

| Pre-conditions for Elections Programme in Southern Africa (PEPSA) Baseline Analysis Questionnaire | | | |
|--|---------------|-------------------|------------------------|
| Country | Zambia | Researcher | Lomcebo Dlamini |
| <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> | | | |
| <i>Yes. A multiparty regime was restored in 1991 following the period from 1973 wherein a one-party state had been introduced.</i> | | | |
| 2. <i>Has the country's government signed and ratified major international human rights declarations and protocols? Which ones?</i> | | | |
| Zambia has signed and ratified the following international human rights instruments: <ul style="list-style-type: none"> • <i>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) - 1998;</i> • <i>International Covenant on Civil and Political Rights (ICCPR) in 1984 and the First Optional Protocol.</i> • <i>International Covenant on Economic, Social and Cultural Rights (ICSECR) - 1984;</i> • <i>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) - 1985;</i> • <i>Convention on the Elimination of All Forms of Racial Discrimination (CERD) - 1972;</i> • <i>Convention on the Rights of the Child (CRC) - 1991;</i> • <i>African Charter on Human and People's Rights (ACHPR) - 1984.</i> <i>(Source: UNDP Development Report 2004)</i> | | | |
| Political parties | | | |
| 3. <i>Is the country a multi-party democracy?</i> | | | |
| <i>Yes.</i> | | | |
| 4. <i>How many political parties are registered and active?</i> | | | |
| <i>Seventeen parties, namely, FDD (Forum for Democracy and Development); MMD (Movement for Multiparty Democracy); UNIP (United National Independence Party); UPND (United Party for National Development); Heritage Party; Patriotic Front (PF); Zambian Republican Party (ZRP); National Citizen's Coalition (NCC); National Leadership for Development (NLD); Social Democratic Party (SDP); Zambia Alliance for Progress (ZAP); Democratic Party (DP); Liberal Progressive Front (LPF); National Party NP; National Lima Party (NLP); Zambia Progressive Party (ZPP); Zambia United Democratic Party (ZUDP).</i> | | | |
| 5. <i>How many parties are represented in the legislature?</i> | | | |
| <i>Three.</i> | | | |
| 6. <i>Do political parties have programmes?</i> | | | |
| <i>Yes, political parties in Zambia generally have programmes based on the pursuit of certain ideological interests.</i> | | | |
| 7. <i>Which party is the ruling party?</i> | | | |

| |
|---|
| <i>The total number of elected seats is 159. The MMD holds 62 of these seats which is 40% of the total.</i> |
| 8. <i>What is its membership base and how many?</i> |
| |
| 9. <i>Which one is the main opposition party?</i> |
| <i>The main opposition party is the UNPD.</i> |
| 10. <i>What is its membership base and how many?</i> |
| <i>Its 47 seats make up 30% of the elected seats</i> |
| 11. <i>How is the participation of parties in elections regulated and legislated?</i> |
| <i>The Electoral Act No. 2 of 1991; Electoral (Amendment) Act No. 23 of 1996; Electoral (Conduct) Regulations of 1996.</i> |
| 12. <i>Are political parties generally aware of the SADC principles governing democratic elections?</i> |
| <i>Yes.</i> |
| 13. <i>If so, what is their attitude towards the principles?</i> |
| <i>The attitude is generally positive.</i> |
| 14. <i>How have political parties promoted the implementation of the SADC principles?</i> |
| <i>There has not yet been any specific programme by any political party to promote the Principles.</i> |
| Civil society |
| 15. <i>What is state of civil society organisations?</i> |
| <i>Civil society in Zambia is active in dealing with election issues. These organizations include a diversity of interests groups from labour organizations to faith-based organization to those promoting the increased participation of women and other marginalized groups. The main organizations in this regard have been the Foundation for Democratic Process (FODEP), AFRONET, Zambian Independent Monitoring Team (ZIMT), and NGO-Coordinating Committee (NGO-CC).</i> |
| 16. <i>Is the general legal and political environment conducive for civil society organisations to operate?</i> |
| <i>The environment is generally conducive although there have been instances of intimidation and harassment reported because of allegations by government that CSOs were pushing particular party agendas. Hence there have been attempts to constrain the activities of CSOs through laws ostensibly aimed at controlling foreign funding. Freedom House classifies Zambia as “partly free,” giving it a rating of “4” in its civil liberties category. (1-Most Free; 7-Least Free)</i> |
| 17. <i>What specific roles do CSOs play in the electoral process?</i> |
| <i>CSOs are involved in:</i> <ul style="list-style-type: none"> <i>• Voter and civic education;</i> <i>• Raising issues for debate prior to and during the elections;</i> <i>• Monitoring and observation of elections.</i> |
| 18. <i>What legal/political constraints restrain the CSOs before and during elections?</i> |
| <i>Legally CSOs are allowed to operate and the constitution guarantees the freedoms for such operation. However, the political environment does sometimes restrict this freedom where government interferes with CSOs’ work through harassment and intimidation.</i> |
| 19. <i>Are CSOs aware of the SADC Principles governing democratic elections?</i> |
| <i>Yes.</i> |
| 20. <i>If so, what is their attitude towards the principles?</i> |
| <i>There is some debate on the Principles and what benefit they will bring to the electoral process.</i> |
| 21. <i>How have CSOs promoted the implementation of the SADC principles?</i> |

