

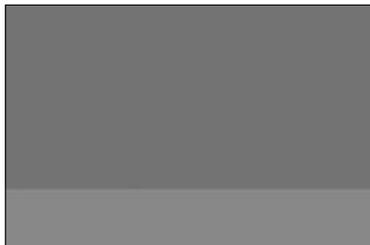


# **SADC PARLIAMENTARY FORUM**



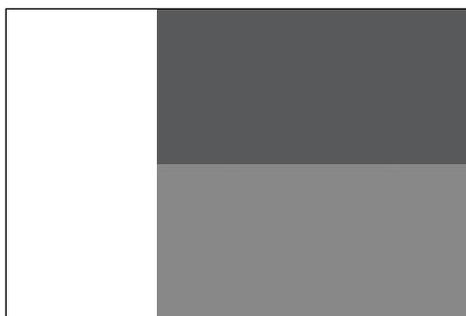
## **PRESIDENTIAL ELECTIONS IN THE REPUBLIC OF MADAGASCAR 2006**

### **MADAGASCAR**



**Observation Mission Report**

**2006 PRESIDENTIAL ELECTIONS  
IN THE REPUBLIC OF MADAGASCAR**



**SADC PARLIAMENTARY FORUM ELECTION  
OBSERVER MISSION REPORT**

December 2006



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# LIST OF ACRONYMS

<b>AU</b>	African Union
<b>BLE</b>	Electoral Local Office
<b>CCE</b>	Electoral Local Correspondent
<b>CNE</b>	National Electoral Council
<b>CNOE</b>	Le Comité National pour l'Observation des Elections
<b>COI</b>	Conference of Indian Ocean
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>CRMV</b>	Census Commission of Vote Materials
<b>EISA</b>	Electoral Institute of Southern Africa
<b>EU</b>	European Union
<b>GAPE</b>	Group of Support to the Electoral Process
<b>HCC</b>	High Constitutional Court
<b>ICT</b>	Information Communication Technology
<b>MIRA</b>	Ministry of Interior and Administrative Reform
<b>MISA</b>	Media Institute of Southern Africa
<b>MSIS</b>	Multi-Service Information Systems (Madagascar)
<b>NDI</b>	National Democratic Institute
<b>OIF</b>	Organisation Internationale de la Francophonie
<b>OUA</b>	Organisation of African Unity
<b>PSD</b>	Social Democratic Party
<b>RCSA</b>	Regional Centre for Southern Africa
<b>SABA</b>	Southern African Broadcasting Association
<b>SADC</b>	Southern Africa Development Community
<b>SADC-PF</b>	Southern Africa Development Community-Parliamentary Forum
<b>SADC-ECF</b>	Southern Africa Development Community-Electoral Commissions' Forum
<b>SEOM</b>	SADC Election Observer Mission
<b>UNDP</b>	United Nations Development Programme
<b>US</b>	United States
<b>USAID</b>	United States Agency for International Development

# ACKNOWLEDGEMENTS

The Mission is grateful to authorities in Madagascar for inviting the Forum to participate in these elections. The Mission is greatly indebted to the people of Madagascar and all stakeholders and interested parties across the length and breadth of the country for their hospitality, cooperation and support.

Special thanks also go to all domestic and international election observers for their goodwill and willingness to share information with the Mission. The Mission also thanks Presiding Officers of national parliaments for facilitating the participation of Members of Parliament and officials in the just ended SADC Parliamentary Forum Election Observer Mission.

The assistance of the United Nations Development Programme in providing technical support and background material to international election observers proved very useful.

Lastly, but by no means the least, the Mission is grateful to the United States Agency for International Development Regional Centre for Southern Africa (USAID/RCSA) for providing the financial resources for this important exercise.

**This report was compiled by Gaston Kalombo and was edited by Takawira Musavengana**

# CHAPTER 1:

## INTRODUCTION

### Background to the SADC Parliamentary Forum

The SADC Parliamentary Forum brings together the national Parliaments of SADC Member States and is headquartered in Windhoek, the capital city of Namibia. The organisation was founded in 1996 with the main objective of strengthening the implementation capacity of SADC by involving parliamentarians in the work of SADC. The Forum seeks to advance gender equality, good governance and democracy, inter-parliamentary cooperation and parliamentary capacity development, accelerating use of Information Communication Technologies (ICTs) in the work of national Parliaments; promoting parliamentary participation and oversight in the fight against HIV and AIDS and regional economic development and integration.

Since 1999, the Forum has observed and pronounced itself on the organisation and conduct of 19 national elections in the SADC region as follows: Mozambique (1999), Namibia (1999) Mauritius (2000), Zimbabwe-*Parliamentary* (2000) Tanzania (2000), Zambia (2001), Zimbabwe-*Presidential* (2002), Lesotho (2002), South Africa, Malawi, Botswana, Namibia, Mozambique (2004); Mauritius (2005), Zanzibar (2005); Tanzania (2005); DRC (July, 2006), Zambia (2006) and DRC (October, 2006). More information on the Forum can be accessed on [www.sadcpf.org](http://www.sadcpf.org).

In line with the objectives, the Forum has taken a keen interest in election observation in its member states. In this regard, the SADC Parliamentary Forum sent an Election Observer Mission to Madagascar to observe polling and counting activities, and extend its mission to the other phases of an electoral process, namely, the pre-election and post-election phases. The Malagasy presidential elections took place on the 3<sup>rd</sup> December 2006. These elections are the 18<sup>th</sup> national elections to be observed by the Forum in the SADC region since 1999. This report, which includes aspects of the entire electoral process, is aimed, among other things, at highlighting the Forum's observations, findings and recommendations in relation to the December election.

