

Managing Democracy: A Review of SADC Principles and Guidelines Governing Democratic Elections



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Introduction

Since the onset of political transitions from mono-party and military regimes to multiparty systems of governance in the 1990s, an enormous amount of attention has been focused on elections (Reilly, 2001; Mozaffar, 2002). The focus on elections in the current democracy debate should not, however, give the impression that an election, in and of itself, constitutes democratic governance as such (Matlosa, 2004). Any perception that equates elections with democracy suffers the pitfalls of the fallacy of electoralism. The policy and academic debate ought to situate elections within the broader imperatives for the institutionalisation of substantive and developmental democracy which by far transcends the mere holding of periodic elections (see Landsberg and Mackay, 2004, Osaghae, 2004). In this way, the discourse begins to grapple more and more with issues and challenges for substantive and developmental democracy. Thus, even as we discuss the recently adopted SADC principles for elections, we need to keep these broader imperatives for institutionalisation of democratic governance beyond elections in mind.

To be sure, Africa as a whole, and Southern Africa in particular, has made commendable progress towards political liberalisation and democratisation since the past decade. The new Africa Governance Report produced by the United Nations Economic Commission for Africa (UNECA) which was launched in Addis Ababa, Ethiopia in October 2004 attests to this positive political change in the continent. However, even this report acknowledges that much progress has been registered in respect of the holding of regular multiparty elections while challenges for institutionalisation of democratic governance in between elections still bedevil the continent's political system by and large. According to this report:

*Democratisation in Africa has spurred substantial progress in the electoral process. Party registration laws have been reformed to allow for the registration of more political parties. Electoral institutions are being overhauled to give them greater autonomy, to improve voting arrangements and voter turnout and to resolve electoral conflicts. Overall, the electoral process is gaining credibility and legitimacy, and more people are identifying with electoral processes, **but daunting challenges remain** (my emphasis) (UNECA, 2004:5).*

Inspired by the positive political change in the African continent towards democratisation, yet cognizant of challenges for democratic consolidation, this chapter is a modest attempt to scan the democratic moment in Southern Africa and provide an analytic review of this SADC initiative in a context where other similar initiatives already exist. This article attempts to answer three basic questions: (a) what progress has Southern Africa made towards democratisation since the political transition of the 1990s; (b) what are the contextual and explanatory factors behind the SADC Principles and Guidelines? and (c) do these Principles and Guidelines present any new ideas for best election practices in SADC? In a nutshell, this paper teases the intricacies and dynamics of

political liberalisation and democratisation and within that framework inquires into the political import of the SADC election principles for the region's democratic governance. We kick off the discussion with some conceptual insights into democracy and elections emphasising the challenges for democratisation beyond elections. We also provide a brief contextual framework within which the principles were developed and adopted. This is a context marked by democratic transitions in a majority of the SADC states in which democratic consolidation still remains a distant mirage. Yet it is also crucial to understand the SADC election principles within the context of the commitment of member states towards regional political integration defined in the 1992 SADC Treaty and the Protocol on Politics, Defence and Security Cooperation. There is also anecdotal evidence suggesting that the SADC election principles are, in fact, intertwined with, and neatly dovetail into, continental efforts towards integration through the African Union. It is thus not surprising, then, that the SADC principles, in a large measure, resemble the African Union election principles adopted during the 2002 AU Summit in Durban, South Africa. The conceptual and contextual framework of our discussion is followed by some insights into the significance of the SADC principles for elections and for the democratisation process in the region. Some explanatory factors behind the development and adoption of the principles are presented. We also explore the possible complementary features and contradictions of these and other similar regional initiatives such as the SADC-PF norms and standards for elections and the EISA/ECF principles for election management, monitoring and observation. The concluding section winds up the debate and sums up the key observations.

The Conceptual and Contextual Framework

Conceptual Frame of Analysis

Political transition from authoritarian regimes of the 1960s-1980s in Southern Africa witnessed the pervasive embrace of multiparty political regimes in the region since the 1990s. Following democratic transition, the major challenge that countries face is how best to strive towards a democratic consolidation path. In a recent publication, this author classified SADC countries into four segments in terms of democratic transition and political stability, as illustrated in table 1 below.

Table 1: country classification regarding progress on democratic transition and consolidation

Blocked Transitions	Conflict-Ridden Transitions	Embryonic & Relatively Stable Transitions	Relatively Stable & Mature Transitions
Angola	Zimbabwe	Namibia	South Africa
Democratic Republic of Congo	Tanzania	Mozambique	Mauritius
Swaziland	Zambia	Lesotho	Botswana
		Malawi	

What the above table means in simple terms is that in three countries, namely Angola, DRC and Swaziland, democratic transition is yet to occur even before we could entertain any discussion and thoughts around democratic consolidation. In three others, namely Zimbabwe, Tanzania and Zambia, although the transition has indeed occurred, this is fraught with violent conflict, especially election-related conflict. This conflict adversely affects the consolidation process, for it brings about the contested legitimacy and credibility of the state and the acceptability of the rules of the game. Interestingly, and encouragingly too, in a majority of the regional states the transition has occurred, although variations still exist regarding stability and maturity of the system, institutions and the nature of the political culture. In Namibia, Mozambique, Lesotho and Malawi the transitions are relatively stable, although still in their fairly embryonic formation, and it could be argued that the early stages of consolidation are fraught with enormous challenges in this group of countries. In three other states, namely South Africa, Botswana and Mauritius, the transition has been undoubtedly successful and these countries, arguably, are already in the early stages of consolidation. Given the stability in these countries; the maturity of the political institutions; and conducive political culture, prospects for a sustainable democratic consolidation path are brighter in the latter group of countries than the others (Matlosa, 2004:19).