| |
|--|
| <i>There has been no specific CSO programme implemented to promote the Principles.</i> |
| 22. <i>Are CSOs engaged in civic and voters education? Please specify who does what and who it reaches.</i> |
| <i>CSOs in Zambia are very active in civic and voter education. However, due to limited resources, these education campaigns are usually either only set in motion or intensified close to the election period.</i> |
| Media |
| 23. <i>What economical/legal/political constraints restrain the media in general?</i> |
| <ul style="list-style-type: none"> • <i>Restrictive media laws (that criminalise aspects of the practice of journalism and give undue protection to authorities thereby restricting the accessibility of information);</i> • <i>Lack of independence in the state-owned/ controlled media.</i> |
| 24. <i>Is there an independent media council?</i> |
| <i>No.</i> |
| 25. <i>Are the state media independent?</i> |
| <i>No.</i> |
| 26. <i>Do the state media perform the role of a public service broadcaster?</i> |
| <i>Generally, yes.</i> |
| 27. <i>Is there a self-regulatory body of the media?</i> |
| <i>Yes.</i> |
| 28. <i>A media monitoring project?</i> |
| <i>A media monitoring project is being established.</i> |
| 29. <i>Do the media have a general code of conduct and ethics?</i> |
| <i>Yes.</i> |
| 30. <i>How is this enforced?</i> |
| <i>There are provisions that provide sanctions for violation of the Code.</i> |
| 31. <i>What specific role do the media play in the electoral process?</i> |
| <i>The media reports on various activities by political parties and other political players. The media also provides a platform for political parties to publicise their programmes and campaign.</i> |
| 32. <i>Is there a specific code of conduct for election reporting?</i> |
| <i>The 1996 Electoral Code of Conduct stipulates that during the election process there should be equal access to the media by political parties and other political players. It also provides that there should be balanced reporting and coverage of these groups during this period.</i> |
| 33. <i>How is this enforced?</i> |
| <i>There is a possibility of a fine or prison sentenced imposed by the Judiciary for violations of any of the Regulations.</i> |
| 34. <i>What legal/or political constraints restrain the media during elections?</i> |
| <i>Legally the media is bound to act in accordance with the 1996 Electoral Code of Conduct. Politically, there have been instances of harassment and intimidation of the independent media. Further, there has also been government censorship of privately sponsored programmes on the national electronic media, notably the ZNBC.</i> |
| 35. <i>Is the media generally aware of the SADC principles governing democratic elections?</i> |
| <i>Yes, to the extent that the media has reported on the adoption of the Principles by SADC States.</i> |
| 36. <i>If so, what has been/is its role in promoting the principles?</i> |
| <i>There has been no specific programme aimed at promoting the principles apart from the general reporting that has occurred on the Principles.</i> |
| [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> |
| <i>The Constitution; Electoral Act of Zambia and the Electoral Commission Act (No. 24 of 1996).</i> |
| 38. <i>In what concrete ways does citizen participation in the political process (especially before and during elections) take place?</i> |
| <i>Citizens participate through attending public meetings and political party rallies. They also register for voting.</i> |
| 39. <i>What legislation provides for political freedoms including freedom of association, political movement and freedom of speech?</i> |
| <i>The Constitution of the Republic of Zambia.</i> |
| 40. <i>Are these freedoms and political tolerance allowed by political actors during electioneering?</i> |
| <i>These freedoms are generally allowed but there are some constraints imposed by certain legislation such as the Public Order Amendment Act which regulates the freedom to assemble by requiring 7 day notice period for the holding of public meetings. During the 2001 elections, this law was not applied in a non-discriminatory manner as the ruling party was often allowed to assemble without due notification while there were instances where other parties were prevented from convening meetings even though they had complied with the legal requirements.</i> |
| 41. <i>What is the frequency and regularity of elections in the country (consider both national and local government elections please)?</i> |
| <i>Elections – presidential, parliamentary and local government elections are held every five years. The last elections were held on 27th December 2001.</i> |
| 42. <i>Are there the dates of elections specifically predetermined by a relevant constitutional or legislative provision?</i> |
| <i>The date for elections is not stipulated by the electoral legislation but is announced by the President.</i> |
| 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> |
| <i>There is no provision in Zambian law for public funding for political parties. An attempt to promulgate such a law was thwarted by the President on the basis that there were insufficient resources to practically implement the proposed law. Nevertheless the ruling party does take advantage of its position and uses public resources in its control such as the media and state transportation in conducting election-related activities. Therefore, apart from the ruling party that benefits from its control over state resources, political parties are privately funded.</i> |
| 44. <i>What is the exact role of the judiciary in the electoral process?</i> |
| <i>The judiciary main role is in the adjudication of disputes. The Constitution makes provision for the filing of a challenge to the validity of the nomination and/ or election of the President, member of the National Assembly, or member of Local Government. The challenge is by means of a petition that must be filed either with the High Court or the Supreme Court within 14 days of an election.</i> |
| 45. <i>Does the judiciary exhibit impartiality in handling electoral matters?</i> |
| <i>Generally, yes.</i> |
| 46. <i>Which Electoral Management Bodies (EMBs) have the responsibility to run elections?</i> |
| <i>The Electoral Commission of Zambia (ECZ).</i> |
| 47. <i>What is the exact role of these Electoral Management Bodies (EMBs) in the electoral process?</i> |
| <i>The ECZ is responsible for regulation and administration of the whole electoral process from Voter registration to declaration of the election results.</i> |