### The SADC Parliamentary Forum Election Observer Mission to Madagascar

The 20<sup>th</sup> Election Observer Mission of the Forum since 1999 arrived in Antananarivo on Wednesday 29<sup>th</sup> November, 2006. The arrival of the Mission was at the invitation of the Ministry of the Interior and Administrative Reform by copy of letter dated 27<sup>th</sup> November, 2006; Reference No. 7026 – MIRA/SG/DPROD. The participation of the Forum in the 3<sup>rd</sup> December, 2006 Presidential Elections follows the formal admission of the Republic of Madagascar as a member of the Southern African Development Community (SADC) in August, 2005. The Parliament of Madagascar is expected to become a member of the Forum in due course.

The 25-member Election Observer Mission included ten Members of Parliament and was under the leadership of the immediate past Vice Chairperson of the Forum, who is also a Member of Parliament (MP) from Botswana, Honourable Gobopang Duke Lefhoko. The Members of Parliament were drawn from the parliaments of Botswana, Mauritius, Mozambique, South Africa, Swaziland, Zambia and Zimbabwe. The Mission was supported by three officials from the Windhoek-based Secretariat as well as technical staff and parliamentary officials. (See **Appendix 2**)



SADC Parliamentary Forum Observer Mission team

### **Mission Terms of Reference**

The SADC Parliamentary Forum Election Observer Mission to Madagascar was guided by the following Terms of Reference, which are informed by the legal framework for elections in Madagascar and the SADC Parliamentary Forum's Norms and Standards for Elections in the SADC Region, SADC Principles and Guidelines Governing Democratic Elections (2004) and OAU/AU Declaration on the Principles Governing Democratic Elections in Africa – AHG/DECL.1 (XXXVIII). The full text may be found at **Appendix 1**. In summary, the Mission's Terms of Reference were to:

1. Analyze the constitutional and legal framework within which elections are conducted;
2. Assess the historical, socio-economic and political environment within which elections are taking place;
3. Assess the extent to which the elections are conducted in line with the constitutional and legal framework provisions of each of the countries and in relation to the Norms and Standards for Elections in the SADC Region, SADC Principles and Guidelines Governing Democratic Elections (2004) and OAU/AU Declaration on the Principles Governing Democratic Elections in Africa – AHG/DECL.1 (XXXVIII);
4. Assess the gender trends and voter turnout in relation to previous elections; and
5. Assess the organizational arrangements of the electoral process with respect to inter alia, the Voter registration, voter education, nomination of candidates, the campaign, the role of the media and civil society organizations;
6. To observe the campaign and polling arrangements, the casting of votes, the closure of voting, the counting of ballots and the declaration of results in accordance with the laws of the Republic;
7. .Based on the above findings, to ascertain whether the electoral process is credible and the degree to which it adheres to and enhances the democratic process, rule of law, respect of human rights and gender equality in the country;
8. In its own impartial, independent and objective judgment, to determine whether the electors freely expressed their right to vote and whether the results of the election reflect the will of the people of Madagascar; and
9. Where it sees fit, the Mission is free to suggest to the relevant authorities, institutional, organizational and procedural recommendations that would contribute to the improvement and enhancement of the electoral process and democratic culture in the country.

### **Mission Orientation Programme**

An Election Observation Orientation Programme for MPs and staff was held on 30th November in Antananarivo, Madagascar at Hilton Hotel. The purpose of the programme was to discuss the framework of election observation and determine how best MPs and staff could conduct their mission and form an independent judgment about the electoral process. (See **Appendix 3**)The objectives of the orientation programme were outlined as follows:

- a. To assess and share the state of democracy in Madagascar from the point of view of electoral systems and processes.
- b. To strengthen the capacity of observing delegations to observe and to report on election observation in an impartial and objective manner as provided in the Election Observation Guide for Members of Parliament and Norms and Standards for Elections in the SADC Region.
- d. To familiarize delegates with the relevant constitutions and election-related legal provisions of Madagascar and the state of election preparedness in the country.

## Opening and welcome remarks and general discussions

Valuable input was gained from presentations by the two main speakers. The orientation programme workshop started with introduction and administrative announcements by the Mission Coordinator, Mr. Takawira Musavengana who gave welcome remarks, introduced delegates and outlined the Forum's election observation experience. The Mission itself was diverse in its composition and emphasized the twin principles of gender balance and political plurality within its membership. He said that these principles were reflected in the composition of the Mission membership.

In his opening remarks, the Mission Leader, Hon. Lefhoko underlined the need for the delegates to observe the elections with an open mind and to strive for excellence in everything. He insisted on teamwork and unity of purpose, and stated emphatically the importance for all observers to agree on the Mission's conclusions about the election. He emphasized the Mission's work was that of reporting on verifiable facts, and not on rumours. He recommended the Mission members to be open and to interact freely, and encouraged them to raise issues when they arose during the course of the Mission's work in Madagascar and urged them to rise above personal preferences and to strive for objectivity.

All observers were enthusiastic about the Mission and hoped for a peaceful, credible, legitimate, free and fair election.

## Mission Deployment and Method of Work

Upon arrival, the Mission benefited from briefing sessions with, among others, the National Electoral Council (CNE), the United Nations Development Programme Elections Coordinating Office, the National Democratic Institute for International Affairs (NDI) and *Le Comité National pour l'Observation des Elections* (CNOE).

During the period 1<sup>st</sup> December, 2006, to 5<sup>th</sup> December, 2006, the Mission deployed six teams comprising MPs and support staff to five of the six provinces in the Republic of Madagascar as follows: Antananarivo (Anamalanga); Toamasina (Atsinanana); Mahajanga (Boeny); Diego (Diana) and Morondova (Menabe). The teams observed the campaign, voting and vote counting and compilation of results in the above-mentioned areas. A total of 56 polling stations across the country were visited by the teams on voting day. (See **Appendix 4**)

In addition to its own code of conduct as articulated in the Norms and Standards for Elections in the SADC Region as well as the MPs Guide for Election Observation, the work of the Mission was also guided by the Declaration of Principles for International Election Observation and Code of Conduct for International Observers, which the Forum, alongside other regional and international election observation organisations, has signed up to. The Forum brought into these elections many years of experience in assessing the legitimacy and credibility of elections in the SADC region. Noteworthy is the fact that in 2001, the Forum became the first organisation in Africa to develop norms and standards for the elections for the SADC region.

