

Pre-conditions for Elections Programme in Southern Africa (PEPSA)			
Baseline Analysis Questionnaire			
Country	South Africa	Researcher	Grant Masterson
<i>Please enter your answers in the space below each question.</i>			
[I] Country Political Context (Introduction Section of the SADC Principles)			
General			
1. <i>Has the country undergone a democratic transition? If so, when and how?</i>			
Yes. The country made a transition to a non-racially segregated democracy in 1994 after negotiations between various political parties agreed to the establishment of a Government of National Unity. This process was largely peaceful, despite some fears that the transition would spark political and racial violence. The transition was widely acclaimed for its peaceful nature.			
2. <i>Has the country's government signed and ratified major international human rights declarations and protocols? Which ones?</i>			
Yes. South Africa has signed/ratified all seven (7) major international human rights instruments listed in UNDP Human Development Report 2004. These are:			
<ul style="list-style-type: none"> • The 1948 International Convention on the Prevention and Punishment of the Crime of Genocide; and • The 1965 International Convention on the Elimination of All Forms of Racial Discrimination; • The 1966 International Covenant on Civil and Political Rights; • The 1966 International Covenant on Economic, Social and Cultural Rights • The 1979 Convention on the Elimination of All forms of Discrimination against Women; • The 1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; and • The 1989 Convention on the Rights of the Child 			
Political parties			
3. <i>Is the country a multi-party democracy?</i>			
Yes.			
4. <i>How many political parties are registered?</i>			
126.			
5. <i>How many parties are represented in the legislature?</i>			
11. The African Christian Democratic Party (ACDP); the African National Congress (ANC); the Azanian People's Organization (AZAPO); the Democratic Alliance (DA); the Freedom Front + (FF+); the Independent Democrats (ID); the Inkatha Freedom Party (IFP); the Minority Front (MF); the Pan-Africanist Congress of Azania (PAC); the United Democratic Party (UCDP); and the United Democratic Movement (UDM).			
6. <i>Do political parties have programmes?</i>			
Yes.			
7. <i>Which party is the ruling party?</i>			
African National Congress (ANC).			

8. <i>What is the total number of elected parliamentary seats and share of seats for the ruling party?</i>
Total seats – 400. The ANC controls 327 seats in parliament.
9. <i>Which one is the main opposition party?</i>
The Democratic Alliance (DA).
10. <i>What is its share of elected parliamentary seats?</i>
50 seats in parliament.
11. <i>How is the participation of parties in elections regulated and legislated?</i>
Political Parties must register with the Electoral Commission in terms of the Electoral Commissions Act. Such registration remains in force as long as the party confirms its continued existence every January in writing to the Electoral Commission. Registration can either be national, provincial or municipal based.
12. <i>Are political parties generally aware of the SADC principles governing democratic elections?</i>
Yes.
13. <i>If so, what is their attitude towards the principles?</i>
Opposition parties tend to use the SADC Principles as political capital to spend in their critique of government policies.
14. <i>How have political parties promoted the implementation of the SADC principles?</i>
Debate in parliament, the media and civil forums.
Civil society
15. <i>What is the state of civil society organisations?</i>
There are a number of diverse, active and visible CSOs in South Africa. Civil Society is increasingly vocal in specific debates and various lobbying actions.
16. <i>Is the general legal and political environment conducive for civil society organisations to operate?</i>
Yes. Freedom of expression, association and affiliation are all enshrined in the constitution and guarded by the Constitutional Court.
17. <i>What specific roles do CSOs play in the electoral process?</i>
Voter education, engaging in debate and publishing/presenting analysis on election issues.
18. <i>What legal/political constraints restrain the CSOs before and during elections?</i>
CSOs can observe and monitor elections. In order to do so, they submit an application for accreditation with the electoral commission. Once accredited; they are subject to an electoral code of conduct which ensures impartiality and professional conduct.
19. <i>Are CSOs aware of the SADC Principles governing democratic elections?</i>
Yes.
20. <i>If so, what is their attitude towards the principles?</i>
CSOs have emphasised the obligations of government to be held accountable to the declared principles.
21. <i>How have CSOs promoted the implementation of the SADC principles?</i>
Public debate, critiques and publications/presentations.
22. <i>Are CSOs engaged in civic and voters education?</i>
Yes. CSOs focus their attention on areas where voter awareness is low, in particular the rural areas of the Eastern Cape, Mpumalanga, Limpopo and KwaZulu-Natal. Funding is provided by central government, foreign and international donors.
Media
23. <i>What economic/legal/political constraints restrain the media in general?</i>

