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INTRODUCTION

Elections and democracy have become central features of the Southern African political landscape. In the years immediately following their independence, many African states in the Southern African region and the rest of the African continent experimented with one party state systems which were largely authoritarian in nature. However, since the beginning of the 1990s, the region has experienced a dramatic shift from one party state system's to multi-party democracy in many of these countries. The evolution of democracy was in part influenced by the global democratic changes that took place towards the end of the 1980s that saw the end of the Cold War and the ultimate collapse of the former Soviet Union block, and the pressures for reforms within those countries. These changes also provided suitable conditions for the independence of Namibia and the introduction of a non-racial multi-party democracy in South Africa, a milestone in the history of the region. Thus, the region embraced democracy as a way of governance.

The region in adopting democracy also embraced this system as the ultimate system of conflict management. The reconciliation process that followed the South African majority rule and which was later adapted by a few countries in the continent bear testimony to democracy as a tool for conflict management and peaceful co-existence of different political groups. In fact, a stable and civic democratic culture is located in liberal representative democracy. Democracy entails amongst others; active participation of the citizenry, rule of law, free and fair elections where the electorate chooses its representatives. However, one critical thing in a democracy is not only the acceptance of results by the contesting parties but the losing party / candidate should accept the results and continue to work for the development of the country and thus help to build and consolidate democracy. This is particularly important in emerging democracies such as those found in the SADC region because the possibility and cost of a reversal are high.

To this end,, national and regional structures such as Election Management Bodies (EMBs) in individual countries and the Electoral Commissions Forum of the Southern African Development Community (ECF - SADC) have been established to support a free and fair electoral process where all stakeholders can feel that their success or loss was fair . Thus, the ECF-SADC was established in 1998 in the context of one party / dictatorial regimes. The ECF-SADC has three structures which are the Annual Conference, the Executive Committee and the Secretariat. It seeks to build capacity within SADC electoral commissions and to carry the process of democratization forward in those countries, and helps Election Management Bodies (EMBs) within the SADC region to confront the challenges they face as a group and thereby promoting stability before, during and following elections. The ECF-SADC also sends observer missions to member countries. The rationale behind the Forum observing elections in the SADC region, is to assist fellow election management bodies identify areas requiring improvement in elections administration. Not only does ECF-SADC promote transparency in the conduct of elections but it also promotes conditions for free and fair elections with the ultimate goal of enhancing the quality of electoral management bodies so that they can conduct quality elections. In this way, ECF-SADC aims to ensure that democratic governance is not only the norm but it is also entrenched and consolidated as a key tool to building democracy in the region. In order to realize this end, the ECF-SADC and the Electoral Institute of Southern Africa (EISA), jointly developed Principles for Election Management and Observation (PEMMO) in the SADC Region in 2003. These principles are today widely used as a yardstick for measuring the free and fairness of an election especially in the SADC region.

As part of its regular consultations and exchanges between its members, the ECF-SADC held a regional symposium under the theme – *enhancing democratic governance through credible elections in the SADC region on the 26th July 2008 in Zanzibar, United Republic of Tanzania*. The Symposium was one of the activities planned to mark the 10th anniversary of the Forum. These activities took place during the 10th Annual General Conference that was held from the 24-28th July 2008. The symposium was attended by delegates from SADC Electoral Commissions, political parties, civil society and cooperating partners. The Symposium provided an opportunity for delegates to explore ways of building capacity for electoral commissions to enable them to deliver their functions at national and regional/provincial and local levels. Delegates benefited from a number of presentations amongst others; a reflection of ECF experiences; achievements and challenges, causes and management of electoral conflict, selected areas of challenge – voter registration and voter's roll management, and the relationship between EMBs and civil society organizations. The conference was supported by the Friedrich Ebert Stiftung (FES), the Electoral Institute of Southern Africa (EISA) as well as Zanzibar Electoral Commission (ZEC) as a host commission.

This report presents the summary of the proceedings of the ECF-SADC symposium.

WELCOME AND OFFICIAL OPENNING

Director of Ceremony – Hon Commissioner Nassor K. Mohammed

Welcome Remarks – Prof. Leopoldo da Costa (ECF President)

Prof. Leopoldo da Costa, ECF President, welcomed delegates to the conference. In particular he welcomed His Excellency President of the Revolutionary Government of Zanzibar, Amani Abeid Karume and former President of the Republic of Tanzania Ali Hassan Mwinyi who graced the conference. He noted that he was honoured to have been requested to deliver welcome remarks in a country that provided assistance to his home country, Mozambique, during its liberation struggle.

Prof. Leopoldo da Costa, also thanked the cooperating partners, in particular EISA and FES for the assistance and support they had rendered to ECF-SADC for the past 10 ten years and thus enabling it to discharge its mandate. Lastly, he thanked the Electoral Commission of Zanzibar for all the preparations it made which ensured the successful ECF-SADC conference and 10th Anniversary. He thus noted that it was only through such cooperation that EMBS in the SADC and ECF-SADC region could work towards delivering credible elections and in turn help to improve democratic governance in the SADC region.

Opening Address – His Excellency President Amani Abeid Karume

The conference was officially opened by His Excellency President Amani Abeid Karume. He welcomed all participants to the conference especially those from outside Zanzibar and noted that he was happy to have been given the honour by ECF-SADC to open the conference. President Amani Abeid Karume stated that Zanzibar held ECF in high esteem because the Government of Zanzibar is a determined to see democracy prevailing in the country and the entire SADC region. He noted that electoral commissions have come under scrutiny and because mistakes committed by poor management of elections can lead to a crisis or instability. Nevertheless, he recognised that electoral commissions face a number of challenges. In this way, President Amani Abeid Karume emphasized that, in spite of these challenges, it was paramount for the Electoral Commissions to be thorough in the conduct of their duties.

In the concluding remarks, he once again thanked ECF-SADC by honouring Zanzibar by its decision to hold the conference in the country. Lastly, President Amani Abeid Karume called on all the delegates to enjoy the tranquillity of Zanzibar and wished ECF-SADC a successful conference and declared it officially opened.

Keynote Address - former President of the Republic of Tanzania Ali Hassan Mwinyi

In his keynote address, former President of the Republic of Tanzania, Ali Hassan Mwinyi expressed his pleasure and gratitude to President Amani Abeid Karume for agreeing to officially open the ECF-SADC conference. Ali Hassan Mwinyi noted that ECF-SADC has made significant contributions towards democratization over the last 10 years. He observed that ECF-SADC has contributed to the understanding of democratic processes and electoral issues. And more importantly, ECF-SADC addresses issues of the electoral commissions and the media.

Ali Hassan Mwinyi noted that the ECF-SADC developed PEMMO in conjunction with EISA in 2003. In line with this, SADC signed the SADC principles and guidelines governing democratic elections which helped improve guidelines in member states which helped and guided them. Moreover, he noted that the holding of this conference marked a historic day particularly for SADC countries because it provided an opportunity for member states to review the progress so far and the challenges ahead. He also stated that the conference would help member states to share experiences. Ali Hassan Mwinyi observed that the theme of the conference was critical and the conference itself was timely in that it gave member states to reflect on their achievements and efforts to enhance democracy and look ahead to the next elections.

In conclusion, he wished the President of Zanzibar Amani Abeid Karume good health and success. Lastly, he thanked the Electoral Commission of Zanzibar and ECF-SADC for inviting him to come and give a keynote address, a gesture that he highly appreciated.

Vote of thanks – Hon Khatib Mwinyichande (Chairperson of the Zanzibar Electoral Commission and Chairperson of the ECF-SADC Executive Committee)

Hon Khatib Mwinyichande thanked all those who attended the conference / symposium, particularly His Excellency President of the Revolutionary Government of Zanzibar, Amani Abeid Karume and former President of the Republic of Tanzania Ali Hassan Mwinyi. He noted that their attendance was an indication of a healthy relationship between the Executive Committee and the Electoral Commission of Zanzibar and by extension ECF-SADC. He also thanked all the delegates for finding time to attend the conference and wished them constructive deliberations.

Hon Mwinyichande also appreciated and thanked the cooperating partners especially EISA and FES who had worked closely with ECF-SADC on issues of logistics. Lastly, he thanked all the electoral commissions in the SADC member states for all the contributions they made towards the holding of this conference. In particular, he singled out the Independent Electoral Commission of Botswana for producing a conference video and the Electoral Commission of South Africa that helped in the printing of certificates.

SESSION ONE – ECF AFTER 10 YEARS OF EXISTENCE

This session gave an overview of ECF achievements and challenges since its establishment and it discussed how these can be addressed to enable the Forum to execute its mandate.

Chairperson – Justice G. Chiweshe (Zimbabwe Electoral Commission)

ECF After Ten Years of Existence – Justice L. Makame (National Electoral Commission of Tanzania)

Justice Makame traced the history of the Forum and the enormity of the problems that lied ahead them especially in relation to the issue of trying to assert the independence of individual EMBs in member countries, and how ECF members managed to build confidence in themselves through the sharing of experiences.

According to Makame, a deliberate decision was made at the formative years of the Forum not to call it SADC Electoral Commissions Forum but the Electoral Commissions Forum of SADC countries. The reasoning behind this name was that the Forum is neither owned by SADC nor did individual members of the Forum order or constituted or even told by SADC to form such an organization. Instead, it was an initiative of the EMBs in the SADC region to come together appreciating that they were statutory bodies in their respective countries. He observed that the challenge for individual EMBs is not to be there for cosmetic reasons but to guard against being influenced or used by certain individuals which will make them lose their credibility.

Makame paid immense tribute to EISA for the support and technical assistance it provided to ECF until ECF established its own secretariat in 2005 which is housed by the Independent Electoral Commission of Botswana. From 1998 until 2004 EISA acted as the Secretariat of ECF, an organization that was described as having a remarkable and publication capacity.

Since its formation, ECF has been in election observation, an exercise it has taken seriously and thus achieved a lot in this area. As a result, ECF has built a name and image for itself, and has the know-how and experience in the field of election observation. Moreover, its style of observation is not only unique but it is also geared towards building capacity and support for the EMBs in member states. Even then a lot remains to be done. It is therefore the wish of ECF to go into an Election scene much earlier than is currently the case. However, it is the resource constraints which continue to make this difficult. He nevertheless called on the ECF to revamp its image and enhance its election profile. To this extent, ECF has to consider amongst others issues like who is leading its Observer Mission and the use of patrons. These could lead to its observation report and recommendations being taken seriously.

The presentation also highlighted some of the challenges ECF faces in election observation. Initially, ECF perceived election as its own turf that it had to protect from other observer teams especially those from outside the region. He observed that the ECF has come to appreciate that there is a lot to learn from other groups such as civil society, political parties, etc. Hence interaction and cross-fertilization with other groups has been enriching. Even then the challenge for ECF was to keep things under control and focused without appearing to be offensive or wanting to lead things from too far in front.

Makame noted that the objective lesson in election observation is to be extra careful, and that ECF and EMBs should endeavour to make available copies of the relevant electoral laws to Election Observers. However, the challenge is the expenses involved in such action. He also called for continuous learning on the part of EMBs.

ECF has accomplished a lot in its ten years of existence through cooperation. It has established its own secretariat, exchanged learning visits, have conducted workshops together and even lent equipments to one another. He also called upon ECF to build on what has been accomplished to date and continue to build capacity in ECF members. For example the ECF could establish a library for members with the aim to help build an institutional memory.

In an effort to deliver credible, trust worthy, transparent, free and fair elections, ECF and EMBs have to continue to ensure that they remain relevant and avoid managing doubtful elections. This would require ECF and EMBs going an extra mile.

On voter education, Makame called on ECF and EMBs to seriously address the problem of low voter turnout. He noted that one of the possible explanations for low voter turnout at registration and on voting day could be that in most countries of the region voter education is divorced from civic education. In this sense, what voter education achieves is by and large driven by the mechanics of voting without teaching one's civic duty to choose who should govern them and what one's hopes are in securing meaningful development for him/herself and the community around which one lives. There is, therefore, a need for voter and civic education to be linked and intensified.

ECF and EMBs were also called upon to consider the issue of the choice of the electoral system. There is admittedly no best electoral system applicable in the jurisdiction of every EMB in the SADC region but the electoral system affects the allocation of seats, and in turn who would govern. It is therefore an area an EMB cannot afford not to be interested in although the powers to handle this aspect lie somewhere else. However, taking into account the fact that one of the duties of a serious and committed EMB is to suggest appropriate and facilitative changes / modifications in the election laws, the electoral system is an area an EMB has to have its mind on seriously.

Lastly, Makame called on ECF as it celebrated and took stock of its successes and solidarity, to also re-dedicate itself to the noble tasks entrusted on it and expressed the belief that it shall be commemorating many more anniversaries ahead.

Discussant – Dennis Kadima (EISA)

Kadima noted that ECF has been able to survive for the past ten (10) years because it is not dependent on outside / external funding. He said the ECF was entering a phase of consolidation as it marked ten years of existence. He observed that ECF has generated a lot of attention, and thus shown the importance of the Forum. Nevertheless, he suggested that ECF needs to focus on the following:

- a) Develop and adopt a 5 year comprehensive strategic plan with SMART indicators because ECF has a mobile membership. The plan would help to build institutional memory and allow for continuity of its programmes of action.
- b) Make use of former commissioners and senior staff because it has invested in them
- c) Need to conduct peer reviews on an on-going basis as a way of identifying the needs and challenges of the commissions
- d) Build partnerships with institutions such as International IDEA and EISA
- e) Start an election preparedness mission to help the country to identify the shortcomings and challenges the commission is facing at least ten (10) months before the country holds an election. This is one way of being proactive in helping a member country. He felt that at present ECF observer missions tend to be reactive as they observed elections and made recommendations with the hope that the country will implement them.

In conclusion, Kadima suggested that ECF should look into the quality of elections which has been a source of contention for both old and emerging democracies in the region. He also pointed out that election management is not just technical but also political responsibility, and there was therefore the need to strengthen the technical aspect of election management as well as the political advisory function of EMBs.

SESSION TWO – CAUSES AND MANAGEMENT OF ELECTORAL CONFLICT

Chairperson- Mzwandile R. Fakudze (Elections and Delimitation Commission of Swaziland)

Causes and Management of Electoral Conflict - Tefo Raditapole

Tefo Raditapole's presentation reviewed electoral conflict management mechanisms available to EMBS and the impact on the outcome of the electoral process.