# CHAPTER 2:

## HISTORICAL BACKGROUND OF MADAGASCAR

### **Geographical Location, History and Population**

Madagascar is the world's fourth largest island with a surface area of 587 000 square meters and is made up of a highland plateau fringed by a low land coastal strip, narrow (50 km) in the east and considerably wider (100-200 km) in the west. The plateau attains greater heights in the north, where Mt. Maromokotro (2,880 m), the loftiest point in the country, is located and in the centre, where the Ankaratra Mt. reaches (2,640m). Some three fourths of the island's plant and animal species are found only in Madagascar.

### **Population**

As at 2005, the population was estimated at 18 040 341, of whom over 50% are youth. The inhabitants of Madagascar fall into two main groups – those largely of Malayo-Indonesian descent and those principally of African descent. Of the nearly 18 ethnicities, the main Indonesian groups are the Merina, who live near Antananarivo, the capital of the country, and the Betsileo, who live around Fianarantsoa. The principal African groups are the Betsimisaraka (East), the Tsimihety (North highlands), the Sakalawa and the Antandroy (West), and the Antaisaka (Southeast). There are minority groups such as French and Asian Indians. Malagasy, a language of Indonesian origin and French are official languages. In terms of religion, over 50% of the people follow traditional religious beliefs, more than 40% are Christians (Protestants and Catholics), and about 7% are Muslims.

### **Socio-economic Aspects**

The economy of Madagascar is overwhelmingly agricultural, largely of a subsistence type. Only 5% of the surface of the country is used for agriculture. The deforestation reaches dramatic proportions, a major problem for the ecology and the economy of the island. Rich in mineral resources, with especially the sapphires, emeralds and ilmenite, the world's fourth largest island is known notably also for its production of vanilla, cloves and coffee, main agricultural exports of the country. The exports of fishing products (fishes and shrimps) are in increase. Madagascar has recorded a rise of growth rate of 4% in 1999 to 6% in 2001. Nevertheless the political crisis of 2002, added to a series of particularly devastating cyclones in 2004 have slow down its economic progression. Gross domestic product dropped almost 13 percent during the 2002 political crisis. But despite its natural resources Madagascar is one of the poorest countries on the globe.

### **Political Overview**

The human occupation of Madagascar goes back up more precisely to the first centuries of our era, the pioneers being from Asia of the Southeast, of the central part of the present Indonesia. The first kingdoms carry up around the twelfth century, in the center of the island. The other kingdoms only emerge from the seventeenth century, notably the Sakalava and Betsimisaraka kingdoms and those of the Betsileo to the south of the Merina country.

Until the eighteenth century, successive waves of immigrations reached the country, and were assimilated quickly to the local. Arabs, Austronesians, Indians and Africans have continuously to be added at the formation of the Malagasy population.

At the end of the 18<sup>th</sup> century, the Merina people of the interior were united under King Andrianampoinimerina (1787-1810), who also subjugated the Betsileo. His successor Radama I (1810-28), in return for agreeing to end the slave trade, received British aid in modernizing and equipping his army, which helped him to conquer the Betsimisaraka kingdom. The Protestant London Missionary Society was welcomed, and it gained many converts, opened schools, and helped to transcribe the Merina language. Merina culture began to spread over Madagascar. By the end of the 1890s, the Merina Kingdom included all Madagascar except the south and part of the west.

However, in 1883, the French bombarded and occupied Toamsina (then Tamatave), and in 1885, they established a protectorate over Madagascar, which was recognized by Great Britain in 1890. After year of resistance against French organized by Rainilaiarivony, French troops under Gallieni defeated the Merina and abolished the monarchy in 1896. By 1904, the French fully controlled the island and governed the country through a divide-and-rule policy with development concentrated in the Tananarive region, and thus the Merina benefited most from colonial rule. After the World War II, there was a major uprising from 1947 to 1948 against the French who crushed the rebellion, killing between 11,000 and 80,000 Malagasy in the process. As in other French colonies, indigenous political activities increased in 1956, and the Social Democratic Party (PSD), led by Philibert Tsiranana, a Tsimihety, gained predominance in Madagascar.

On October 14, 1958, the country, renamed the Malagasy Republic, became autonomous within the French Community and Tsiranana became the elected president of the First Republic. On June 26, 1960, the country became fully independent. In 1972, students and workers, disconnected with the president's policies and with the deteriorating economic situation, staged a wave of mass actions, which culminated by Tsiranana handing over power to Gen. Gabriel Ramanantsoa, who became prime minister. In October 1972, a national referendum overwhelmingly approved Ramanantsoa's plan to rule without parliament for five years; Tsiranana, who opposed the plan, resigned the presidency shortly after the vote. In 1975, a new Constitution was approved that renamed the Malagasy Republic the Democratic Republic of Madagascar.

After months of unrest, Didier Ratsiraka became president of the Second Republic in 1975 and undertook to engage the country in a socialist way. But toward the end of the 1980s, he was forced to adopt policies of prudent economic liberalism. In 1991, the opposition to Ratsiraka intensified. Some mass demonstrations degenerated in confrontation with the army, making numerous victims. After a brief transient period, a new constitution was adopted and Albert Zafy, candidate of the opposition, was elected as president of the Republic. Paradoxically, the 1996 presidential election (after the impeachment of Zafy by the National Assembly in July 1996) saw the re-election of Ratsiraka. Madagascar went through a period of economic stability until December 2001, when the results of the election were disputed. Marc Ravalomanana, the opposition candidate denounced the reported results and proclaimed himself president.