<ul style="list-style-type: none"> • <i>Community Radio Stations and local media face severe financial constraints, as well as human resource issues (skills and labour shortages).</i> • <i>Mainstream independent media have received gag orders from the courts as well as demands to reveal their sources, which have revived debate about media freedom of speech and various conflicting rights such as the right to face your accuser and the right to privacy.</i> • <i>Public media are constrained by legal considerations establishing quotas for various public service programs such as news and information programming.</i>
24. <i>Is there an independent media council?</i>
Yes.
25. <i>Are the state media independent?</i>
Yes.
26. <i>Do the state media perform the role of a public service broadcaster?</i>
Yes.
27. <i>Is there a self-regulatory body of the media?</i>
Yes.
28. <i>A media monitoring project?</i>
Yes.
29. <i>Do the media have a general code of conduct and ethics?</i>
The Independent Broadcasting Authority Act 1993. Section 56. (www.gov.za/gazette/acts/1993/a153-93.txt)
30. <i>How is this enforced?</i>
The Independent Communications Authority South Africa (ICASA) monitors and enforces the code of conduct, and can revoke licenses, censure or impose fines on offenders.
31. <i>What specific role do the media play in the electoral process?</i>
The Media conducts voter awareness/education campaigns, disseminates election news, covers political party manifestos and stimulates dialogue and debate.
32. <i>Is there a specific code of conduct for election reporting?</i>
Yes.
33. <i>How is this enforced?</i>
A national media control committee is governed by the Independent Electoral Commission (IEC) to ensure that election reporting complies with appropriate standards for election reporting.
34. <i>What 3 challenges face the media during elections?</i>
<ul style="list-style-type: none"> • Logistical challenges • Access to and verifying information • A strain on linguistic resources (12 Official languages in South Africa).
35. <i>Is the media generally aware of the SADC principles governing democratic elections?</i>
Yes.
36. <i>If so, what has been/is its role in promoting the principles?</i>
The media has thus far applied the principles almost exclusively to the Zimbabwe 2005 parliamentary elections. The principles have occasionally been misapplied or misinterpreted due to lack of understanding in the media on the application of the principles in election monitoring.
[II] Principles for Conducting Democratic Elections (Section 2 of the SADC Principles)
37. <i>What legislation provides for citizen participation in the political process, especially in elections?</i>

<p><i>The Electoral Act 1998. Schedule 1A – Code of Conduct. This schedule discusses the importance of and the potential role of various interest groups in civil society. (www.elections.org.za)</i></p>
<p>38. <i>In what concrete ways does citizen participation in the political process (especially before and during elections) take place?</i></p>
<p><i>Citizens are able to participate in political rallies, volunteer activities, conducting door-to-door canvassing, organizing public awareness functions, transport to polling stations and other election-related activities.</i></p>
<p>39. <i>What legislation provide for political freedoms including freedom of association, political movement and freedom of speech?</i></p>
<ul style="list-style-type: none"> • <i>The Constitution of the Republic of South Africa 1996;</i> • <i>The Electoral Act 1998;</i> • <i>The Electoral Commission Act 1996.</i>
<p>40. <i>Are these freedoms and political tolerance allowed by political actors during electioneering?</i></p>
<p><i>Yes.</i></p>
<p>41. <i>What is the frequency and regularity of elections in the country (consider both national and local government elections please)?</i></p>
<p><i>National & Provincial Elections – Every 5 years (1994, 1999, 2004). Local Government Elections – Every 5 years (2000, upcoming 2005).</i></p>
<p>42. <i>Are the dates of elections specifically predetermined by a relevant constitutional or legislative provision?</i></p>
<p><i>The election has to take place within 90 days of the 5 year term expiring. The date for elections is determined by the Executive within these parameters. Voting day can be declared a public holiday if deemed appropriate by the Executive.</i></p>
<p>43. <i>To what extent is access to public resources (i.e. funding for campaigning and access to the public media) by political parties during elections equitable?</i></p>
<ul style="list-style-type: none"> • <i>Public funding of political parties is controlled by legislation which divides the funding according to a predetermined formula. The funding is administered by the IEC.</i> • <i>Private funding is presently unregulated.</i>
<p>44. <i>What is the exact role of the judiciary in the electoral process?</i></p>
<p><i>The Judiciary is responsible for ensuring that the electoral process conforms to the specific requirements set out in the Constitution. In the event that the IEC is unable to resolve electoral disputes, the Constitutional Court is the highest authority for resolving such matters.</i></p>
<p>45. <i>Does the judiciary exhibit impartiality in handling electoral matters?</i></p>
<p><i>Yes.</i></p>
<p>46. <i>Which Electoral Management Bodies (EMBs) have the responsibility to run elections?</i></p>
<p><i>The Independent Electoral Commission (IEC). (Electoral Commission Act 1996).</i></p>
<p>47. <i>What is the exact role of these Electoral Management Bodies (EMBs) in the electoral process?</i></p>
<p><i>The IEC is responsible for all aspects related to the management and running of elections, as well as counting and the tabulation of results. The IEC is also responsible for voter education programs in between elections, and administering the public funding of political parties.</i></p>
<p>48. <i>How independent and impartial are these EMBs in discharging their electoral mandates?</i></p>
<p><i>The IEC has a credible reputation for being both independent and impartial in its affairs.</i></p>
<p>49. <i>Which institutions are responsible for conducting voter education?</i></p>
<p><i>The IEC; civil society and political parties.</i></p>
<p>50. <i>In what ways do these institutions coordinate their efforts in undertaking voter education?</i></p>

