no guarantee of long-term peace. The power-sharing arrangements in both Kenya and Zimbabwe are founded on compromises reached by political elites and are therefore not firmly grounded in popular consent. Even more disturbing is the fact that the political leaders were more preoccupied with sharing the spoils through the distribution of ministerial portfolios than with focusing on building sustainable peace and democracy and advancing socio-conomic development in the long term.

Power-sharing arrangements, he said, negate the value of electoral processes and, if left unchallenged, will effectively render the vote irrelevant and make way for tyrannical regimes. Instead, he said, there should be respect for the rules and regulations of the electoral process, the institution of conflict management mechanisms prior to elections and, in the event that conflicts arise, he recommended the adoption of citizen diplomacy alongside official diplomacy in order to effect a long-lasting solution to the conflict.

4.3
KEY ISSUES AND RECOMMENDATIONS

When the root causes of conflict in a political system lie in failures of the state, as in the cases of military coups, conflict prevention and management are difficult. Military interventions challenge the legitimacy of the state and exacerbate any fragility. It was concluded that one of the main ways to address military interventions and unconstitutional changes in government is to inculcate a culture of constitutionalism through constitution-making processes.

The distinction between a constitution as a document and constitutionalism as the ethos that informs the constitution was highlighted. It was emphasised that constitutionalism is the political culture that nurtures and sustains adherence to a constitution as a social contract between rulers and the ruled. Constitutionalism also underwrites the legitimacy of the state through practice, behaviour and consensual mutual expectations between the rulers and the governed. It was concluded that constitutionalism as a process will not only produce strong and legitimate states in Africa but will go a long way towards reinvigorating the process of African unity.

The post-election political impasses in Kenya and Zimbabwe should not serve as templates for electoral processes in other countries. The effectiveness of inclusive governance arrangements applied in the form of power sharing is temporary – power-sharing agreements are short-term transitional arrangements intended to resolve conflict pending a move towards the restoration of democratic normalcy. There was consensus that power-sharing deals are reached without popular consent and that, for this reason, they compromise political legitimacy, as citizens play no role in the negotiation process.

Three conditions were necessary if elections were to add value to democracy: the need to implement international principles of election management, the adoption of solutions such as citizen diplomacy (the involvement of ordinary citizens rather than conventional diplomats) and the enhancement of the capacity of electoral management bodies to manage elections transparently, credibly and efficiently. This is not to suggest that the electoral violence in Kenya and Zimbabwe was the result of the technical incompetence of the EMBs, rather that it is important to consider the broader contexts within which EMBs operate.

SESSION 5

ELECTORAL INTEGRITY

5.1

THE CHALLENGES OF ELECTIONS IN AFRICA: LESSONS FROM THE APRM PROCESS

Dr Afeikhena Jerome of the African Peer Review Mechanism (APRM) secretariat offered an appraisal of the major electoral challenges in Africa as well as the interface among elections, peace and political stability in countries that have undergone the APRM process.

Jerome gave an overview of the APRM process and of the purpose of the APRM – to foster the adoption of policies, standards and practices that lead to political stability, high economic growth, and sustainable development, praising it as the most innovative aspect of the New Partnership for Africa's Development (NEPAD). This 'innovation' resides in its self-monitoring instruments, which were agreed to by AU member states, and in the fact that it is guided by the principles of transparency, accountability, technical competence and credibility and is free of political manipulation.

He noted that of 53 African states 30 have acceded to the APRM and 26 of these have launched the process. He further noted that those countries which have undergone the process have added value to their democratisation and have been recognised by other institutional entities as

having acceptable levels of freedom. Jerome analysed elections in APRM countries, indicating the challenges facing those countries during the electoral cycle. He highlighted several issues which emerged from the country APRM reports:

- Ghana: a lack of democracy within political parties and a lack of financial resources and capacity for the electoral commission.
- Rwanda: limited freedom for political pluralism and competition.
- Kenya: the absence of broad-based and inclusive political parties that cross ethnic divides, and the politicisation of ethnicity.
- South Africa: floor crossing and the non-disclosure of the sources of funding of political parties.
- Algeria: state control over the electoral system.
- Benin: diminished credibility of the EMB, which is dissolved after every poll, and the clandestine financing of campaigns.

Jerome observed that although elections are held regularly in most countries, their credibility and legitimacy is often questionable. In those countries that have undergone peer review there was some optimism that the process would help to address the structural issues inherent in the countries, and the understanding of elections as processes and not one-off events. However, as Jerome noted, the APRM is a voluntary mechanism and its value can only be seen in countries which apply its provisions.