Definition of Conflict

Conflict can simply be defined as a situation where there is a major disagreement between partners. Mr. Raditapole identified key features of conflict but pointed out that, conflict is not always negative as it can result in the necessary action to deal with real problems. Conflict can manifest itself either overtly or covertly, and it is inherent in life. He said electoral conflict normally arises out of the electoral process. Thus, conflict could manifest itself through peaceful or violent means. Usually, we understand conflict when it displays itself in violent means. And when an election is peaceful, the issue of conflict does not arise. Thus, Raditapole observed that there is a need to distinguish between electoral conflict, grievances and disputes. He went on to define the three concepts. However, in the literature the terms conflict and dispute are used differently and interchangeably. It is important to realize that conflict can be managed to prevent it from being turned into either a grievance or dispute.

Two pillars of Conflict Management

The management of conflict entails a number of various mechanisms all aimed at managing and not removing or resolving underlying conflict that is always inherent. It necessitates both dispute prevention and resolution. In this sense, an efficient conflict management system rests on two pillars of dispute prevention institutions and processes, and dispute resolution institutions and processes. Thus the credibility of the two pillars is central to conflict management.

Electoral Systems as Tools of Conflict Management

Access to and control of state resources is always contested area around the world. In this way, conflict is inherent in this contestation and displays itself in numerous ways. Hence, the election process is accepted and used as one of the mechanisms of managing conflict. The nature of an electoral system and the dispute prevention and resolution measures it provides to a large degree determine the effectiveness of an electoral conflict management system. In this way, the electoral process is itself a huge conflict management process that should take place on a regular basis yet this is not the case in a number of countries. In this sense, electoral systems can play a role as a mechanism of conflict management in a society.

In the SADC region electoral management systems are generally embodied in legislations that provide for the establishment of the relevant institutions and procedures in the electoral process. The credibility and effectiveness of these institutions and processes determine the success or failure of electoral conflict management in any country.

Dispute Prevention and Dispute Resolution

Ideally, the two pillars of dispute prevention and resolution which underpin effective electoral conflict management operate on a sequential basis. Thus, the system should provide for dispute prevention measures. And where they fail, effective dispute resolution processes should be in place. Even then, the system should provide for flexibility. In order to design an effective conflict management system, policy makers should understand the conflict path.

On the one hand, the dispute prevention pillar is dependent on anticipation of disputes that may arise and making proactive intervention to prevent them from emerging. Electoral legislation attempts to prevent disputes through consensus building mechanisms such as efficient and genuine independent electoral commissions and consultative committees, building sustainable partnerships with stakeholders, third party facilitation, peace accords and dialogue, civic and voter education, transparency and accessibility, strategic communication, devising appropriate electoral codes, inclusiveness and conflict management amongst others.

On the other hand, the dispute resolution pillar relies on the existence of conflict management tools such as problem solving skills, conciliation / mediation, decision making powers of EMBs, electoral tribunals, and courts with expedited procedures. More importantly, courts with expedited procedures are required to ensure disputes are resolved speedily. These tools should be matched with the appropriate process to a particular dispute for it to be resolved.

Conclusion

An effective conflict management system should entail both dispute prevention and dispute resolution. Such a system is not only apposite but it will also go a long way in keeping the electorate interested in elections.

Discussants:

a) Adv Tlakula - (IEC South Africa: Multi-Party Liaison Committees)

Adv Tlakula's addressed the conference on how issues of conflict in the electoral process are dealt with in South Africa through Multi-Party Liaison Committees. She started by asking whether or not EMBs can be a cause of conflict. She noted that indeed an EMB can be a source of conflict if it conducts its business in an inefficient and unprofessional way and not enforcing principles. Therefore the cause of conflict might be within the EMB itself and hence need to raise its level of professionalism. So an EMB should strive for a seamless election.

Adv Tlakula observed that in South Africa, the process of conflict resolution is established by law through Multi-Party Liaison Committees. This is in line with one of the functions of the Electoral Commission of South Africa which is required to establish and maintain liaison and cooperation with political parties in terms of section 5(1) of the Electoral Commission Act, 51 of 1996. To this end, Multi-Party Liaison Committees (PLCs) are created at the national, provincial and local levels. PLCs serve as channels of consultation and cooperation between the Commission and registered political parties on relevant electoral issues. These include issues such as proposed amendments to regulations and legislation, criteria for appointment of electoral staff, delimitation process, results system, resolving of inter-party electoral disputes as well on logistical challenges on the day of the elections.

In this sense, PLCs need to keep the lines of communication always open to all the stakeholders. In South Africa, PLCs meet once a quarter in a non-election year; once a month when elections are 18 months away; weekly during an election month; daily in the week elections will be held, and three times a day on the day of elections. However, although PLCs are central to conflict resolution, political parties should know and accept that they are consultative forums, and whether there is an agreement or not is another thing.

On the Code of Conduct, Adv Tlakula noted that it could be either voluntary or prescribed by law. In South Africa, the Code of Conduct has both elements; of voluntary and legally enforceable in terms of the Electoral Act. There are no consequences for non-compliance for the voluntary part, and non-compliance for the legally binding is punishable by law. In terms of the Electoral Act, non-compliance with the Code can be dealt with in one of the following;

- Conciliation by the Commission
- Institution of and intervention in civil proceedings by the Chief Electoral Officer in any court, including the Electoral Court

In line with Section 96, the decision of the Electoral Court is final in all electoral disputes and complaints arising out of the violation of the Code, and its decision cannot be appealed against or reviewed. The Court may impose any appropriate sanction that include a formal warning, a fine not exceeding R200 000, an order that reduces the number of votes cast in favour of a person or party or even cancellation of the party's registration. Moreover, violation of the Code can also be dealt with by invoking criminal proceedings procedure. Following this, a person could be fined or imprisoned for a period not exceeding 5 or 10 years depending on the provisions of the Code that would have been violated. Despite these, the Commission has so far not fully enforced any of the provisions of the Electoral Act in so far as the application of voluntary and legally binding provisions of the Code is concerned. Instead, political parties have made public declarations before an election to abide by the Code. Moreover, the Commission has always advised parties to lay criminal charges where the Code has been violated. Lastly, it is the intention of the Commission to convene conciliation meetings where the Code has been violated for purposes of the forthcoming election, and the Chief Electoral Officer will utilize Section 95 of the Electoral Act where the Code has been violated.

b) Rev Malumalu - (IEC DRC: Conflict Management Panels)

In his presentation on the DRC experience, Rev Malumalu gave an overview of how both internal and external actors dealt with the potentially explosive situation in the DRC. He noted that elections were conducted in a country that had not known stability in a long time. There was lack of trust between political parties leading to tension. As a result, all the 270 political parties trusted external actors more than internal ones. Rev Malumalu observed that some people were scared of elections as it was the first time the country was holding multi-party elections following a violent past. Thus the situation required that the results were true and regular.

In the light of the political environment that prevailed, an inter-institutional framework was established. A forum for political parties was established. In addition to these, a consultative framework with non-state actors that included traditional leaders was also created. The mediator, President Mbeki of South Africa also visited the country on a more regular basis. Thus, what saved the country in part was a lot of mediation groups with the assistance of EISA. All these helped to train local people / personalities so that they do not

take sides when they were taking part in mediation efforts. In case of violent protestation, national networks were used. Thus the importance of networking in dealing with conflict was emphasized. And for these to be successful, there was also need for technical support administratively. More importantly, external mediation at a political level was also important. And to this extent, African personalities played an important role. There was also local mediation even in inaccessible areas with the support of EISA. When accusations were made, the Management Committee became valuable. All these efforts provided and allowed for resolution of some conflicts in the DRC. This is how the conflict in the DRC was dealt with.

c) Moteka Mohale - (IEC Lesotho: Electoral Tribunals)

Electoral Management Bodies (EMBs) are empowered to deal with and resolve election related disputes. In line with this, Moteka Mohale outlined dispute resolution mechanism in Lesotho.

Power of the Commission to Resolve Complaints

In terms of the National Elections Act, any person may bring about a complaint to the attention of the Director of Elections in relation to any aspect of the electoral process. The Director of Elections shall in turn attempt to resolve it speedily within the specified timelines. If he / she fail to resolve it, it is then referred to the conciliator appointed by the Commission. And if the conciliator fails to resolve it within the timeframes set, he / she shall submit a report with recommendations to the Commission. The Commission will study the report and make a determination. If the person who laid the complaint remains unsatisfied, he or she shall appeal to the High Court in terms of the National Elections Act. Despite this process, an urgent relief may be sort from the High Court.

Appointment of Tribunal

In Lesotho, the Commission is empowered to appoint a three (3) persons tribunal to hear and decide on complaints relating to the contravention of the electoral code of conduct. Members of the Tribunal are appointed on the basis of their expertise and independence. At least one of them shall be a judge, a retired judge or legal practitioner with at least 15 years experience.

Institution of Proceedings

First, any person who is aggrieved with the violation of the electoral code of conduct should put his or her complaint in writing to the Director of Elections. The Director of Elections then refers it to the conciliator, who shall in turn make an investigation and an effort to resolve it. If the process of conciliation fails to solve it, the tribunal that is appointed by the Commission shall be required to adjudicate and make a determination. The Tribunal may impose a formal warning or a fine, or recommend to the Commission penalties or sanctions. If it is a political party that has contravened the electoral code of conduct, the Commission may order cancellation of the registration of such a party, and subsequently it's right to participate in the concerned election. And it is a leader, office-bearer, member or supporter of a party or any candidate that has violated the electoral code of conduct, the Commission may disqualify such a person from taking part in an election. A decision by the Tribunal shall be final.

Election Petitions

In Lesotho, the law allows for election petitions to be presented before the High Court in line with the Constitution and the electoral act. An election petition should be presented within 30 days after the end of the election.

Conclusion

Although the law in Lesotho provides that electoral conflicts have to be dealt with within 90 days, so far the country has failed to stick to this timeline. As a result, electoral disputes are taking up to one year to resolve, which is against the law.

SESSION THREE – SELECTED AREAS OF CHALLENGE – VOTER REGISTRATION AND THE VOTER’S ROLL MANAGEMENT: THE WAY FORWARD

This session explored the challenges EMBs face regarding voter registration and voters roll management and it discussed the openness and accountability of EMBs in these processes.

Chairperson – Dr V. Tonchi (Electoral Commission of Namibia)

Voter Registration and Voter’s Roll Management: Regional review – Martinho Chachiuva (EISA Manager Elections and Political Processes)

In his presentation, Martinho Chachiuva noted that in its 10 years of existence, ECF has to be a proud organization that has made a lot of progress in election administration and democratization of the SADC countries. He said this warranted much celebration, especially for the democratization of SADC countries. He however reminded the participants that there were still a number of challenges to be dealt with. One such challenge in election administration is voter registration and the voters’ roll management.

Voter Registration and Voter’s Roll

He said the voter’s registration was central to any election because elections are a business of numbers. Voter registration seeks to define numbers and the voters’ roll is the physical representation of those numbers. In this way, voter registration is the core element for legitimacy and credibility of an electoral process. However, it is complex, costly and time consuming. Voter registration could weigh 50% of the whole electoral process. Hence voter registration impacts significantly on the overall election administration, which requires ECF to take to stock of this important exercise.

Key Principles of Voter Registration

Chachiuva identified key principles of voter registration as:

- Comprehensiveness (90% complete)
- Accuracy (97% accurate) and
- Currency (85% current)

Voter Registration in the SADC Region

SADC countries use all three voter registration systems, which are

- Periodic lists (disposable lists)
- Permanent lists (continuous registration), and
- Civil registration (extraction from population register)

Challenges to Voter's Registration and Voter's Roll in the Region

Generally, the region is confronted with a number of challenges in so far as voter registration and voter's roll management are concerned. The main challenges are;

- Comprehensiveness (inclusiveness); A repeated assertion has been made that a lot of potential voter's have not been registered or are disenfranchised. The reasons range from political to technical, administrative, lack of resources, accessibility, time-allocation, quality and integrity of civil register, and the credibility of the institution conducting voter registration amongst others.
- Accuracy; this is measured by the rate of error in entering data on individual voters. The key issues are that there are possibilities of double registration, technical and human resources problems, short inspection and correction period, inaccurate voter information in the voter's roll, and lack of reliable census data.
- Currency of voter's roll; this challenge is largely associated with permanent voter register and civil register based voters' roll. There are also issues of deaths (ghost voters) and weak information sharing systems with other state institutions.

The other challenges are transparency and accessibility of the voters' roll. The process should be transparent and accessible, and independent audits should be allowed to build confidence on the voters' roll. The other challenge has to do with the use of information technology (IT) in voter registration. As much as there has been some advances realized in the use of technology in voter registration, countries use IT at varying degrees. Even then issues / concerns have been raised around the fact that technology used to resolve problems and not to create them. Concerns are with respect to issues such as accessibility, credibility, efficiency, cost effectiveness, transparency and sustainability amongst others remain.

Conclusion

In conclusion, Chachiua observed that EMBs should make deliberate efforts to improve voter registration and voters' roll as this impact on the quality of elections. In this way, ECF was requested to improve the comprehensiveness of voter registration with the purpose to stomp out the increase in voter apathy. There is also a need for a constant review in order to establish the extent to which the voter registration in use or chose responds to issues of completeness, accuracy and currency and in turn address issues of credibility and transparency. The Forum must continue to encourage the use of technology to ensure sustainability of voter's registration. Independent audits of the voter's roll should be encouraged. Lastly, ECF should conduct a comprehensive study on voter registration system with a view to improve them and draw lessons.

Discussants:

a) Georgina Chikoko – (Malawi Electoral Commission)

Georgina Chikoko highlighted the importance of the voter's roll. She noted that preparing a proper voter's roll is a test every EMB should strive to attain. She further observed that EMBs should combine independence, impartiality and a high degree of professionalism in their work.