After a standoff between Ratsiraka and Ravalomanana, a recount in April 2002, which was negotiated by the then Organization of African Unity (OAU) and agreed to by both candidates, declared Ravalomanana the winner, but Ratsiraka rejected the results. The dispute ended up with Ratsiraka fleeing the country and Ravalomanana's presidency was legitimized by his party victory in elections for a new parliament in December 2002. Ravalomanana's victory has had an impact on the current electoral process.

## **The Constitutional and Legal Framework Governing Elections**

### **The Constitution**

Madagascar is governed under the 1992 constitution, which was revised in March 1998. The Constitution of the Republic of Madagascar (1992) provides for the election of the president by direct universal suffrage. The mandate of the president is for five years, limited to two consecutive terms. The winning

candidate must attain an absolute majority (50% + 1) of the votes cast, failing which a second round of voting, in which the two top candidates from the first round of voting are eligible to participate.

The main institutions of the Republic of Madagascar are: a Presidency, a Parliament (National Assembly and Senate), a Prime minister and government, as well as an independent justice with a High Constitutional Court. The three functions of the state - ministerial function, legislative function, jurisdictional function - are exercised by these institutions and by distinct organs.

The President of the Republic is the Head of the State. He is the guarantor of the National unity and the guarantor by his arbitration of the regular working of public powers, national independence and territorial integrity. He watches over the safeguard and the respect of the national sovereignty inside as well as outside the country. The President is elected to the direct universal suffrage for a mandate of five years, limited to two terms in office.

The Republic of Madagascar has a bi-cameral legislature comprising the National Assembly and the Senate. The National Assembly is constituted of 160 representatives elected by direct suffrage every five years. For the constituencies that only include a seat to be provided, the election takes place to the majority vote for a single member elected in one round. For the constituencies that include several seats to be provided, the election takes place on the list with proportional representation. The modes of these votes are specified by an organic law.

The Senate comprises 90 senators elected for a mandate of six years. Two thirds of members elected in equal number in every autonomous province by an Electoral College, and one third of the members are chosen by the President of the Republic based on their particular expertise in legal, economic and cultural matters. An organic law fixes the modes of its functioning, composition and election.

The government is headed by a Prime Minister who is appointed by the President of the Republic. The Prime Minister and the members of Parliament legislate, and the government executes the law. The President can dissolve the National assembly. On the other hand, the National assembly can vote a motion of censorship and oblige the Prime minister and the Cabinet to reverse a decision.

The Constitutional Court examines all new laws in order to ensure that they are compliant to the Constitution.

### **The Electoral Law (Organic Law No 2000-014).**

The legal setting of Madagascar elections is governed by the Constitution, the Electoral Code and texts of application notably Decrees and Organic Laws.

According to the Constitution, democracy constitutes the foundation of the Republic and the sovereignty and source of all power. Power belongs to the people who exercises it through their representatives elected to the direct or indirect universal suffrage or by way of referendum. The popular consultation by election or by referendum constitutes the fundamental demonstration of the exercise of sovereignty.

Based on this background, the National Assembly adopted in its session of July 26, 2000, an organic law including the Electoral Code.

In addition to the provisions of the Constitution, elections in Madagascar are governed by a number of legal provisions, chief among which are the Organic Laws No. 2000/014 and 2001/02. Put together, these instruments underscore the secrecy of the ballot, equality of opportunities for candidates and parties in the electoral process, transparency of the electoral process and the neutrality of the election management bodies.

The application of the principles contained in the Electoral Law results in the implementation of periodic consultations where liberty and the secrecy of the vote are guaranteed. The Electoral Law stipulates that equality of opportunities of the candidates and parties still in contention are preserved and guaranteed by the transparency of the electoral operations and the neutrality of the governing body.

The aim of this law is to contribute and regulate these fundamental principles. The law comprises five titles and 145 articles and it fixes general rules related to elections for elective public mandates and to the referenda as well as the exercise of the right to vote; subject to arrangements of particular laws for every category of election.

The law brings in as the main innovation, the sharing of the electoral litigation between the High Constitutional Court, the Council of State and the Administrative and Financial Court according to the type of election.

### **Background to the 2006 Presidential Elections**

The December 03, 2006 election took place on the basis of the Electoral Code of July 2000. Out of the 18 candidates who officially presented their candidacy, 14 were approved by the High Constitutional Court (HCC) to participate in the vote. The election campaign lasted 21 days - from November 12 to December 02, 2006.

Anxious to avoid a repetition of the events of 2002, all actors committed themselves to work for a peaceful presidential vote of December 03, 2006. Some candidates were contesting the constitutionality of the date of the election of December 3. The High Constitutional Court had given its favorable opinion on the given date. Other candidates argued that access to the media was not guaranteed, as the public media was giving more space to some candidates and not others. In order to contribute to an election that takes place in the best conditions of transparency, objectivity and credibility, the international community had committed itself to supporting and sustaining the electoral process through technical, logistical and financial support and with the coordination of international observers.

# CHAPTER 3:

## BRIEFING WITH ELECTORAL STAKEHOLDERS

The Mission held consultations with a wide spectrum of stakeholders and other interested parties and benefited a lot from them. Those consulted included representatives from:

- 1 The National Democratic Institute (NDI), an international democracy organization which was involved in training for domestic observers. Ms Kelly Jones, NDI Country Director, made a brief presentation about the electoral environment and NDI's work in the country.
- 2 SADC Election Observer Mission: The meeting was chaired by Hon. Kingunge Ngombale Mwiru (MP), Minister of State – Political Affairs and Civil Societies Relations in the President's office in Tanzania and Head of SADC Electoral Observer Mission in Madagascar.
- 3 The National Committee for the Observation of Elections (CNOE). The leader of CNOE, Dr Bruno gave a detailed description of the Role of the Civil Society or the History of Elections in Madagascar. This allowed all participants to get a big picture of the electoral process and the challenges it was facing.
- 4 United Nations Development Programme (UNDP). The briefing was about the entire electoral process and all issues related to the election, especially voter registration, the distribution of electoral cards and information on electoral lists based on the electoral law. The UNDP's mandate was limited to supporting the process without any intervention. The support was both technical and financial bearing in mind the limited capacity of the country to organize elections without the support of the International Community. The UNDP's election support project worked through the Ministry of Interior and the Electoral Commission. The project involved most of embassies in Madagascar. The international community was concerned with transparency and peaceful elections in order to prevent the contestation and political violence that followed the 2002 elections.