The above variations notwithstanding, we should not lose sight of the significance of the political transition of the 1990s for democratic governance in the SADC region. This transition amounts to *political liberalisation* ushered through, inter alia, “pluralism, multiparty politics and constitutional reforms” (Osaghae, 2004:1). It is worth noting that both external and internal factors have propelled this transition and the political liberalisation project. The major external factor has been the imposition of political conditionality of aid by the donor community; and the major internal factor has surely been agitation and lobbying by civil society organisation against authoritarian rule. Quite obviously, this political liberalisation has been marked more by formal and procedural democracy of the liberal type than substantive democracy of the developmental type (see Landsberg and Mackay, 2004). The former is anchored more around respect and observance of civil liberties, while the latter is reputed for respect and observance of both civil liberties and socio-economic rights. This raises another important point about the nature and quality of democracy in the SADC region, namely the extent to which the current democratic governance delivers socio-economic benefits to the ordinary people in between regular multiparty elections. This question probes into the complex issue of the democracy-development nexus. Simply put, does democracy improve the socio-economic livelihoods of the ordinary citizens and vice versa? Table 2 below provides the state of human development in SADC and suggests which countries are doing better and which ones are performing badly in this respect.

Table 2: Human Development in SADC

Country	HDI out of 177 countries	Life expectancy at birth (years) 2002	Adult literacy rate (% age 15 & above) 2002	Combined gross enrolment – primary, secondary, tertiary (%) 2001/02	Human Development Index value 2002
Mauritius	64	71.9	84.3	69	0.785
South Africa	119	48.8	86.0	77	0.666
Namibia	126	45.3	83.3	71	0.607
Botswana	128	41.4	78.9	70	0.589
Swaziland	137	35.7	80.9	61	0.519
Lesotho	145	36.3	81.4	65	0.493
Zimbabwe	147	33.9	90.0	58	0.491
Tanzania	162	43.5	77.1	31	0.407
Zambia	164	32.7	79.9	45	0.389
Malawi	165	37.8	61.8	74	0.388
Angola	166	40.1	42.0	30	0.381
DRC	168	41.4	62.7	27	0.365
Mozambique	171	38.5	46.5	41	0.354

Source: SADC Barometer, Issue No. 6, SAIIA, August 2004.

Whereas, generally, there is an assumed *apriori* causal linkage between democracy and development, the data above suggests that this may not be straightforward. For instance, four countries with impeccable democratic credentials, namely Mauritius, South Africa, Namibia and Botswana, exhibit a good human development record. Mozambique, however, has a poor human development record, despite its good democratic record. Conversely, the authoritarian Kingdom of Swaziland exhibits a good standing on the human development record, despite its appalling score on the democratic front.

Overall, however, the democracy project in SADC is generally limited to liberal notions and practices of governance but, even then, is merely formalistic and procedural in form and content. As Chris Landsberg puts it:

The SADC and Southern African region have achieved a lot at the formal, procedural level, and in the realm of creating a regional institution and community in defence of peace, security, democracy and democratic governance. Norms, values and standards to regulate the behaviour of states have been introduced, even though there is a serious problem with enforcing them. But at the substantive level, the stresses on democratic governance, and the threats and obstacles to it, have been most pronounced. Divisions among states and the debilitating conflicts in the region that have set back the advancement of democratic governance, have exacerbated this (2004:6).

Herein lies the yawning gap between talking democracy and walking democracy, so to speak. At closer scrutiny, quite a number of SADC member states talk democracy, but walk authoritarianism. Not only is there a gap between formal and substantive democracy in the region, but there is also another gap between liberal democracy and electoral democracy. By all indications, most of the SADC states would prefer electoral democracy which is narrower than liberal democracy in that it simply hangs upon the regular holding of elections as a key element, even if in between elections authoritarian tendencies in the governance realm still persist.

While essentially agreeing with the sound arguments raised by Eghosa Oseghae and Chris Landsberg above, in the final analysis Anne Hammerstad cautions that democracy takes a long time to build and consolidate. In a recent study assessing the state of democratic governance in eight NEPAD countries she observes that:

*There are concerns that some of the countries under review will retain the outward semblance of democracy (such as regular elections) without deepening and strengthening the **contents** and **practices** of a democratic system, thus dressing an essentially authoritarian or one-party system up in the garb of democracy. However, it should be kept in mind that a mature democracy cannot be built overnight and that the trend since the early 1990s has been mostly a positive one (2004:12).*

The above analyses of the form and content of democracy in Africa in general, and Southern Africa in particular, resonate in much of the democracy discourse at present. Recently, in a Graduation Ceremony Address at the Rhodes University in Grahamstown, South Africa, the renowned Indian Noble Peace Prize winner, Amartya Sen identified two schools of thought on the epistemology of democracy today. In his own words, he opines:

One view, which I shall call the 'public ballot perspective' interprets democracy mainly as majority rule, and focuses predominantly on the freedom to vote and the fairness of vote counting and electoral assessment. The second interpretation, which I shall refer to as the 'public reason perspective' sees democracy in terms of the opportunity of participatory reasoning and public decision-making (2004:2).