5.2
ELECTIONS AND CONFLICT IN ZANZIBAR

Dr Bernadetta Killian and **Mr Richard Mbunda** of the University of Dar-es-Salaam used a case study of the electoral conflict in Zanzibar in 2008 to underscore the importance of the effective prevention and management of conflict. Mbunda gave a brief overview of Zanzibar, which is part of the United Republic of Tanzania, highlighting its political history and saying that the British colonial legacy still haunts its politics. When Zanzibar began to be organised politically, in 1900, this was done on the basis of race and class. There were four main associations, namely: the Arab Association – 1900, the Indian Association – 1910, the African Association – 1934 and the Shiraz Association – 1939. These associations determined both the way political parties were created during the struggle for independence and the strategic alliances between Arabs/Shirazi and Africans/Shirazi.

The British colonial administration played a central role in organising these associations and, pursuant to its plan to divide and rule, it ranked racial groups in terms of class, a move that marked the start of the friction between the Shirazi and the mainland Africans which is currently at the centre of Zanzibar's politics. After the revolution which ushered in independence the Arabs left, but the Shirazi remained, a fact that was to have negative repercussions as the Shirazi and Pemba groupings suffered persecution and marginalisation because of their strategic alliance with the Arabs in the late 1950s and early 1960s. The current political landscape is formed around contested identities.

Mbunda noted that in 1992 Zanzibar instituted political reforms which marked its transition to multiparty politics. Since then three general elections have been held (1995, 2000, 2005) and,

unlike those in Mainland Tanzania, all three have been highly competitive. The focus was on two major parties – Chama Cha Mapinduzi (CCM) and the Civic United Front (CUF) – and the results were hotly contested and, at times, followed by violence and a continuing political impasse known locally as a *political fracture*. Although many factors explain the causes of the conflict, at the core of the dispute lies a power struggle embedded in the historical mistrust born during the independence struggle.

Mbunda stressed that elections in Zanzibar are driven by the strategic interests of the political parties. For example, the CCM uses (and manipulates) elections as a means of legitimising its attempts to cling to power, while the CUF wishes to use them as a means to oust the CCM democratically. He indicated that international intervention in the form of external facilitators such as the Commonwealth and donors has not yielded results and the political impasse persists, even as Zanzibar prepares to go to the polls in 2010. In order to end the impasse a number of complementary processes would have to be put in place, including the appointment of a suitable mediator to help the parties find a durable solution and a national dialogue process which would contribute to social cohesion in a much divided society.

5.3
AFRICAN CONTINENTAL BODIES IN THE BUSINESS OF ELECTION OBSERVATION: THE PAN-AFRICAN PARLIAMENT IN KENYA AND ZIMBABWE

Dr Lucien Toulou, EISA, Chad, gave an overview of the Pan-African Parliament (PAP)'s involvement in Kenya and Zimbabwe and assessed the extent to which it has been able to play a positive role in election observation. Setting the scene, he said the PAP, a newcomer to the field of election observation in Africa, entered the arena at a time of growing consensus that African observers are better suited to observing African elections than their international counterparts because they are familiar with the local context, cultures and languages. However, one of the challenges which faced the PAP in both Kenya and Zimbabwe was how it would assert its authority in the broader field of electoral assistance in view of the fact that it merely played a consultative role and lacked legislative 'teeth', compared with the overwhelming executive power of the African Union.

PAP was, and is, he said, largely perceived as 'a noise-making body without any real legislative powers'. PAP's maiden observer mission, mainly a pilot mission, was during the Kenya election. Its mission in Zimbabwe was, however, fully fledged and a significant milestone in its election observation role. In the face of suggestions in some quarters that the PAP would merely rubber-stamp the elections to counter pessimistic perceptions about their credibility in the absence of some Western observers, who were refused accreditation, the Zimbabwe elections were something of a litmus test for the PAP. According to Toulou it rose to the occasion and provided an objective report of the electoral process, thus asserting itself as a credible professional and reliable election observation mission.

Toulou outlined the three major challenges for PAP in its election observation undertakings. These are:

- Institutional: The PAP Protocol states that during its first term the Parliament will exercise advisory powers only. This therefore limits the degree to which it can

articulate and take a position on election irregularities.
- Legitimacy: there is still ambiguity about whether PAP is answerable to African leaders or to the people of Africa.
- Sustainability: PAP's election observation capacity is still in its embryonic stages.