| |
|--|
| 48. <i>How independent and impartial are these EMBs in discharging their electoral mandates?</i> |
| <i>The ECZ has been criticized for not being independent and for being partial to the ruling party. However, in the last elections, extensive problems with regard to ECZ's overall capacity to administer the elections was also note as having compromised its potential effectiveness as an independent body.</i> |
| 49. <i>Which institutions are responsible for conducting voter education?</i> |
| <i>The ECZ is primarily responsible for voter education and is required to publish Gazette notices giving information on various aspects of the electoral process. Political parties and other civic groups such as NGOs also have voter education programmes. The former are partisan and promote that particular party's political agenda while the latter are usually non-partisan and are based on promoting democracy and civic participation.</i> |
| 50. <i>In what ways do these institutions coordinate their efforts in undertaking voter education?</i> |
| <i>There is no information regarding the extent to which such education is coordinated as both the ECZ and CSOs conduct their own voter and civic education programmes.</i> |
| 51. <i>Is there a political culture of acceptance and respect of election results by political parties? What explains this trend?</i> |
| <i>Generally, yes, although there have been challenges to certain results.</i> |
| 52. <i>If not, why do political parties contest election results?</i> |
| <i>Zambian elections have been characterised by disputes because of allegations of various irregularities, and other factors including, the timing of the elections; logistics (adequacy in preparations and execution of voter registration and actual balloting); transparency (especially in ballot result declaration).</i> |
| 53. <i>What the legal provisions exist for the management for election-related disputes?</i> |
| <i>The Electoral Law provides that petitions may be brought to the High Court where election related matters are in dispute.</i> |
| 54. <i>What institutional and regulatory mechanisms are in place for the constructive resolution of election-related disputes?</i> |
| <i>The High Court is empowered to adjudicate on such disputes.</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>The Constitution.</i> |
| 56. <i>Does the political culture and practice protect and promote citizens' freedoms?</i> |
| <i>Zambia has been classified as being "partly free" in respect of its civil liberties according to the Freedom House index.</i> |
| 57. <i>If not, what possibilities do citizens have to complain (independent human rights commission/ombudsman?)</i> |
| <i>Zambia has Permanent Human Rights Commission.</i> |
| 58. <i>To what extent is the election environment free, fair and peaceful?</i> |
| <i>The environment is partly free.</i> |
| 59. <i>How is voter registration conducted and by whom?</i> |
| <i>The ECZ conducts voter registration over a certain announced period of time.</i> |
| 60. <i>Is voter registration conducted periodically around elections or continuously?</i> |
| <i>Registration is generally conducted in the period preceding elections</i> |
| 61. <i>Is the process of voter registration satisfactory and acceptable to all stakeholders?</i> |
| <i>No. The ECZ has been criticised for not being effective in conducting such registration.</i> |
| 62. <i>How is the voters' roll prepared and by whom?</i> |
| <i>The ECZ is responsible for preparing the voters' roll.</i> |
| 63. <i>How is the voters' roll maintained and regularly updated and by whom?</i> |