By all indications, the public ballot perspective of democracy constitutes a dominant ideation of democracy in policy circles in the SADC region and it is behind this backdrop that we are able to understand the amount of value that governments attach to elections. Yet, in many countries, less concern around democratic governance marks government behaviour and actions in between elections (public reason perspective). It is thus to the contextual landscape for democracy and elections that the next section now turns.

Contextual Frame of analysis

The SADC Treaty of 1992 adopted in Windhoek, Namibia, identified various areas in which member-states would cooperate and strive towards sustainable regional integration. Article 21 (3) of the treaty outlines eight (8) such areas as follows:

- Food security, land and agriculture;
- Infrastructure and services;
- Industry, trade, investment and finance;
- Human resources development, science and technology;
- Natural resources and environment;
- Social welfare, information and culture;
- Politics, diplomacy, international relations; and
- Peace and security (SADC, 1992:16; IGD, 2001).

These areas define the breadth and depth of regional integration in SADC and it is succinctly evident that the type of regional integration underway in the region is multi-faceted but primarily socio-economic and political in both form and content. In this chapter, we will deal principally with political integration which is implied in the last two bullet points above as we discuss the political import of the SADC principles for elections. It is worth noting that, in the recent past, a concerted critique has been levelled upon the conventional approaches of pursuing regional economic integration at the neglect of political integration in Africa (Ake, 1996; SAPES/UNDP/SADC, 1998; SAPES/UNDP/SADC, 2000). It is thus encouraging that SADC appears to be redressing this anomaly as the regional institution seems poised to give as much premium and pride of place to political integration as it does to socio-economic integration.

As part of the commitment to regional political integration, SADC member states established the Organ on Politics, Defence and Security (OPDS) in 1996 in Gaborone, Botswana. One of the major objectives of the OPDS, according to the Protocol governing the Organ, is to “promote the development of democratic institutions and practices within the territories of State Parties and encourage the observance of universal human rights as provided for in the Charters and Conventions of the Organisations of the African Union and United Nations respectively” (SADC, 2001:3). The 2001 Protocol on Politics, Defence and Security Cooperation adopted in Blantyre, Malawi on the 14th August 2001 vividly defines the commitment of the SADC member states towards political integration aimed at achieving solidarity, peace and security in the region “through close cooperation on matters of politics, defence and security” (SADC, 2001: 2). Various accounts have amply demonstrated the paralysis and ineffectiveness that beset the OPDS, particularly between 1996 and 1999. These teething problems were later generally resolved during a Ministerial meeting in Mbabane, Swaziland in 1999 (Cilliers, 1999). Following the Mbabane meeting, much progress on how best to operationalise the OPDS was registered, including the

development of the latter mentioned Protocol, although, of course, signing protocols is one thing and their effective implementation is quite another.

Not only has the OPDS developed a protocol on politics, defence and security, but a planning mechanism has also recently been put in place. The OPDS, then chaired by the Prime Minister of Lesotho, Mr. Pakalitha Mosisili, developed the SADC Indicative Strategic Plan for the Organ (SIPO) in 2003/04 and this plan was duly adopted during the annual summit held in Mauritius in August 2004 . SIPO is a planning and implementation strategy for the commitment of member states towards regional political integration through the OPDS. SIPO defines various areas for regional political integration as follows:

- The political sector;
- The defence sector;
- The state security sector; and
- The public security sector (SADC 2004:3).

It is within the purview of the Political Sector above that the discussion of the SADC principles for elections should be located. Within the framework of SIPO, strategies that SADC has identified in terms of building democratic institutions and promoting human rights in the region include the following:

- Establishment of common electoral standards in the region, including a code of electoral conduct;
- Promotion of the principles of democracy and good governance;
- Encouragement of political parties to accept the outcome of elections held in accordance with both the African Union and SADC Electoral Standards;
- Establishment of a SADC Electoral Commission with well-defined roles and functions;
- Establishment a regional commission for the promotion of and respect for human rights; and
- Strengthening member states' judicial systems (SADC, 2004:6).

This chapter attempts to tease out the significance of these principles for the regional democracy project. We also proffer some conceptual lenses for our understanding of imperatives towards regional political integration and dig out the extent to which the principles play themselves out within this conceptual schema. Within this conceptual framing, it is important to note from the onset that since the 1990s political transition, SADC states have largely embraced procedural or formal, rather than substantive, democracy (Landsberg and Mackay, 2004; Osaghae, 2004). This is euphemistically termed liberal democracy which, in the context of Africa and SADC, could be perceived as illiberal democracy caught within what Eghosa Osaghae aptly terms the fallacy of electoralism. However, Osaghae hastens to conclude that “although the dangers, or fallacy of electoralism, that is, the equation of democracy with the holding of elections, are well acknowledged (...) they do not diminish the importance of elections,

especially in the context of democratic transition where they serve as foundations and vehicles of transformation” (2004:8).

One of the most glaring indicators of the democratic transitions in Africa is surely the institutionalisation of regular multiparty elections. In this regard, Mozaffar argues that:

...the spread of democracy in sub-Saharan Africa has endowed competitive elections with special significance. They have become the organised method of peaceful democratic transition, a salient indicator of democratic consolidation, and the principal institutionalised means for large numbers of people to participate peacefully in forming and changing democratic governments afterwards. Credible elections have thus become a necessary, albeit insufficient, source of behavioural, if not attitudinal, legitimacy in Africa's emerging democracies (2002:86).

