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Executive summary

This paper offers a broad survey of issues related to electoral management in southern Africa.

After a short overview of southern African electoral systems, this paper discusses the institutional framework for administering polls and delimiting electoral boundaries. The paper examines the criteria and values which govern and inform the ways in which these bodies function as well as the various measures which have been adopted to promote fair conduct. Fair elections usually implies equitable treatment of all competitors; in several southern Africa countries public resources are deployed to enable parties to run effective campaigns though the extent to which distribution of such resources is even-handed varies. Broader considerations, which affect democratic culture, are discussed in a subsequent section, including civil rights, the freedom of the media, and the provision of civic education. The high cost of elections in this region makes them alarmingly dependent on externally derived resources, one reason why they continue to attract considerable international attention from observer groups.

Four case studies round off this survey. South Africa represents a level of managerial efficiency and administrative sophistication which reflects resources which few other countries in Africa can hope to command; even so questions can be raised about the financial sustainability of the South African operation. In donor dependent Mozambique politicisation of electoral management has added to the difficulties of conducting polls in an extremely challenging environment. Namibia represents an impressive example of relatively smooth administration using quite limited resources but also illustrates the consequences of delegating the task of addressing disputes to the courts without any serious efforts to mediate conflict more informally. Finally Angola stands as a sad example of the requirement of a minimal degree of commitment to abiding by electoral outcomes by stakeholders before effective electoral management can happen.

Seven key strategies to support political pluralism and multiparty electoral politics in southern Africa:

1. Independent electoral administration and capacity-building

There is widespread provision for the establishment of independent electoral commissions in the constitutions of SADC countries. However, to be effective, electoral commissions must receive adequate funding, political support and administrative capacity to undertake the most efficient, professional and cost-effective elections possible. Such capacity can be developed through strong commitment of all means of support from national government, from foreign donors, and through the development of a strong and vibrant democratic culture. Electoral

commissions should also be encouraged to develop the exchange of information, practices, experiences and technical skills in order to deliver the best possible elections.

2. Code of conduct for political parties

Electoral Commissions, in association with other interests should work with political parties to generate a binding code of conduct for registered political parties. The code of conduct should govern the behaviour of political parties, their candidates and supporters. Such a code, if effectively implemented, can contribute to the sustainability of political tolerance and build legitimacy for the peaceful conduct of election campaigns. The code can be given force through the Electoral Law, enforceable through conflict management committees, the courts, or other dispute resolution mechanisms.

3. Freedom of the press

While all SADC countries are signatories to the Windhoek Declaration they must also strive to examine the best practicable means to ensure freedom of expression and freedom of the press, especially in relation to the electoral process. A free media is an essential tool for the open exchange of political opinion, and for reporting on the election process. The media too should be committed to a code of conduct.

4. Support for civic education

Countries with only recent experience with multiparty politics have a responsibility to ensure that the population understands their democratic rights and duties. Civic education is an essential foundation to the exercise of political rights. Governments, electoral commissions, political parties and non-governmental organisations can all play a role in this regard. Electoral commissions especially can drive the process to ensure that the electorate remains informed about any changes in the electoral system.

5. Public funding and disclosure of party funding

Financial support for multiparty politics extends beyond electoral commissions and includes political parties themselves. Countries should consider some mix of public funding for political parties and a regulatory environment governing private domestic or foreign. For example, foreign donations may be pooled into a publicly administered fund, or else be subject to disclosure (similar regulations should exist for domestic donations).

6. Party liaison committees

Accountable and more transparent electoral administration can contribute to the legitimacy of the electoral results. Ongoing consultation and communication with political parties through liaison committees at national, regional and local level (where applicable) can address issues and potential debates before they become disruptive to the overall election process.

7. Conflict management committees

Similar to party liaison committees, alternative conflict mediation and resolution structures can circumvent recourse to the often expensive and lengthy process of submitting court applications. Dispute resolution through such alternatives can thus bridge the gap that often results between political parties, or between the parties, candidates, individuals and the government or electoral commission.

1. The Rise of Multiparty Electoral Democracy in Southern Africa

Southern Africa reflects the diverse colonial legacies of British, Portuguese, Belgian, French and German colonialism. In many ways it was the last part of Africa to gain independence, with South Africa, as an example of what some termed colonialism of a special type, an internal colonialism in which the majority were denied citizenship, the last outpost of minority rule. Thus, much of southern Africa has only recently gained experience with the administration of multiparty elections.

After a short overview of Southern African electoral systems, this paper will open its discussion of electoral management with an examination of the institutional framework which in most countries is embodied in separate organisations for administering polls and delimiting electoral boundaries. The paper will then consider the criteria and values which inform how these bodies function as well as the various measures which have been adopted to promote fair conduct. Fair elections usually implies equitable treatment of all competitors; in several Southern Africa countries public resources are deployed to enable parties to run effective campaigns though the extent to which distribution of such resources is even-handed varies. Broader considerations, which affect democratic culture, are discussed in a subsequent section, including civil rights, freedom of the media and the provision of civic education. The high cost of elections in this region makes them alarmingly dependent on externally derived resources, one reason why they continue to attract considerable international attention from observer groups. The Electoral Commission Forum of SADC represents a promising opportunity for regional collaboration in sharing resources and knowledge. Four case studies round off this survey. South Africa represents a level of managerial efficiency and administrative sophistication which reflects resources which few other countries in Africa can hope to command; even so questions can be raised about the financial sustainability of the South African operation. In donor dependent Mozambique politicisation of electoral management has added to the difficulties of conducting polls in an extremely challenging environment. Namibia represents an impressive example of relatively smooth administration using quite limited resources but also illustrates the consequences of delegating the task of addressing disputes to the courts without any serious efforts to mediate conflict more informally. Finally Angola stands as a sad example of the requirement of a minimal degree of commitment to abiding by electoral outcomes by stakeholders before effective electoral management can happen.

But first we must assess the formal electoral landscape of southern Africa. Almost all countries in southern Africa have now held multiparty elections in recent memory. Some countries have not done so, largely on the basis of ongoing political disputes or entrenched conflict. For example, the DRC is in the midst of civil war, whereas Swaziland has banned political parties and suspended its constitution. Angola held unsuccessful elections in 1992, followed by a return to civil war shortly after. Lesotho held elections in 1998, which were followed by civil unrest and the arrival of a SADC peacekeeping force to restore order. Lesotho is currently governed by an Interim Political Authority and is negotiating a new

electoral system. Zimbabwe also engaged in a hotly debated constitutional negotiation process in the run-up to its elections in 2000.

As Table 1 indicates, there is a wide range of experience across SADC with multiparty elections. Some countries have only recently held multiparty elections while other countries, such as Botswana, have quite a long history.

Table 1: Year of First Multiparty Democratic Elections in SADC Countries	
Angola	1992
Botswana	1965
Lesotho	1965
Mauritius	1967
Mozambique	1994
Namibia	1989
Seychelles	1993
South Africa	1994
Swaziland	1967
Tanzania and Zanzibar	1995
Zambia	1991
Zimbabwe	1980

Experience with multiparty elections continues to grow in SADC. Five SADC countries held elections in 1999: South Africa, Malawi, Botswana, Mozambique and Namibia. In 2000 there are elections in Lesotho, Mauritius, Tanzania, Zanzibar and Zimbabwe. Table 2 summarises the diversity of electoral systems in SADC:

Table 2: Electoral Systems in the SADC Region¹	
Angola	List PR
Botswana	FPTP
Lesotho	FPTP
Mauritius	Block
Mozambique	List PR
Namibia	List PR
Seychelles	Parallel-FPTP
South Africa	List PR
Swaziland	FPTP
Tanzania and Zanzibar	FPTP
Zambia	FPTP
Zimbabwe	FPTP

- **DRC is excluded owing to ongoing civil war**

In the 1990s much of southern Africa emerged from a history of one party states, civil war and political instability. In most cases independence had been secured through a combination of armed rebellion and military coups against civilian authorities. For those countries bordering on South Africa, the Frontline States, they faced the added perils of South African invasion or destabilisation, and in the case of Namibia, annexation.

While most countries had experience with some form of elections, the general conditions could not be considered propitious for multiparty elections. And yet, as Table 1 demonstrates, throughout the 1990s, almost all countries in SADC have held successful multiparty elections. But many of these elections have resulted in one party dominance, in the case of both Botswana and Lesotho, without any history of one party states, their FPTP electoral system has nevertheless consistently returned overwhelming majorities to the same party. In the case of countries with PR, a similar pattern of one party dominance prevails in South Africa and Namibia.

¹ FPTP: First past the post - single member constituency, PR: proportional representation.

2. Constitutional and Legal Architecture of Electoral Management

The electoral management bodies of SADC countries are typically provided for by national constitutions. In this regard, Zamchiya writes:

South Africa and Namibia benefited from the experience of the "older" states in SADC and started their new lives with constitutional and legislative provisions on elections which are quite extensive and modern. The older countries are having to amend their constitutions or enact new laws. Zimbabwe is currently reviewing the whole constitution.²

Zamchiya argues that the test facing SADC countries is to devise a combination of an electoral system and electoral management that produces confidence in the election results. The common approach in SADC is to entrench an enabling provision for an electoral management body in the constitution and to supplement this with electoral legislation. The basic components of this framework should refer to the appointment of the electoral authority (usually by the president or national government), the size of the commission, the tenure of the commissioners and the status of the commission. Typically, SADC electoral commissions have the same status as a court of high jurisdiction and they operate as an independent body.