Challenges in Preparing a Voter's Roll in Malawi

There are a number of challenges in preparing a voter's roll in Malawi. The first one is literacy. Malawi does not have a national identification system but the majority of rural people can not even remember when they were born. As a result, registration staff has a lot of work in this area. Another issue is that she pointed out was citizenship. Malawi face the problem of determining in certainty who is a citizen and who is not because of her porous borders especially where there is no national identification system in place. The issue of numbers also creates a challenge. Usually EMBs use national estimates based on national registration hence inaccurate information. Chikoko also identified the problem of the flow of information and as a result some people who reside in the remote areas of the country often get disadvantaged. Technology is another challenge. As much as IT is being appreciated, it is extremely expensive. Resources are yet another challenge in voter registration. This calls for the need to rely on donors which somewhat compromises national integrity. She also called for the need to improve organizational capacity during registration. All these challenges compromise the quality of registration. And lastly as a region, Chikoko noted that EMBs could learn from each other thereby help to improve capacity for individual EMBs to deliver free and credible elections.

b) Brown Kasoro – (Zambia Electoral Commission)

Brown Kasoro, although he reiterated the issues that were raised by Martinho Chachiua (above), he identified a number of areas that are a challenge in Zambia. He noted that The Electoral Commission of Zambia is mandated to conduct voter registration. He thus highlighted the following aspects as areas of challenge in Zambia; comprehensiveness of the voter's register, which he put at around 70%; accuracy; currency of the voter's registration; accessibility; technology and sustainability; cooperation with the civil registration department which also faces a problem of capacity; and the issue transparency. For instance, in Zambia all political parties are provided with a full list of the voter's roll at a small fee. He noted that these are the key principles governing voter registration and voter's roll management yet they are also a challenge in Zambia.

SESSION FOUR – RELATIONSHIP BETWEEN EMBs AND CIVIL SOCIETY ORGANIZATIONS

Chairperson – D. Mokgothu (Independent Electoral Commission Lesotho)

Relationship between EMBs and Civil Society Organizations: Challenges and Opportunities – Rev Dinis Matsolo (Mozambique)

In his presentation, Rev Dinis Matsolo noted that the relationship between EMBs and Civil Society Organizations (CSO's) is paramount. He noted that EMBs are key institutions that administer electoral processes. Hence they ought to be neutral, non-partisan, act as arbiters and should be made of professionals of integrity for them to earn trust and integrity. He also noted that EMBs are under pressure and should be cautious in discharging their mandate. This is the case because they are judged by their performance and behaviour. In this sense, they should accept that there are other role players such as political parties, funding partners, CSO's and citizens.

Relationship Between EMBs and CSO's

The relationship between EMBs and CSO's also faces a number of challenges. According to Matsolo, these include the following;

- Willingness to share information
- Transparency
- Inclusiveness

All these will earn EMBs credibility and legitimacy. Therefore, the values of CSO's to electoral processes amongst others are;

- Promote impartiality
- Enhance credibility, integrity and legitimacy
- Enhance transparency
- Enhance ownership of the process
- Enhance trust
- Enhance acceptance of results
- Establish mechanisms to deal with electoral conflicts
- Provide civic education

In this way, a healthy relationship between the two institutions/organisations ensures complementarity, people's ownership of the process, citizen's participation, enhance integrity of the process and use of potential each stakeholder.

Mozambique Electoral Observatory Experience

The presenter even drew on the experience of Mozambique's Electoral Observatory whose goals are monitoring and observation of the electoral process, conduct civic education, enhance confidence and trust in electoral institutions. The Electoral Observatory (OE) came into being following the signing of the Peace Accord on the 4th October 1992 in Mozambique. The OE brings together organizations that work towards peace in Mozambique and these include amongst others faith based organizations, human rights organizations and research / academic oriented institutions.

Conclusion

In conclusion, Matsolo urged ECF to move from theory to practice, value the citizen, fight apathy and open the process to observation. All these, he argued, will enhance democratic governance through credible elections in the region.

Discussant - Rindai Chipfunde Vava (Zimbabwe Election Support Network)

Rindai Chipfunde Vava observed that Civil Society Organizations (CSO's) have an important role in election administration. However, their role is complementary to the work and role of EMBs. In this way, EMBs should always maintain a stakeholder's support, which is critical to ensure a successful election. Thus, Rindai Chipfunde Vava stated that EMBs should consult widely, especially political parties, the media and CSO's, at every stage of the political process. This could only happen if EMBs remove restrictions and thus provide guidance and hence facilitate citizen participation.

Rindai Chipfunde Vava noted that stakeholders should also be involved in order to provide checks and balances. And more importantly, EMBs should allow as many observers, including local observers, as possible as a way of ensuring relative freeness. She indicated that observation also helps to ensure credibility and guard against violation of electoral laws. According to her, CSO's in observation become handy especially after external observers have left to their respective countries.

Rindai Chipfunde Vava called on EMBs and CSOs to work together on issues of electoral reforms. She also noted that CSO's can be used in local mediation efforts especially in countries where there is tension, intimidation and violence before, during and after an election. She observed that CSO's can also promote a transparent relationship between EMBs and the media. Thus she called for a media centre within an EMB. Addition to this, there is need for a media liaison person because the absence of such a person could strain relations. According to her, EMBs should have a special relationship with the media.

Rindai Chipfunde Vava also asked ECF to consider registering political parties. She observed that it is important for EMBs to communicate with political parties. However, she noted that in some cases there is a close relationship between the ruling party and the EMB, which is a source of concern. Abuse of state resources by ruling parties should also be guarded against.

Lastly, she suggested that ECF should consider EMBs inter-relationships such as exchange of staff and information.

Discussion of three Presentations

On account of time, a few questions were asked.

Question: How are SADC EMBs expected to deliver credible elections when they are not democratic and free to implement their mandate?

Response: As much as they are not completely free, there has been an improvement as the SADC region has moved from government institutions to independent electoral commissions but the degree of independence remains an issue.

Question: How can a relationship between an EMB and CSO's made better?

Response: EMBs need to prove that they are not serving the ruling party but instead the nation. Moreover, a healthy relationship between the EMB and CSO's is not an option but a must. He also suggested permanent dialogue between the two. Lastly, he suggested that there is a need to separate the ruling party from state institutions

Question: What is the best way of ensuring that the voter's lists are available after voter registration?

Response: The presentation was not meant to offer solutions but to share experiences. However, it was indicated that if there is a perception that the voter's roll is not complete, then there is a problem that needs to be addressed.

Lastly, a comment was made to the effect that the term **ghost voters** is over used and thus gives a wrong impression. It was thus suggested that ECF should reconsider the use of the term.

SESSION FIVE - GALA DINNER TO CELEBRATE THE 10th ANNIVERSARY

Director of Ceremony – Prof B. Tsie (IEC Botswana)

Guest Speaker – Deputy Chief Minister Hon Ali Juma Shamhuna

First, Deputy Chief Minister Hon Ali Juma Shamhuna thanked ECF for having invited him to be the guest speaker at its 10th anniversary, of which he felt deeply honoured. He also expressed a warm welcome to all the 130 ECF delegates. However, Hon Ali Juma Shamhuna noted that as ECF was marking the 10th anniversary, it has formidable challenges to address. He thus expressed his gratitude for ECF to be in Zanzibar to address those challenges, and it was his hope that ECF delegates have enjoyed Zanzibar hospitality.

Hon Ali Juma Shamhuna also observed that Africa has great challenges in conducting elections. Even, the continent has tried to conduct fair and credible elections despite these challenges. He called upon ECF and the region to face up to these challenges SADC and Africa have been confronted with by the First World. He thus hoped that the conference has been successful as a wake up call for SADC – to conduct free and credible elections. In his view, where there is a will, there is a way.

Once again he welcomed participants to Zanzibar and wished them an extended stay if they so wished. Hon Ali Juma Shamhuna also congratulated all those who received ECF awards and certificates. Lastly, he thanked the organizers of the ECF conference for choosing Zanzibar as a venue, a gesture that he deeply appreciated.

Award of Certificates to ECF Pioneers

Following the Deputy Chief Minister Hon Ali Juma Shamhuna's speech, pioneers of ECF were given awards and presented with certificates for the role they played in the 10 years of ECF existence. These were former Presidents of the Forum as follows: Justice Makame (Tanzania), Justice Bwalya (Zambia), Mr Victor Tonchi (Namibia), Mr Thoahlane (Lesotho), Rev Litsure (Mozambique) and Prof Leopoldo de Costa (Mozambique), who is the current President of ECF.

In addition to these, Chairpersons of the Executive Committee of ECF were also recognized. These are; Dr R. Bam (South Africa), Prof B. Tsie (Botswana), Mr Victor Tonchi (Namibia), Justice Ramadhani (Tanzania) and Mr Khatib Mwinyichande who is the current Chairperson of the Executive Committee.

Vote of Thanks - Dr Bam (IEC South Africa)

In her vote of thanks Dr Bam, thanked the President of Zanzibar Amani Abeid Karume for gracing the ECF conference, and the Deputy Chief Minister Hon Ali Juma Shamhuna for agreeing to be the guest speaker at the gala dinner to mark the 10th anniversary of ECF thus honouring ECF. She also thanked the Electoral Commission of Zanzibar and the government of Zanzibar for the support they have rendered ECF to ensure a successful conference and 10th year anniversary. Bam also thanked the Independent Electoral Commission of Botswana for housing ECF Secretariat and for producing a video for the conference. She also appreciated the idea of giving awards and certificates to former and current presidents of ECF, and Chairpersons of the Executive Committee.

Bam also thanked cooperating partners especially EISA and FES for the support hence enabling ECF to carry out its activities. She also thanked the presenters for a job well done. Lastly she thanked the media for the coverage it gave the ECF conference and 10th anniversary, and everybody who played a role to ensure a successful conference and 10th anniversary.

Recommendations from the presentations

The following recommendations are drawn from the presentations and are forwarded to ECF structures for discussion and consideration.

Session 1:

ECF should generate information and knowledge on election management, legal processes and knowledge about best global practice on elections. This will entail:

- a. Creation of a common data base
- b. Linkages with some of the key global websites on election e.g. International IDEA, EISA, Inter-Parliamentary Union (IPU) and International Federation of Elections Systems (IFES)
- c. An annual newsletter on state of elections and citizen participation in SADC.
- d. Regular election training of junior administrators, civil society and political practices to enhance knowledge and understanding about election procedures and processes during the inter-election years.

Session 2:

1. Have clear documented procedures and codes of conduct for key players.
2. Develop clear information communication strategy and procedures for key stakeholders i.e. ensure that every key stage of election preparatory stages and during elections, stakeholders are kept fully empowered and to the extent possible involved.

Session 3:

- a) Link voter's registration with national registration process and ensure that the registration process is computerised.
- b) Conduct election surveys on why people do not register.

Session 4:

- a) Continue to use CSOs as educational agents / drivers
- b) Have a definitive strategy on the role of CSOs in election management (i.e. as voter education agents and monitor elections)

Annexes

**OPENING ADDRESS BY THE PRESIDENT OF ZANZIBAR
AND CHAIRMAN OF THE REVOLUTIONARY COUNCIL,
H.E. DR. AMANI ABEID KARUME,
AT THE OPENING OF THE ELECTORAL COMMISSIONS
FORUM ANNUAL GENERAL CONFERENCE, BWAUANI
HOTEL, ZANZIBAR SATURDAY 26TH JULY, 2008**

**Former President of the United Republic of Tanzania,
H.E. Mzee Ali Hassan Mwinyi;
President of the SADC Electoral Commissions Forum,
Prof. Leopoldo de Costa;
Honourable Speaker of the Zanzibar House of Representatives;
Honourable Chief Justice of Zanzibar;
Honourable Ministers;
Chairpersons of Electoral Commissions;
The Regional Commissioner Urban West;
Representatives of Political Parties;
Distinguished Guests;
Ladies and Gentlemen**

I have profound pleasure to have been invited to give the opening address at this important regional meeting, the Annual General Conference of the Electoral Commissions Forum of SADC countries. I take this opportunity to welcome all the participants, particularly those from outside our country and thank the organizers for giving me the honour of opening the conference.

It also gives me great honour to acknowledge the presence of H.E. Mzee Ali Hassan Mwinyi, the former President of the United Republic of Tanzania. His participation at this conference, as the key speaker, gives a special dimension to this annual gathering. I am sure his contribution will provide this conference gems of experience and wise counsel that is greatly needed today in many of our doings.

I wish to point out also that Zanzibar is honoured to host this SADC regional conference as a founder member of the SADC Electoral Commissions Forum. The Zanzibar Government will avail all the possible assistance to ensure the success of the conference and the symposium to mark the 10th Anniversary of the ECF SADC.

Zanzibar holds the Electoral Commissions Forum in high esteem and pays due recognition to its importance. This is due to our commitment to the underlying principles of democracy and our determination to see that democracy is practiced in our country and the entire region without hindrance. In Zanzibar, by our doings we are an experienced democracy and would like to share our experience with our colleagues within the SADC region and beyond.

We note the role electoral commissions have in ensuring that democracy is seen to be done. In Zanzibar, as it is in all the member countries of SADC, this role is enshrined in our constitutions. Of late, the electoral commissions have come under scrutiny by not only ourselves but the rest of the world. This is because any miscarriage by them could lead to major political crisis, instability and loss of lives and property.

Our people have great expectations in the electoral commissions to deliver their democratic rights through the election process. Failing them amounts to dishonesty and an invitation to chaos which should be avoided. We realise that the commissions face many challenges which need to be looked into. As the ECF-SADC meets here in Zanzibar at this time, it is important to give a thorough review of the past and have a look at the future as a way of meeting some of these challenges. I am informed that the symposium later in the day will address some of the issues. We are looking forward to these discussions and as governments we welcome their findings and advices.

Ladies and Gentlemen,

I have been invited to give the Opening Address and let me not over-indulge myself by giving a long speech. I shall leave it to the main speaker who will deliver the keynote address. I wish, however, to once again thank the SADC Electoral Commissions Forum for honouring Zanzibar to be the host of the Tenth Annual Conference, thus giving recognition to our upholding of democracy and giving appreciation to the peace and stability in our country.

I call on our visitors to enjoy this tranquility in our country by not confining themselves in their hotel rooms and the conference hall. We invite them to see the attractions that make Zanzibar a unique country. I hope the Zanzibar Electoral Commission has made arrangements for you to see the beauty of our country and meet its friendly people.

Finally, I wish you a successful conference and productive symposium. It is now my honour and privilege to declare the 10th Annual General Conference of the Electoral Commission Forum of SADC countries officially opened.

Thank you.