Whereas multiparty elections serve a variety of functions, the two most important ones are surely the enhancement of political participation in the governance process for the citizens and the legitimate formation of a parliament that is truly representative of the key political stakeholders in a given country. It is worth noting that, although to varying degrees certainly, all the SADC countries bar three (namely Angola, the Democratic Republic of the Congo and Swaziland) boast these two qualities and principles of a working democracy. As we have argued earlier, however, the quality of this democracy differs from one country to another. For instance, the governance process is much more conflict-ridden and marked by protracted instability in Zimbabwe, Tanzania and Zambia. As elsewhere in the African continent, the embrace of a participatory mode of governance and a fairly representative government reflect a relatively new political culture for most SADC member states (save for Botswana and Mauritius to a large measure) as they have only been part of the democratic transition since the early 1990s. At the very heart of this new political culture that has jettisoned authoritarian modes of governance in the region, has been the holding of regular multiparty elections. Be that as it may, it is one thing to conduct the mere act of holding multi-party elections almost every five years, it is quite another to ensure that the electoral process is satisfactory to all the political contestants. This is the reason why in the last decade an enormous amount of energy and time has been invested in designing and developing some set of norms, standards, guidelines and/or principles for the effective management of elections that, in turn, add more value to democratic governance in the region. It is against this backdrop, then, that we are able to fathom the significance (and possible impact) of the newly adopted SADC Principles and Guidelines Governing Democratic Elections.

The 1990s ushered in what could well be referred to as a ‘revolutionary’ political condition in the SADC region. This situation manifested itself in more ways than one. Firstly, mono-party and military authoritarianism was jettisoned in favour of

multiparty governance. Secondly, the commitment to multiparty democratic governance was translated into the political practice and culture of regular multiparty elections. Be that as it may, it is now cliché to observe that elections, in and of themselves, do not amount to democracy. Yet democracy cannot exist without regular multiparty elections. Conversely (and paradoxically too), a country can hold regular elections and yet fall far short of democratic credentials.

One of the major challenges that have confronted the democracy project in SADC since the 1990s has been sporadic and/or protracted violent conflicts and the resultant political instability. These conflicts and instability have tended to escalate during and around elections in many countries. Let us accept, right from the onset that elections are a high-stake contestation and in that situation conflict is likely to occur. The challenge is therefore not so much to wish away conflict or bemoan its occurrence, but rather to devise institutionalised mechanisms for its constructive management. In short, election-related conflict and disputes are a reality of politics. The challenge for the democracy project in SADC is to anticipate these conflicts and put in place effective institutional mechanisms for constructively managing them. It is against this backdrop, then, that we are able to understand and indeed appreciate the essence and significance of various initiatives aimed at putting in place some guidelines and principles for the management of elections.

Exploring Explanatory Factors behind the SADC Principles

SADC countries are party to various declarations of the United Nations committing member states to democratic governance and respect and observance of human rights as enshrined in the 1949 Universal Declaration of Human Rights. The collapse of the ideological bipolarity that was marked by the superpower rivalry between the United States and the then Soviet Union enhanced the impetus by various UN agencies to promote democracy and human rights world-wide (see the UNDP Human Development Report, 2002). In 1994, the UN Centre for Human Rights based in Geneva, Switzerland, produced an important handbook on democratic elections entitled “Human Rights and Elections: A Handbook on the Legal, Technical and Human Rights Aspects of Elections”. This handbook is meant to assist the UN to provide technical assistance to member states during elections, but it is also an important guide on how best to manage and run credible elections. The authors of the handbook justify it thus:

Taking part in the conduct of public affairs is a basic human right increasingly prized by people throughout the world. Humankind, at different times in its history and with varying degrees of success, has sought ways of involving individuals in community decisions. Today, taking part in government is recognized as a basic human right in every region of the world (UN, 1994:1).

The UN handbook on human rights and elections covers the following issues in some detail:

- United Nations Involvement in Elections: An Overview
- United Nations Human Rights Standards Regarding Elections in General;
- International Criteria Reviewed in Detail:
 - Free Elections
 - Fair Elections
 - Periodicity and the Electoral Time-Frame
 - Genuine Elections
 - Other Requirements (the role of police and the role of observers)
- Common Elements of Electoral Laws and Procedures (UN, 1994).

Additionally, various continental and regional inter-state supranational institutions have been seized with noble endeavours towards some common principles and measurement of performance by state-parties in regard to democracy and, in particular, elections. The democracy and governance declaration of the New Partnership for Africa's Development (NEPAD) and its twin-initiative-the African Peer Review Mechanism (APRM) are an example of such endeavours. The idea behind these initiatives is surely to strive towards the nurturing and consolidation of the continent's nascent democratic governance, and to strive towards political stability. It is precisely in pursuit of democratic consolidation and political stability that, during its 38th Ordinary Session of the Assembly of Heads of State and Government held in Durban, South Africa in July 2002, the OAU/AU adopted the Declaration on the Principles Governing Democratic Elections in Africa. This initiative clearly set the stage for continental and regional efforts towards acceptable, credible and legitimate elections conducted on the basis of a level playing field and with minimum incidence of, especially violent, conflict. The AU Declaration, among other things, commits member states to the following important principles:

- Democratic elections are the basis of the authority of any representative government;
- Regular elections constitute a key of the democratisation process and therefore are essential for good governance, the rule of law, and the maintenance and promotion of peace, security, stability and development;
- The holding of democratic elections is an important dimension in conflict management and resolution; and
- Democratic elections should be conducted:
 - Freely and fairly;
 - Under democratic constitutions and in compliance with supportive legal institutions;
 - Under a system of separation of powers that ensures, in particular, the independence of the Judiciary;
 - At regular intervals, as provided for in National Constitutions; and

- By impartial, all-inclusive, competent, accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics

Besides enunciating the principles, the declaration provides guidelines on (a) Responsibilities of the Member States; (b) Elections: Rights and Obligations; (c) Election Observation and Monitoring by the OAU/AU; and (d) Role and Mandate of the General Secretariat. With specific reference to the AU's involvement in elections, a different set of guidelines for AU election observation and monitoring has been developed and was also adopted during the Durban Summit of 2002 (OAU/AU, 2002). In a word, the AU has developed its principles governing democratic elections, plus a separate set of guidelines for election observation and monitoring. Both declarations were adopted during the 2002 OAU/AU Summit in Durban, South Africa. The AU embraces the idea that, at all times, elections have to add enormous value to a vibrant democracy. This idea then challenges our countries to constantly review their electoral processes with a view to ensuring that elections do exactly that: building firm foundations for a working democracy devoid of violent conflict.

It is within this broader global and continental context that we can trace the origins of the SADC Principles and Guidelines Governing Democratic Elections. With hindsight, we surmise that the SADC principles are indirectly linked to the UN Human Rights and Elections guidelines, while they are also a deliberate attempt by the regional states to translate the AU commitments into regional initiatives. However, there is yet another possible way in which we could explain the rationale behind the development and adoption of the SADC principles. In some sense, as much as it is a pro-active response to the UN and AU commitments, it could also be perceived as a quintessentially reactive response to other similar initiatives which are not even acknowledged in the SADC document. These are the SADC-PF Norms and Standards (2001) - an initiative of parliamentarians; and the EISA/ECF Principles (2003) - an initiative of civil society organisations (CSOs) and the electoral management bodies (EMBs).

The SADC-Parliamentary Forum has developed Norms and Standards for Elections in the SADC Region since 2001 and has used these guidelines to observe all elections in the region since that time. The SADC-PF norms and standards for elections cover the following areas (a) elections and individual rights; (b) elections and the government; and (c) fostering transparency and integrity in the electoral process. The first section on elections and individual rights covers rights of citizens in electing their government of choice; voting and secrecy; and freedom of association and expression. The second section on elections and government covers the following areas:

- Commitment to pluralism and multiparty democracy;
- Date of elections;
- Misuse of public resources and funding of political activities;
- Government, political parties, NGOs and the media; and

- Electoral Commissions (SADC-PF, 2001)

A much more extensive coverage is devoted to the third section on fostering transparency and integrity of the electoral process. The section covers the following areas:

- Registration of voters
- Voter education
- Boundary delimitation commissions
- Nomination process
- Election campaign
- Funding of political campaigns
- Role of the courts
- The Electoral Commissions and the media
- Polling stations
- Ballot boxes
- Counting of votes
- Acceptance of election results
- Managing post election conflicts
- Role of observers
- Role of the SADC Parliamentary Forum in election observation
- Code of conduct for the Forum as regional observers
- Reform of electoral laws (SADC-PF, 2001)

As with the AU, the SADC-PF has also developed a separate comprehensive guide for election observation by its own observers, comprised primarily of members of parliament, covering (a) the political context; (b) the observation framework; (c) mission preparation; (d) in-country orientation; (e) the pre-election period; (f) the voting and the count; and (g) the post-election period (SADC-PF, 2001). Evidently, the SADC-PF guide on election observation is more comprehensive than its election norms and standards and in fact it is by far the most detailed guideline on election observation in the whole region from which a number of other institutions could learn important lessons on monitoring and observation of elections. SADC-PF has used its norms and standards and election observation guide in all elections held in the SADC region since 2001.

Since 2000, the EISA, jointly with the Electoral Commissions Forum (ECF) of SADC, also developed another complimentary instrument known as the Principles for Election Management, Monitoring and Observation (PEMMO) in the SADC Region. This regional election management and observation instrument was finally adopted at a regional conference convened in Benoni, South Africa in November 2003. In order to expand its utility throughout the region in terms of best electoral practices, PEMMO is available in three languages namely English, French and Portuguese. EISA has also used these principles in observing the South African and Malawian elections in April 2004

and May 2004, respectively. EISA will use the same instrument to observe the forthcoming elections in Botswana (October 2004), Namibia (November 2004) and Mozambique (December 2004). The PEMMO, like the SADC-PF instrument mentioned earlier, outlines problems facing SADC countries in elections and offers best practices for improvements to be introduced. PEMMO covers a wide gamut of the electoral process as follows: (a) the institutional framework; (b) pre-election phase processes; (c) election phase processes; (d) post-election phase processes; and (e) election observation and monitoring. The institutional framework covers the following areas:

- Constitutional and legal framework;
- Electoral systems;
- The Election Management Body; and
- Conflict management (EISA/ECF, 2003).