| |
|---|
| <i>The ECZ updates the voter's roll during the period before elections.</i> |
| 64. <i>To what extent is the voter's roll easily accessible and non-discriminatory?</i> |
| <i>The voters roll is not freely accessible to the public but political parties have had access to it.</i> |
| 65. <i>Is the process of preparation and maintenance of the voters' roll satisfactory and acceptable to all stakeholders?</i> |
| <i>No.</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>Generally, yes.</i> |
| 67. <i>What legal provisions regulate private and public funding for political parties?</i> |
| <i>Public funding of political parties is illegal and most parties are privately funded.</i> |
| 68. <i>How transparent are the mechanisms for private and public funding of political parties?</i> |
| <i>Generally, they are not transparent.</i> |
| 69. <i>To what extent are the mechanisms for private and public funding to political parties satisfactory and acceptable to all stakeholders?</i> |
| <i>They are neither satisfactory nor acceptable to all stakeholders.</i> |
| 70. <i>To what extent does the location of polling stations compromise the integrity of the electoral process and its outcome?</i> |
| <i>There is no information about the impact of polling stations on the electoral process.</i> |
| 71. <i>Where does counting of votes take place?</i> |
| <i>Counting takes place at the declared collation centres.</i> |
| 72. <i>In what way(s) does the location of the counting of votes affect the integrity of the poll?</i> |
| <i>There is no information on the impact of the location of counting centres on the integrity of the poll.</i> |
| 73. <i>What legal provisions regulate election monitoring and observation?</i> |
| <i>The Electoral (Conduct) Regulations of 1996.</i> |
| 74. <i>Which institutions are responsible for facilitating election monitoring and observation?</i> |
| <i>The ECZ is responsible as it is empowered to give official accreditation to monitors and observers.</i> |
| 75. <i>Who is allowed to monitor and observe elections? Why?</i> |
| <i>Both local and international monitors and observers are allowed to monitor the election.</i> |
| 76. <i>Do monitors and observers get accorded adequate time to be able to monitor and observe all the three stages of the electoral process?</i> |
| |
| 77. <i>Do observers get deployed two (2) weeks before the voting day?</i> |
| <i>Yes.</i> |
| [IV] Responsibilities of Member States Holding Elections (Section 7 of the SADC Principles) |
| 78. <i>What are the legislated qualifications for voting?</i> |
| <i>A prospective voter must be a Zambian citizen and must have attained the age of eighteen years.</i> |
| 79. <i>What are the legislated disqualifications from voting?</i> |
| <i>A person may be disqualified from voting in the following instances:</i> <ul style="list-style-type: none"> • <i>Where a person is under a declaration of allegiance to a country other than Zambia;</i> • <i>Where a person is of unsound mind or is detained under the Zambian Criminal Procedure Code;</i> |

| |
|---|
| <ul style="list-style-type: none"> • <i>Where a person is under a court-imposed death sentence;</i> • <i>Where a person is not in possession of a national registration card</i> |
| 80. <i>Are these legal provisions for qualification and disqualification applied fairly during elections?</i> |
| <i>There is no information that there has been discrimination in applying these qualifications.</i> |
| 81. <i>Is the practical application of the qualifications and disqualifications satisfactory and acceptable to all stakeholders?</i> |
| <i>No. There have been complaints from civil society regarding the efficiency of the ECZ in ensuring that all citizens who qualify and want to vote are able to register timeously.</i> |
| 82. <i>Is the political environment generally conducive for all political parties to campaign freely without undue hindrance?</i> |
| <i>The political environment allows for free political activity although there have been reports of opposition parties being prevented from holding meetings. The Freedom House classification for Zambia with respect to political rights is “4” meaning that the environment is partly free.</i> |
| 83. <i>Is there a code of conduct for political parties and to what extent do parties adhere to it?</i> |
| <i>There are the Electoral (Conduct) Regulations of 1996 that regulate political activity during an election. However, there have been reports of political parties, particularly the ruling party violating or ignoring the provisions of this Code.</i> |
| 84. <i>To what extent are the EMBs competent, effective and well resourced in carrying out their mandate?</i> |
| <i>The ECZ has faced major resource constraints which have affected its ability to run and administer the whole electoral process effectively.</i> |
| 85. <i>To what extent are the courts competent, effective and well resourced 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>The 1996 Electoral (Conduct) Regulations.</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>Such cases have been brought before the courts to determine.</i> |
| 88. <i>What common irregularities tend to become characteristic feature of elections and how have these been dealt with?</i> |
| <i>There have been reports of misuse of public resources, intimidation of voters.</i> |
| 89. <i>Are there measures which restrict the freedom of movement of the citizenry or election observer missions?</i> |
| <i>No.</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>The participation of these is generally low but increasing due to increased civic education.</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</i> |

| |
|--|
| <i>hindrance?</i> |
| Yes. |
| 94. <i>Is the process of invitation and accreditation of observers efficient and non-discriminatory?</i> |
| The ECZ has been criticised for inefficiency in this regard. |
| 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, but sometimes access is impeded but poor infrastructure such as bad roads which are made worse during the rains. |