Mission leader honourable Gobopang Lefhoko addresses stakeholders.

# CHAPTER 4:

## ELECTIONS MANAGEMENT

The responsibilities for election administration and oversight are divided among three institutions, namely the Ministry of Interior and Administrative Reform (MIRA), the High Constitutional Court (HCC) and the National Electoral Council (CNE).

### **The Ministry of Interior and Administrative Reform (MIRA)**

The Ministry of Interior and Administrative Reform (MIRA) is the national institution in charge of the material and technical organization of elections. Through its central and decentralized structures, the ministry manages the planning of the process, trains its staff as well as the polling officials, acquires and allocates the material and electoral documents, ascertains the legality of acts and operations, guarantees its staff's neutrality, establishes the electoral list and issues voters' cards, assumes the responsibility of the transparency of all operations, notably the vote and is finally responsible for the routing of election results to the High Constitutional Court and the National Electoral Council (CNE).

### **The High Constitutional Court (HCC)**

The HCC is charged with addressing litigation relating to national elections. Its decisions are without recourse. It announces the definitive results of the elections. It is the main recipient of the minutes coming from every polling station, as well as all documents relating to voting operations.

Within 20 days after the closure of the vote, any voter regularly registered on the electoral list has the right to approach the HCC with complaints and disputes dealing with the regularity of campaign operations or voting which took place in the vicinity of the polling station where s/he is registered. The same right is applied to each candidate or his/her delegates in all or part of the constituency concerned by his/her candidacy.

He/she can challenge the results of the vote of his/her polling station and even call attention to lack of observance of legal conditions and prescriptions. Each national observer enjoys the same right of complaint, dispute and denunciation.

Within 20 days of receipt of the last set of results, the HCC compiles the final results and certifies such results.

### **The National Electoral Council (CNE)**

The CNE is the institution charged of the supervision of matters relating to elections. It is composed of seven members nominated each by a different organ: the President of the Republic (1), the Mediator (1), the Interior Minister (1), the Order of the Lawyers (1), the Order of the Journalists (1), the First President of the Supreme Court (1) and the Attorney General (1). Its mandate is for five years renewable once. The CNE has a president, two vice-presidents and a treasurer. The CNE is accountable to the Prime minister who is the head of the government.

Its independence has been questioned by observers who advocate for the establishment of a more independent CNE, as current international and SADC standards encourage this trend. That is why in order to ensure the impartiality and effectiveness of the election administration, consideration should be given after the December election to revising the CNE's structure. It is recommended that its authority should be strengthened to ensure that it can intervene, comment, and mediate during the electoral process.

Finally, the CNE is the recipient of the original copy of the minutes of electoral operations from polling stations. The other structures of the CNE are the Electoral Local Offices (BLE) and the Electoral Local Correspondents (CCE). In every county, town, region or commune is instituted an office linking with the CNE, which is directly placed under the authority of the president of the CNE. It is called Electoral Local Office (BLE) and comprises 4 members who are expected to be independent and objective in their work. They cannot participate in any way in any election campaign.

### **The Campaign**

Neither the Electoral Law nor the Constitution makes provisions for funding of electoral campaigns. In addition, there was no requirement for a candidate to justify the origin of their revenue.

During the period of the election campaign, the electoral propaganda, the display of candidates' posters, lists of the candidates or the committees of support, circulars, and ballot papers is regulated. All propaganda material outside the period of the election campaign is forbidden. The distribution of the same materials on the day of the vote is also forbidden.

The campaign began on November 12 and ended on December 1 and was very quiet and peaceful. The last day of campaigns however was marked by carnival processions and rallies of competing candidates.

### **The Role of the Media**

The Constitution stipulates that during the campaign period, all candidates should be provided an equal amount of coverage on the public-owned media. This constitutional provision does not extend to privately owned media. Notably numerous privately owned media outlets are owned or controlled by presidential candidates or their followers. There were allegations from opposition candidates and domestic observers that access to state-owned media in past elections had not been equitable.

For the December 2006 presidential elections, the CNE had put in place a system whereby candidates' messages during the campaign were broadcast on the public-owned radio and television. The absence of a legal framework governing the use of private media and related expenses leaves a complete legal vacuum. This is especially the case given that some candidates are owners of television channels and radio stations.

Only the public-owned radio and television broadcast on a national scale. Malagasy and international civil society organizations have called for effective legal measures to promote fair and balanced media coverage of elections.

This led MSIS, a NGO member of Pact Madagascar Network, during the lunch of its interim report on media covering of the presidential campaign on the December 3, 2006, to express some concern about this situation. The MSIS's project called "Media Monitoring Project" pointed out that:

- The TV channels and radio stations, have globally respected arrangements of the electoral code.
- They offered free cover to the different candidates.
- Twelve of the fourteen candidates submitted their programmes to public stations for free coverage
- The public media undertook a campaign for the education and sensitization of voters.
- Coverage of candidates was limited outside the free broadcast times especially on TV news and radio.

In the private media:

- There was a predominance of the paid-advertisements in most media observed in relation to the types of programs on the elections.
- A limited number of candidates used the paid-advertisements
- Coverage of the candidates in private media varied substantially. For example: a private station has dedicated 84% of news distributed to one candidate exclusively, while another station has allocated 87% of news transmitted to six different candidates.

More than 80% of all reports were positive on candidates and less than 5% negative. Nine TV stations were observed: TVM, RNM, TV Plus, RDB, MBS, Feo Mazava Antsiranana, F-Plus, M3TV and TV Soatalily.