The dominant trend in southern Africa with respect to electoral administration is the creation of full-time, permanent and independent electoral bodies to administer elections. In many instances in SADC, either the head of the electoral commission, (e.g. Botswana, Malawi, Namibia, Tanzania) or at least one commissioner, must be a judge (e.g. South Africa).

The issue of the independence of the electoral commission is matter of concern in several countries in SADC. In both Zambia and Mozambique, the opposition parties have strongly criticised the independence of the electoral commission. In the case of Lesotho and Swaziland, the king appoints the chief electoral officer and members of the electoral committee respectively. In Angola, neither the Constitution nor the Electoral Act refers to the independence, composition or role of the National Electoral Council (NEC) although it must not act contrary to the provisions of the 1991 peace accord. Moreover, countries with a history of one party state are not the only ones that raise concerns about the independence of the electoral commission. Countries with multiparty elections that nevertheless also have along history of one party dominance must also ensure that the independence of their respective electoral commissions is not compromised.

² David Zamchiya, "Constitutional and Legislative Frameworks for independence Electoral Bodies," Paper presented to SADC/EU conference on "Strengthening and Consolidating Democracy in SADC Through the Electoral Process," Gaborone, Botswana, 20-22 June 1999, p.3.

The chief electoral bodies in SADC vary considerably in size although typically electoral commissions are chaired by 5-7 members (e.g. Botswana, Malawi, Mauritius, Namibia, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe.) However in some instances the electoral commission is larger (Zanzibar with 8) or very large (Mozambique with 17) or simply chaired by an individual chief electoral officer (Seychelles).

The functions of the electoral commissions in SADC cover the range of election-related activities, from voter registration and the compilation of a national voter's roll through training of election officials, to polling day activities, the compilation of results and dispute resolution. Some countries in SADC provide for a separate body to undertake delimitation of constituencies. General issues and case studies of electoral management will be addressed in more detail below.

3. Demarcation

The demarcation process is a crucial indicator of the electoral norms and procedures in any given country since it establishes not only the territorial basis of elected representation but the criteria and decision-making in the demarcation process also illustrate important characteristics of electoral management.

Demarcation processes in SADC generally conform to the same model in terms of the composition, structure and function of the body tasked with demarcation. The general administrative model is for a Demarcation or Delimitation Commission, appointed by the head of state, to review the electoral boundaries at regular intervals and to report back to the head of state or national assembly. Moreover, the delimitation exercise generally considers the geographical features, means of communication and transport, administrative boundaries and seeks, as far as practicable, to achieve electoral districts with equal populations. However, as the following examples demonstrate, there is nevertheless considerable variation in practice throughout SADC.

In general, demarcation in SADC is undertaken on the basis of the following criteria: population density, geographical features, and administrative or functional considerations. For example, according to the Malawi constitution, the Malawi Election Commission undertakes delimitation and demarcation "on the basis of ensuring that constituencies contain approximately equal number of voters eligible to register, subject only to the considerations of (i) population density; (ii) ease of communication; and (iii) geographical features and existing administrative areas."³ . However, these criteria can form the basis for political challenges to the resulting demarcation. Re-demarcation in the run-up to the 1999 national elections was controversial since the 1993 demarcation did not emphasise an equal number of voters in each constituency such that there was a variation from the smallest constituency with 3,407 voters while the largest had 54,494.

³ Malawi Constitution, Chapter VII, Section 76 (2), 1995.

In Mauritius the Electoral Boundaries Commission invites commentary from political parties on its recommendations although ultimate political oversight of the demarcation process is vested in the National Assembly which may approve or reject the Commission's recommendations but it may not alter them.⁴ Such consultation is a useful tool for building legitimacy into the demarcation as a crucial foundation for the electoral system. For countries in political transition, the demarcation process is therefore one of the first steps towards building legitimacy for electoral politics. For example, following the rejection of the 1998 national electoral result, and the subsequent civil instability, Lesotho is currently in the process of constitutional negotiations over the form of electoral system. Prior to the establishment of the IEC in 1997, an Electoral Office administered general elections and the delimitation of boundaries. A three person Constituency Delimitation Commission chaired by the judge of the High Court was responsible for the establishment of constituencies. Both of these bodies were abolished with the establishment of the IEC. In its current negotiations, Lesotho must now once again consider which administrative and representative arrangements are best suited to political stability.

Another country with recent controversy surrounding its electoral demarcation process is Mozambique. In Mozambique the National Election Commission (CNE) determines the number of representatives per province for the composition of the national assembly. The delimitation exercise for the 1998 local elections was restricted to largely urban areas based on a 1997 constitutional amendment that allowed for the differentiation between local and national state power. All 23 Mozambican cities, but only 10 of 68 towns were selected for local elections in 1998. The concept of gradual decentralisation of political power means that rural areas have not yet received demarcation for the purposes of local elections. Moreover, opposition party Renamo rejected the electoral administration on the basis of alleged political bias in favour of ruling party Frelimo and boycotted the elections.

By contrast, the immediate politics of transition can also influence demarcation criteria in more positive aspects as well. For example, the Delimitation Commission in Namibia is specifically directed to undertake demarcation without any reference to the race, colour or ethnic origins of the inhabitants. This latter consideration was specified in the constitution owing to Namibia's goal of creating a unified democracy out of a highly unequal and divided past. Different political considerations influence the demarcation process in Seychelles, on account of the desire to retain political balance among the country's different islands, even where a straight determination on the basis of population might otherwise influence the assignment of representatives. Thus, while the Electoral Commissioner makes determinations on the basis of an approximately equal number of voters and geographical features, the constitution places minimum limits on the number of electoral areas on the different islands of the country.⁵

⁴ By contrast, in Seychelles, political parties are not involved in the exercise. In another variation, the Zimbabwe Delimitation Commission submits a report to the President.

⁵ Zambia also poses a similar minimum limit to the number of constituencies, with a minimum of ten constituencies per province.

In South Africa, a Municipal Demarcation Board, provided for by the 1998 Municipal Demarcation Act (No. 27 of 1998), undertakes municipal demarcation. The Demarcation board is comprised of nine part-time commissioners and a full-time chair appointed by the President on the recommendation of the Minister for Provincial and Local Government. The Demarcation Board is an independent body provided for by the constitution, and responsible for the determination of municipal types, outer and inner boundaries and ward delimitation.

While most demarcation exercises in SADC result in an increase in the number of constituencies, and, accordingly, the number of elected representatives, the local government demarcation in South Africa is reducing the number of local authorities from over 800 to fewer than 300 for the 2000 elections. The basic rationale for this reduction has been to base determinations on a range of technical, planning and financial sustainability considerations. In those countries where demarcation typically raises the number of elected representatives a number of reasons can be advanced. While population growth is the most obvious reasons for increasing the number of elected representatives demography alone does not account for the increase. Lesotho is a case in point where the principle of inclusiveness accounts for the proposal to double the number of elected seats in the future electoral system. In part this proposal is motivated to reassure incumbents that they may retain their seats, while encouraging opposition parties that they will have chance at gaining access to elected office.

4. Free and Fair Elections

Once electoral demarcation has been established much of the remainder of the electoral process flows from the terms and decisions that have been taken. Voter and candidate registration, electoral administration as well as political campaigns are established with reference to the establishment of the respective electoral districts. In some sense then, the administration of the demarcation process can form an important basis for free and fair elections

However, the criteria for free and fair elections have been much contested. Many criteria have been applied to answer this question. An extensive literature has tried to define the content of free and fair elections as the basic component of democracy. As Zamchiya argues there is a growing consensus in SADC about the basic means of entrenching good electoral management in national constitutions. At the same time, while it is also important to acknowledge that while the administrative procedures for the conduct of elections may be fairly similar in the region, SADC countries vary greatly in the politics that surround them.⁶ Defining and measuring electoral management in SADC by the standard of free and fair elections is therefore a difficult process, especially given the rapid increase in the number and types of democratic polities in recent years. As Keith Graham observes: "Crudely speaking,

⁶ Joel D. Barkan, "Early Elections in Transitional Politics," Paper presented to conference on Electoral Systems for Emerging Democracies: Experiences and Suggestions, Sorup Herregard, Denmark, 12-15 November 1996, p. 7.

up to the eighteenth century everyone had a clear idea what democracy was and hardly anyone was in favour of it. Now that position is reversed. Everyone is in favour of it but no one has a clear idea any longer what it is."⁷

Without trying to survey the range of definitions and features of democracy that contribute to the debate on free and fair elections it is worthwhile examining some examples of electoral behaviour that can dramatically affect the free and fair quality of electoral democracy in SADC. Of considerable importance is the conduct of political parties during the campaign period. The ability to campaign without fear of violence is basic political right that requires vigilance and commitment on the part of the parties, their supporters, the security forces and the electoral administrative body.

5. Electoral Code of Conduct for Political Parties

Many SADC countries have developed a code of conduct for political parties during election campaigns. The 1998 Electoral Act in South Africa recognises the desirability of involving political parties in the electoral process and the activities of political parties in this regard are regulated by the Act. Registered parties are subject to an Electoral Code of Conduct designed to regulate their behaviour throughout the election period. The rules of the code of conduct are designed to facilitate free and fair elections.