5.4
KEY ISSUES AND RECOMMENDATIONS

A number of critical questions raised during this session about the political dynamics in Zanzibar and the quest for a durable solution to the conflict require further analysis. Among the issues raised were the suitability of the current PR electoral system, which was identified as an important factor in the conflict in Zanzibar. Among the suggested ways of improving the election processes were the need to make an effort to improve the environment for pluralism and to institute electoral reforms, although questions remain about the kind of electoral system that will deal effectively with the nature of political polarisation between the two islands.

Other proposals included developing measures which can address identity and class issues effectively and improve social cohesion and, in the area of governance reform, the rule of law, civic education, and socio-economic development policies. There was consensus that, in mediating the conflict, the international community must take into account the fact that it is not only caused by fierce multiparty competition but has its roots in the colonial legacy of ethnic and racial politics.

Is the PAP ready to assume and capable of assuming the responsibilities that flow from its mandate? What has been the impact of its electoral missions and reports when it is purely a consultative body without full legislative powers? Participants reflected on these questions and noted the challenges faced by the PAP in terms of institutional sustainability and legitimacy. One view expressed was that the PAP has had little success in maintaining the optimism generated by its launch.

Related to this is its weak interface with civil society, which has resulted in few people participating in its overall work. Although the PAP is gaining visibility as a significant player in the area of election observation it is still perceived as a toothless organ of the AU. It remains essentially an advisory body with no legislative powers, although it is expected to take on a legislative role in the future.

Since, currently, its prospects of playing an oversight role in the actions and activities of African executives remain weak there is a need to strengthen its internal institutional capacity as well as its modes of engagement with member states. Specific to election observation is the need for a gradual movement towards developing the capacity to monitor elections in a way that allows the PAP to intervene where democratic principles are not being upheld. It was recommended that, until this is possible, African countries should adhere to existing mechanisms and instruments which promote the principles of human rights, democracy, good governance, transparency and accountability in member states

There was robust debate about the effectiveness of the APRM process in the prevention and management of electoral conflict and about ways to popularise the ARPM in countries which

have not adopted it. Although it is considered to be a somewhat ambitious, homegrown attempt to address bad governance and the fundamental causes of conflict, there was consensus about the fact that is useful in preventing and managing conflict. Participants agreed that the substance of the ARPM makes connections between peace, governance and development, elements which are often at the core of people' grievances during election periods.

However, participants questioned whether, in practice, the methodology of self-assessment was inclusive enough, and whether the APRM as an institution can do much to act on the outcomes of the process. For example, since, through the process, issues of governance, patronage, and 'big man' political dominance have been identified in some African countries (Uganda for example) is it possible for the APRM to institute the principle of presidential term limits? Questions were also raised about the APRM's credibility and ability to act, as in the case of Kenya, where its reports predicted that there would be conflict, and in other conflict hot spots such as the countries of the Great Lakes region.

The APRM process is voluntary and there is no legal way of forcing governments to adopt recommendations arising from its reports, but it was agreed that governments should be more assertive in implementing the recommendations and embarking on the necessary reforms. Participants also concluded that all AU countries should accede to the APRM process as it can be used as an early warning mechanism during the electoral cycle. It was also recommended that countries should ratify other democracy-building instruments such as the African Charter on Democracy, Elections and Governance.

It is anticipated that ratification of the charter would strengthen its implementation and would encourage countries to incorporate it in their election systems.

Another recommendation, which seemed to be a running theme throughout symposium deliberations, was the need to empower EMBs to operate efficiently, and professionally, but, more critically for African countries, to allow them to operate independently. The latter, according to participants, would not be a challenge if countries had ratified and adhered to the relevant continental and regional protocols.

SESSION 6

PREVENTION, MANAGEMENT AND RESOLUTION OF ELECTION-RELATED CONFLICT

6.1
THE ROLE OF MULTIPARTY LIAISON COMMITTEES IN PREVENTING AND MANAGING CONFLICT IN SOUTH AFRICA

Mr Mosotho Moepya of South Africa's Independent Electoral Commission (IEC) outlined the legislative framework of elections in South Africa and reviewed briefly the way the legislation has been applied with reference to the 1999, 2004 and 2009 national and provincial elections.

He elaborated on conflict mitigation measures, since, as he noted, elections in South Africa are always fiercely contested. He specifically emphasised the critical role of the party liaison committees (PLCs) established by the IEC as an important political co-operation mechanism which has contributed substantially to the prevention of electoral violence. These committees were established at national, provincial, and municipal/local levels as vehicles for consultation and cooperation between the commission and registered parties on all electoral matters.