However, the conditions exist for free and vibrant media, both print and electronic. While in the country, the Mission was informed that some of the presidential candidates had an interest in or owned certain sections of the media. In the absence of legal and institutional mechanisms for monitoring the conduct of the media during elections as well as ensuring balanced coverage of contestants, the Mission was unable to pronounce itself on the media's adherence with the relevant provisions of Norms and Standards for Elections in the SADC Region.

# CHAPTER 5:

## PREPARATION FOR THE ELECTION

### **Voter Registration**

Legitimate voters are of all Malagasy citizens without distinction of sex, aged eighteen and above years at the date of the vote, resident inside of the national territory, and enjoying their civil and political rights.

Concerning the establishment of the electoral lists, every Fokontany (village or district) has the responsibility of producing an electoral list for the local authority. The electoral list consists of all voters registered in the Fokontany. A local census commission which is in charge of conducting a census of all citizens as required by law for the exercise of the right to vote is created at the level of every Fokontany. This commission, placed under the responsibility of the President of the Fokontany, is composed of four representatives of every sector of the Fokontany. The members of the called commission are named by the person responsible designated by the President of the Fokontany. Non-governmental organizations, associations or groups accepted in relation to civic education and observation of the elections, political organizations as well as the legally constituted associations are also members of the commission.

According to the Decree No 2006-299 of May 9, 2006 voters were expected to present themselves at the polls on December 3, 2006 from 7am, in order to participate in the first round of elections for the President of Republic. Voting would close throughout the country on the same day at 6pm, subject to other arrangements that could be made in terms of Paragraph 3 of Article 31 of the Electoral Code. The total electorate of Madagascar was estimated at 7 million voters.

Observers identified voter registration as one of the weaknesses in Madagascar's electoral process. It was however noted that efforts were being made to improve the accuracy of voter lists and to encourage more voters to register. With the assistance of the international community, voters' lists have been computerized, although local observers argued that the computerization of electoral lists did not improve the situation as there were too many errors. The computerization of voter registration was meant to ease the issuance of voters' cards and production of accurate voters' rolls so as to lessen complaints from various stakeholders. People whose names did not appear on the voters' roll were allowed to check at district offices where they were issued with Ordinances to enable them to vote. Voters' lists were not arranged in alphabetical order. Although voter registration closed on 28 November 2006, in most regions there were still requests from people wanting to register after that date.

### **Nomination of Candidates**

The 2006 electoral process started with the registration of voters in accordance with the terms of the Article 45 of the Constitution that stipulates that the President of the Republic is elected to the direct universal suffrage for a mandate of five years.

The registration of voters was followed by the nomination of candidates. Each candidate for the office of president of the Republic is required to present their candidacy in a declaration containing his/her signature. The same declaration should specify the color, the emblem or the sign chosen by the candidate for use on his/her ballot papers.

In accordance with arrangements of the Article 47, Paragraph 3 of the Constitution, the winning candidate should get an absolute majority of the total number of vote cast, that is, at least 50% plus 1 vote. If there is no absolute majority in the first round of voting, a second round of voting takes place involving the two top candidates from the first round of voting.

Fourteen candidates representing five of Madagascar's six provinces contested the election. The country is divided into six provinces, 22 regions and 110 districts. The successful candidates were:

1. RAVALOMANANA Marc
2. LAHINIRIKO Jean
3. RATSIRAHONANA Norbert Lala
4. RATSIRAKA Roland
5. RAZAFIMAHALEO Herizo
6. RAKOTONIAINA Pety
7. RANDRIANJOARY Jules
8. RAJAKOBA Daniel
9. ANDRIAMANJATO Ny Hasina
10. TSIRANANA Philippe
11. RAZAKARIMANANA Ferdinand
12. MONJA Roindefo
13. MANANDAFY Rakotonirina
14. RAVELOMANANTSOA Elia

### **Voter Education**

In its interaction with other stakeholders, the Mission noted that election authorities and civic organizations had limited success in their efforts to provide adequate civic and voter education. Public awareness and voter education were mainly conducted through the media (TV, radios, advertisements) and press conferences. The Mission noted that local organisations such as CNOE, through its partnership network, had done some work to sensitize voters on the electoral process and to get as many people as possible to participate in the electoral process.

The Mission noted with interest, the fact that campaign rallies were very few. Similarly there were not many campaign posters in the streets. There was also apparent lack of effective communication strategies and dissemination of information especially to citizens in remote parts of the country where literacy rates were low.

### **Gender Representation and Participation**

Of the 14 presidential candidates, Ravelomanantsoa Elia was the only woman; meaning that the electoral process was male dominated. This is in spite of the fact that women make the majority of the population and that on voting day, women voted in large numbers. It was also observed that in spite of the fact that the majority of voters are women, at most of the polling stations visited by the Mission, only a few women were employed as polling officials. This raised serious challenges about the extent to which Madagascar would be able to meet the SADC and African Union commitments with regard to gender equality.

### **Polling Stations, Ballot Boxes and Electoral Staff**

The total number of polling stations was estimated to be 17, 581. Each polling station was composed of a president, a vice-president, four assessors and a secretary. All polling stations were expected to have seven permanent members and seven other temporary members. At any time, at least three members must be present during voting time. The Mission was informed that all polling staff had been

trained by the government through the Ministry of the Interior and Administrative Reform. However, as observed on Election Day, in most cases electoral staff lacked adequate training in the electoral process and had no previous experience. In few instances, some officers had been engaged in previous elections. Generally, they all seemed to know what they were doing.

The security of the polling station is the responsibility of the president of the polling station, who may, if necessary call on civil authorities and the military to enhance security.

The Mission noted that there were generally no visible signs showing direction to and location of polling stations. When questioned about this, polling officers replied that these were the traditional polling stations and all people living in the area knew about their location.