<i>The IEC convenes a national coordinating council which includes significant stakeholders from tertiary institutions, political parties, CSOs, media and the private sector.</i>
51. <i>Is there a political culture of acceptance and respect of election results by political parties? What explains this trend?</i>
<i>Yes. The IEC held in high regard by both domestic and international observers, as well as the political parties.</i>
52. <i>If not, why do political parties contest election results?</i>
<i>Although it is an infrequent occurrence and usually restricted to local districts, the majority of such disputes have focussed on irregular activities during the voting and/or counting process.</i>
53. <i>What the legal provisions exist for the management for election-related disputes?</i>
<i>The IEC has in place rigorous internal conflict resolution mechanisms. In the event that a dispute is unable to be resolved, the Judiciary rules on the validity of the complaint and appropriate measures are taken based on the judgement. The Constitutional Court is the highest authority in all election disputes.</i>
54. <i>What institutional and regulatory mechanisms are in place for the constructive resolution of election-related disputes?</i>
<i>The IEC ensures that all stakeholders signify their approval of each phase of an election. In the event of a dispute, a record is kept of all the stakeholders who have approved the legitimacy of each phase of an election. In the event that the complainant indicated their approval at the time, the complaint is dismissed immediately. At the conclusion of an election, the IEC gives all stakeholders an opportunity to register their concerns, complaints and disputes, which are then addressed according the IEC's internal conflict resolution mechanisms.</i>
[III] Guidelines for Observation of Elections (Section 4 of the SADC Principles)
55. <i>What legislation guarantees the rights and freedoms of the citizens?</i>
<i>Constitution of the Republic of South Africa 1996 as amended.</i>
56. <i>Does the political culture and practice protect and promote citizens' freedoms?</i>
<i>Yes. South Africa is rated 'Free' on the Freedom House index and is rated '2' for Civil Liberties (1-Most Free; 7-Least Free).</i>
57. <i>What possibilities do citizens have to complain (independent human rights commission/ombudsman?)</i>
<i>Citizens can complain to both the ombudsman and the Human Rights Commission in the event of perceived abuse of their freedoms. The Constitutional Court serves as a final recourse in resolving legal disputes.</i>
58. <i>To what extent is the election environment free, fair and peaceful?</i>
<i>Since 1994, election observers have unanimously found the electoral environment to be substantively peaceful, free and fair.</i>
59. <i>How is voter registration conducted and by whom?</i>
<i>The IEC. Periodic voter registration dates are provided for voters to update/change their information and for new voters to register. Registration can be revised or updated on an ongoing basis at any IEC local office in the country.</i>
60. <i>Is voter registration conducted periodically around elections or continuously?</i>
<i>Periodically and continuously. High profile dates are marked for mass voter registrations and widely publicised; and an ongoing registration facility remains available on a permanent basis in IEC local offices (284 in the country).</i>
61. <i>Is the process of voter registration satisfactory and acceptable to all stakeholders?</i>
<i>Yes.</i>
62. <i>How is the voters' roll prepared and by whom?</i>
<i>The IEC prepares the voter's roll, by coordinating and updating the changes made to the roll during registration dates.</i>