The section on the pre-election phase covers challenges and best practices around:

- Delimitation;
- Voter registration;
- Registration of political parties;
- Nomination process;
- Campaign process;
- Media;
- Use of public resources;
- Political violence and intimidation;
- Role of security forces;
- Political party finance; and
- Civic and voter education (EISA/ECF, 2003)

The third section on election phase deals with (a) polling stations, (b) secrecy of the ballot, (c) ballot papers, ballot boxes and election materials, and (d) counting. The fourth section on post-election phase outlines problems and offers best practices around (a) announcement of overall results, (b) acceptance of results, (c) post-election review and (d) post-election disputes. The fifth and last section covers election monitoring and observation. Overall, the EISA/ECF PEMMO is surely the most technically robust election management instrument in the region compared to the other existing instruments. Yet, to be sure, it is also less robust and thorough when it comes to election monitoring and observation. It should be noted that EISA/ECF initiative, unlike the AU and SADC-PF, does not have as comprehensive an election monitoring and observation guide as its election management component.

Whereas the SADC-PF initiative is essentially a valuable contribution of parliamentarians in the whole process of electoral reforms in the region, the PEMMO is principally a noble initiative by both civil society and electoral

commissions towards the same end goal: democratic consolidation and political stability. The major complementary areas between the SADC-PF and the EISA/ECF PEMMO lie in the following:

- The SADC-PF has a more comprehensive election observation guide; and
- The EISA/ECF has a more comprehensive election management guide

Thus, the two taken together present a comprehensive guide for best practices in election management (EISA/ECF) and election observation (SADC-PF).

Complementary Features and Contradictions between the SADC Principles and other Regional Election Instruments

At this stage, it is tempting to pose the question as to what is new in the SADC principles and how these principles will relate to those already developed and used by the SADC-PF and EISA/ECF? Are they fundamentally contradictory to the existing regional instruments? Conversely, are they complementary to the existing regional instruments? The SADC principles and guidelines have five main components:

- Principles for Conducting Democratic Elections;
- Mandate and Constitution of SADC Observers Mission (SEOMs)
- Guidelines for the Observation of Elections;
- Rights and Responsibilities of SADC Election Observers; and
- Responsibilities of the Member States Holding Elections

Ironically, though, while best practice in election management is supposed to be the heart of the matter for levelling the electoral playing field, it is the shortest section of the SADC document. This is worth reproducing here in full as it is the most relevant section for the purposes of this discussion. The Principles and Guidelines commit SADC member states to the following best practices:

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

- Challenge to the election results as provided for in the law of the land (SADC, 2004).

Careful reading of the document reveals that with regard to the above principles, there are no fundamental differences between those introduced by SADC, and those that the SADC-PF and the EISA/ECF instruments have proposed as best election practices. This situation has ignited calls from some observers of the region's political scene for a merger of the three instruments into one unified regional instrument. The problem with these calls is that they fail to appreciate that these three instruments come from diverse and also divergent political forces with often contradictory interests and perspectives in relation to democracy and governance. SADC-PF represents parliamentarians and could be perceived to be closer to the executive branch of governments, which, to all intents and purposes, is essentially what SADC is. But the fact that SADC-PF includes in its membership opposition MPs makes it rather distinct and suspicious in the eyes of the executives that drive SADC, hence the tenuous relationship between the two bodies. This is to be expected given the all-pervasive disharmony and mutual mistrust between the executive and legislative organs of the state in many of the SADC states and the consequent political hegemony of the former over the latter thereby severely undermining checks and balances in the governance process at the national level. A similar trend is thus underway at the regional level in respect of strides towards political integration through SADC as a regional supranational entity. With regard to EISA and ECF, the former is a non-governmental organisation, while the latter is an 'autonomous' regional election management structure and SADC structures are not known for inclusiveness that would allow other actors outside the control of the head of state and government. That one of SADC's major weaknesses relates to lack of peoples' direct and indirect participation in its efforts towards political integration brooks no controversy today. Again this regional trend mirrors national political cultures of a majority of the SADC states wherein civil society organisations are perceived by ruling parties as a political irritant and often dubbed adjuncts of opposition parties. While most SADC governments have welcomed and supported the emergence of 'autonomous' election management bodies (EMBs), they are still worried about substantial independence of these institutions which limits their control over the manner in which the EMBs manage and conduct various kinds of elections. To this extent the executive organ of government worries about the degree of autonomy and independence of EMBs since they are cognizant of the critical role these institutions play in regard to contestation and control of state power through elections. It is within this context that Mozaffar advances a three-pronged typology of EMBs in Africa by aptly arguing that:

*The institutional location of EMBs is a measure of the extent of their political autonomy vis-à-vis the government, specifically the executive. The combination of institutional location and associated political autonomy engenders a three-fold typology of (1) **non-autonomous EMBs** located within the formal government bureaucracy, (2) **semi-autonomous EMBs** located within the formal government*

*bureaucracy but under the supervision of an autonomous body established specifically for that purpose, and (3) **autonomous EMBs** otherwise also known as independent electoral commissions (2002:91).*

In a majority of cases in the SADC region EMBs are either non-autonomous or semi-autonomous and hardly ever autonomous hence the suspicion by the executive that given the independent initiative that the ECF has initiated jointly with EISA could further expand its space for 'unregulated' autonomy. This has also ignited political suspicion on the part of governments towards the election principles developed by EISA/ECF hence SADC felt compelled to develop its own election principles adopted in 2004. Be that as it may, all democracy analysts and practitioners are agreeable that these are commendable and noble principles, but this is as far as the SADC declaration goes with regard to best election practices. These practices have been elaborated in more detail in both the SADC-PF and EISA/ECF instruments referred to earlier.