**KEYNOTE ADDRESS BY FORMER PRESIDENT OF UNITED REPUBLIC OF TANZANIA:
HON. ALI HASSAN MWINYI, AT THE OPENING CEREMONY OF THE 10TH ANNUAL GENERAL
CONFERENCE AND SYMPOSIUM TO MARK THE 10TH ANNIVERSARY OF THE ECF- SADC
HELD IN ZANZIBAR.**

Your Excellency, Honourable President Amani Abeid Amani Karume

Honourable Chief Justice of United Republic of Tanzania –

Chief Justice Augustino Ramadhani

Honourable Ministers and Ambassadors here present

Chairperson of the National Electoral Commission- Justice Lewis

Makame

Chairpersons of the Electoral Management Bodies

Former Chairpersons of the Electoral Management Bodies

Regional Commissioner – Mr Abdallah Mwinyi

Honourable Commissioners of the Electoral Commissions in the SADC

Region

Representatives from Friedrich Ebert Stiftung – Botswana and

Tanzania

CEO`s of EMB`s represented here

Representative of Political Parties

Representatives from Civil Society Organizations

Representatives from SADC Secretariat

Distinguished Guests

Excellencies, Ladies and Gentlemen

First of all, on behalf of the Electoral Commission Forum for SADC countries, and the Organising Committee for The 10th Annual General Conference and Symposium 2008, please kindly permit me to express my pleasure and profound gratitude for the valued presence of His Excellency Dr. Amani Abeid Amani Karume - honourably presided over this opening ceremony of the 10th Annual General Conference and 10th Anniversary 2008 here in Zanzibar

I wish also to take this opportunity to express my warmest welcome to all delegations, from SADC countries and Zanzibar to attend this event being held on the great eminent land of Zanzibar. Your participation and support in this occurrence has really made this event more active and help accelerate the development of Electoral Management Bodies and Electoral Commissions Forum as well.

- Excellency President of Zanzibar;

- Distinguished Guests, Ladies and Gentlemen

The ECF of SADC countries represent a body that has made significant contributions towards democratizing elections while it seeks to strengthen co-operation among the electoral commissions in the SADC countries. Over the years now it has contributed to the broader understanding of the electoral process and has looked at issues concerning voter education, independence of EMB's, electoral disputes, resolution mechanisms and more recently it has addressed the issue of the media and elections. ECF /SADC, further recognizes the need to forge relationships not only with electoral bodies but with other stakeholders like political parties, civic organizations and media organizations.

In 2003, ECF In conjunction with the Electoral Institute of Southern Africa, developed the principles on Election Management and monitoring in SADC region. These have contributed to the improvement of election management and administration in the SADC region.

In the year 2004 SADC member countries signed the principles and guidelines governing democratic elections to be observed by member states when conducting elections. The signing of these principles have seen the entrancement of key electoral provisions in the national constitutions of SADC countries and the restructuring of electoral administration to enhance professionalism and the introduction of electoral procedures that promote participating, representation and accountability thereby improving on the guidelines upon which member states can assess one another for democratic practices.

As you may be aware, this year (2008), the Forum is celebrating ten (10) years of its existence. This historic day is a uniquely memorable moment for SADC region as a whole, but especially for the Electoral Commissions in the SADC countries. The anniversary which we are celebrating this week in Zanzibar, United Republic of Tanzania provides an opportunity to review the Forum's challenges and achievements, while looking forward to a brighter future. The 10th Annual General Conference of the Forum will be held on the 27th July 2008 and there will be other activities taking place in the same week. These include the Symposium, Celebration Walk and meetings. Sharing of experiences and skills will be expressed in these activities and this will provide ample opportunities for member commissions and stakeholders to learn from each other.

The theme of this conference is 'Enhancing Democratic Governance through credible elections in the SADC region. This theme is critical in assisting member commissions to reflect on their achievements and challenges in the past ten years and this goes a long way in contributing to the growth of the Forum and enhancement of democracy. I wish all delegates in this important symposium and 10th Anniversary and 10th Annual General Conference

In conclusion, please allow me wishing Your Excellency Dr. Amani Abeid Amani Karume President of Zanzibar be healthy, full of wisdom, and more successful in the national duties and people of Zanzibar.

Also, I thank Zanzibar Electoral Commission for extension of this invitation to me.

I thank you all.

VOTE OF THANKS BY EXCO CHAIRPERSON

Mr K.M.K. Mwinyichande, At The Opening Ceremony Of The 10th Annual General Conference And Symposium To Mark The 10th Anniversary Of The ECF SADC Held In Zanzibar.

Your Excellency, Honourable President Amani Abeid Amani Karume
Honourable Chief Justice of United Republic of Tanzania - Justice Augustino Ramadhani
Honourable Former President of United Republic of Tanzania – Mr. Ali Hassan Mwinyi
Honourable Ministers and Ambassadors here present
Chairperson of the National Electoral Commission- Justice Lewis Makame
Regional Commissioner – Mr Abdallah Mwinyi
Honourable Commissioners of the Electoral Commissions in the SADC region
Representative from Friedrich Ebert Stiftung – Botswana and Tanzania
CEO`s of EMBs represented here
Representative of Political Parties
Representative from Civil Society Organizations
Representative from SADC Secretariat-
Distinguished guests
Ladies and Gentlemen

It is my honour and privilege to extend my thanks and gratitude to you all for attending this important session.

I am standing here in my capacity as Chairperson of the Zanzibar Electoral Commission and as ECF Executive Committee Chairperson. As you may be aware I took up both positions in January, 2008 when new members of the Zanzibar Electoral Commission were appointed.

As the ECF turns ten years, we better refresh our minds that The National Electoral Commission of Tanzania was the first President of the legally constituted Forum, with Botswana, Lesotho, Mozambique, South Africa and Zimbabwe making up the Executive Committee under the Chair of South Africa.

Experience shows that there has been mixed feelings among analysts when it comes to identifying a place of Zanzibar Electoral Commission in the Electoral processes of the United Republic of Tanzania. Many confuses ZEC jurisdiction to that of NEC. Article 119 of the 1984 constitution of Zanzibar make clear provision for the Zanzibar Electoral Commission (ZEC) to be responsible for conducting Zanzibar presidential, the House of Representatives and the local Government elections.

After that brief introduction; let me propose a vote of thanks to our two leaders, His Excellency the President of Zanzibar and His Excellency the retired President of the United Republic of Tanzania for their willingness to be the part of this gathering.

On behalf of ECF –SADC leadership and all the delegates I wish to extend a special word of thanks to His Excellency, President Amani Abeid Karume for Officially opening this 10th Anniversary activities. His very presence at this occasion is demonstrative of the cordial and constructive relations that exist between the Executive and Elections Management Bodies in all our countries.

Let me also thank His Excellency, the Retired President of the United Republic of Tanzania, Mr Ali Hassan Mwinyi for his words of wisdom he shared to us here today. This teaches us that a country man never say I am tired when he/she is requested to serve his people.

- I also thank all the delegates for taking time to attend this workshop. I am confident that all of us will engage actively in the deliberations and that indeed, this symposium and the Annual General Conference will be a resounding success.
- Let me also take this opportunity to express our appreciation to our cooperative partners- Electoral Institute of Southern Africa (EISA) and Fredrick Ebert Stiftung (FES) for making the holding of this symposium possible. We are grateful that the two organizations worked closely with ECF Secretariat and the Zanzibar Electoral Commission to put all logistics in place.
- The ECF Secretariat also worked hard in sensitizing and mobilizing member Commissions and resource persons to participate at this important event
- The hotels, transport service companies, advertising companies, the simultaneous translation equipment personnel, IEC- Botswana (for production of ECF video production), IEC- South Africa (for printing of certificates)

With these very few words:

I THANK YOU.

ELECTORAL COMMISSIONS FORUM OF SADC COUNTRIES
10TH ANNUAL GENERAL MEETING AND 10TH ANNIVERSARY OF ECF-SADC
ENHANCING DEMOCRATIC GOVERNANCE THROUGH CREDIBLE ELECTIONS IN THE
SADC REGION
Zanzibar 24TH to 28TH July, 2008
ECF AFTER TEN YEARS OF EXISTENCE

**A presentation by (Retd) Justice M. Makame, Chairman, National Electoral Commission of
Tanzania**

**Chairperson,
Your Excellencies,
My Colleagues in the 'Election Industry',
Our Esteemed Invited Guests,
Ladies and Gentlemen**

I consider it a great honour and singular privilege to have been asked to say something about ECF and its existence of ten years. It perhaps a blessing in disguise if memories of the genesis and the early comings-and-goings eventually leading to this happy 10th Anniversary event recede somewhat, on account of the rather long passage of time. It is probably just as well, because that way one feels freed from the fetters of chronology and can therefore reminisce with a certain degree of carefree abandon. One can hopefully therefore be forgiven if this little presentation is rather kaleidoscopic and goes yo-yo some what.

It was in Johannesburg. The little Task Force group had been formed in Harare sometime back after a decision was made to put together some thoughts and ideas towards forming a formal body bringing together the Election Management bodies in the SADC region. We had put in a hard day's work and we were now taking very late afternoon tea before dispersing until the following day, when suddenly this kindly gentleman looked hard at me and softly said something to me. Because what I had heard seemed so out of extent I felt sure that I had misheard him. By then I had already been to South Africa a number of time and had in the process picked a bit of South Africa English I found myself saying "Come Again", instead of "I beg your pardon". The kindly gentleman did 'come again', this time loud and clear: "Do you own any cattle?" In a state of some confusion. I confessed "No Sir, I do not own any cattle. Why?" "At your age you do not have any property?" But Ndade I protested, "I did not say I do not have property. You only asked me about cattle" The gentlemen shrugged his head in obvious sympathy with me, and just as he was about to continue with the interrogation the Chairperson of the an EMB from another SADC country (who I learnt later had spent sometime in the kindly gentleman's own SADC and therefore knew what wealth was in that country) smiled, and came to my rescue. He was very suavely changed the subject and asked me, Judge, do you think if we succeed in what we are now trying to do, and have some form of a regional association, we can one day have the DRC on board?". I said I thought we would, and that infact we must. "How about country X? One day they may an EMB the way we understand it, and join also".

Ladies and Gentlemen, we have come a long way. I knew just then at that tea break that there was a lot to learn from and among us, and that an association we were asked in Harare to try to structure was going to be a huge challenge, but certainly worth-while-the effort. More and any more preparatory meetings, in Johannesburg, and eventually we are a much larger group at a very peaceful away-from-it-all place called Midgard in Namibia, where one of us had a personal connection with that nice and pleasant place where we put up for a few quiet days. We thrashed out and fine-tuned a draft Constitution we had put together in Johannesburg. The resulting document was formally agreed to be there but not until we had experienced some little hitches, one of which hit me like a bombshell: "Am I right, and is my eyesight alright, that I am seeing one of the participants trembling and sweating? I must be mistaken", I asked myself. "But if I am not mistaken, then why?" At tea time I discovered why! Somebody whispered to me- My brother, did you notice sweating and trembling?" I could not lie and pretend and that I had not. "I did", I said, "Why do you think

the gentleman was in that sorry condition?" .My friend confided:" I am a bit familiar with the politics of his country. I reckon that he was upset when the meeting resolved that when we get back to our respective countries, we should assert and 'broadcast' that as EMBs we were independent, and intended to stay that way. I reckon that gentleman feels he can get himself into trouble if he asserted 'independence' when he gets home". I found it rather amusing but I could imagine the enormity of the problems ahead of us. It was indeed going to be quite a challenge, in view of the vision and objectives we were carving out for ourselves. I think that over the years ECF members have learnt to turn to one another, for sharing experiences and comparing notes: for commiseration, solace, and advice. That way we have succeeded in building up some confidence in ourselves.

While at Midgard the representative group made another decision, significant and important, especially now in looking back. We decided that we were not going to call ourselves SADC Electoral Commissions Forum, but rather, Electoral Forum of SADC countries. I think we shall agree, and have seen the wisdom of this in recent times, that the difference of name we articulated was beyond mere semantics. The point we were making that day and are still making today, and have to continue to make, is that we are not owned by SADC, we are not ordered or constituted or even told, by SADC, to form this our organisation. It was our own initiative, the initiative of the EMBs, which geographically happen to be in the SADC region. We felt we need 'space' to do our thing.

Having taken this position we are far from saying that we do not realize and recognize that we are statutory bodies, each formed in a SADC country by the respective Authority of that country. We know we have to 'look back onto the rock from which we were hewn', and we do. We are not so naïve as not to know the 'climate' in which we seek to do business, and the context in which we have come together so as to perform more satisfactorily the various constitutional tasks for which we were formed. The challenge still remains, however for us as individual EMBs, and for us as the ECF, not to be there for cosmetic reasons, or like the tin toys of the hawker moving on the pavement inch by inch only when some body chooses to wind us up, and stop when we are wound down. There is a challenge for us to be able to stand our ground, when need be, and still be trusted to be loyal and committed, albeit not to some individual, or individuals, but rather to the stated cause and purpose for which we were brought into being. I If you like if you entrust me with a job to do, I can only accept and perform it on the terms we agree on; and if you gave it to me on behalf of the people who gave you the power to do so, I am, in the last analysis, answerable to your masters our masters. The People. Just as EMBs must not to be remote-controlled, the individuals in them must always be on guard not to stop low and let anyone, no matter how mighty, breath from behind them, over their necks, as it were. EMB individuals who ignore that precept may not enjoy sound sleep. In the long and arduous journey called Democracy, real Democracy that is, not gallery democracy, I need my other me with me and my conscience intact. EMBs must be able to tell 'you' Big one, and say it in your face, quietly if need be, but clearly and firmly all the same, "Oh! 'Tis marvellous to be have the strength of a (Political) giant, but it tyrannous to use it like one"

I make herein two confessions. One that I cannot immediately put my finger on who said the foregoing, and Two, that the word 'Political' is my own unauthorized insertion.

Chairperson, I warned at the beginning that we may have to go yo-yo; so I trust that this august audience will not be surprised if we continue to do so and then, incidentally it is a handy artifice for me to move flip-flop this way so that at the end of my presentation the discussant may lose the thread and not quite know where to start his critical 'appreciation'. He would that way shield me from a bombardment of adverse comments!