### **The Ballot System**

Under the existing system, the printing and distribution of ballot papers is the responsibility of political parties, organizations or the candidates. To this effect, every candidate is required to supply ballot papers possibly to the Ministry of the Interior and Administrative Reform. Political parties, organizations or candidates that achieve at least ten percent of the national vote are entitled to reimbursement of expenses relating to the printing of ballot papers. Candidates are not obliged, however, to provide ballots for every polling station. Indeed, out of 14 candidates, four of them did not provide ballot paper to some of the polling stations. At all the polling stations visited by the Mission, there were no ballot papers for the four candidates, namely Manandafy Rakotonirina, along with Philippe Tsiranana, Ferdinand Razakarimanana and Monja Roindefo. This was consistently the case for the last three candidates at all polling stations.

On Election Day, the ballot papers produced by candidates had candidates' photos but no serial numbers. Excess ballot papers were stored at district level and could be used, according to officers, in the event of a second round of election.

The Mission felt that this system, which does not apply to any other SADC Member State, could lead to multiple ballot paper system, manipulation and was open to such fraudulent activities such as vote buying.

### **International, Regional and Local Election Observers**

In order to be accepted as providers of civic education and/or observation of the elections local, national and international organizations and non-organisations (NGO) have to be accredited by the National Election Commission. The Mission noted that the concept of election-related civil society activism in Madagascar is not well developed.

At the invitation of government, several countries and international, regional and sub-regional organizations have manifested their intention to send some observers to Madagascar to follow the progress of the presidential election there and to assure the objectivity of it. Almost 200 international observers representing various organizations were present in Madagascar. They came from the European Union (EU), United States of America (USA), SADC Electoral Observer Mission (SEOM), Organisation Internationale de la Francophonie (OIF), Electoral Institute of Southern Africa (EISA), SADC Parliamentary Forum, SADC Election Commissions Forum (ECF), African Union (AU), Conference of Indian Ocean (COI) and Common Market for Eastern and Southern Africa (COMESA).

The Office of the Coordination of International Observation was put in place, with the support of the UNDP, to facilitate the work of electoral observers. The Office of the Coordination of International Observation was also mandated to advise the Group of Support to the Electoral Process (GAPE) on arrangements for the electoral process.

# CHAPTER 6:

## POLLING AND COUNTING OF BALLOTS

### Polling

The Forum deployed 24 observers who noted that generally, everything seemed to have proceeded well. Other observers, party representatives, and presiding officers all stated that they had not encountered any major problems. All polling stations were generally opened at the prescribed time, were well equipped and provided with all the election materials. In general, procedures for opening of polling stations had been followed and voting proceeded in a reasonably orderly fashion. There were no security problems and security officers were seen outside almost all polling stations.

The Mission observed that as long as voters' names were in the voters' roll people could use their identity documents to vote even if they did not have voters' cards. The main issue that came out was that many voters were missing from the voters' rolls and there were also many discrepancies between details on the identity documents and voters' roll. The voters' rolls were upgraded on the spot when voters' names did not appear in the roll as long as they had voters' cards. Another concern was with regard to the issuing of voters' cards. Many voters did not receive their voters' cards and although the law allows people to vote using their national identity cards, most of them did not vote due perhaps to illiteracy but also the lack of an adequate voter education.



SADC Parliamentary Forum Observer Mission team gets down to work

Voters were also allowed access to the polls through the use of an Ordinance which was issued by the district court. Those with mistakes on their details were also allowed to vote in most cases. At some stations, the procedure was that electoral staff collected all voters' cards then called them in one by one. They then gave them the candidates' ballots. Assistance was given to the physically challenged, the elderly and illiterate voters.

Voters had to collect ballot papers of each of the candidates, and an envelope in which the ballot paper of the preferred candidate had to be enclosed. The remaining ballot papers were dumped in a dustbin in the polling booth. Ballot boxes had no seals but unmarked pad locks which were used to close them.

In one of the provinces (Diana), traditional leaders were given the responsibility of keeping and issuing voters' cards right up to polling day. They were also in charge of polling stations. One of the difficulties encountered by observers was the fact that in some polling stations electoral staff could not speak French. Instead they resorted to local languages of which most observers had not made interpretation arrangements.

Voting generally commenced on time and proceeded smoothly although some of the polling officials were not professional in their conduct. Voters were organised into different streams at each polling centre. In some cases, the arrangement of ballot papers at polling stations seemed to suggest some sort of preference for one candidate over others. The secrecy of the ballot was generally secure.

At the closing of polls, the presiding officer declared the closing and arrangements are made for the commencement of counting.

### **Counting**

As provided in the law, counting of ballots took place at each of the polling stations at the end of voting. The Mission observed the counting of ballots at selected polling stations in five provinces and was satisfied that the process proceeded smoothly and the results that were announced, at the polling stations visited, reflected the wishes of voters.

The counting of the votes at visited stations went smoothly. The closing time was adhered to and all the procedures were followed. The counting of ballots was witnessed by candidate agents, observers, and interested members of the public. The active participation of party/candidate agents and members of the public in the actual counting of ballots was, however a cause for concern.

The counting procedure was as follows:

- The ballot box was shown to everybody with the two padlocks on.
- Padlocks were unlocked.
- Contents of the ballot box were emptied onto a table.
- The party agents arranged ballot envelopes in units of ten each.
- The ballot envelopes were counted and reconciled to ensure that they tallied with the number of voters who cast their ballots.
- The envelopes were then opened one at a time and the contents thereof displayed to candidates, agents, observers and members of the public and duly recorded.
- The ballot papers portraits were then deposited back into the ballot box while the empty envelopes were dropped into a separate box.
- As counting and recording proceeded two officials were making similar recordings on an official counting sheet.
- The results for each of the polling stations were then announced to those present.

Thereafter, the ballot papers were put in a ballot box and sealed and all the necessary documentation was signed by electoral staff, party agents and observers present. The ballot box together with signed documents were escorted by the police to the Census Commission of Vote Materials (CRMV) in the presence of electoral officials and party/candidates' agents. A magistrate presided over the CRMV and verified each document before they were sent to the HCC.