Among these rules, the Act cites the following prohibitions on political party behaviour:

- Parties may not use language or act in such a way that may provoke violence, or the intimidation of candidates, members of parties, representatives or supporters of parties, candidates or voters.
- Parties may not publish false or defamatory allegations in connection with an election in respect of a party, its candidates
- No person may remove conceal or destroy any voting or election material
- No one may plagiarise the symbols, colours or acronyms of other registered parties
- No one may offer an inducement to join or not join a party, to attend or not attend a public meeting, rally, demonstration, or public political event, to vote or not vote in a particular way,
- No one may carry or display weapons at a political meeting

⁷ Quoted in Anthony Arblaster, "Democratic Society and Its Enemies," *Democratization*, 6:1, Spring 1999, p. 34.

- No one may unreasonably prevent access to voters for the purpose of voter education, collecting signatures, recruiting members, raising funds or canvassing support.⁸

The National Electoral Commission in Tanzania prepared a code of conduct for political parties in advance of the 1995 general elections but the political parties rejected it.⁹ The Tanzanian code of conduct had many provisions similar to those in South Africa's 1998 electoral act but it also included a code of conduct for both government and the electoral commission. For example, the Electoral Commission was bound to ensure that the election results were declared as promptly as possible. While such provisions reiterate the responsibilities of commission as stated in the electoral law, as a public declaration they can also contribute to effective electoral management and the acceptance of the results by all parties. However, opposition parties claimed that the code of conduct was an attempt by the ruling CCM party to control their activities.¹⁰ Subsequently the Electoral Commission issued the contents of the code of conduct as a set of directives at the time of the elections and these appeared to be acceptable to the political parties. The Commonwealth observer group confirmed that portion of the election they witnessed was largely peaceful and tolerant.

6. Complaints and Dispute Resolution

Codes of Conduct are most useful when they are accompanied by institutional arrangements to ensure that parties comply with them and when there exists an accessible and efficient procedure for addressing complaints about violations of such codes.

A few examples help to underline these points. In South Africa a specially constituted Electoral Court has final jurisdiction over infringements of the Electoral Act and the Code of Conduct which is included within the legislation. The Court is appointed by the president on the recommendation of the Judicial Service Commission. This body sits as a final authority: cases arising from breaches of electoral law are first heard in normal courts. In 1999 no sittings of the Electoral Court were held; this was because the IEC recognised that lengthy and costly legal proceedings at best represented a last resort for aggrieved parties; quicker responses were needed if conflict and misbehaviour were to be discouraged. As in 1994 the political party liaison committees, operating at national, regional and sometimes local level, represented a first arena within which parties could bring up complaints about each other's actions. However the Commission recognised that if the committees were to function effectively they should not become the main forum for sorting out disputes. In each province, about a month before polling, Conflict Management Committees were established whose

⁸ Republic of South Africa, Electoral Act (Act No. 73 of 1998), Schedule 2.

⁹ National Electoral Commission, United Republic of Tanzania, Report of the National Electoral Commission on the 1995 Presidential and Parliamentary Elections, Dar es Salaam, 1997, p. 9.

¹⁰ Commonwealth Secretariat, Report of the Commonwealth Observer Group, The Union Presidential and Parliamentary Election in Tanzania, 29 October 1994, p. 14.

members included specialist NGO representatives, police and army officers, and electoral commission staff. In addition these committees would include delegates from local mediation panels. These panels normally recruited their members from local community leaders. Supporting the Conflict Management Committees was a National Call Centre that directed requests for mediation to the appropriate provincial committee. All the personnel involved in these undertakings were given special training. Within the period of this systems' operation 1,113 complaints or inquiries were addressed and 56 disputes were settled through mediation. No litigation arose from any electioneering incident in the 1999 election though on several occasions the Commission itself invoked his own authority within liaison committees to censure misconduct. Clearly, though, the existence of a localised, swift, and cost-free mediation/resolution service was for parties a preferable alternative to court proceedings.

The inadequacies of a Code of Conduct in which the Courts play the main role in ensuring compliance are every evident from the Namibian experience which is discussed in greater detail later in this paper. Aside from breaches of the law or the Code during electioneering which are normally addressed through normal local courts after they are reported, Namibian electoral law outlines a complaints procedure to deal with objections to the results. These must be submitted within thirty days of results declaration and determined by a special judge within sixty days. Applicants need to provide security for any costs which may be incurred by respondents. So far, the one case to be heard under the rules for complaints procedure, in 1994, when the DTA contended that excessive voting in four constituencies represented strong grounds for opening sealed ballot boxes and re-examining their contents represented a discouraging precedent for prospective claimants: the court ruled that though irregularities may have occurred it was more likely that the excess votes were the consequence of tendered ballots and therefore there was insufficient evidence to justify opening the boxes. The DTA had to pay costs.

However recent southern African electoral history does supply instances of the courts playing a decisive role. In Malawi after the polls in June 1999 the defeated candidate in one Lilongwe constituency complained that one polling centre's results had not been included in the count. The Electoral Commission failed to address this complaint and the candidate took the issue to the High Court which was empowered in 1998 to nullify or determine elections in cases of irregular returns which the Commission fails to invoke its own procedures. In its response the Electoral Commission explained that during the count the missing votes had "gone missing". The ballot papers were discovered three days later but the Returning Officer refused to accept them as authentic after listening to objections from the other parties. The Judge ruled this decision out of order and ordered that the missing votes be counted, with the effect that the complainant was elected. In Malawi the Electoral Commission was at the time of its appointment in 1998 weakened by a constitutional debate surrounding the propriety of the dissolution of its predecessor. The Commission is appointed directly by the President, effectively from political party nominees. Its claims to function as an independent non-partisan body are considerably weaker than in South Africa or Namibia and the Courts accordingly play a much more active role in deciding the outcome Malawian elections.

7. Funding Political Parties in SADC

The provision of funding to political parties is one means of facilitating stability in the party system. As Burnell argues, all democracies face funding challenges and there is no simple correlation between high, even excessive expenditure in the North and the under-provision of resources in the South.¹¹ Rather, regional and local variations will always affect the availability of resources for democracy. This is certainly the case for political party funding in SADC. It is generally accepted that well-capacitated political parties are more likely to succeed in spreading their message to voters. But they may also be better positioned to influence the rules of the electoral process. Careful management of the rules and regulations governing political party funding therefore deserves more attention in SADC. Inadequate party funding, particularly for opposition parties, can adversely affect the sustainability of multiparty electoral competition: most political parties in southern Africa complain about inadequate funding, insufficient training for party members and party agents and opposition parties frequently complain that the party in power has unfair access to the use of state resources for partisan purposes. Many countries in SADC have undergone major economic restructuring with varying degrees of success (Botswana is an example of a relatively well-off economy), with others facing near economic collapse (Angola and DRC, for example, with Zimbabwe facing growing constraints over the course of 1999 and 2000). Poor economic health directly affects the ability of political parties to solicit funds from supporters, and makes them even more dependent on public or foreign funds (where permissible).

Founding elections are particularly expensive exercises, and stand as an anomaly with respect to the real costs of sustainable democracy.¹² However, the availability of foreign funding in first elections, as well as the usually high amount of international attention associated with founding elections, may potentially raise expectations that such funds are likely to continue for subsequent elections. When this support fails to materialise opposition parties, and new or non-represented parties typically find it ever more difficult to improve their chances for gaining elected office. It is therefore crucial for SADC countries to find the means to fund, and to regulate such funding, for political parties if they hope to sustain meaningful electoral choice through multiparty contest.

There are two basic models regulating the funding of political parties in SADC. In the first instance, represented political parties receive public funds and all parties are able to engage in private fundraising efforts without the need for public disclosure of private

¹¹ Peter Burnell, "Introduction: Money and Politics in Emerging Democracies," in Peter Burnell and Alan Ware, eds., *Funding Democratization*, (Manchester: Manchester University Press, 1998), p.18

¹² For example, Southall and Wood quote a figure of \$77,000 per voter in Namibia's first democratic elections in 1990, calculated on the basis of the direct election costs as well as the cost of the UN operation. By contrast, the UN operated on the basis of one quarter of the cost of the Namibia operation in neighbouring Angola where the 1992 elections were rejected by Unita, who, having avoided most of the military demobilisation process was able to return to civil war. Roger Southall and Geoffrey Wood, 'Political Party Funding in Southern Africa,' in Burnell and Ware, p.208.

donations or membership fees (e.g. Lesotho, Malawi, South Africa, Seychelles, Tanzania, Zimbabwe). Namibia is an exception in this regard and failure to disclose foreign donations may result in a fine or imprisonment. In 1999 non-represented political parties in Namibia and South Africa complained about their exclusion from the public funding. Another form of common complaint is the late release of public funds for political parties. For example, political parties in the 1995 Tanzanian, and 1999 Mozambican elections complained that they only received partial funds or received the funds after a considerable delay. Where public funding of political parties exists, the parties are obliged to keep receipts and to report back to the body issuing the funds (usually the electoral commission). However, public funding for political parties may also be subject to other restrictions. In the case of Zimbabwe, in order for a political party to gain access to funding it must hold at least 15 parliamentary seats. Since no opposition party has ever achieved that threshold the ruling ZANU-PF is the only party to ever benefit from the funding provisions.

In the second instance, some SADC political parties receive no public funds, but are able to engage in private fundraising efforts (e.g. Mauritius, Zambia). In some cases candidates are subject to limits on individual campaign expenditure but their political parties are not (e.g. Botswana). Failure to disclose the source of private domestic or foreign campaign contributions also prevails in those countries for which there is provision of public funds. For example, in the run-up to the 1999 elections in South Africa, the ANC received \$10 million from Saudi Arabia and the UAE respectively.¹³ Then-President Nelson Mandela solicited these funds for the ANC while he was on official state visits. Not only do opposition parties obviously lack such opportunities but there none of the opposition parties brought attention to these (or their own) fundraising activities or to draft regulations enforcing disclosure of private contributions.