With your permission, Chairperson we should now briefly turn to collaboration and to our various collaborators. We should pause here to consider see what we got and can get from collaborators including the opportunities and challenges they bring them with. The National Institute of Southern Africa, which has started as The Electoral Institute South Africa, would be a good example. To the best my knowledge the very idea of forming a regional grouping like this one started in the corridors of EISA Offices in Johannesburg, and for this we are immensely grateful. They had this vision, this dream which eventually saw the light of the day. It is good to have dreams sometimes, they are infact often necessary. I think it was Bloody Mary in the musical 'SOUTH PACIFIC' who sang you gotta have a dream. If you do not have a dream, how can you have a dream come

true? Harare, Midgard etc are now history, so is Cape Town where the ECF baby was born in July 1998, some ten years ago. EISA gave us considerable support and we did not wean off them for secretarial and a technical support until 2003. We got our own secretariat in Gaborone and a good example of our in house cooperation is that we are housed by the Botswana Independent Electoral Commission. Another example of collaboration with EISA, if only a tangential one, is that as long as I can recollect, on the EISA Board there have always been. ECF individuals, albeit as individuals, not as representatives of ECF collaboration is live and mutually beneficial. I think it could usefully be pushed further. I may be out of date, but incidentally what happened to that Memorandum of Understanding between EISA and ECF?

EISA has also got remarkable research and publication capacity, enviable fund sourcing ability and a truly impressive organisational and reaching-out record. They are also well-known for training, workshops and networking. The challenge for ECF is tap on these reservoirs and perhaps starts lobbying EISA right now: They are in this very Conference room. I think we can in turn offer them certain things. For example they conduct some small little elections in their own right. They are free to approach ECF-the Election Gurus in the region.

As you know, since its inception ECF has been in the election Observation business seriously and it has achieved much in this field. We have the image, the know-how and vast experience. Our observation style is unique. It is professional, it has best practice approach and it is geared primarily to capacity building and support. Need we say more about this? Perhaps No, except to add that when our financial position allows in the future we should go to the Election scene much earlier, our logistics should be better organised and we should continue to expose ourselves more systematically to local information and briefings. It is, as you know, important to have reasonable knowledge of the legal framework; the historical background if only in brief, the political ecology and the social-economic factors influencing the local election dynamics. To succeed better ECF may have to revamp its image and enhance its Election profile. Who is leading your Observer Mission matters a great deal and incidentally, does ECF have patrons? There are things do matter that, can influence the level and extent of access, as well as the seriousness with which your presence is taken, and eventually this can impinge on the worth placed on your Observation report, including your recommendations if any.

Believe me there are host of other challenges in observing elections. We cannot dwell on all of them but we shall mention just a few.

When we started going out as ECF to observe elections, in the very late 90s and the early years of this decade, we probably tended to feel that observing elections was our sole exclusive domain, our own turf which we sort of resented being trode upon by 'outsiders'. Over the years we have certainly come to realise that, with PEMMO securely under our arm pits for guidance and direction, we still had a lot to learn from others. The interaction and cross-fertilisation is enriching. There is a lot to learn from other outfits and missions as well as from other people in other missions we found ourselves on. There were Civil Society, politicians, people of various religions persuasions, academics (including intellectuals!) youths and so on. Some seek to import in toto their experiences from way back home, some clearly wanted to push their own different agenda, and yet some others saw it as an opportunity to compose their own theses and treatises. The challenge was to keep things under control and focused without appearing to be offensive or arrogant or wanting to lead things from too far in front. The reward included seeing things from other people's angles which you probably had never thought about, and become more understanding. Being with non-ECF observers sometimes also meant discovering certain matters by mere chance. For example, there was this instance when one of us observers swooped on a presiding officer and called the attention of all international observers present. The Presiding Officer was obviously looking at an unfolded ballot paper which had already been marked!. Oh!, there was such a huge hullabaloo! Why was the Presiding Officer doing this? It was a lady and she was disconcertingly calm. She politely told us it was her legal duty to look at the infolded marked ballot paper to see if the voting was correct? "What are you saying Young Lady? It is supposed to be the voter's own secret?" "Yes indeed," the Presiding Officer replied, completely un- ruffled. "But don't you know this proviso?" which she then confidently proceed to read out.

"... Provided that the provisions of this paragraph shall not apply if a ballot paper is shown by a voter to the Presiding Officer for the purpose only of ascertaining if the voter has carried out his duties correctly".

The ousted paragraph was that if the voter is incapacitated etc he may show the mark he has placed on his ballot paper etc and such a ballot paper shall not be treated as a spoil ballot paper. Our now thoroughly embarrassed colleague blurted out. "This is not in my home country". Others said in unison. "But of course this is NOT your home country!"

The object lesson here is that you have to be extra careful when you observe elections, and ECF and EMBs should endeavour to make available to Election Observers copies of the relevant Election Laws. The challenge may however be how about the expenses involve in such action? EMB members must continue to learn. There is no end to it.

As we have said, we indeed benefit from observing elections with ECF people but as we can see there can be other tricky situations. There was this one example, quite small and mundane. An ECF man who was not much younger than myself was with me, in an observation group, and we found ourselves lumped together with no ECF people who were in the very efflorescence of young adulthood. We had to share a motor vehicle and these youths persuaded us to abandon the vehicle somewhere and go the polling stations on foot. My colleague and I innocently agreed because it was in an urban area and the Polling Stations were not so distant from one another. We soon discovered however that the youth would virtually trot to the next polling station and by the time my colleague and I got there the young people would gleefully give us oral 'observation report' of the polling station, complete with how many people had voted so far etc. "These young rascals" my ECF colleague remarked. "There are three things they do not know he sagely went on, one they do not appear to know that we were also young at one time. Two, oblivious to the fact that one day, if they are lucky, they will be mature like us. Thirdly, let us spend three more minutes here and demonstrate to them that we can observe things they do not have eyes to see" It was all very amusing and we decreed, without consulting the youths, that from then on, we would ambulate in the vehicle for the rest of the afternoon to go to the rest of the polling stations we intended to visit.

We have managed to have a secretariat as we have said. Apart from not knowing for how long the Botswana IEC generous hospitality will last, perhaps when we can secure the necessary funds we could rent or own our premises. I have never been inside the offices of our secretariat in Gaborone so I wonder how well equipped it is and whether we have any library to write home about. We need a library, a well stocked one, and gradually enhance its status. While we are on this, have we ever thought of publishing periodicals occasional and research papers, etc so that we can keep in touch that extra way? One has a feeling that our EXCOs may be doing a splendid job, but we really know what is going on in between AGCs? Do we have preserved institutional memory? Can we, say, or find out easily, when the Chairman of the forum became 'President' of the forum and when did AGM become AGC? Do we know how many times, if at all, we have made changes in our Constitution since Cape Town? And so on.

Let may add in passing that may be if our Institutional memory was solid we would even remember small gestures like bringing here on this occasion people like Prof Tottmeyer who was on the Task force and who identified and secure the Midgard place for us; the Dren Nupens the Mabo Masupyes and Ilona Tips etc, who did so much breaking the ground for us. Something would be amiss here if I failed to include in the 'Hall of Fame' my fellow gentleman who also contributed so much in the way of ideas. I am here talking of Mr Mmono who at a later stage gracefully eased himself out of his country's Mono-man Electoral Commission to give way to the Electoral Commission in its present form. Forgive me the pun, if you happen to discover it. Where also is any of the Reverend Father from that SADC country where apparently they grow so many of them.

ECF has accomplished several other things in terms of In-House cooperation. We have exchanged learning visits; we have done workshops together and even lent equipments to one another. We must build on this and continue to build capacity. At one time I think we talked of a learning centre. How far have we gone on this it is imperative that we equip with relevant and progressive knowledge our career election officials but also bring together the Commissioners of different EMBs for brainstorming sessions learning interlearning if necessary in retreat atmospheres. I believe we have gone some distance in earning the trust of political parties, civil society, the voter as well as the Government. As we seek to continue to deliver genuine credible, trust

worthy, transparent ,free and fair elections, we must also earnestly endeavour to continue to deserve to be needed and wanted to remain relevant ,and to avoid be one relegated to managing doubtful elections which is increasingly threaten to be mere costly awkward and embarrassing preludes to alternatives of debatable legality. If we fear our voice will go unheeded we must go to that extra mile, make that more effort. We should also seriously think of networking and cross networking.

On voter education I do not know if we have done enough. If we have, then how come voter turns out continues to drop on the whole? We must do something about this phenomenon. We must educate our masters. I begin to wonder if one the reason for generally voter turn out, at registration as well as on voting day could not be that in most countries voter education is divorced from civic education so that by end large what voter education achieves is by and large is nailed chiefly the mechanics of voting without teaching one one's civic duty to choose who should govern them and what one's hopes are in securing.

Meaningful development for himself and the community around him. The challenge seems to continue to educate and convince and not to give in to the temptation of making registering and voting compulsory.

Chairperson, we are intimidated by the tyranny of the clock so let us end with just two more challenges and only very very briefly costs of elections and electoral system. It is possible that each EMB in our ECF is making efforts to cut down election expenses. Prices are spiralling and the situation is not made worse when one gets wrong and finds himself transacting.

With crooks and either shady characters. EMBs are enjoined to be very careful in this area lest one scandalizes the management of his country's elections and make some people complain that elections are unduly costly and get tempted to go for cheaper short cuts but actually chase a mirage.

The second and last area we should think of last but in no way the least is the question of the choice of electoral system. There is admittedly no best electoral system applicable in the jurisdiction of every EMB in our part of the world any where else but what electoral system is used certainly affect the allocation of seats, and in turn who should governs. It is therefore something an EMB cannot afford not be interested in although the powers to handle this aspect lie some where else. However taking into account the fact that one of the duties of a serious committed EMB is to suggest appropriate and facilitative changes modifications in the elections laws which are our tools of trade, Electoral system is area an EMB has to have his mind on seriously.

There may sometimes be convulsions and even turmoils in the political life of a nation. When this happens the epicentres of the cyclone must be identified and utilized because it is there where there is calm, so bribery and resolve to mend and get going. EMBs and through them ECF must be among such places
As we talk together tomorrow we shall be celebrating and tabulating our success and solidarity .We shall also be rededicating ourselves to the noble tasks entrusted to us and expressing the belief that we shall be commemorating many more anniversaries ahead.

THANK YOU VERY MUCH

10 Years of Existence of the ECF: Building on the Achievements of the first Decade and Looking Forward for Improved Quality of Elections

By Denis Kadima, EISA Executive Director

The ECF should now focus on the future by attending to, *inter alia*, the following:

- 1) **Development and Adoption of a 5-year Strategic Plan** detailing strategic goals and objectives as well as projects and activities, with SMARTER indicators
- 2) **Deployment of Election Preparedness Assessment Missions (EPAM)**: about 10 months before the Election Day, the ECF should deploy a team to the host country to assess its preparedness.

The advantages of an EPAM over the traditional election observation missions (EOM) are self-explanatory. EPAM is proactive and allows corrective measures to be implemented before the elections, including improvements of the operations and secondments and attachments of staff from other ECF members to help strengthen the concerned electoral commission. In contrast, EOMs are reactive and focused on making recommendations for future elections. Often between two general elections the EMB commissioners and senior staff change and by the time the next elections are conducted about five years later, little happens in terms of follow ups on the recommendations of the various EOMs.

- 3) The **Utilisation of former Commissioners and senior staff**: having invested hugely in electoral commissioners and senior staff over many years, the ECF should resort to them after their retirement and employ them as resource persons and consultants in order to build the capacity of EMBs and their new staff and commissioners.
- 4) Conduct **Peer Reviews** in order to identify the main challenges facing EMBs over time and develop and implement special projects in the identified areas.
- 5) Build **partnerships** with institutions like EISA and International IDEA beyond the signing of MOUs. Development and implementation of joint projects could be a way of concretising such partnerships.

In conclusion, the ECF should now focus more on the improvement of the **quality of elections** in the SADC region through the **professionalisation of EMBs**. The work of EMBs is highly political because they decide who will control political power in the country. On the other hand, the work requires strong technical skills in order to ensure that elections are of high quality and their outcomes acceptable and accepted by the majority of players. This requires the ECF shifts its role from a simple association of EMBs in the SADC region to a body focused on the professionalisation of EMBs for the conducted of elections which help consolidate democracy and peace in the region.

Causes and Management of Electoral Conflict

by Tefo Raditapole,

26 July 2008

Introduction

This paper looks at causes and management of electoral conflict with a view to facilitating a review of electoral conflict management mechanisms and their impact on the outcome of the electoral process. I do so by dealing with the definition of conflict, the distinction between conflict and dispute, the use of terminology, effective electoral conflict management, dispute prevention and resolution, and electoral systems as tools of conflict management.

What is conflict

Conflict exists when there is a difference or disagreement between individuals or groups who have different ideas, visions or perspectives. It is not always negative as conflict can force movement necessary to deal with real problems (Electoral conflict management training material, Electoral Institute for Southern Africa). Experience has shown that conflict can be latent and it can be manifest. There are many general features of conflict. For the purposes of this paper, the two key features focused on are that conflict is inherent and it appears in every facet of life.

Electoral conflict therefore is conflict in the above sense, that arises out of the electoral process. It occurs between individuals and groups. Conflict can manifest itself through violent or peaceful means. In this regard we often think of conflict only when it manifests itself through violence and intimidation. Yet, when an election is run peacefully we do not think of conflict. Sometimes we go as far as saying "the elections were boring and uneventful".

In order to understand electoral conflict and its causes it is important to distinguish conflict from grievances and disputes. A grievance is a perceived injurious experience (Felstiner, Abel and Sarat, *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming* (1980-1981) 15 *Law and Society Review*)(quoted in John Brand, Casper Lotter, Carl Mischke and Felicity Steadman, *Labour Dispute Resolution*, Juta and Co Ltd, Cape Town, 1997). A perceived injurious experience can broadly be defined as any experience of whatever nature that is disliked or felt to be hurtful or undermining by a person or group (adapted from John Brand et al). A dispute is an incident in which an underlying conflict manifests itself. It is often possible to resolve the dispute but, the underlying conflict or tension between the parties to the dispute remains (Electoral conflict management training material). A typical example is where an electoral dispute between two parties is resolved through mediation or adjudication. That dispute is a manifestation or symptom of underlying conflict between the parties. The parties may accept the outcome of the mediation or court process as resolving the particular dispute but the general conflict between them remains.

Because the kind of conflict that surrounds us is often under the surface, it can be referred to as latent (Electoral conflict management training material). In other words, the conflict exists but it is not necessarily visible or manifest.