Rather paradoxically, the larger chunk of the SADC document is then devoted to election observation, thus the document is top-heavy towards election observation and rather weak in respect of election management. Although it may not be easy to explicate this weakness in the SADC election principles three possible explanations are as (a) the paradox of a government-led initiative aimed at assisting ruling parties to become a player and referee in the political game of elections akin to the irony of a student attempting to set examination questions for himself/herself and ultimately marking himself/herself and determining whether or not s/he passes or fails; (b) failure by SADC to solicit technical expertise to develop the principles from election experts in the region and throughout the world by developing the principles on its own again due to entrenched mistrust of a majority of governments towards independent voices and opinions of election experts and academics in general; and (c) the high possibility that the SADC election principles may turn out to be a simple political solidarity pact among ruling parties and heads of state and government to attempt to legitimise even some of the overtly illegitimate electoral processes hence its skewed form and content more towards observation and less towards actual conduct and management of election.

Technically, therefore, the document suffers some kind of schizophrenia: it is more of an election observation guideline than a document on election management principles, although the SADC leaders tend to think that it is in fact an election principles document. It is more inclined towards election observation than election management. Quite frankly, even the title of the document belies its form and content. Methodologically, the correct title for this document should have been SADC Principles and Guidelines for Observation of Elections given that it is more elaborate on observation than it is on election management as such. In contrast, the SADC-PF guidelines are more comprehensive on election observation and less so on management. The EISA/ECF PEMMO is more elaborate and comprehensive on election management practices and less so on

election observation. Thus, in terms of the form and content of the SADC principles, there is nothing new in comparison to what already exists on the ground regarding desirable best election practices in the region. However, the major area of possible complementarity between the three documents is here:

- The SADC-PF guidelines, which are more comprehensive and elaborate on election observation, still remain the most dependable guide in this area;
- The EISA/ECF PEMMO is the most comprehensive technical instrument for best practices in election management; and
- The SADC principles have committed States to observation principles already elaborated in the SADC-PF guidelines and the election management principles already elaborated in the EISA/ECF PEMMO.

These are the areas where we can identify both complementarities and contradictions among and between the three regional election initiatives. What should be emphasised are areas for mutual reinforcement of these initiatives, rather than on possible contradictions if the three are to be used effectively in the process of consolidating current democratic gains in a majority of SADC states.

However, a point that should not be lost sight of is that, for the first time, regional states have made a public declaration to adhere to some best practices. Having said this, though, let us hasten to add that SADC has proved itself over the years now to be extremely good on progressive declarations. Yet the same declarations are hardly ever turned into political commitment that is necessary to ultimately translate into implementable policies and political reforms. Thus, the challenge that faces SADC today is the extent to which the supranational regional body will set out to implement the declaration adopted in Mauritius in August 2004. This will become clear as the principles are put into effect in the forthcoming elections in Botswana, Namibia and Mozambique during the latter part of 2004 and in Zimbabwe, Tanzania, Mauritius and the DRC some time in 2005. It would be interesting to observe how, for instance, SADC would react to a situation where one of the member states is found wanting in respect of adherence to the principles. That would be the ultimate test of commitment to the declaration by member states. In a recent article, Elizabeth Sidiropoulos concludes that:

The adoption of the SADC principles and guidelines governing democratic elections by the heads of state at the summit in August provides a good solid framework against which the impartiality of the elections can be measured. In this respect, it signals an important milestone for democratic consolidation within SADC. Yet principles do not prescribe specifics. And it is in this arena that SADC leaders and citizens need to courageously safeguard not only the letter of the principles but also their spirit (2004:1).

To wind up this section, it is important to note that one area in which performance of SADC member states has been found wanting in respect of the region's

democracy test relates to gender equality in various spheres of the governance regime. The commitment to gender equality made by SADC states is embodied in the 1997 Declaration on Gender and Development adopted during its summit of the same year held in Blantyre, Malawi. Table 3 below demonstrates the generally poor performance of SADC states in terms of ensuring gender equality in governance.

Table 3: Women in Governance Structures in SADC

Country	Parliament	%	Cabinet	%	Deputy Ministers	%	Local Government	%
Angola	34/220	15.4	4/27	14.8	6/56	10.7	10/830	1.2
Botswana	8/44	18.0	4/15	26.7	2/6	33.3	111/486	22.8
DRC								
Lesotho	15/120	10.8	4/17	23.5	2/6	33.3		
Malawi	18/193	9.3	4/21	19.0	2/6	33.3		
Mauritius	4/70	5.7	1/25	4.0			11/119	9.2
Mozambique	75/250	30.0	3/23	13.0	5/25	27.8	235/790	29.7
Namibia	19/72	26.4	3/20	15.0	4/20	25.0	140/323	43.3
South Africa	131/400	32.8	12/28	42.9	10/21	47.6	2271/8044	28.2
Swaziland	2/85	3.1						
Tanzania	61/274	22.3	4/27	14.8	4/17	23.5	1190/3477	34.2
Zambia	19/158	12.0	3/20	15.0	3/33	10.0	91/1287	7.0
Zimbabwe	15/150	10.0	4/28	14.3	1/12	8.3	81/1880	4.3

Source: Chingamuka, 2004

It is evident from the table above that quite a few countries have achieved or are close to achieving the 30% target for women's representation in governance structures by the year 2005 and to strive towards equal representation thereafter. The top five performers in terms of realising the gender benchmarks of the 1997 Declaration on Gender and Development are South Africa, Mozambique, Namibia, Tanzania and Botswana. The poor performers are Swaziland, Mauritius, Malawi, Zimbabwe and Lesotho.