8. Media and Elections in SADC

The issue of disclosure of party funding sources raises the more general issue of the free and open exchange of information during elections. The freedom of the media is a crucial element of sustaining an open democracy through respect for human and civil rights but one that is often under pressure in SADC countries. All SADC countries are signatories to the 1991 Windhoek Declaration on Promoting an Independent and Pluralistic African Press. Signatories thus commit themselves:

Consistent with Article 19 of the Universal Declaration of Human Rights, the establishment, maintenance and fostering of an independent, pluralistic and free press is

¹³ The Sunday Times, 25 April 1999. Indonesia reportedly donated \$60 million and Malaysia \$50 million.

essential to the development and maintenance of democracy in a nation, and for economic development. 14

The signatories also welcome multiparty elections, the world-wide trend towards democracy and the freedom of information and commit themselves to actively support the capacity building for an independent, pluralistic and free press. The Constitutions of all SADC countries guarantee the freedom of expression and some have enshrined the freedom of the press. However, in practice, there are many instances throughout SADC of incursions of press freedom, banning of media coverage, censorship and detention of journalists. The Media Institute of Southern Africa is a regional body that monitors and documents activities and events that violate media freedom. In 1997 they documented 167 such instances.¹⁵ For example:

- Pressure on the freedom of media. For example, in Zimbabwe, Angola, Malawi and Zambia journalists have recently been subject to firing, harassment, arrest and detention. 16
- Concentration of media ownership. Botswana has only one radio station which is owned and operated by the state. The independent media in Botswana consists of five main weekly newspapers.
- While the Zambian constitution safeguards freedom of expression and freedom of the press (Article 20(2)), it also provides for laws that delimit that freedom as long as they are “reasonably justifiable in a democratic society.” (Article 20(3)).
- Television was banned in Malawi under the Banda regime (1964-1994) and was only introduced on 1 April 1999.
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In a relatively thoroughgoing commitment to freedom of the media, the South African constitution provides for the Independent Broadcast Authority (IBA) which must promote the provision of a diverse range of sound and television broadcasting services on a national, regional and local level which cater for all language and cultural groups.¹⁷ The IBA grants licenses for public, private and community broadcasters and must encourage ownership and control of these services by persons from historically disadvantaged groups. The December 1998 launch of a new television station in South Africa was therefore subject to provisions for local content, use of African languages, and shareholder provisions that supported black economic empowerment. With respect to elections, broadcasters are subject to a code of conduct that requires them to treat all political parties and candidates fairly and equitably.

¹⁴ Windhoek Declaration on Promoting an Independent and Pluralistic African Press, 1991.

¹⁵ See, Media Institute of Southern Africa, *So This is Democracy: State of the Media in Southern Africa, 1997*, (Windhoek: MISA, 1997). MISA publishes an annual review of freedom of the press in SADC.

¹⁶ For annual review of the media in southern Africa see: Media Institute of Southern Africa, *So This is Democracy? Report on State of the Media in Southern Africa 1997*, (Windhoek: MISA, 1997).

¹⁷ RSA, Constitution, 1996, Sec.192

Television may not carry advertisements for political parties although radio may do so. In turn, every registered political party and its candidates must respect the role of the media and may not prevent access by members of the media to public political meetings, marches and rallies and must take reasonable precautions to ensure that journalists are not subject to harassment by party representatives or their supporters.¹⁸ In general, the IBA found that editorial and news coverage of the 1999 elections in South Africa was largely free and fair.¹⁹ A mediation committee was established for the elections and successfully mediated the majority of complaints.

While excessive regulation of the media is also to be closely watched, structures such as the IBA also signal a commitment to sustaining open debate about the constituent elements of democracy.

9. Civic Education

A basic component of free and fair elections is ensuring that not only do voters understand how to vote, but that they also have a broad understanding of their political and civil rights. Thus, as with freedom of the media, civic education becomes a crucial on-going element of democratic consolidation. Building links among various local and national civic education efforts into a regional exchange provides considerable promise for southern Africa.

National and regional civic education networks are a relatively recent phenomenon with many of the SADC networks formed since the early 1990s. Most organisations rely on low-tech, low-cost, traditional means of communication such as workshops, posters, pamphlets, and so on to spread their message. In the process many innovative learning materials and skills have been developed. As a result, civic education not only spreads a message about democratic rights, it also seeks to build organisational capacity and train people with new skills.

But a number of general challenges face both national and regional civic education networks. National networks generally lack funds and they also need to improve the co-ordination of network members. Angolan NGOs face logistical and technical difficulties owing to the state of war and damaged infrastructure in the country. By contrast, the civic education campaigns in Namibia have formal links with government, and access to state resources, which suggests a high level of NGO-state interpenetration in Namibia. In yet another instance, civic education networks in Malawi played a central role in charting that country's democratic

¹⁸ RSA, Electoral Act, Act 73 of 1998, Electoral Code of Conduct, Schedule 2, Sec.8.

¹⁹ South African Independent Broadcasting Authority, Report on Coverage of the 1999 General Elections, July 1999, p. 3. Of interest, almost half (46%) of South Africans favoured government censorship of "negative" or "unpopular" opinions. South Africa, Human Sciences Research Council, Public Opinion on National Priority Issues, 1999, p. 14.

transition but must now overcome the regional divisions that characterise Malawian political life.

Civic education can also play a role in conscientising citizens of the rights of various groups in their country, and the role that such groups can play in support of democracy and diversity. There are many instance of political intolerance based on identity issues or political mobilisation. For example:

- Labour and trade unions are also frequently attacked in the electoral process. In a dramatic example of physical attack, Morgan Tsvangirai, head of the Zimbabwe Congress of Trade Unions (ZCTU) was attacked with an axe in 1998 in his office. In January 2000 Tsvangirai was elected party president of the newly formed Movement for Democratic Change.
- Namibia's ruling SWAPO party Women's Council has lashed out at a local women's human rights organisation for incorporating homosexuality into gender issues saying such a move would "confuse" party members. According to the council's spokeswoman: gender issues deal with the relationship between men and women and not between women and women.
- In South Africa, approximately 25% of respondents admitted they would be likely or very likely to take part in actions to prevent opponents from exercising basic political rights such as opening campaign offices, canvassing for votes, holding political rallies, or even simply living in their area.
-

Each of these examples underscores the importance of continued civic education in SADC, not only for individuals, but also throughout the structures of political parties and governments to ensure that the principles of political tolerance are put into practice.

10. Perceptions of Free and Fair Elections

Effective civic education enables the electorate to better understand the electoral process and to articulate their political preferences. But voters are only likely to register to vote, and to cast their ballot if they believe that they have an effective electoral voice. Voter perceptions of the electoral process are therefore the ultimate test of electoral legitimacy.²⁰ Moreover, the political parties are an important link to the electorate, and as such, there are many SADC efforts to open the electoral management process to the scrutiny of voters and political parties. In this way efforts to improve the understanding and participation of political parties in the electoral process can contribute to the overall perception, and reality, of free and fair elections. The danger of course is that political parties may demand increasing politicisation

²⁰ For a useful survey see: padraig O'Malley, ed., *Southern Africa: The People's Voices, Perspectives on Democracy*, (Parktown: National Democratic Institute for International Affairs, 1999).

of electoral management (Mozambique and South Africa are discussed below in this regard), and procedures, rather than political issues, may come to dominate the electoral process.

Nevertheless, a wide range of mechanisms is employed in SADC to ensure the legitimacy of the electoral process. Some of these activities, such as civic education and publicity about the electoral process occur before election day while others, such as the creation of a code of conduct for political parties, operate during the campaign period. More and more SADC countries are also working to ensure that electoral management is undertaken in a transparent and accountable manner to gain increased participation by political parties with an aim to support the legitimacy of the electoral result. The presence of party agents in election stations throughout voter registration and voting day, as well as an established complaint procedure with efficient dispute resolution mechanisms are also increasingly in use.²¹ For countries emerging from long periods of one party rule and/or protracted conflict, basic liberal democratic concepts may be poorly or not at all understood by the electorate. As noted above, civic education is a crucial aspect of generating discussion and debate about issues of political choice, tolerance, accountability and representation.

One mark of successful elections is the degree to which voters and political parties perceive the conduct and management of the election. To be sure there are many other indicators of perceptions of free and fair elections such as freedom to campaign, the role of the media, and party funding, and these themes are addressed elsewhere in the paper. The following examples focus on the perceptions of electoral management as a crucial building block towards ensuring acceptance of the election results.

For example, participants in a 1994 series of focus group interviews in Mozambique reportedly had difficulty defining the concept of free and fair elections.²² While respondents understood the importance of the secrecy of the ballot, they understood that free elections simply meant that no one could force them to vote for someone they did not favour because the ballot was secret. Respondents had only vague notions about the meaning of democracy and civil rights.

The lengthy delay in the scheduling of elections also presents a threat to the perception of a level playing field by political parties and voters alike. In the case of Zambia, local government elections are to be held every three years, but after local elections were held in 1992 Zambians were still waiting for local elections in 1998, two years overdue. Various

²¹ Bratton and van de Walle concur: "The credibility of elections commonly came to hinge on whether party agents, nonpartisan domestic observers, and international election observers were permitted to attend all aspects of the balloting. African governments initially displayed extreme reluctance to accept this innovation, but usually relented in the end, often to align themselves with donor preferences." Michael Bratton and Nicholas van de Walle, *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*, (Cambridge: Cambridge University Press, 1997), p. 201.