If latent conflict is not effectively managed, an event can take place which makes the conflict flare up in the form of an incident or dispute. Incidents or disputes can be referred to as manifest conflict, because the conflict that was under the surface is now in the open, or "manifest". So on this approach "conflict" can be seen as an overarching term that encompasses many things. A dispute, however, is a symptom of conflict that is visible and out in the open (Conflict management training material). This symptom is capable of being cured but the underlying condition remains. In other words disputes can be resolved, but underlying conflict cannot be resolved.

Use of terminology

The use of the terms “conflict” and “dispute” is deliberate and is key to understanding the theoretical and practical approach to conflict management. The terms are used differently and interchangeably in literature on the subject of conflict management. It has been postulated that conflict is inevitable, but efficient and fair resolution is not. Conflicts can persist even though there may be any number of possible resolutions that better serve the interests of the parties (Robert Paige Mnookin, *Why Negotiations Fail: An Exploration Barriers to the Resolution of Conflict*, Ohio State Journal on Dispute Resolution, Volume 8, 1993, No. 2). Its worth noting that the title of the journal in which these ideas of conflict resolution are published, itself refers to dispute resolution. In other publications the terms are used interchangeably (Susan Carpenter and WJD Kennedy, *Analysing the Conflict*, 1988, Jossy-Bass). There are times when the term conflict is used to mean conflict in the broad sense and disputes in the narrow sense, depending on the context (Negotiation, Richard D Irwin, Publishers, 1985). Other publications have focused on disputes and the term conflict is, albeit very minimally, also used interchangeably (Breaking the Impasse, Lawrence Suskind and Jeffery Kuikshank, 1987). South African authors generally distinguish conflicts and disputes in the same way proposed in this paper (Anstey, M, *Negotiating Conflict*, Juta & Co Ltd, Cape Town, 1991) and (John Brand, et al).

Having high-lighted the different usage of terminology it is critical to note that publications on the subject generally refer to conflict management in the context in which it is used in this paper.

The conflict path

Whilst conflict is inherent and therefore incapable of resolution, it can, however, be managed. John Brand et al note that we should never lose sight of the fact that the disputes which are to be resolved are manifestations of a conflict-power relationship between parties. At some point in time, that conflict-power relationship is unbalanced by some cause or trigger, and the conflict-power is transformed through a grievance phase into a dispute that has to be resolved in some way or another in order to manage the conflict. This dynamic is often described as the “conflict path”. They also recognise that conflict can also be managed in a way that makes it possible to prevent the transformation of that conflict into grievances and disputes.

The two pillars of conflict management

The management of conflict involves a number of different mechanisms all aimed at managing but not removing or resolving underlying conflict that is inherent. It involves both dispute prevention and dispute resolution. An effective electoral conflict management system therefore rests on two key pillars - namely dispute prevention institutions and processes, on the one hand, and dispute resolution institutions and processes on the other. The credibility and effectivity of these two pillars very often determines the extent to which an election process is “boring” or is manifested by unending complaints and peaceful or violent disputes. I deal with the two pillars in more detail after the next section on electoral systems as tools of conflict management.

Electoral systems as tools of conflict management

In most countries of the world, there is contestation for political and economic power as well as access to and control of state resources. Conflict is inherent in this contestation and manifests itself in various ways. The election process is generally used as one of the tools to manage this conflict. The nature of an electoral system and the dispute prevention and resolution measures it provides determine, to a large extent, how effective an electoral conflict management system is. The election process is, so to speak, fundamentally a huge conflict management exercise. Ideally it should take place regularly. Regrettably, sometimes this is not the case.

The authors of the International IDEA Handbook of Electoral System Design make the trite point that electoral systems can also influence the way parties campaign and the way political élites behave, thus helping to determine the broader political climate; they may encourage, or retard, the forging of

alliances between parties; and they can provide incentives for parties and groups to be broad-based and accommodating, or to base themselves on narrow appeals to ethnicity or kinship ties. In addition, if an electoral system is not considered “fair” and does not allow the opposition to feel that they have the chance to win next time around, an electoral system may encourage losers to work outside the system, using non-democratic, confrontationalist (sic) and even violent tactics. And finally the choice of electoral system will determine the ease or complexity of the act of voting. This is always important, but becomes particularly so in societies where there are a substantial number of inexperienced or illiterate voters (Andrew Reynolds and Ben Reilly, *The International IDEA Handbook of Electoral Design*, Information Services, International IDEA, Stockholm, 1997).

The authors of the *International IDEA Handbook* also emphasise that electoral systems can play a role as a tool of conflict management within a society. They note that some systems, in some circumstances, will encourage parties to make inclusive appeals for electoral support outside their own core vote base; for instance even though a party draws its support primarily from black voters, a particular electoral system may give it the incentive to appeal to white, or other voters. Thus, the party’s policy platform would become less divisive and exclusionary, and more unifying and inclusive. Similar electoral system incentives might make parties less ethnically, regionally, linguistically, or ideologically exclusive. Examples of how differing electoral systems have worked as tools of conflict management are given throughout the Handbook.

In the SADC region electoral management systems are generally embodied in legislation that provides for the setting up of relevant institutions and processes for the electoral process. It is the credibility and effectiveness of these institutions and processes that has a bearing on the success or failure of electoral conflict management in a given jurisdiction.

Dispute prevention and dispute resolution

The two pillars that underpin effective electoral conflict management ideally operate on a sequential basis. The system must make provision for dispute prevention measures. If the measures fail, there must be effective dispute resolution processes in place. Circumstances may however dictate otherwise and as such the system should be flexible enough to allow the appropriate process to be employed in the first instance for a desirable outcome.

In order to craft an effective system, policy makers would be well served to understand the “conflict path” referred to above and its components. This entails identifying the underlying causes of conflict, the triggers that escalate this to manifest conflict or disputes, as well as factors that tend to moderate or aggravate a given situation.

Even though John Brand et al write in the context of labour disputes, they correctly assert that disputes, including electoral disputes in my view, can be prevented through the introduction of moderating factors, by keeping lines of communication open, and by eradicating aggravating factors as much as possible. This dispute prevention pillar relies on anticipation of disputes which may arise and proactive intervention to prevent them from arising. Electoral legislation attempts to do this by establishing rules and procedures to deal with disputes before they arise. These include mechanisms aimed at consensus building such as:

- Genuinely independent electoral commissions
- IEC consultative committees
- Third party facilitation
- Building sustainable electoral partnerships between stakeholders
- Peace accords and dialogue

- Civic and voter education
- Transparency
- Accessibility
- Strategic communication, including rumour management
- Appropriate electoral codes of conduct (these must be enforceable through legislation)
- Inclusivity and even-handedness
- Conflict management training
- Efficient EMBs

(Adapted from IESA training material)

The dispute resolution pillar relies on the existence, or creation, of conflict management tools to resolve disputes. It also requires the matching of an appropriate process to a particular dispute in order to resolve it. These tools usually include:

- Decision making powers of electoral commissions and their administrative arms
- Problem solving
- Conciliation/mediation (through independent or impartial conflict management panels)
- Electoral arbitration tribunals (ideally with expedited and user friendly procedures)
- Courts (ideally dedicated and with expedited procedures)

18 It is critical for the adjudicative tools to have expedited procedures. If normal court or tribunal procedures (without expedited procedures) are followed, very often a dispute is decided long after elections have been concluded. The outcome may be academic and impractical, it may reverse or halt the entire electoral process or it may lead to a rejection of the electoral outcome and possible violence. Such expedited procedures must be consistent with the electoral process framework and timelines.

Conclusion

19 An effective conflict management system encompassing appropriate dispute prevention and dispute resolution tools will go a long way to ensuring that elections are as 'boring' for the electorate as they should be.

Multi Party Liaison Committees & Codes of Conduct

Party Liaison Committees

- One of the functions of the Electoral Commission of South Africa is to establish and maintain liaison and co-operation with political parties (Section 5 [1] [g] of the Electoral Commission Act, 51 of 1996)
- The Commission published regulations to give effect to the provisions of Section 5 (1) (g) of the Electoral Commission Act
- The regulations regulate the establishment of party liaison committees at national, provincial and municipal levels

Party Liaison Committees (PLCs)

- The function of the PLCs, according to the regulations, is to serve as “vehicles for consultation and co-operation between the Commission and the registered parties on all electoral matters aimed at the delivery of free and fair elections.”

Meetings of the PLCs

- In a non-election period, the party liaison committees meet once a quarter;
- 18 months before the elections, the meetings are held once a month;
- During the month of the elections, meetings are held weekly;
- In the week of the elections, meetings are held daily;
- On the day of the elections, meetings are held three times a day

PLCs

- The PLCs serve as consultative forums on all electoral matters such as:
 - Proposed amendment to legislation and regulations
 - Criteria for appointment of electoral staff
 - Delimitation process, viz., number and location of voting stations
 - Results system
 - Settlement of inter-party electoral disputes, especially once an election has been proclaimed
 - Logistical challenges on election day

Code of Conduct: General Principles

A code of conduct can either be voluntary or prescribed by law.

- Voluntary code
 - a set of rules of behaviour for political parties and their supporters relating to their participation in an electoral process to which the parties will voluntarily agree
 - sanction for non-compliance with a voluntary code is usually public exposure of a party that failed to comply
- These set of rules may subsequent to that agreement, be incorporated in law, in which case it is enforceable
 - The law will set out procedures and mechanisms for dealing with non-compliance of the code and these include mediation or civil or criminal proceedings.

South African Law

- The code of conduct in South Africa has both voluntary and legally binding or compulsory aspects.
- The code of conduct compiled in terms of Section 99 of the Electoral Act, and contained in Schedule 2 of this Act, is voluntary. Strictly speaking, no consequences arise for non-compliance.
- Provisions of Sections 87 – 94 and 107 – 109 of the Act can be interpreted as a legally binding code of conduct. These sections specify conduct that is prohibited once an election has been called. Non-compliance with these provisions is punishable in law.

Provisions of the Electoral Act, which can be interpreted as a legally binding code of conduct

Section 87: Undue influence	S88: Impersonation
S89: Intentional false statements	S90: Infringement of secrecy
S91: Prohibitions concerning voting and election materials	S92: Prohibition concerning placards and billboards during election
S93: Obstruction of, or non-compliance with, directions of Commission, chief electoral officer and other officers	S107: Temporary obligations (w.r.t. publication and distribution of printed matter)
S108: Prohibition on certain political activities	S94: Contravention of Code
S109: Prohibition on publication of exit polls	8

South African Law (cont.)

- According to the Act, infringement of the Code can be dealt with in one of the following ways:
 - Through conciliation (Section 103A); the Commission may attempt to resolve through conciliation any electoral dispute or complaint about an infringement of the Code brought to its notice by anyone involved in the dispute or complaint
 - Through institution of and intervention in civil proceedings by the Chief Electoral Officer in any court, including the Electoral Court (Section 95)

South African Law (cont.)

- According to the Act (Section 96) the Electoral Court has final jurisdiction in respect of all electoral disputes and complaints about infringement of the Code and its decision or order cannot be appealed against or reviewed
- The Court may impose any appropriate penalty or sanction including a formal warning, a fine not exceeding R200 000, an order reducing the number of votes cast in favour of a person or party, an order cancelling the registration of a party

South African Law (cont.)

- According to the Act, infringement of the Code can also be dealt with through institution of criminal proceedings (Sections 97 and 98)
- A person convicted of an offence is liable to a fine or to imprisonment for a period not exceeding 5 or 10 years depending on the provisions of the Code infringed

Enforcement of the Code by the Commission

- The Commission has not fully applied any of the provisions of the Act that deal with the enforcement of both the voluntary and enforceable provisions of the Code of Conduct.
- The tendency is to advise parties to lay criminal charges where the Code has been infringed.
- Before an election, we have held ceremonies at which political parties have made a public commitment to abide by the Code.

Enforcement of the Code by the Commission

- For the coming elections the Commission will ensure that it convenes conciliation hearings where the provisions of the code have been infringed. These conciliation hearings will be publicised.
- The Chief Electoral Officer will utilise Section 95 of the Act where the Code has been infringed and where she has evidence to that effect.

ELECTORAL CONFLICTS MANAGEMENT COMMITTEES:

Case of the Democratic Republic of Congo

By Father MUHOLONGU MALUMALU

President of IEC-DRC and Coordinator of AMANI Programme

July 2008

INTRODUCTION

In the strict sense, the electoral bone of contention refers to all the disputes arisen from the actions against the operations organization procedures and the results of an election.

Besides this general expression, there are several other disputes categories:

The electoral rolls dispute, the polls preparatory proceedings dispute...

The electoral issue has therefore the particular nature of involving several conflicts management procedures:

The jurisdictional way : constitutional courts, administrative tribunals or courts of justice which could lead to the cancellation of elections, the modification or reform of the results;

The non-jurisdictional way : work of management committees aiming to either prevent, or mediate.

Both ways have the objective:

Of either confirming the polls results genuineness, the quality of the elected (eligibility and incompatibility), or the pre-electoral operations legality such as the electoral file establishment or electoral campaigns. Based on the Democratic Republic of Congo's experience, we are going to stress the importance of the conflicts management committees in the post-conflicts or fragile environment.

NON-JURISDICTIONAL MECHANISMS OF ELECTORAL CONFLICTS PREVENTION AND RESOLUTION

I. 1 Political mechanisms

At internal level:

Consultation among institutions (Parliament, government, judiciary with the electoral administration)

Political parties forum

Consultation with customary chiefs

At external level

- International mediation (led in DRC by the President Tabo MBEKI)

International accompaniment led in DRC by CIAT (International Committee of Transition Accompaniment)

The experts committee led in DRC by the President Yoachim Chissano, former president

Bilateral or multilateral selective missions

2 Non political mechanisms

At internal level:

Consultation with non-governmental actors (non-profitmaking organization, religious organizations)

Mediation units with the initiative and support of EISA,

National observers organizations networks

At external level:

Various technical supports

Of all these necessary mechanisms, where there is mistrust between political actors or candidates in competition, 4 of them remain valid in non-conflicting situations :

Consultation among institutions

Political parties forum

Consultation with non-governmental actors and mediation units

National observers networks.

In case of external mediation, it is important that it is done in the prospect of African solidarity.