63. <i>How is the voters' roll maintained and regularly updated and by whom?</i>
<i>The IEC maintains the voter's roll, and verifies its accuracy. The verification is done through regularly comparing the IEC data sets with that of Home Affairs to remove dead people. Targeted registration is conducted from time to time to cater for new settlements. Political parties, CSOs and ordinary voters are also able to inspect the roll.</i>
64. <i>To what extent is the voter's roll easily accessible and non-discriminatory?</i>
<i>Any South African citizen with a valid Identity Document can get check their own registration details, and the roll is available free of charge on request to valid stakeholders such as political parties and CSOs.</i>
65. <i>Is the process of preparation and maintenance of the voters' roll satisfactory and acceptable to all stakeholders?</i>
<i>Yes.</i>
66. <i>Is there a culture of announcement of the date of elections timeously to allow all contestants to prepare for the contest?</i>
<i>Yes.</i>
67. <i>What legal provisions regulate private and public funding for political parties?</i>
<ul style="list-style-type: none"> • <i>Public funding is regulated by the Public Funding of Represented Political Parties Act 1998.</i> • <i>Private funding remains unregulated.</i>
68. <i>How transparent are the mechanisms for private and public funding of political parties?</i>
<ul style="list-style-type: none"> • <i>Public – Annual reports compiled by the IEC are submitted to parliament and are in the public domain.</i> • <i>Private – No transparency at present</i>
69. <i>To what extent are the mechanisms for private and public funding to political parties satisfactory and acceptable to all stakeholders?</i>
<ul style="list-style-type: none"> • <i>Public funding: Satisfactory, although smaller political parties such as the PAC/AZAPO believe there should be a less proportional system of division of the funds than is presently the case;</i> • <i>Private funding: CSOs are currently trying to force the disclosure of donor contributions to major political parties through legal actions.</i>
70. <i>To what extent does the location of polling stations compromise the integrity of the electoral process and its outcome?</i>
<i>Polling stations are located close to areas of residence, making the majority of polling stations easily accessible. Mechanisms are in place to assist voters unable to get to polling stations such as the elderly, sick and disabled by organizing electoral officers to visit their residences personally prior to an election.</i>
71. <i>Where does counting of votes take place?</i>
<i>Initial counting takes place at the polling stations, and the results of the polling station are verified at an IEC national coordinating centre.</i>
72. <i>In what way(s) does the location of the counting of votes affect the integrity of the poll?</i>
<i>Results are displayed outside polling stations immediately after the vote has been counted, and all results are displayed at the IEC national centre. The media and various CSOs also cover the election results over the election period. Detailed results are released by the IEC and posted to the IEC's website for public scrutiny; several newspapers also cover the final results.</i>
73. <i>What legal provisions regulate election monitoring and observation?</i>
<i>Observers and monitors must be nominated by organizations that are accredited by the South African government. Such organizations can apply to the Chief Director: Monitoring for accreditation. All observers must be registered with the Chief Director: Monitoring and provide</i>

<p><i>a full disclosure of their particulars and details. Only 3 observers are allowed to be present in any polling station at one time; they must display their accreditation apparel and present it on arrival at a polling station to the presiding officer; and must obey all lawful restrictions requested by electoral officers, security forces or other civil servants at all times. (Government Gazette No. 5258. Vol. 344. February 1994. The Independent Electoral Commission. Chapter 10.)</i></p>
<p>74. Which institutions are responsible for facilitating election monitoring and observation?</p> <ul style="list-style-type: none"> • IEC; • The Department of Home Affairs; • The Department of Foreign Affairs.
<p>75. Who is allowed to monitor and observe elections? Why?</p> <p>Political parties, credible domestic and international organizations, foreign embassies and country observer missions.</p>
<p>76. Do monitors and observers get accorded adequate time to be able to monitor and observe all the three stages of the electoral process?</p> <p>Yes.</p>
<p>77. Do observers get deployed two (2) weeks before the voting day?</p> <p>Although there are no legal restrictions preventing this, the majority of observer missions do not arrive two weeks before the voting day(s). Most observer missions are deployed with 1 week to the voting day.</p>
<p>[IV] Responsibilities of Member States Holding Elections (Section 7 of the SADC Principles)</p>
<p>78. What are the legislated qualifications for voting?</p> <p>Voters must be South African citizens and be at least 18 years old. In addition, a voter must register before the closing of the voters roll for a particular election.</p>
<p>79. What are the legislated disqualifications from voting?</p> <p>South African citizens convicted of a crime were not allowed to vote in 1999, but this was overturned in 2004 when the Constitutional Court ruled that convicts should be allowed to vote. If a voter does not appear on the registration list for that particular polling station, they are not permitted to vote.</p>
<p>80. Are these legal provisions for qualification and disqualification applied fairly during elections?</p> <p>Yes.</p>
<p>81. Is the practical application of the qualifications and disqualifications satisfactory and acceptable to all stakeholders?</p> <p>Yes.</p>
<p>82. Is the political environment generally conducive for all political parties to campaign freely without undue hindrance?</p> <p>Yes. Freedom House rates South Africa '1' for Political Rights (1-Most free; 7-Least Free).</p>
<p>83. Is there a code of conduct for political parties and to what extent do parties adhere to it?</p> <p>Yes. Political parties commit themselves to refraining from discrimination, hate speech, making false allegations and spreading misinformation (amongst other things). All political parties have abided by this code of conduct.</p>
<p>84. To what extent are the EMBs competent, effective and well resourced in carrying out their mandate?</p> <p>The IEC is highly regarded both by domestic and international stakeholders as a competent and effective EMB. Although the IEC is subject to resource restrictions, this does not noticeably impact on its ability to complete its mandate. The major resource restriction is that</p>