²² National Democratic Institute, "Vota Mozambique," September 1994, Survey conducted by Claim/Louis Harris International.

reasons were advanced to explain the delay in scheduling elections, ranging from opposition parties questioning the reliability of the voter's role, to government reluctance to announce an election date, to lack of funds.

South African public opinion polls indicate that in September 1998, 21% of South Africans believed that the IEC could be trusted only some of the time to manage the electoral process and 6% felt that the IEC should never be trusted. By March 1999, the group who felt that the IEC could only be somewhat trusted had declined to 17% but those who felt that it should never be trusted stayed the same.²³ However, voter perceptions were overwhelmingly in agreement that the actual conduct of the IEC on election day was impartial and efficient. In exit polls conducted in some provinces on election day, over 90% of respondents were impressed with the efficiency and helpfulness of polling officials and 96% felt that the elections were free and fair.²⁴

Another indicator of perceptions of free and fair elections is the number of election-related complaints alleged by political parties. As discussed above, dispute resolution mechanisms are an important aspect of electoral management. In South Africa, the 1999 elections were characterised by general acceptance of the legitimacy of the electoral process and the election results. For example, compared to 1994 when the IEC received 3,558 complaints concerning no-go areas, political violence and intimidation, in 1999 the IEC received 1,032 complaints.²⁵ Moreover, no political party lodged an official complaint over the results during the formal notification period following the announcement of the results. The IEC's efforts to bring political parties into the electoral management process through party liaison committees at national and provincial level, as well as to give them direct access to results as they were received by the national results centre contributed to this transparency.

By contrast in the 1999 Malawi elections, the MCP/Afford alliance immediately rejected the results, and their presidential contender vowed not to accept the electoral outcome or to recognise UDF leader Muluzi as president. The opposition parties also charged that Muluzi fell short of the constitutional requirement of 50% of the votes cast. The MCP/Afford alliance lodged a formal complaint with the Malawi High Court for an injunction to have the presidential results nullified and to postpone the presidential inauguration. The court rejected these complaints and Muluzi was sworn in as president on 21 June 1999.

The 1999 elections in Mozambique also demonstrate some of the differences of perception over the issue of a level playing field in electoral contests.²⁶ Although widely hailed as efficient, well-run and peaceful elections by national and international observers, opposition

²³ IDASA/Markinor/SABC, Opinion 99.

²⁴ Tom Lodge and Sibusiso Ntuli, *Party Presence and Voter Trust – Findings from the EISA pre-election day and exit poll survey*, (Johannesburg: Electoral Institute of South Africa, 2000).

²⁵ Tom Lodge, "Final Say," *EISA Election Update 99*, 15, 25 June 1999, p.50.

²⁶ Electoral management in Mozambique is discussed in more detail below.

party Renamo challenged the results of the December 1999 elections. Despite relative success at the polls, Renamo had clearly hoped to win both the Presidential and parliamentary elections. The party rejected the official declaration of results when they were announced on 22 December 1999, alleging widespread electoral fraud. The party took its allegations of election fraud to Mozambique's Supreme Court but lost their appeal to have the votes recounted when the Court issued a 4 January 2000 ruling that upheld the official results. Renamo alleged that the computerised compilation of results in the provincial centres was fraudulent and that hundreds of individual voting station registers were ignored in both the presidential and parliamentary races (as in South Africa, political party agents had access to polling stations, and the computer centres at provincial level). The Supreme Court ruled that the computerised results could be properly reconciled against the registers, and that while there were errors in some registers, they were insufficient to alter significantly the results. The Court did re-qualify a number of ballots and redistributed these among the various parties.

While the crux of the Renamo allegations was the charge of fraudulent compilation of the 11 provincial results which form the basis of representation in parliament, Renamo also alleged that its members were denied full access to the provincial computer centres tasked with the counting and transmission of results to Maputo. Both the Supreme Court and Frelimo have rejected Renamo's allegations. Following the Supreme Court decision, Renamo general secretary Joao Alexandre said that Renamo would boycott parliament until a recount of the votes was ordered. Renamo leader Afonso Dhlakama called the Supreme Court president, Mario Mangaze, a liar, and claimed that the court was a private institution of Chissano. Mangaze denied that any political pressure was brought to bear on the court and defended the ruling of the court by declaring: "It is not enough to state the existence of fraud or illegality. It is necessary, as the law determines, to present proof which leads unequivocally to the conclusion that the facts alleged correspond to the truth." In the end, Renamo reversed its boycott stance and all parliamentarians took their seats during the first sitting of the new parliament on 14 January 2000.

11. The Cost of Elections and International Assistance

As Ottaway and Chung have argued, transitional elections have become expensive undertakings.²⁷ They cite the following cost of elections per registered voter:

Mozambique in 1994 -	\$9.80	Australia in 1996 -	\$4.76
South Africa in 1994 -	\$11.34	Canada in 1997 -	\$6.76
Tanzania in 1995 -	\$7.88		

They note that the high costs of transitional elections are often justified on the basis of initial high costs of putting infrastructure and personnel into place, logistical obstacles raise costs

²⁷ Marina Ottaway and Theresa Chung, "Debating Democracy Assistance: Toward a New Paradigm," *Journal of Democracy*, 10:4, October 1999, p.102.

and transitional elections require special confidence building measures among participants. Such assistance drives up the costs of elections in developing countries and threatens the sustainability of the very democracy it seeks to support. By way of alternative they propose an emphasis on labour-intensive rather than capital-intensive solutions, on training rather than technology and to shift support to NGOs that operate on behalf of committed memberships (trade unions, producers' groups, woman's organisations, etc).

Hearn goes further in her critique of donor assistance, arguing that donor assistance in South Africa has, since 1994, contributed to the redefinition of democracy such that "a residual belief in social democracy is being eroded and replaced by the norms and practice of procedural democracy."²⁸ Such a shift, while apparently in support of electoral democracy, will ultimately erode the basis for the much-needed socio-economic transformation of South Africa.

Both arguments raise important questions about the role and character of international donor assistance for democracy and development in southern Africa. To be sure, given the levels of economic development prevalent in SADC, financial and technical assistance to electoral management is generally welcome; indeed, it is often highly sought by national election commissions. While such funding may result in unsustainable systems, or in systems that are not reproducible throughout all of SADC owing to differences in levels of development (notably between South Africa and the rest of the region, as discussed below), the costs of the international community doing nothing may be too high. Gyimah-Boadi argues that the money spent in Mozambique in 1994 was money well spent and contributed to the end of the civil war.²⁹

The following examples indicate the cost of recent elections in SADC:³⁰

- Lesotho - 1998 elections cost \$6 million, for 1,2 million voting population or \$5 per voter.
- Mozambique 1994 elections cost \$64,5 million, the Mozambique government contribution was \$5,4 million, a total of 17 countries and international institutions contributed financially or materially towards the electoral process.
- Namibia - 1994 elections cost N\$5,349,840 with donations from Norwegian, Finnish, German and EU funding and material support, estimated cost of 1999 elections N\$6-7 million. No foreign money may be used to cover election expenses but it can fund voter education and information.

²⁸ Julie Hearn, "Aiding Democracy? Donors and Civil Society in South Africa," forthcoming in *Third World Quarterly*, 2000.

²⁹ E. Gyimah-Boadi, "Debating Democracy Assistance: The Cost of Doing Nothing," *Journal of Democracy*, 10:4, October 1999, p.120.

³⁰ Comparative costs are difficult to assess owing to widespread variation in local and national variations in infrastructure, election staff, geography and currency exchange.

- South Africa - 1994 elections cost approximately \$250 million
- Seychelles - 1998 elections \$276,626, with over \$200,000 for the elections themselves, about \$8,000 for voter education and \$63,000 for voter registration.

As noted above, in addition to the direct costs of electoral management, international assistance to political parties is another feature of the cost of democracy in SADC. This donor dependence can seriously undermine the long term sustainability of elections if capital intensive or other inappropriate techniques and materials are introduced into the electoral process. Moreover, the fact that few SADC countries require political parties to disclose the source of private domestic or foreign campaign contributions poses an additional potential threat to the long-term integrity and sustainability of a free and fair multiparty electoral system in countries in the region.

12. Role of Election Observation

Of course, international assistance to elections in SADC extends beyond financial aid and can serve to support the consolidation of multiparty elections in the longer term. For example, the international community provides peacekeeping operations, facilitates conflict resolution and the creation of electoral preconditions, assists in the development of electoral infrastructure and monitors or observes elections.³¹ The latter of these, international election observation, is sometimes criticised for amounting to little more than political tourism. However, a basic function of election observation remains to detect, and hopefully, to deter fraud.³² Election observation can also bring about international credibility to the election results. As noted above, perhaps of more debatable significance is the pronouncement of elections as "free and fair." Such a pronouncement is clearly open to interpretation and depends on many factors such as the scope and length of deployment, the terms of reference for the observers, and the political context of the elections. The value of election observation missions must also be assessed with reference to whether the teams are present for the full duration of the electoral process or in the immediate period of voting, whether the teams are mobile or stationary.