I. 3 Mediation's approach

Mediation units are established to compensate the shortages of technical and legislative approaches;

Mediation units are representative of basic communities: traditional leaders, religion leaders, non-governmental organizations, youth and women associations;

Mediation units ensure the arbitration and facilitation;

Mediation units can operate everywhere (even where there are armed conflicts), they are accessible to all and respect local customs and habits;

They are particularly efficient in conflicts prevention or resolution of small scale conflicts which don't require the intervention of Courts and Tribunals.

II.INTERVENTION FIELDS OF THE MANAGEMENT COMMITTEES

II. 1 The main reasons of a non-jurisdictional management of electoral conflicts

lack of electoral experience;

Contradictions rapidly leave the way of ideas and projects for the one of adversity and war.

2. divergence of interests and mistrust among political actors often leading to intolerance;

3. Mistrust towards the authority organizing elections

The organizing authority is often targeted due to the fact that it calls for the respect of rules by all parties while reaffirming its independence.

4. Tendentious interpretation of legal texts;

Candidates behave as specialists of legal questions and make a self-interested interpretation of the law. They exploit the public opinion.

5. Data and results falsification by electoral officials.

These are essentially attempts of electoral data falsification (electoral file, electoral results) all along the process.

6. Lack of information and risk of turning to rumours as a way of political manipulation or illiteracy exploitation

7. Use of violence as a way of protest and political action

II. 2. Types of electoral conflicts

Conflicts related to voter's Identification and enrolment

Contestation of a voter's nationality;

1. Contestation of a voter's age;

2. Contestation of a voter's status (mental disability, soldier or policeman in service);

Conflicts related to the electoral campaign

1. Disrespect of the campaign's legal period;

2. Use of threats, violences and/or corruption towards the voters;

3. Use of insults and lies or other means against other candidates;

4. Disrespect of the schedule given to all candidates in the official media;

5. Removal or distorsion of campaign posters.

Conflicts related to the holding of elections

1. Disrespect of the queue;
2. Omission of a name on the electoral roll;
3. Quality or shortage of electoral equipment
4. Use of threats, violences and/or corruption towards voters;
5. Voters confusion;
6. Relocation of polling stations.

Conflicts related to the electoral results

1. Contestation of electoral rolls (lists of voters left out, special list and lists of people voting by dispensation) : Reliability of the electoral file;
2. Alleged conflict between results displayed at the polling station and those published by the compilation centre;
3. Lack of perfect knowledge of the electoral system applied;
4. Misinterpretation of the rule of the strongest remains in the proportional system with open lists;
5. Ineligibility and an elected candidate's situation of Incompatibility.

DISPUTE RESOLUTION MECHANISMS – LESOTHO IEC
PREPARED BY MOTEKA MOHALE
FOR DISCUSSION AT THE ECF 10TH ANNIVERSARY
ZANZIBAR- 26TH JULY 2008

Power of Commission to Resolve Complaints

First and foremost, the EMBs are enjoined by law to deal with and resolve conflicts and disputes that are election related.

The National Elections Act provides that;

- Any person with legitimate interest may submit a complaint to the DoE concerning any aspect of the electoral process.
- DoE shall then attempt to resolve the complaint as quickly as possible and must comply with the timeframes set for the resolution of the complaints.
- If the complaint remains unresolved, the Director shall refer it to the conciliator appointed by the Commission in terms of the law, who shall then investigate the complaint and attempt to resolve it.
- If the conciliator is not able to resolve it within prescribed period, the conciliator shall then complete a report and submit it to the Commission with recommendations.
- The commission will consider the report and make a decision.
- If the complainant is not happy with the decision of the Commission, he/she shall then appeal to the High Court in accordance with the provisions of the Act.
- It is important to mention, however, that no one is prevented from seeking an urgent relief from the High Court.

APPOINTMENT OF TRIBUNAL

The Commission is empowered by law to appoint a Tribunal comprising of 3 members on the basis of their independence and expertise, at least one of whom shall be a judge, a retired judge or a legal practitioner of at least 15 years of experience, to hear and determine complaints concerning the contravention of the electoral code of conduct.

INSTITUTION OF PROCEEDINGS

- Any person may submit a complaint concerning the contravention of the electoral code of conduct to the Director of Elections.
- On receiving the complaint the DoE may refer the matter to the conciliator who shall investigate the complaint and attempt to resolve it.
- If the matter is not resolved by conciliation, a tribunal appointed by the commission shall then be called upon to adjudicate the complaint determine it.
- The Tribunal adjudicating the complaint may only impose a formal warning or a fine not exceeding M10 000 as a penalty or recommend to the Commission any of the following penalties or sanctions;

- i. An order prohibiting a political party, whether permanently or for a specified period, from utilizing any media time, including any television or media broadcasting services as have been or may be made available to such political party, for electoral campaign by the Commission;
- ii. An order prohibiting such political party or limiting the right of the political party-
 - a) To hold particular public meetings, demonstrations or marches;
 - b) To enter any specified electoral district or area for purposes of canvassing for membership, or for any other electoral purpose;
 - c) To erect placards or banners or to publish and distribute campaign literature or electoral advertising.
- In any case where a political party has infringed the provisions of the Code of Conduct by any act or omission involving violence or intimidation or a cross or systematic violation of the rights of any political party, candidate or voter, the Commission may order cancellation of the registration of such a political party, and consequently its right to participate in the election concerned.
- If it is the leader or any office-bearer, member or supporter of such a political party or any candidate who has infringed the provisions of the Code of Conduct by any act or omission involving violence or intimidation or a cross or systematic violation of the rights of any political party, candidate or elector, the Commission may disqualify such a person from being a candidate in an election.
- In making its decision regarding appropriate penalties or sanctions, the Tribunal or the Commission, as the case may be, shall have regard to any other legal consequence that may result from civil or criminal proceedings instituted by reason of the same occurrence.
- A determination by the Tribunal in this regard is final, and there shall be no appeal from an order of the Commission imposing a penalty or sanction prescribed by the law.

ELECTION PETITIONS

The law provides that all elections may be disputed in accordance with both the constitution and the electoral act by means of application to the High Court. Election petitions have to be presented to the High Court within 30 days after the end of the election period concerned, and the power to determine questions, in an election petition, relating to membership of the National Assembly is in terms of the constitution, vested in the High Court, no more the Tribunal or the Commission.

END

SELECTED AREAS OF CHALLENGE – VOTER REGISTRATION AND THE VOTER'S ROLL MANAGEMENT: THE WAY FORWARD

Introduction

An efficiently prepared register has the potential to greatly enhance the public's perception of whether or not an election is likely to be free, fair and credible. In addition, many stakeholders have an interest in the Voters' Roll Management because elections are a huge national political event in a country. Consequently, during a registration exercise, Civic organizations, political parties and electors ensure that the rights of people are not violated through disenfranchisement of voters and inevitably, this places pressure on Election Management Bodies (EMB) for an efficient management of the Voters' Roll.

Although in simple terms a Voters' Roll or Register is an official list of persons who are entitled to vote in an election for which the list is authorized, coming up with a Voters' Roll and maintaining it is a complex process which involves several activities spread countrywide that follow specific timeframes, require an enabling legal framework, use sophisticated and costly equipment requiring a large workforce during the actual registration period. On account of this, Voters' Roll management calls for proper planning, budgeting and expertise in order for stakeholders to build confidence in it.

As if the above is not enough challenge for EMBs, in managing the Voters' Roll, the legal framework within national Constitutions and Electoral Acts not only guides the procedures for administering the registration exercise and maintaining it, it also dictates that voter registers be compiled and maintained in a manner that is transparent and accurate, thereby protecting the right of qualified citizens to register, while at the same time preventing the unlawful or fraudulent registration or removal of qualified persons. Therefore, the management of a satisfactory Voters' Register is perhaps the biggest test of competence that an EMB has to pass.

A number of challenges exist in compiling and managing a Voters' Roll. Some of the challenges experienced in the management of the Voters roll are listed below.

1. Voting is about Numbers.

In an election, a candidate or a political party cannot win unless the candidate or the party scoops the most votes. Since contestants are in a dire need of the numbers, the Voters' Roll becomes a tool for facilitating these numbers. The more people get registered, the better the chances to win, the more acceptable and legitimate the results become. However, there is a need to scrutinize who can register on the Voters Roll. EMBs have to provide an avenue for stopping those people who are not eligible to vote from casting ballots. They also have to put in place mechanisms that enable election officials identify all eligible voters.

2. Comprehensive Voters' Roll.

A comprehensive Voters' Roll provides a sound basis for the organization of free, fair and credible elections. However, comprehensiveness demands that the Voters' Roll should be inclusive, accurate, and current. Ensuring these can pose a number of challenges to EMBs. For example, for a satisfactory Voters' roll should capture all reliably estimated prospective voters. This may be probably within a margin of 4% or 5% of all those who wish to be registered. The challenge here is that there is no reliable estimate of the prospective voters in most SADC countries, hence no basis for establishing the total number of voters who wish to register. While EMBs depend on National Statistics for projected estimates, the figures cannot give a true reflection, especially in a system where registration is voluntary. Projected figures have invited criticisms from political parties especially those in the opposition who tend to exaggerate the number of people not registered.

In countries where the compilation of the voters' roll is tied up to national ID cards, challenges arise because the IDs are issued by a body other than the EMB itself. The issuing body may be reluctant to issue IDs to some prospective voters for political gains and this can raise serious conflicts and impinge on the integrity of the electoral process.

The Universal Declaration of Human Rights, Article 21, states that "everyone has the right to take part in the government of his or her country directly or through freely chosen representatives..." and that "the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage". This article, along with other provisions in International human rights documents and provisions in national constitutions provide the legal foundation for democratic elections. "Universal" suffrage implies that all recognized members of a community have the right to vote. While "Equal" suffrage suggests that the vote of each of those members has an opportunity to choose representatives. The statement also ensures that illegal voting or other manipulations do not destroy the equality of each person's vote.

3. Determination of Eligibility:

While the Universal Declaration of Human Rights provides an enabling environment for eligible electors to register to vote, the challenge most EMBs in the region experience is that of determination of eligibility. Every society determines for itself, in accordance with international norms, which of its members has the right to vote. However, the criteria for determining eligibility need to be objectively determinable and not subjected to arbitrary decisions. The general consensus in Malawi is to define voter eligibility based upon the following criteria:

- Citizenship
- Residency, and
- Age.

This requires that an individual be a citizen to be eligible to vote. Citizenship also poses a challenge with inter-marriages. Some foreigners cunningly marry or get married to locals in order to establish citizenship and then quit the country after achieving what they wanted. Where there is a great influx of foreigners/refugees, citizenship can become a problem. In some SADC countries, citizens working in security forces are prohibited

from registering to vote. In the interest of inclusivity, this can pose a great challenge to EMBs.

Residency is another thorny issue during registration. Malawi and some SADC countries restrict registration to only those citizens who are currently residing within the country for fear of fraud. Residency also denies an opportunity to register to people who in spite of living in the country and contributing to internal development programmes for a long time. Of course, in Malawi, in trying to be more inclusive when defining who has the right to vote has extended the right to non-citizens who normally reside in the country, and have done so for an extended period of seven years or above. Further, designing an election district to which external votes should be assigned can raise other problems as it requires the creation of rather elaborate administrative procedures to enable those abroad cast their vote on polling day. The issue of extending the right to vote to those residing outside the country can be highly contested where elections are highly competitive, especially in the FPTP, constituency based elections. Indeed some countries in the region use embassies but even this can raise distrust in some countries.

To be able to exercise the right to vote, the age chosen is the age at which individuals are viewed by the state as adults and therefore, corresponds to the attainment of other rights. For most SADC countries, this age is eighteen (18). Some youths may be denied this right because of the way the legal framework is stated. For example, in Malawi constitution one has to be say 18 to register, this means that some youths who turn 18 on voting day cannot be allowed to vote. The question is how do we ensure inclusiveness without compromising issues of sovereignty, maturity and citizenship?

4. Identification of who is to register to vote.

In countries without national ID system, citizenship and age can be real challenges at registration points. People are encouraged to bring various documents as evidence of their citizenship which may include passports, driver's licence, marriage/baptism certificate, employment certificates etc. However, the majority of eligible voters do not possess such documents hence rely on verbal testimony from other registered citizens. Sometimes political parties have capitalized on this to mobilize their support by bringing under-aged and other ineligible voters to register and giving false testimony. This can lead to refusal of election results by other political parties if they believe there was fraud.

5. Verification of who is registered to vote

After a preliminary voters list has been generated, the practice by EMBs as demanded by the legal frame to ensure transparency is to provide an opportunity for public scrutiny of the voters list. The challenge here is production of several copies of the voluminous voters roll which can be placed in all registration centres, and also distributed to all contesting political parties. The cost is formidable. Consequently, EMBs may only produce voter's lists for individual registration centres and provide political parties with full lists. This may reduce adequacy of access to entire voters' roll. Not only are the majority of the potential voters illiterate hence depend on those who can read to check their names and particulars in the voters' list, many do not go to inspect the voters' roll to ensure that the information on the voters' list for every eligible person is accurate and up-to-date. They do not understand the importance of this exercise, hence cannot raise concerns such as omissions, let alone lodging complaints and objections. People turn up on polling day only to discover their names were either omitted or objected to from the voters list. Even with intensive civic education, people have got the tendency to believe that once registered, their part is completed. Consequences of non-compliance with voter's role inspection include delays to process voters during polling day and conflicts which would have resolved in good time.

6. Identifying voters.

During registration, people who successfully register to vote are issued a receipt or registration ID/card that provides proof of eligibility and registration. Simple registration certificates are easily lost or misplaced leading to increased demand for replacements. Replacement is both expensive and time consuming. Also depending on the level of sophistication of the registration certificates, they may be easy to fabricate and thus create opportunities for illegal voting. There have also been instances where unscrupulous political parties have through bribery and intimidation purchased voter certificates from opponents' supporters in order to reduce their votes. This has created inter-party conflicts, sometimes violence has ensued. Where durable voter ID cards are used, losses have led to unwarranted expenses to replace them.

7. Voter Education

The success of any voter registration exercise is dependent upon voter education. People must be informed about the importance of registration to vote and how to register. Because of limited resources accorded to voter education, access to critical information may be greatly compromised. Secondly, use of written materials for education marginalizes the majority of people who are illiterate. In the case where donor money is used for voter education, the procedures for acquiring such resources take too long and the resources may only be available close to or after the registration exercise. This has tended to limit the voters from knowing the importance of registering, when and how to register, where and how to inspect the voters list. People may miss their opportunity to be included on the voters' list.