<i>of human resources, as a high turnover of electoral staff creates both numerical and skill shortages which are a constant challenge to the IEC.</i>
85. <i>To what extent are the courts competent, effective and well resourced in dealing with electoral matters?</i>
<i>The courts are competent in dealing with electoral matters.</i>
86. <i>What legal guarantees and institutional mechanisms exist to prevent electoral fraud, vote-rigging and other illegal election practices?</i>
<i>Institutionally, the voters roll is a key tool to prevent fraud. Non citizens are not able to get onto the voters roll and dead voters are continuously flushed out of the voters roll. In addition, the tabulation process is subjected to an independent auditing process.</i> <i>The Constitution of the Republic of South Africa 1996 as amended.</i> <i>The Electoral Act 1998 as amended</i> <i>The Public Funding of Represented Political Parties Act 1998.</i>
87. <i>What cases of electoral fraud and vote rigging have been brought to the fore and how have these been dealt with?</i>
<i>Allegations of fraud and vote rigging have been brought to the IEC from parts of the Eastern Cape and KwaZulu-Natal. The IEC's conflict resolution mechanisms were satisfactory in resolving these cases.</i>
88. <i>What common irregularities tend to become characteristic feature of elections and how have these been dealt with?</i>
<i>A reoccurring theme in election campaigning is the misuse of state resources for political party campaigning.</i>
89. <i>Are there measures which restrict the freedom of movement of the citizenry or election observer missions?</i>
<i>A voter must register in the residential district nearest to his/her home. A voter must vote at the polling station in which he/she registered, although applications for allowances to vote elsewhere are permitted (for National and Provincial elections only) in circumstances such as business travel, sickness or disability. There are few restrictions on the movement of observers, except that exit poll surveys must be conducted at least 100m away from polling stations.</i>
90. <i>Are candidates and/or their agents allowed to monitor the whole electoral process without undue restrictions?</i>
<i>Yes.</i>
91. <i>What is the nature of the participation of women, youth and people with disabilities in the electoral process? Is it high or is it low and why?</i>
<i>Women: Progress has been made since first elections in 1994, although much work needs to be done. Many of the country's political parties have achieved a 33% target of women on party lists. Women are also increasingly represented in the legislature.</i> <i>Disabled: Mechanisms are in place to assist the participation of the disabled in elections, although this issue receives little attention outside of the policies already stipulated.</i> <i>Youth: Youth involvement is on the decline; voter apathy appears to be the main reason for this trend. The youth wings of the various political parties have been tasked by their parties with galvanizing the youth to vote in future elections. The success of these campaigns can not yet be determined.</i>
92. <i>Do observers get invited ninety (90) days before the voting day?</i>
<i>Yes.</i>
93. <i>Do observers get accorded free movement throughout the country and room to communicate with all political parties and candidates, EMBs, media, CSOs and voters without undue hindrance?</i>
<i>Yes.</i>

94. <i>Is the process of invitation and accreditation of observers efficient and non-discriminatory?</i>
Yes.
95. <i>Are observers allowed access to all relevant national laws and regulations?</i>
Yes.
96. <i>Are observers allowed access to relevant election materials such as constituency delimitation report, voters' Roll etc?</i>
Yes.
97. <i>Do observers have an unimpeded and unrestricted access to all polling stations and counting centres?</i>
Yes.