The composition of election observer missions can also affect the observation experience. A high profile election observation mission may gain improved access to national decision-makers and information, but might find itself constrained by international diplomacy. By contrast, local or regional observers may not always enjoy the same degree of access as their higher profile international counterparts, or their members may require more extensive training as election observers. By the same token, local or regional observers may have better

³¹ Krishna Kumar, "Postconflict Elections and International Assistance," in Krishna Kumar, ed. *Postconflict Elections, Democratization and International Assistance*, (Boulder: Lynne Rienner, 1998), p. 9-12.

³² Augustino Ramadhani, Vice-Chair, Tanzania National Electoral Commission, "the Role of Election Observers," Paper presented to SADC/EU conference on "Strengthening and Consolidating Democracy in SADC Through the Electoral Process," Gaborone, Botswana, 20-22 June 1999, p.1.

knowledge of the country holding elections, and may be able to make more informed, and helpful, observations. This latter issue, whether to include electoral experts, or high profile individuals, or to use election observation as a capacity building exercise for observers has no easy answers. Further, the issue of capacity building may be extended to the electoral authorities themselves. This approach to adding value to the international exchange typically associated with election observation is gaining currency in SADC. In South Africa's 1999 elections international technical experts were seconded to the provincial election offices for a period of several months prior to election day.

To take but one element of the overall electoral process, counting results, international observers still have a role to play. In this regard international observers can help to draw attention and scrutiny to the counting process and thereby contribute to the legitimacy and acceptance of results by all parties when the count is fair.

While there is general agreement by electoral commissions and observers that counting results at the polling stations is the most effective way to count votes, several problems remain in SADC. Two examples help to illustrate some of the dynamics associated with counting results:

- Polling staff are often tired from several long days of voting, and undertake the counting exercise with inadequate rest or light - increases possibility of errors in the counting process. However, disputes over the classification and tabulation of results can also be settled at the polling station when party agents are present and sign the results forms. The EU observation mission to Mozambique in 1999 recommended that the polls close early on the second day of voting to give polling officials time to complete the count under better conditions.
- Delays in announcement of results - owing to technical difficulties with communications and computers. Such delays can contribute to the impression that the electoral commission was rigging the results (e.g. this impression was noted by the National Election Commission in Tanzania³³).

Election observation can therefore be tasked with a wide range of roles dealing with everything from simple observation to mediation in transitional elections to the provision of

³³ National Electoral Commission, United Republic of Tanzania, Report of the National Electoral Commission on the 1995 Presidential and Parliamentary Elections, Dar es Salaam, 1997, p. 71. In its report on the 1999 Parliamentary and Presidential elections in Mozambique the Commonwealth Observer group made a similar observation. They observed that the movement of all materials to the district and provincial centres, and then onto Maputo, while ensuring an accurate announcement of final results, was a very time-consuming process which can stimulate rather than diminish uncertainty. The Commonwealth recommended that the CNE explore ways to streamline this process to facilitate a more rapid communication of results without compromising the integrity and transparency of the process. Commonwealth Secretariat, *The Report of the Commonwealth Observer Group, The Parliamentary and Presidential Elections in Mozambique, 3-5 December*, London: Commonwealth Secretariat, 2000, p. 26.

technical assistance. In SADC there are many lessons to be learned from one another, and election observation, particularly by those organisations that enable regional and international experiences to be shared can enhance the professionalism, accountability, efficiency and cost effectiveness of electoral management in the region. At present, all of these, and other roles, are in use to varying degrees throughout SADC.

13. Electoral Management in SADC

a) Electoral Commissions Forum of Southern Africa (ECF)

Aside from gathering individuals and organisations with an interest in electoral management at election time, initiatives to enhance electoral management over the long term can produce significant results. In 1998 a grouping of 12 electoral commissions in SADC was formed. The ECF stands as an example to build regional capacity in electoral management. The ECF is a forum in the sense that it provides the platform for members to share their experiences with election management, as well as to build local capacity, and to strengthen the role of independent electoral authorities in the region. To further these goals the ECF forms regional observer missions, gathers information about electoral processes in the region and disseminates these through a range of publications and participates in training for conflict management. The ECF is also enhancing its capacity through the generation of a database of electoral experts and facilitating the exchange of information and ideas through the development of a regional information technology programme.

However, the ECF, and many of the member electoral commissions are relatively new (the Botswana electoral commission conducted its first election in 1999), and face many challenges from political parties and the general development condition of the countries in which they operate. Four examples illustrate some of the challenges facing the operation of electoral authorities in SADC: South Africa, Mozambique, Namibia and Angola.

b) Electoral Management in South Africa

One of the main challenges facing the Independent Electoral Commission was to compile South Africa's first common voter's roll. This activity was undertaken over the course of three weekends between December 1998 and March 1999. South Africans were able to register upon presentation of a bar-coded identification book issued by the government. The bar-code was then to be read by a scanning device known as a zip-zip, which would enable the compilation of an electronic database of the voter's roll.³⁴ The bar-code id requirement became the focal point of a series of charges and counter-charges by the political parties, the IEC and the Department of Home Affairs (tasked with issuing the id documents). Opposition parties charged that their supporters did not have the required documents whereas ANC

³⁴ While these zip-zip devices were in evidence during the registration drive, they did not always work, and often ran out of power or batteries. There were not in widespread use on voting day and voters were struck from a paper printout of the voter's roll when they arrived at polling stations.

supporters did, that the Department of Home Affairs was unable to issue the documents, and ultimately, that the requirement was an unnecessary infringement on the right to vote. Upon review in several High Court cases, the courts ruled in favour of the IEC. In the end approximately 80% of potential voters or 18.5m South Africans registered to vote. Nevertheless, the voter registration exercise, while conducted in an open and transparent manner, was also subject to politicisation by the opposition parties and forced the IEC to issue regulations until only several days before voting day.

A second challenge facing the IEC was the introduction of an electoral code of conduct to regulate party activity in the hopes of contributing to free and fair elections. Overall, the election campaign period was free of the kind of political violence associated with the run-up to the 1994 elections. There were instances of violent confrontation, particularly in parts of the former Transkei, in the KwaZulu-Natal Midlands region and the North Coast, as well in the Cape Flats outside of Cape Town. But this violence was different from 1994 in at least two important ways. First, the arrival of the UDM on the political scene has introduced another dimension to the ANC-IFP conflict and accounts for the different geographic pattern of violence. There was now a three-way dynamic to consider. Second, the overall level of violence was enormously reduced compared to 1994. So while reducing the high levels of crime remains a priority for all South Africans, there has been a marked degree of success in lowering the levels of political violence.

For its part, the IEC was charged with applying the Electoral Code of Conduct to gain the peaceful and tolerant participation of political parties in the elections. The Code of Conduct specified an extensive list of prohibitions on party behaviour during the election period. These restrictions were designed to contribute to the operation of free and fair political competition throughout the election campaign. As a result, parties and their supporters were prohibited from carrying weapons at political rallies, tearing down posters, preventing rivals from gaining access to voters for the purpose of voter education, collecting signatures, recruiting members, raising funds or canvassing support. In a series of public meetings convened by the IEC in each province the political parties participating in the elections pledged to uphold the code of conduct. This approach seems to have been successful since there were far fewer reports of the "no-go" areas so prevalent during the 1994 election campaign. Compared to 1994 when the IEC received 3,558 complaints concerning no-go areas, political violence and intimidation, in 1999 the IEC received 1,032 complaints.³⁵

However in addition to these prohibitions, the Electoral Act also assigned additional rights to parties to participate in the monitoring of electoral procedures on voting day. As a result, every registered party may appoint two party agents for each voting station; and four party agents for each counting station. The IEC also remained in touch with the political parties through party liaison committees and conflict management committees established through the provincial electoral officers.

³⁵ Tom Lodge, "Final Say," *EISA Election Update* 99, 15, 25 June 1999, p.50.

The South African constitution reads: “To enhance multi-party democracy, national legislation must provide for the funding of political parties participating in national and provincial legislatures on an equitable and proportional basis.”³⁶ Government therefore bears a constitutional responsibility to provide financial support for political parties on the basis of the dual principles of equity and proportionality. The Public Funding of Represented Political Parties Act was enacted to provide funds for political parties.³⁷

This legislation pools domestic and foreign funding for political parties into a state-administered fund on the following terms:

- Only represented political parties may receive funds.
- Funding is weighted in favour of elected representation by each political party.
- Parties must account for the funds and the IEC in turn reports to Parliament.

The allocations from the fund are to be made and paid out to each of the political parties concerned on the basis of proportionality and equity. The fund allocates 90 per cent of the fund in proportion to the number of seats held by each party in the National Assembly and the provincial legislatures jointly. The remaining 10 per cent of the fund is allocated firstly amongst the provinces in proportion to the number of members in each province and secondly is divided equally among the participating parties in the legislature of each province. For April 1998 to March 1999, approximately R53 million³⁸ was allocated from the public fund as follows:

³⁶ Republic of South Africa, Constitution, (1996), Sec.236.

³⁷ Republic of South Africa, Public Funding of Represented Political Parties Act, 1997 (Act No. 103 of 1997).

³⁸ Republic of South Africa, Electoral Commission, Represented Political Parties Fund, Government Gazette, Notice 2920 of 1998.

**Table 3: Public Funding of Represented
Political Parties - 1999 Elections, South Africa**

Political Party	Allocation
African National Congress	R30 608 560
New National Party	R10 145 260
Inkatha Freedom Party	R5 694 850
Freedom Front	R1 993 330
Democratic Party	R1 759 600
Pan Africanist Congress	R1 125 190
African Christian Democratic Party	R953 470
Minority Front	R719 740

Political parties spent much more than their public allocations of funds in the 1999 elections. Party expenditures for the 1999 elections were estimated at between R300 million and R500 million.³⁹ The IEC annual budget in the year preceding the elections was R713,5 million⁴⁰ and the national results centre was estimated to cost R90 million.