Although they have no decision-making powers, PLCs advise the IEC how to deal with potential conflicts and conflicts between different parties or between a party and the IEC. Their primary purpose is to promote transparency through consultation, to promote trust between parties and between parties and the IEC, and so to promote conditions conducive to free and fair elections. Moepya noted that a national committee had been functioning since 1997 and provincial PLCs were subsequently established. He highlighted the features of PLCs which make them efficient conflict management and resolution tools:

- They are permanent structures that convene with the commission at regular intervals and more frequently during election cycles.
- They are established at all levels of society, have grass-roots knowledge and can warn of potential conflict.
- They are avenues through which parties can raise matters of concern and be assured that action will be taken as they make recommendations to the commission and the commission has a feedback mechanism to inform PLCs.

Moepya also emphasised that South Africa's electoral legislation provides that PLCs be consulted on certain matters. Among these are voting district boundaries, the identification of polling stations, and the selection of presiding officers, to name but a few. The PLCs, therefore, play a watchdog role, monitoring one another as well as the commission's conduct during an election period.

He stressed the importance of cultivating a culture of co-responsibility and mutual trust, as had been done through the PLCs. Apart from their contribution to transparency PLCs have a unifying effect, binding all political role-players in an endeavour aimed at respecting rules and regulations throughout the electoral process.

Although elections in South Africa have been conducted in a tense political and social environment, he said, they have proceeded smoothly, owing largely to cooperation among the PLCs and all stakeholders. Moepya concluded that given the amount of political contestation and conflict that has accompanied some elections on the African continent, a key recommendation to EMBs would be to strengthen their relationships with political parties by establishing PLC structures which can be used to prevent and manage electoral conflict.

6.2
THE APPLICATION OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS IN HANDLING ELECTION-RELATED CONFLICT

Dr Gavin Bradshaw of the Nelson Mandela Metropolitan University, Port Elizabeth, outlined the general nature of social conflict and, more specifically, the dynamics of conflict and

competition. Conflict literature, he said, draws a distinction between conflict and competition, with competition seen as 'not requiring direct confrontation'. He also referred to the literature on integrative bargaining and distinguished between interest-based conflict (competition) that may be resolved by negotiation, and value-based conflict that is more deep seated.

Bradshaw said the origins of electoral conflict were the highly competitive nature of elections. There will, therefore, always be occasions when competitive urges stress the system. To this end, he emphasised the importance of providing for alternative dispute resolution (ADR), one of the most efficient and cost-effective approaches for dealing with disputes and conflict.

Using Kenya, Zimbabwe and Sudan as examples, he said that in protracted conflict situations conventional/traditional conflict resolution mechanisms cannot deal adequately with deep-rooted disputes. He suggested that, similarly, electoral conflict is very complex and cannot simply be seen as conflict of interest between parties, so standard negotiation and mediation-based techniques are unlikely to prove effective and it is necessary to consider other forms of ADR. But he added that where ADR has been used it has tended to be a 'band aid' solution as opposed to one more permanent and embedded in conflict resolution mechanisms. He listed four ADR tools and good practice:

- Mediation
- Arbitration
- The application of conflict management systems
- The institutionalisation of conflict management

In his conclusion he said it was necessary to recognise the importance of satisfying basic human needs and to institutionalise conflict resolution 'as a political system' on an ongoing basis. Provision should be made for proactive conflict resolution mechanisms which also have an early warning function. He emphasised the need to move from relegating the management of conflict to the sidelines of the political process to mainstreaming it, with a heavy emphasis on ensuring sustainable human security.

6.3
ELECTION-RELATED ASPECTS OF THE HANDLING OF THE POST-ELECTION CONFLICT IN KENYA: REFLECTIONS ON THE INDEPENDENT REVIEW COMMISSION

Professor Jörgen Elklit of the University of Aarhus, Denmark, asessed the dispute that followed the 2007 Kenyan presidential, parliamentary and local elections and suggested steps that might have been taken to remedy the situation. He focused mainly on the electoral process and on suggested remedies in relation to the future conduct of elections in Kenya. The finalisation of the vote count and the presentation of the results of the elections, he said, have been perceived as the primary causes of the tragic violence and ethnic cleansing that took place in January and early February 2008.

An Independent Review Commission (IREC) was established to 'inquire into all aspects of the 2007 elections, with particular emphasis on the presidential election'. The report drew on the analysis of data from the elections, based on sample constituencies and case studies. Other elements of IREC's mandate entailed analysing the legal and constitutional framework under

which the elections were held, examining various aspects of the Electoral Commission of Kenya (ECK), public participation, conduct of the media, civil society and observers, and investigating the vote counting and tallying process in order to assess the integrity of the results.

Elklit indicated that those constituencies that were considered in IREC's report were selected for a number of reasons: because electoral fraud claims were made about the results by political parties and other bodies; because they exhibited electoral anomalies such as a particularly high turnout or major differences between the turnouts in the presidential and the parliamentary elections; or because they had special features or attributes that were prone to electoral abuse.