8. Registration Officials

The people chosen to serve as registration officials and how they are trained has a profound impact on the conduct of voter registration. In many countries officials who can be recruited to do registration are typically full-time employees who work directly for the government. Unavoidably, perceptions of impartiality may arise especially from opposition political parties. Selecting officials from outside this pool may expose registration to incompetent school leavers. While sourcing high caliber people may attract high remuneration which can be a burden to the EMBs.

Secondly, training of registration staff also poses challenges. Training is usually cascaded, starting with Train-the-Trainers, moving down to centre supervisors who then train the rest of the registration team. Trickle-down of information and knowledge reduces capacity of registration team. This is coupled by use of sophisticated equipment such as scanners.

9. Resources

One greatest challenge in voters' Roll management is availability of resources. Resources are needed to manage all the activities, source equipment and other accessories, pay personnel involved in the registration process etc. Many times, our countries depend on donor funding which comes with other strings and usually encounters delays which impact registration timelines. Resources from government are usually inadequate but also controlled by the bureaucracy in the government machinery. All these affect the efficiency of an EMB.

All these challenges provide us with a spring board for launching possible solutions/alternatives as we forge ahead. There is a need to critically think of the way forward in order to enhance the integrity and credibility of the electoral process. For instance, training of registration staff requires developing relevant organizational skills in the election officials for them to cope with demands during the registration exercise.

a) Since creating an entirely new voters list for every election, is costly and time consuming, it will be prudent to maintain the voters' roll created and update it constantly. EMBs need to put mechanisms in place for identifying newly eligible people and determine those previously eligible but have ceased to be eligible. EMBs will also be required to update information about people who have moved, or who have married and changed their surnames. One way to achieve this is through computerizing the voters' lists. Through civic education and other public information systems, people who have not registered before can be mobilized to go and register without having to open up the entire registration exercise. EMBs need to liaise with Ministry of Home Affairs to source information about deaths and transfers.

b) Voter education should be continuous provided it is conducted under general civic education. A standardized curriculum can be developed which can be used by various service providers during non-election period. During an election period, people would be given specific voter information. This would actually enrich the civic education.

c) Governments should introduce National IDs. This would facilitate issues of who can register to vote in terms of citizenship, residency and age. can be EMBs can access information from the Government's registry. In fact civil registry would contains most of the information that EMBs require about the voters which would reduce time and cost.

In conclusion, voter registration should bring individuals into an election process, and protect the weight of individual votes. However, the efficacy of the voter registration process is in part, dependent upon there being consensus within a country as to the qualifications for eligibility. Thus the criteria used need to be harmonized with the rights recognized in the country's constitution as well as with the rights in international instruments. Considerations should be given to quality control; reduction in the likelihood of fraud, thereby building confidence in the registration process, electoral authorities and indeed the overall political system. This will further help prepare the political parties and civic organizations to monitor voting, counting and tabulation of results on Election Day, in addition to enhancing their organizational capacity and human resource base.

Relationship between different stakeholders and EMBs and the role each play towards promoting a culture of good governance

RINDAI CHIPFUNDE VAVA

ECF-10th ANNIVERSARY -ZANZIBAR

Talking points

Identify stakeholders in elections as: Civil Society Organisations (CSOs), Churches, political parties, media, observer missions, government, regional and international community

Electoral Management bodies (EMBs)

EMBs should always **design and develop appropriate strategies** for promoting sound relations with their stakeholders, based on the level of the stakeholder value. The degree to which a particular stakeholder's loyalty and support or lack of it will obviously affect EMBs operations and efforts should be made to win and maintain stakeholders' loyalty and support.

- Have the mandate to administer electoral processes in a credible manner
- To enhance the credibility of the electoral process, EMBs must function transparently but must do so in a manner that will always safeguard its independence. **In this regard, it is important for an EMB to consult and communicate with relevant stakeholders, in particular political parties, on electoral processes.**
- It is often argued that the true test of the independence of an EMB is in the constitutional and legal framework under which it is established.

Composition
Security of tenure for Commissioners
Budgetary / financial autonomy
Professional competence of the staff
Impartiality
Transparency in decision-making processes
Capacity to initiate electoral reforms
Roles

Experience has shown that there are challenges / constraints in some countries with regard to the above mentioned principles such as:-

Limited independence, unclear mandates, inadequate resources both financial and human, controversies relating to appointments and tenure of office

Role of stakeholders in electoral processes

- Civil society should be a vocal, well informed and play an active role in voter and civic education and in election monitoring
- To enhance citizen participation in issues of governance
- Plays an oversight role on EMBs in order to provide checks and balances, to ensure that EMBs administer electoral processes in a transparent, free, fair, accountable manner.
- To assess the electoral process, by measuring the relative freeness and fairness of elections according to widely accepted international standards
- To establish whether electoral laws are clearly defined and meet basic regional and international standards
- To establish whether these laws are understood by election officials, political contestants and the public and are not manipulated by any of the stakeholders.
- To determine electoral law violations and report on such.
- To give sense of confidence and security to the electorate and the public during the election period (especially when observing elections).
- To know, understand and comply with the electoral law and regulations of Zimbabwe.

Relationship between CSOs and EMBs

- EMBs have to give space to CSOs (CSOs the watchdog of EMBs)
- EMBs should work in harmony with CSO in election administration (how? By allowing CSOs to air out their views, to provide advice, to identify gaps where CSOs can compliment e.g. voter education (for example the manner in which ZESN managed to query the number of polling stations in the harmonised elections, the way ZESN queried the delimitation process, voter registration process, legislative framework, postal ballots etc. It is such interrogation that strengthens the relationship)
- CSOs, Churches, media, regional and international community may assist and work with EMBs to serve as mediators and contribute to peaceful conflict resolution by assisting disputants to find a mutually acceptable settlement. This helps reduce levels of violence, intimidation, fear and political tension.
- CSOs as independent local observers' assessment of the process can assist in the development of adequate electoral laws and procedures through electoral laws and procedures through electoral reform.
- Through lobbying and advocacy of CSOs, EMBs can be allocated more electoral budgets and cross-country exchanges, all of which may bring about the improvement of future electoral processes.
- CSOs and EMBs can work together in contributing to peaceful conflict resolution: Monitoring media and voter education, in particular, helps historically disadvantaged groups in the society to improve their understanding of the electoral process and assist in breaking cultural shackles which have traditionally excluded the marginalized from their rightful participation in the electoral process.

The importance of a good working relationship between the two bodies

The overall credibility of an electoral process is substantially dependent on all **relevant stakeholders** (including political parties, government, civil society and the media) being aware of and participating in the debate surrounding the formation of the electoral structure and processes. An informed debate in these groups should also take place regarding the functioning of the EMBs. In this respect the value of constant consultation, communication and cooperation among EMBs, the political parties and the institutions of society cannot be over-emphasized. (<http://www.idea.int>).

In addition the importance of a good working relationship between CSOs and EMBs is that;

- If CSOs are allowed to assume the watchdog role in elections; it instills confidence in the electorate, gives credibility to the electoral system, deters electoral fraud,
- CSOs by establishing that election officials execute election related duties impartially, CSOs give credibility to the EMBs
- Both can work together in identifying shortfalls, gaps and work towards reforming electoral laws of the country

Relationship between Political parties and EMBs is that;

- Political parties in general are high interest/high power stakeholders in elections.
- If there is a good working relationship between EMBs and political parties, the chances of election boycotting by parties is minimized, elections are not contested/ disputed
- In countries such as Fiji, Russia, and Thailand, the EMB administers political party registration, funding, and disclosure provisions, and also serves as the guardian of political party symbols and independent candidates' logos.
- In some countries, the EMB is responsible for auditing the accounts of political parties.
- Hence EMBs and political parties should communicate
- Challenges to the legitimacy or impartiality of electoral commissions, monitoring bodies, courts or other decision-making or dispute resolution bodies;
- If a significant political party rejects an election's result due to its distrust in the way the election was conducted by the EMB, the EMB may come under attack – let alone the potential ensuing disruption of society.

- Thus, the relationship with political parties is an important one for the EMB to take very seriously, and invest considerable effort to win their trust and support.
- With most opposition political parties there have been poor relations with EMBs and most significant reason for this is a lack of transparency on the part of EMBs.
- Its relationship with the governing political party of many EMBs.
- Put in place a code an enforceable code of conduct.
- Mechanisms to deter abuse of state resources

Relationship between EMB and funding partners

The key role played by **donor agencies** in democracy building and electoral assistance around the world makes donor agencies an indispensable partner of many EMBs, especially for those EMBs that rely heavily on donor funding for their elections.

- The relationship between the EMB and the donor community may differ from country to country, depending on whether the funds are negotiated by and released directly to the EMB or through a government department.
- In cases where the EMB negotiates and receives the money directly from a donor agency, and where a direct bilateral relationship between the two partners exists,
- It is particularly important that the EMB maintain a sound relationship with the donor.
- Relationship should not compromise the independency and impartiality of the EMB.

Relationship between Media and EMBs;

- The media, both print and electronic, public and private, can be a key ally of an EMB in informing the public about its mandate and operations as well as informing and educating voters about democracy and elections.
- An EMB needs a media relations strategy that promotes regular positive contact with the media and ensures that the media have access to accurate electoral information – including on EMB activities.
- If an EMB does not promote a transparent relationship with the media, there is a greater risk that incorrect information that may undermine its credibility will be published.
- Elements in implementing a media relations strategy for any EMB would include:
 - identifying the relevant media and their coverage;*
 - identifying the key people in the various media who can ensure accurate and prominent reporting of the EMB's activities;*
 - being proactive and transparent in releasing information to the media;*
 - ensuring that the information given to the media is clear and easily understandable;*
 - developing a timetable for providing electoral information;*
 - creating one EMB spokesperson for the media and one point of administrative contact within the EMB for the media; and*
 - Setting up a media centre within the EMB.*
- Some specific activities that will assist an EMB in its relations with the media include:
 - a. facilitating training programmes for journalists;*
 - b. issuing regular media releases on electoral issues;*
 - c. organizing regular media conferences;*
 - d. having a readily accessible EMB media liaison officer;*
 - e. preparing a media information handbook on each electoral event;*
 - f. conducting media briefings on technical electoral issues; and*
 - g. making electoral data easily and freely accessible to the media.*

CSOs play a complimentary role to EMBS and mechanisms need to be put in place in order to enhance collaboration and partnerships.

RELATIONSHIP bt EMBs & CSOs CHALLENGES & OPPORTUNITIES

**Presented at the 10th Annual Conf.
of the ECF of SADC**

Zanzibar, 26th July, 2008

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Electoral Management Bodies

- Are national Key Institutions entrusted with electoral processes
 - Thus, they ought to be:
 - Neutral
 - Non-partisan
 - Arbitrators and not players >>> not to take sides
 - Made of professionals of integrity and patriotism (Nation first...)

In order to earn trust and integrity

- Are under pressure >>> must be cautious in performing their sensitive duties
- Will be judged by their performance and behaviour
- Must understand that they are not alone in the process
 - Willingness to involve other stakeholders
 - And disclose their proceedings

Relationship bt EMBs & CSOs

Cont...

- The Challenges are to be:
 - Transparent
 - Inclusive >>> for with it comes credibility and legitimacy
 - Opened >>> embrace the "nothing to hide" principle (allow observation openly)
 - Willing to share information permanently (reporting)
- The added value of CSOs to Electoral processes:
 - Impartiality
 - Interested on the well being of the process
 - The Local CSOs knowledge of the context
 - Enhance credibility, legitimacy and integrity of elections
 - Enhance acceptance and acknowledgement of the results
 - Enhance Trust
 - Enhance transparency
 - Enhance ownership of the process >>> which addresses electoral apathy and fatigue
 - Establish mechanisms to deal with electoral conflicts
 - Provide a continuous and permanent civic education (civic education should not be captive to elections)

So, CSOs are not to be regarded as spies (because they are not) but as collaborators

Relationship bt EMBs & CSOs

- EMBs are not in vacuum
- EMBs are not an island unto themselves

There are other stakeholders:

- Civil Society Organizatios
- Political Parties
- Citizens
- Funding partners

who too must be involved in the process

- Healthy Relationships is power and offers opportunities for:
 - Complementarity
 - People's ownership of the process
 - Citizens participation
 - Enhancing integrity of the process
 - Brings joy to the process (Elections = festive events and not trouble, tension and uncertainty)
 - Enhancing easiness to the EMBs job
 - Using the potential of each stakeholder

The Mozambican Experience

- Birth of the Electoral Observatory (OE)

The signing of the Peace Accord on October the 4th, 1992 opened doors for each and every Mozambican to work for Peace
(With the Rule of Law principle "Estado de Direito")

- OE, an initiative that brought together Peace loving forces in the our country:
 - Faith Based Organizations
 - Human Rights Institutions/Organizations
 - Research/Academic Institutions/Organizations
- Aims at:
 - Monitoring and observe Electoral processes
 - Mitigating occurrence of localized tensions (conflicts)
 - Conducting permanent and continuous civic education
 - Enhancing confidence, trust, credibility and integrity of Electoral Institutions as well as
 - Electoral processes

Conclusion

- A call to enhance democratic governance through credible elections in our Region
 - Easily said thus done
 - Let us move from theory to practice
 - Lets us move from words/declarations to action
 - We need to transform elections in moments of joy
 - We need to open the processes for observation, if we have got nothing to hide
 - We need to involve each other and thus, complement each other
 - We need to value the citizen (people are not just "subjects" in the process)
 - We need to fight electoral apathy and fatigue

Yes... we are call to move from intentions to results

Because "a smallest action is better than a biggest intention"

ASANTE

I THANK YOU FOR YOUR ATTENTION
OBRIGADO
KHANIMAMBU

PARTICIPANTS REGISTER: SYMPOSIUM ‘Enhancing democratic governance through credible elections in the SADC region’ 26th July 2008, Bwawani Hotel, Zanzibar

ELECTORAL COMMISSIONS FORUM OF SADC COUNTRIES
(In cooperation with FRIEDRICH EBERT STIFTUNG & ELECTORAL INSTITUTE OF SOUTHERN AFRICA)

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