³⁹ The Citizen, 2 February 1999

⁴⁰ The Sunday Times, 21 February 1999.

c) Electoral Management in Mozambique

Mozambique held its first multiparty elections in 1994. The 27, 28 and 29 October 1994 elections took place two years after implementing the General Peace Accord signed in Rome. In 1998 Mozambique held its first multiparty local government elections. Elections were held in 33 local authorities across the country consisting of all larger cities and towns. These elections were controversial, marked by protests and boycotts by the opposition parties over alleged irregularities in voter registration. In the end only 15% of Mozambicans voted in these elections. Despite the irregularities, the Supreme Court declared the elections valid.

Following the levels of mistrust around the administration of the 1998 local elections, greater efforts have been made to ensure that the 1999 elections are transparent and accountable. The Mozambican parliament passed new electoral legislation to pave the way for the creation of a new CNE to oversee the 1999 elections. For example, Renamo demanded more political representation on the STAE and the CNE. The CNE law now states that the members are to be appointed by parties with seats in Parliament. A new 17 member CNE was appointed in March 1999 with 8 Frelimo members, 6 Renamo members, 1 UD member and 2 government members. Branches of the CNE were been opened at provincial, city and district level to administer the elections.

One of the outcomes of this politicisation of the CNE was that decision-making was often slow since it undertaken on the basis of consultation and bargaining. Renamo complained about the slow integration of its representatives on the technical staff of STAE as well as the slow release of donor funds for the political parties during the early weeks of the election campaign.

As a result of RENAMO demands, an entirely new process of voter registration was undertaken to issue Mozambican voters with new voter cards. A maximum of 8 million voters was expected to register nation-wide at over 1900 voter registration stations and the voter registry was to be computerised for the first time. According to final registration figures the country achieved an overall voter registration rate of 85.5%. A total of 7,099,115 voters registered out of a total possible voting population of 8,302,797. International and domestic observers agreed that the voter registration drive was a success despite considerable logistical and infrastructural constraints.

Mozambique is one of the poorest countries in the world, and foreign aid continues to constitute a large portion of Mozambique's budget. The estimated cost of the elections is \$42 million with the European Commission paying about \$23 million, the UNDP fund \$9 million and the Mozambican government paying \$9 million.⁴¹ Elections are expensive, and poor

⁴¹ Mozambique Peace Process Bulletin, Issue 22, April 1999, p. 2

countries will require ongoing financial support, as well as the development of innovative techniques to ensure that cost-effective elections can be delivered.

Political parties also received approximately \$480,000 in state funds. One third of the money went to presidential candidates, one third went to parties in parliament in proportion to their number of seats, and one third went to parties standing for parliament in proportion to their number of candidates. In addition to state funds, the Swiss, Swedish and Dutch governments pledged \$917,000 for the election campaign while the US government agreed to provide \$1 million for the campaigns and additional election costs. The Mozambican government provided a further \$610,000 for voter education and payments for party political broadcasts on radio and television.

Roads and railways are in very poor condition making domestic travel difficult. Communications are also poor, and district STAE officials are often unable to contact their provincial supervisors. Some district officials have access to motorcycles and bicycles for travel over short distances, very few have access to automobiles.

Despite these challenges, the political infrastructure of the countries resembles a "normal" multiparty democracy. For example, the major political parties in the run-up for these elections were Frelimo and two coalitions: UMO and an electoral grouping around Renamo called the Electoral Union (EU). UMO is a four party coalition and EU consists of Renamo and ten other parties. Renamo is the dominant partner in this coalition and both coalitions represent a change in electoral strategy since the 1994 elections. Frelimo won 133 seats in the parliamentary election while the Renamo coalition won 117, and Frelimo's Joaquim Chissano was returned as President with approximately 52% of the vote.

Although widely hailed as efficient, well-run and peaceful elections by national and international observers, opposition party Renamo challenged the results of the December 1999 elections. The party rejected the official declaration of results when they were announced on 22 December 1999, alleging widespread electoral fraud. The party took its allegations of election fraud to Mozambique's Supreme Court but lost their appeal to have the votes recounted when the Court issued a 4 January 2000 ruling that upheld the official results. Renamo alleged that the computerised compilation of results in the provincial centres was fraudulent and that hundreds of individual voting station registers were ignored in both the presidential and parliamentary races (as in South Africa, political party agents had access to polling stations, and the computer centres at provincial level). The Supreme Court ruled that the computerised results could be properly reconciled against the registers, and that while there were errors in some registers, they were insufficient to alter significantly the results. The Court did re-qualify a number of ballots and redistributed these among the various parties.

While the crux of the Renamo allegations was the charge of fraudulent compilation of the 11 provincial results which form the basis of representation in parliament, Renamo also alleged that its members were denied full access to the provincial computer centres tasked with the counting and transmission of results to Maputo. Both the Supreme Court and Frelimo have rejected Renamo's allegations. Following the Supreme Court decision, Renamo general secretary Joao Alexandre said that Renamo would boycott parliament until a recount of the votes was ordered. Renamo leader Afonso Dhlakama called the Supreme Court president, Mario Mangaze, a liar, and claimed that the court was a private institution of Chissano. Mangaze denied that any political pressure was brought to bear on the court and defended the ruling of the court by declaring: "It is not enough to state the existence of fraud or illegality. It is necessary, as the law determines, to present proof which leads unequivocally to the conclusion that the facts alleged correspond to the truth." In the end, Renamo reversed its boycott stance and all parliamentarians took their seats during the first sitting of the new parliament on 14 January 2000.

The politicisation of electoral management in Mozambique, accompanied by donor dependence, delivered acceptable elections in 1999 but only on the basis of an unstable balance of political and financial calculations. In order to consolidate the political transition from civil war and economic dependence, the political and state institutions in Mozambique require extensive capacity-building. Moreover, Renamo's post-election challenges indicate that ethnic, regional and ideological motivations remain active, albeit potentially divisive, dynamics in the country. Such dynamics make the work of electoral management, when undertaken on the basis of value of delivering accountable, transparent and tolerant elections, very challenging indeed.

d) Electoral Management in Namibia

Namibia has held three sets of parliamentary and presidential since the achievement of independence in March 1990. Two have been organised through the institutions established by the 1992 electoral legislation. In Namibian law, the president is elected through a simple plurality system: the candidate with the most votes wins. Proportional representation is used for the National Assembly elections, with each political party contesting the elections nominating a list of candidates. The 72 National Assembly seats are distributed through the establishment of a quota reached through the division of the total vote by the number of elected seats. The parties' totals of the votes are divided by the quota to give them preliminary shares of the seats. Any seats left over are allocated according to the highest remainder method. Namibia also administers elections for 13 regional councils in which candidates contest 95 constituencies on a plurality basis. The second regional council elections were held in 1998. Each Regional Council elects two of its members to sit in a National Council which serves as a second house of parliament. Elections are administered by an Electoral Commission and a Directorate. The five serving Commissioners were appointed directly by the president but in future they will be selected through a procedure in which a committee recommends eight applicants to the president who must choose five.

Commissioners hold office for five years. The Commission is independent of any department of government and reports annually to Parliament. A Directorate provides the Commission with administrative support and is the body which actually manages elections. The Directorate is a division within the Prime Ministers Office though it is controlled by the Commission. Its Director is an appointed public servant.

Eight parties contested the 1994 elections all of which were to appear on the ballot papers in 1999. The ruling party, SWAPO, was founded in 1958 and between 1966 and 1989 its leadership functioned in exile organising a guerrilla war against the governing South African authority. In the 1989 Constituent elections it obtained 57.3% of the vote and 41 seats. In 1989 and 1994, SWAPO's main rival was the Democratic Turnhalle Alliance, established in 1977 and the majority party within the transitional government set up by the South Africans in the decade before independence. In 1989 the DTA obtained 28.6% of the vote and 21 seats.

SWAPO increased its majority in the 1994 election to 72.72 %, entitling it to 53 seats in the National Assembly and its leader Sam Nujoma obtained an overwhelming 74.46% mandate for the presidency. Four other parties obtained representation in the National Assembly. These were the DTA with 20.45% of the vote and 15 seats, the UDF with 2.68% of the vote and two seats, the Democratic Coalition of Namibia (0.82% and one seat) and the Monitor Action Group (0.81% and one seat). SWAPO's share of the vote was substantial in every region and almost total in the four northern regions constituting its historic base within the Ovambo community: Ohangwena, Musati, Oshana, and Oshikoto.

The most serious criticism of the 1994 poll was expressed by the DTA leaders who believed that voting figures in four northern Namibian constituencies were in excess of registration totals. The DTA's objection eventually resulted in litigation; the court found that though there may have been irregularities in these constituencies the evidence did not suggest that these might have been on a scale to substantially alter the outcome of the election. Most observers and analysts agreed with the Directorate's contention that the surplus votes were most likely the consequence of tendered votes being placed in the wrong boxes and hence counted in with the ordinary votes in the constituencies concerned.

Two political developments prompted concerns that the 1999 elections might be more contentious than the earlier poll. The first of these was the reappearance in mid 1998 in Caprivi of a secessionist movement. The second was the formation in April 1999 of a new political party led by a former SWAPO notable.