Elklit detailed the commission's understanding of its mandate, described the difficulties it encountered in its work, and concluded that it was difficult to determine systematically who had won the presidential election. He added that a surprising conclusion was that the key problems identified by IREC were not the finalisation of the vote count or the way results were presented, they related to the ethnic composition of the country, the political culture, and the mismanagement of elections by the electoral commission.

6.4
KEY ISSUES AND RECOMMENDATIONS

It was reiterated that the responsibility for 'early warning' resides with all the stakeholders involved in the electoral process, including the media, legislative bodies, political parties and civil society; that such early warning signals should be integrated into activities during an electoral cycle and that conflict management processes should become an important part of the development process.

Participants felt reaction-oriented, ex post facto interventions in the complex dynamics of electoral conflict were ineffectual and recommended that conflict management mechanisms, including early warning tools, be integrated into the process by means of a coordinated approach to the programming of elections, democracy, governance, human rights, and gender.

Action-oriented information-gathering and constant dialogue among election stakeholders, as in the case of South Africa's party liaison committees, was an example of best practice in this regard and it was recommended that other EMBs on the continent consider establishing similar structures, which would serve as avenues of consensus building among the EMB, political parties and the electorate.

The Kenyan experience underscores the urgency of understanding the complicated nexus between election management and conflict prevention. IREC found that the extent of electoral malpractice during the 2007 presidential elections made it difficult to establish conclusively which of the two main presidential candidates had won the election.

Although the difficulties in establishing the presidential winner raised fundamental questions about the legitimacy of the current office bearers, symposium participants questioned whether its report was based on consideration for posterity (the undesirability of potentially destabilising the newly formed coalition government) at the detriment of democratic principles.

Participants agreed that there was a need for extensive institutional and governance (socio-economic and political) reform in Kenya, particularly in relation to the Constitution and to the conduct of elections.

CONCLUSION

EISA's election calendar for 2010 indicates that 24 elections are scheduled in Africa. Drawing on the experiences of electoral conflict (in its different manifestation) in 2009, it is critical to continue to raise the question of prevention and management of such conflict, emphasising the practical adoption and implementation of instruments and programmes to address the underlying causes of the violence. Although symposium participants agreed that an election is defined not only by the electoral rules but by the social values, politics, religion, history and culture of the people, several conclusions were reached and recommendations made. These are outlined below.

- The maintenance of peace, security and stability in Africa requires a comprehensive approach to conflict prevention. African governments, in cooperation with the AU and RECs, could mobilise more effectively to prevent electoral conflict where there is the political will to do so. Political leaders willing to enact the necessary governance reforms could reduce the democratic deficit and the gap between the interests of ruling elites and the needs of the people.
- The slow rate of ratification of critical documents like the African Charter on Democracy, Elections and Governance and the failure by countries to implement regional and international commitments continue to hamper progress in electoral management and the prevention of violence.
- Electoral reform is mostly effective when located within the broader context of democratic governance and conflict prevention and mitigation, whereby the legitimate, accountable and effective exercise of state authority contributes to the constructive management of social change.
- There is a need for greater attention to be paid to creating an enabling environment for the holding of conflict-free elections. Major hotspots should be identified early in each of the electoral phases.
- The building of consensus among key stakeholders – the EMB, political parties and civil society organisations – about best electoral practice, norms and standards would minimise the likelihood of electoral violence.
- Although there is ample scope for the participation of diverse civil society components in the work of national, regional and continental institutions, partnerships between civil society and these institutions are currently weak.

Participants discussed and proposed the following:

- The African Union and the regional economic communities must encourage the ratification and implementation of the African Union's Charter on Democracy, Elections and Governance and instruments and programmes that address the underlying causes of violent conflict and harmonise their activities, building on the 2008 'Memorandum of Understanding on Cooperation in the Area of Peace and Security'. There is also a need to improve domestic legal frameworks in accordance with the continental and regional frameworks.

- ❑ The AU Commission should undertake a focused campaign for the completion of the African Peer Review Mechanism process to reinforce transparency and accountability in all governance processes.
- ❑ RECs should establish regional electoral commissions to provide long-term support to national election processes.
- ❑ The Pan-African Parliament and regional parliamentary assemblies must be strengthened, firstly to enhance the role of the PAP in election observation and, secondly, to enhance its ability to oversee electoral processes in AU member states.
- ❑ Civil society's relationships with the African Union and RECs should be expanded and strengthened through, for instance, the establishment of new funding mechanisms for civil society programmes in the field of elections and electoral processes.