Conclusion

This is a review of major regional initiatives for best election practices in the SADC region with special focus on the SADC election principles. The paper provides some analytical insights into a deeper understanding of the significance and meaning of the SADC Principles and Guidelines Governing Democratic Elections adopted during the annual summit of the heads of state and government in Mauritius in August 2004. We have provided the conceptual and contextual backdrop to the emergence of these principles and guidelines.

On the conceptual plane, we have argued that democracy in the region by far transcends the mere holding of periodic elections and there is need therefore to

avoid the pitfalls of the fallacy of electoralism. In terms of the contextual framework, we noted the progress that the SADC region has made thus far in respect of political transition from authoritarianism towards multiparty democracy. It is worth noting that while wide-ranging, this transformative process has been more glaring in respect of the holding of regular multiparty elections.

We explored possible explanatory factors for the development and adoption of the SADC election principles and found that there could have been an indirect imperative on the part of the states to live up to the UN guidelines on human rights and elections, while there is obviously a direct linkage between the SADC principles and the OAU/AU election principles. We discovered that while the SADC initiative is a proactive response by SADC to the AU Principles Governing Democratic Elections, it is also a reactive response to the earlier initiatives by the SADC-PF and EISA/ECF.

We have observed that while the SADC principles and guidelines are fairly weak on best election management, they are on a relatively strong footing in respect of best practice for election observation. However, the SADC-PF guidelines are much more thoroughgoing and comprehensive on observation. We have also noted that the EISA/ECF PEMMO is on much firmer ground with regard to best election management practices in comparison with the other two initiatives. Whereas, in terms of form and content, there is little that is novel and ground-breaking about the SADC principles and guidelines, their strength lies in the commitment of the states on best election practices that are already well elaborated in the SADC-PF and EISA/ECF instrument on election management and observation. It is in this regard that Sidiropoulos cautions that:

The resolve of leaders to hold themselves and their fellow presidents to the new principles has yet to be tested. Yet the adoption of these principles is a positive step for citizens in the region. It provides them with the opportunity to hold their leaders accountable to codes that they themselves have developed – not those of the west or the former colonial powers. Will the next year see SADC move beyond the noble rhetoric? (2004:1).

The three instruments can be used independently of each other in election management and observation and there shouldn't be worries or concerns for duplication since they would be administered towards the same end-goal: democracy consolidation and political stability. Although understandable, suggestions for the three instruments to be merged into one solidified regional instrument, therefore, are simply an exercise in futility. When we developed the EISA/ECF election principles during the period 2000-2003, originally, the idea was that these would ultimately be merged with the SADC-PF norms and standards. However, upon completing this task, reality confronted us in the face as it became practically impossible to even ponder over that possibility. Why? Simply put, EISA and ECF serve different kinds of constituencies (civil society/academia and EMBs respectively) from the one represented by the

SADC-PF (parliamentarians). Civil society organisations including academics and the EMBs on one hand decided to develop a workable strategy and a practical instrument to gauge the extent to which elections in SADC are contributing to democratic consolidation or accentuating democratic reversals/deficits by developing PEMMO. On the other hand, the parliaments in the region through the SADC-PF had also taken their stand on the issue by establishing some broad parameters to monitor the same process using their preferred methodology and strategies. The dilemma then is to propose that these initiatives should be merged once they are in place and already in operation.

It could have been possible for the SADC-PF Norms and Standards to form part and parcel of the SADC election principles, *ceteris paribus*, if the former had succeeded to have its proposal to become a regional parliament integrated within the official organs of SADC. However, this proposition was rejected by the SADC summit in Mauritius on the rather flimsy grounds that SADC would not afford a regional parliamentary structure as it would be focusing attention and resources on the Pan-African Parliament (PAP) whose headquarters are in South Africa – the most influential (if dominant) SADC member state. With the benefit of hindsight, it is perplexing and rather intriguing to realise that, while SADC has rejected a proposal to integrate the SADC-PF within its official organs, the SIPO adopted during the same SADC summit in August 2004 commits member states to the establishment of a regional electoral commission. At the same time, however, there is already in existence the Electoral Commissions Forum of SADC States, which, together with EISA, has developed the PEMMO. The question, then, is whether SADC would prefer to transform the ECF into a formal SADC organ, while it has rejected a similar proposal from the SADC-PF? Another related question is whether SADC would opt to establish the regional electoral commission outside the framework of the ECF? Furthermore, if SADC takes the route of transforming the ECF into its official organ, then what implications would this have on the EISA/ECF PEMMO in relation to the SADC election principles? Not only that; the idea of a regional electoral commission that is an official organ of SADC which an institution driven and led by heads of state and government is likely to compromise severely the autonomy of national electoral commissions and bring them more and more into the fold of the executive organ and government and under the political influence of ruling parties. Surely this is bound to have a negative political reverberation on the positive strides towards democratisation in the region. It is probably still early days for us to attempt definitive answers to all these questions. This chapter is meant as a preliminary exploration of the state of democracy and manner in which elections are being managed in the SADC region. Much more in-depth empirical research is still required in this area and EISA is making plans to set such an enquiry in motion in the very near future. We are monitoring these developments and it is only safe to say that time will tell.

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