On August 2, 1999, fifty armed insurgents staged an uprising in Katima Mulilo, the administrative centre of the Caprivi region. The revolt began with an attack on the main police station in the early morning, this was followed by attempts to capture the airport and the occupation of the broadcasting station. Eleven Namibian soldiers and policemen were killed before the authorities re-established control later in the day. Thirteen rebels were

captured and at least three were killed. In the days which followed, after the declaration of a state of emergency, police arrested at least three hundred people they suspected of supporting the rebellion, most of them unemployed youngsters. 120 were later charged. Several were tortured, according to human rights activists – claims which were partially verified by the authorities. Detainees generally belonged to the Mafwe ethnic group, inhabitants of the western part of East Caprivi, in the past supporters of the DTA and its previous leader Mishake Muyongo.

The emergence of what seemed to be a potentially more formidable opponent to SWAPO added a second reason for believing that the 1999 elections might bring to the surface political tensions which seemed to have subsided in 1994. The Congress of Democrats was formed in March 1999, six months after the resignation of its founder, Ben Ulenga from his position as Namibian High Commissioner in London. Ulenga's resignation was prompted by SWAPO's alteration of the constitution to allow Sam Nujoma to serve a third term as president. In contrast to the DTA's leadership, the founders of the new party had no embarrassing record of collaboration with apartheid and Ulenga's record in particular suggested to observers that the CoD might obtain support in Ovambo areas and other regions directly affected by the liberation war.

Meanwhile the Commission began its preparations with an up-dating of the voters, roll. In Namibia, voter registration takes place under the 1992 Electoral Act which requires a general registration every ten years. An amendment of the Act in 1994 introduced continuous registration and special phases of supplementary registration. Voters are registered in their local authority areas, if these have been proclaimed, and in their Regional Council constituencies. The card issued for regional council elections is also used for National Assembly and Presidential elections. The Ministry of Home Affairs is required to submit monthly lists of people who have died to Returning Officers so that their names can be deleted from the Roll; In fact, this has not happened as the authorities have been unable to maintain a complete record of deaths.

Between August and September 1999 a special "supplementary registration" was held to bring the electoral population up to 878,000. This figure includes dead people as well as other names entered improperly on the roll, with incorrect addresses, emigrants, and names entered twice (this figure suggests that the registration total is an improbable 99 per cent of the eligible electorate). The voters roll was published on October 22, allowing the rest of the month for the submission of objections. Opposition party spokesmen expressed reservations about the outcome of registration, in particular that up to 30 per cent of the registered voters who had used sworn statements rather than official documentation to identify themselves.

Final election results were determined through calculations conducted at the Election Results Centre, a facility modelled on that of the South African IEC in Pretoria in June and established with technical support from the IEC at a cost of N\$4 million. For political pundits, the main surprise was in the size of SWAPO's parliamentary majority, up from 72

per cent in 1994 to 76 per cent, confounding predictions that it's following would be severely dented as a consequence of the appearance of a new opposition party led by SWAPO veterans. Turnout was less, though, down from 76 per cent to 62 per cent.

The administrative conduct of the 1999 Namibian elections, while generally good, is also characterised by shortcomings. Problems with registration, the distribution of voting materials to polling station officials and party relations appear to have been persistent. While the overall electoral result is not in question, these administrative issues suggest that further capacity building, such as improved party liaison, conflict management committees at local level and more training for election officials would improve electoral management in Namibia.

e) Failed Elections and Ongoing Conflict in Angola

Prior to the 1992 elections Angolans had no experience with democratic government and the elections were undertaken according to the terms of the 31 May 1991 peace accord between Unita and MPLA.⁴² The peace accord established that elections would be held for a president and a national assembly on the basis of proportional representation between 1 September and 30 November 1992. MPLA originally requested a four year transition whereas Unita wanted one year. In any case, establishing the proper conditions for elections in a country that had been at war for over 30 years was not a simple task under any timelines. The Angolan constitution was amended to abolish the one party state and by May 1992 an electoral law and a National Election Council (CNE) had been established. The CNE was comprised of government officials and judges, experts and representatives of all political parties.⁴³ Furthermore, each presidential candidate could designate a representative to the provincial electoral councils. In this regard Angola's 1992 CNE was similar to Mozambique's 1999 CNE.

Voter registration was undertaken by the middle of August. The elections were scheduled for 29-30 September and the election campaign, while marked by tension, was largely peaceful. Over 90% of registered voters took part in the elections and according to international observers and party agents the elections themselves were properly conducted.

But the constitutional process was flawed according to Bloomfield and Reilly:

However, the Angolan constitution was unsuited to support the power-sharing government which the Bicese process aimed to bring about, since it concentrated

⁴² Marina Ottaway, "Angola's Failed Elections," in Krishna Kumar, ed., *Postconflict Elections, Democratization, and International Assistance*, (Boulder: Lynne Rienner, 1998), p. 135.

⁴³ Republic of Angola, Electoral Law, Article 14. Official translation by the UNAVEM II Interpretation and Translation Office, May 1992.

political power not in a broad-based and inclusive parliament but in the hands of one person - the president. 44

Thus the presidency was the only electoral goal worth having. The vote counting produced a very different. Although President Dos Santos received more votes than Savimbi he did not achieve a majority so a run-off was necessary. In the parliamentary elections, MPLA received 53.74% of the vote and Unita 34.10%. However, on 3 October 1992 Jonas Savimbi announced on radio that he rejected the results of the National Electoral Council, the UN verdict that the elections were free and fair and warned that a return to war was possible.⁴⁵ Ultimately, Angola was plunged back into the cycle of civil war and periods of relative peace.

Since the most recent resumption of war, in 1997, recent pressures from civil society for peace have sparked a new set of political dynamics in a country that has long been subject to the rigid demands of war between MPLA and UNITA and one party socialism. In August 1999 a group of 150 prominent academics, journalists and public figures signed a peace manifesto, calling for an immediate end to hostilities and the initiation of peace talks. Angola has already been through lengthy peace processes and elections, both without success in bringing the war to a halt. But recent calls for peace may indicate a new climate is building in Angola. Thus far the government has responded with intensified attacks on UNITA strongholds, and the detention of journalists.

Angola's failed elections indicate that post-conflict elections are more than technical exercises. Although the choice of electoral system, form of the state and institutional design are important, in the case of Angola, the political relations between the warring parties were sufficient to derail the electoral process. Nevertheless, the popular groundswell for peace may represent the first steps, and Angola's best chance to escape from the downward spiral of war and peace talks that have thus far characterised external efforts to broker a deal and secure demobilisation of the combatants. Such considerations form an essential series of pre-conditions prior to revisiting the issues of constitutional negotiations, electoral management, choice of electoral system and form of the state. Institutional design, while important is therefore insufficient if the dominant social forces in support of elections do not back it.

⁴⁴ David Bloomfield and Ben Reilly, Democracy and Deep-Rooted Conflict: Options for negotiators," in Peter Harris and Ben Reilly, eds., *Democracy and Deep-Rooted Conflict: Options for Negotiators*, (Stockholm: IDEA, 1998), p. 16.

⁴⁵ Karl Maier, *Angola: Promises and Lies*, (Rivonia: William Waterman Publications, 1996), p. 77.

Conclusion

This paper has demonstrated that not only is there considerable diversity in the capacities and experiences with electoral management in southern Africa but a significant number of common challenges. While the region has embraced the concept of independent electoral commissions as the best institutional and legal authority for electoral administration, many countries are still working to ensure the independence of their commissions. Electoral commissions free from political party control, with adequate and secure funding, clear lines of accountability and transparent administrative procedures form part of the core requirements for effective and independent administration of elections. As the general theme of this paper it is evident that not all countries in SADC have completely achieved these goals.

A second general line of inquiry pursued in this paper has been to explore how the structure and form of the political party systems in SADC pose challenges for electoral administration. Core issues in this regard are the funding of political parties and various initiatives designed to ensure peaceful and free conduct of election campaigns. Given the conflict-torn past of many countries in SADC, as well as the history of the one party state system, there are no guarantees that the region will continue to develop multiparty political systems. Thus the rules and institutions that regulate political party activity provide a critical area in support of this goal. The funding of political parties is a controversial element of this goal. Financial and technical support for political parties, while essential in terms of developing a vibrant and ideally, tolerant, multiparty electoral system opens the process of electoral support to politicisation and charges of favouritism from the political parties themselves. The danger is that in the very act of supporting political parties, national governments, electoral commissions and foreign donors may open themselves to damaging charges of bias. Conflict management structures for dispute resolution would appear to be an essential tool in this regard as well as the best means through which to address other electoral disputes.

Third, the essential issue with respect to democratisation in southern Africa is the sustainability of free and fair multiparty elections in southern Africa through the administrative efforts of electoral commissions. Southern African economies remain fragile and in some cases, highly donor dependent. The medium and long term viability of multiparty elections, and the structures that support them, must be ensured. While transitional elections receive considerable international attention, and financial and technical support, this interest typically falls off over time. The entrenchment of the independence of electoral commissions in national constitutions is an important safeguard to the formal structure of the electoral administrative system. But in the absence of secure funding and a legitimate role to play in elections, electoral commissions cannot function properly. Similarly, in countries facing chronic economic hardship other policy areas may receive more attention. International, and in particular, regional support through such capacity building initiatives as the Electoral Commissions Forum, provides an excellent opportunity to improve the administration of elections in SADC and to make electoral commissions an indispensable feature of the electoral landscape.