The symposium was officially closed by Mr Yusuf Aboobaker, who thanked the speakers and participants for contributing to its successful deliberations.

APPENDIX 1
SYMPOSIUM PROGRAMME

EISA's 4th ANNUAL SYMPOSIUM

PREVENTING AND MANAGING VIOLENT ELECTION-RELATED CONFLICTS IN AFRICA: EXPLORING GOOD PRACTICES

CROWNE PLAZA HOTEL, JOHANNESBURG, SOUTH AFRICA
17-18 NOVEMBER 2009

DAY ONE
Tuesday 17 November 2008

08:00-08:30 REGISTRATION

SESSION 1: Chairperson: Mr Denis Kadima, Executive Director, EISA

08:30- 09:00 KEYNOTE ADDRESS AND OFFICIAL OPENING
Mr Leshele Thoahlane, EISA Board chairperson
09:00-09:15 Group photo followed by tea break

SESSION 2: Chairperson: Ms Christiana Thorpe, National Electoral Commission, Sierra Leone

THEORY, CAUSES AND CONSEQUENCES OF ELECTION-RELATED CONFLICTS

09:15-09:35 Causes and consequences of election-related violence in Africa
Professor Gilbert Khadiagala, University of Witwatersrand
09:35-09:55 What is needed for an election to help resolve rather than cause conflict?
Professor David Leonard, University of Sussex
09:55-10:15 Elections and conflict in Africa: Alternative conflict resolution mechanisms
Vincent Tohbi, EISA DRC
10:15-11:15 Discussion

SESSION 3: Chairperson: Dr Muzong Kodi, The Royal Institute of International Affairs, United Kingdom

KEY INSTITUTIONAL AND SYSTEMIC ISSUES
11:15-11:25 Gender dimensions of election-related conflict
Professor Sheila Bunwaree, Centre for Conflict Resolution (CCR)
11:25-11:45 Electoral systems and conflict in Africa
Professor Mpho Molomo, University of Botswana

11.45-12:05	Assessing and mapping risks for election-related violence: Early warning mechanisms *Dr Abdul Lamin, UNESCO, Accra, Ghana*
12:05-13:05	Discussion
13:05-14:00	Lunch

SESSION 4: Chairperson: Dr Roukaya Kasenally, University of Mauritius

THE ROLE OF INTERGOVERNMENTAL ORGANISATIONS

14:00-14:20	The role of the AU in the prevention, management and resolution of election-related conflict *Dr Francis Ikome, Institute for Global Dialogue*
14:20-14:40	The role of SADC in mediating post-election conflict: A comparative analysis of Lesotho and Zimbabwe *Dr Khabele Matlosa, EISA*
14:40-15:00	ECOWAS and election-related conflict: Case studies of Nigeria and Guinea Bissau *Professor Ade Adefuye, ECOWAS*
15:00-16:00	Discussion
16:00-16:15	Tea break

SESSION 5: Chairperson: Mr Miguel de Brito, EISA, Mozambique

UNCONSTITUTIONAL CHANGES OF GOVERNMENT AND POWER-SHARING AGREEMENTS IN AFRICA

16:15-16:35	Democracy is not enough: The legitimacy crisis and the resurgence of military coups in Africa *Professor Mwesiga Baregu, University of Dar-Es-Salaam, Tanzania*
16:35-16:55	Post-election conflict and power-sharing deals in Africa: A negation of democratic electoral outcomes? *Victor Shale, EISA*
16:55-17:30	Discussion
19:00-21:00	Cocktails

Chairperson: Mr Siphosami Malunga, UNDP

BOOK LAUNCH

Kadima, D and S Booysen (eds). 2009. *Compendium of Elections in Southern Africa 1989-2009: 20 Years of Multiparty Democracy*. Johannesburg: EISA

UNDP. 2009. *UNDP Elections and Conflict Prevention: A Guide to Analysis, Planning and Programming*

REPORT INTRODUCTION

Economic Commission for Africa: African Governance Report II 2009

DAY TWO
18 November 2009

SESSION 6: Chairperson: Ms Njeri Karuru, Peace, IDRC

ELECTORAL INTEGRITY

09:00-09:20 The challenges of elections in Africa: Lessons from the APRM process
Dr Afeikhena Jerome, APRM Secretariat

09:20-09:40 Elections and conflict in Zanzibar
Dr Bernadetta Killian and Mr Richard Mbunda, University of Dar-Es-Salaam

09:40-10:00 African continental bodies in the business of election observation: The Pan-African Parliament in Kenya and Zimbabwe
Dr Lucien Toulou, EISA, Chad

10:00-11:00 Discussion

11:00-11:15 Tea break

SESSION 7: Chairperson: Ms Titi Pitso, EISA

PREVENTION, MANAGEMENT AND RESOLUTION OF ELECTION-RELATED CONFLICTS

11:15-11:35 The role of the judiciary and security sector in managing election-related conflict
Dr Monica Juma, Africa Institute of South Africa (AISA)

11:35-11:55 The role of multiparty liaison committees in preventing and managing conflict in South Africa
Mosotho Moepya, Independent Electoral Commission of South Africa

11:55-12:15 Elections and violence in Nigeria
Professor Samuel Egwu, UNDP, Abuja

12:15-13:15 Discussion

13:15-14:15 Lunch

SESSION 8: Chairperson: Mr Abie Ditlhake, SADC Council of Non-Governmental Organisations

PREVENTION, MANAGEMENT AND RESOLUTION OF ELECTION-RELATED CONFLICTS (cont)

14:15-14:35 The role of CSOs and the media in the prevention, management and resolution of election-related conflict
Ms Njeri Kabeberi, Centre for Multi-Party Democracy-Kenya

14:35-14:55 The application of alternative dispute resolution mechanisms in handling election-related conflict
Dr Gavin Bradshaw, Nelson Mandela Metropolitan University, Port Elizabeth

14:55-15:15 Election-related aspects of the handling of the post-election conflict in Kenya: Reflections on the Independent Review Commission
Professor Jørgen Elklit, University of Aarhus, Denmark

15:15-16:15 Discussion

16:15-16:30 Tea break

SESSION 9: Chairperson: Mr Ebrahim Fakir, EISA
OFFICIAL CLOSURE
16:30-16:45 Vote of thanks and official closing
Mr Yusuf Aboobaker, Mauritius Electoral Supervisory Commission

ORGANISING COMMITTEE

Dr Khabele Matlosa, Director of Programmes
Dr Jackie Kalley, Senior Librarian
Ms Titi Pitso, Manager, EPP
Mr Victor Shale, Senior Programme Officer
Ms Dimpho Motsamai (IGD), Rapporteur

Ms Kedibone Tyeda, Projects Coordinator
Ms Maureen Moloi, Projects Coordinator
Ms Yvette Ondinga, Senior Programme Assistant
Ms Nkgakong Mokonyane, Assistant Programme Administrator
Ms Dipti Bava, Senior Accountant

APPENDIX 2

KEYNOTE ADDRESS

Leshele Thoahlane
Chairperson, EISA Board of Directors

Director of ceremonies, members of the EISA Board, EISA management team and staff, members of the diplomatic corps, representatives of the African Union, the donor community and development partners, Cabinet minister, honourable members of Parliament, leaders of political parties, representatives of United Nations agencies, representatives of regional economic communities, representatives of election management bodies, representatives of civil society organisations, members of the academic community, excellencies, distinguished guests, ladies and gentlemen,

It gives me great pleasure and is a singular honour to have been invited to be part of this continental symposium organised and hosted by the Electoral Institute of Southern Africa (EISA).

Allow me from the onset to take this opportunity to extend my gratitude to EISA for its sterling work in striving towards its noble vision of 'an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment'. The theme of EISA's fourth Annual Symposium is relevant to the EISA vision above. Over the next two days you will assess the challenges of election-related conflicts in Africa and explore best practices for preventing, managing and resolving them with a view to ensuring durable peace, consolidated democracy and sustainable human development on our beloved continent.

This year's EISA symposium theme is not only relevant, it is also timely. It is timely because, in 2007, the African Union (AU) adopted the African Charter on Democracy, Elections and Governance, which, *inter alia*, commits AU member states to peace, democracy, and constitutionalism, including peaceful mechanisms of preventing, managing and resolving election disputes and conflicts.

The charter is unequivocal in its rejection of unconstitutional changes of government. It condemns military coups and rejects the usurpation of power through coercion. We will all agree that the era of the politics of the bullet has long gone. We now live in a democratic epoch wherein state power is contested through ballots and not bullets. Consistent with the provisions of the African Charter on Democracy, Elections and Governance, the AU Summit of Heads of State and Government held recently in Sirte, Libya, adopted a strategy for the AU Panel of the Wise to intervene proactively, with a view to preventing, managing and resolving election-related conflicts in any of the member states. It is gratifying that EISA was directly involved in the development of the African Charter on Democracy, Elections and Governance as well as the development of the strategy document for the AU Panel of the Wise to deal effectively with election-related conflicts.

There is no doubt in my mind that this fourth EISA Annual Symposium builds upon the foundation that the AU has already put in place, with technical assistance from EISA itself. I have been advised by the organisers that the principal goal of this symposium is to examine the democratic value of elections by focusing on election-related conflicts and how they can be prevented, managed and resolved constructively, with a view to deepening democracy, ensuring stability and promoting peace and security. The specific objectives of the symposium are:

- to provide a platform for dialogue about elections and conflict among key stakeholders in Africa, highlighting success stories, bad examples and challenges and opportunities;
- to share best practices in the prevention, management and resolution of election-related conflicts and propose appropriate electoral reforms;
- to explore alternative constructive mechanisms to complement what already exists in various African countries for managing election disputes and violent conflicts;
- to review the intervention strategies of the continental inter-state bodies (AU, PAP, APRM, regional economic communities, etc) for handling election disputes and conflicts and propose reforms where appropriate;
- to review the intervention strategies of the international development partners (donors) in assisting African states to deal with election disputes and conflicts;
- to disseminate the symposium proceedings far and wide (within Africa and beyond) through media releases, the internet and various forms of publications.

Distinguished ladies and gentlemen, judging by the goal and objectives of this conference, you have a Herculian task ahead of you over the next two days. However, considering the diverse talents gathered in this room from various corners of our continent and beyond, I am confident and optimistic that you will live up to the task before you. Of the various issues that you will deliberate on over the duration of the symposium, two that immediately spring to mind are worth mentioning.

Firstly, the African experience over the past five decades of our independence has demonstrated that elections do not always promote democracy. In some countries this is so, while, in others, elections serve as an exercise in legitimising autocracies by providing a superficial veneer of democratic competition over state power. Put somewhat differently, elections can be held every so often even under conditions of authoritarian rule. This irony highlights the problematic interrelationship between elections and democracy. Although conventionally there is an assumed positive correlation between elections and democracy, in practice, elections can also be used as a legitimising instrument for autocracies. This contradiction is important to grasp so that we are able to differentiate whether an election, in any one of the African states, adds value to democratisation or simply acts as a veil to shield authoritarian forms of governance.

Secondly, the problematic nexus between elections and democracy elaborated above is also linked to yet another complex problem: the interface between elections on the one hand and peace and political stability on the other. Democracy cannot prevail and become sustainable if peace, political stability and constitutionalism are non-existent. By the same token, under conditions of protracted violent conflict, war and political instability, socio-economic development is impossible. Conventional wisdom holds that if there is a positive correlation

between elections and democracy this is supposed to lead to peace, harmony and political stability. While this may be so in some countries, a recent trend is under way, pointing to the fact that not only do elections lead to the 'retreat of democracy' but that elections can also become a serious source of a protracted violent conflict, war and political instability, all of which are inimical to sustainable human development.

If elections do not facilitate a culture of peace not only do we have a problem of the retreat of democracy, but this situation also leads to the 'postponement of socio-economic development' as politically unstable countries are unable to eradicate poverty and meet the millennium development goals.

Distinguished ladies and gentlemen, in some of our countries the electoral contestation becomes so fierce that elections are, at times, considered war by other means. In some instances, ballots are disregarded as contestants quickly resort to bullets to capture state power. As bullets replace ballots, often the main victims are the ordinary citizens who get caught in the crossfire of power-hungry politicians. In the process politics becomes militarised and the military becomes politicised, all in the name of contestation for state power. Ultimately, elections become meaningless. Recent elections in Africa that have triggered violent conflicts include Nigeria (2007), Kenya (2007) and Zimbabwe (2008). It is imperative that elections are supported with conflict management tools or instruments rather than triggers for violent conflict, war and political instability. Effective conflict management structures should be established to ensure that electoral disputes are handled amicably and dealt with early, before they escalate into violent conflict.

It is against this background that this symposium will, through dialogue and consensus building, seek to find ways of helping to transform elections from a zero-sum game into a positive-sum game. Let me state this as vividly as I can: preventing, managing and resolving election-related conflicts requires the commitment of all key stakeholders, including political parties and election management bodies, putting the national interest uppermost, over and above personal differences and aspirations. In this way, not only will peace be realised and democracy deepened, but citizens' trust and confidence in democratic institutions and electoral processes is bound to be enhanced.

Director of ceremonies, with these few remarks it gives me great pleasure to declare this fourth Eisa symposium, of 2009, with the theme 'Preventing And Managing Violent Election-Related Conflicts: Exploring Good Practices', officially open. I wish you fruitful deliberations that will inform appropriate constitutional and electoral reforms on our beloved African continent.

I thank you all for your attention.