### **Tabulation and Announcement of Results**

After counting of votes at the polling station, one signed copy by stakeholders present, was sent to CRMV for the ascertaining of each document sent. All the results from the polling stations were deposited with an office at the district for compilation and verification purposes. The role of the compilation centre was to compile the results for the district and produce a provisional summary of results. Thereafter, the documents were sent to the HCC for approval. After approval, the HCC sent a copy of the proceedings sheet to the Ministry of Interior and Administrative Reform (MIRA) as official results and MIRA caused it to be announced officially. Simultaneously, another copy from the polling station was sent to MIRA through the districts. After receiving the total votes from all districts, MIRA displayed the provisional results at the elections information centre.

The posting of results on the elections information centre is not an official announcement but an opportunity for the public to follow the election results as they are released from polling stations. All election results remain provisional until they are confirmed by the HCC for official publication. It is noteworthy that at all stages of the processes outlined above, the Mission was unable

to establish the 'supervisory' role of the CNE as envisaged in instruments under which it is established. It is significant to note that the law does not envisage a role for the CNE in the processing of the ballots and announcement of results. By law, a magistrate is expected to verify the polling station results for consideration by the HCC. The MIRA on the other hand is empowered to publish, at its premises, provisional results as they are received from the districts offices. Only the High Constitutional Court can officially proclaim the results.

In the 3<sup>rd</sup> December, 2006 polls, provisional results made available at the time of the Mission's departure gave the lead to the incumbent president, the candidate Marc Ravalomanana. According to the Constitution, the HCC is empowered to handle matters relating to litigation on such

# CHAPTER 7:

## POST ELECTION DEVELOPMENTS

issues as the referendum, election of the President of the Republic and the elections of the deputies and senators. Decisions of the HCC are not subject to any recourse.

At the time of the Mission's departure on 8<sup>th</sup> December 2006, the HCC, according to the chief clerk, had not received any request contesting the results of the vote yet.

## ELECTION RESULTS

### Voting statistics

Registered Voters	7,317,790
Total Votes	4,531,946
Turnout	(61.9%)
Invalid/Blank Votes	87,196
Total Valid Votes	4,444,750

### 03 December 2006 Presidential Election

Candidate (Party)	Number of Votes	% of Votes
Marc Ravalomanana (Tiako-i-Madagasikara - TIM)	2,435,199	54.79%
Jean Lahiniriko (Independent)	517,994	11.65%
Roland Ratsiraka (Independent)	450,717	10.14%
Herizo Razafimahaleo (LEADER-Fanilo: Economic Liberalism and Democratic Action for National Reconstruction)	401,473	9.03%
Norbert Ratsirahonana (Ny Asa Vita no Ifampitsanara - AVI)	187,552	4.22%
Ny Hasina Andriamanjato (Independent)	185,624	4.18%
Elia Ravelomanantsoa (MADAGASIKARANTSIKA)	113,897	2.56%
Pety Rakotoniaina (TAMBATRA = Union)	74,566	1.68%
Jules Randrianjoary (Independent)	33,463	0.75%
Daniel Rajakoba (FIHAVANANTSIKA)	28,363	0.64%
Manandafy Rakotonirina (Movement for the Progress of Madagascar (MFM))	14,712	0.33%
Philippe Tsiranana (Independent)	1,128	0.03%
Ferdinand Razakarimanana (Independent)	41	0.00%
Roindefo Monja (Independent)	21	0.00%

Source: <http://africanelections.tripod.com/mg.html>

These findings are related to all the specific issues highlighted in the Terms of Reference (see

# CHAPTER 8:

## MISSIONS FINDINGS

**Appendix 5)** such as:

### **Election Management Bodies**

The Mission found the institutional arrangements for elections in Madagascar to be inconsistent with regional election instruments. Regional election instruments provide that elections should be organized and managed by institutions that are independent from either the state, political parties or other partisan interests. The Mission felt that, in order to further enhance stakeholder confidence in the electoral process in Madagascar and bring the organizational and institutional arrangements more in line with regional election instruments, there was need to ensure that the state is not directly involved in organizing and running elections. Ideally, once the writ of elections is issued, the mandate to organize and manage elections should, by law, rest solely with an independent electoral institution.

### **Political Environment and the Campaign**

The Mission witnessed a largely quiet and peaceful campaign. While in the country, the Mission did not witness any incidents of election-related violence or intimidation. In most cases, it was difficult to discern any evidence of electioneering taking place. In the period immediately before the elections, citizens went about their daily routine as if there were no elections. Campaign posters for some of the presidential candidates were few and far apart.

### **Voter Registration and the Voters' Roll**

The Mission was made to understand that for the first time in the election history of the country, a computerized voters' roll had been prepared. Voters were afforded the opportunity to inspect the voters' rolls albeit for a very short time. Copies of the voters' roll were available at all polling stations visited by the Mission on voting day. It was observed however that the names of voters were not listed in alphabetical order, a situation that brought unnecessary confusion and delays. In some cases, names of registered voters did not appear on the voters roll. The affected voters were, however, allowed to vote by way of an *Ordinance*, issued by a District Court.

On the day of voting, registered voters who were not in possession of their voters' card but whose names were on the voters' register, were allowed to vote using their identity cards. The Mission finds these arrangements to be anomalous and open to abuse. Ideally, replacement of lost or missing voters' cards should not be done on the day of voting. There is no guarantee that District Courts will always be available in the vicinity of all polling stations.

### **Voting Arrangements**

The Mission found Malagasy multiple ballot-paper system and all its attendant features to be out of step with the practices in the rest of the SADC region. The current system gives the economically powerful candidates unfair advantage over their less wealthy competitors. Noting that regular elections are an important national process and one of the means through which citizens participate in governance and public policy making, the Mission advised that public and not private resources should be deployed in the printing and distribution of election materials, including ballot papers.

### **Civic and Voter Education**

At the time of its arrival, the Mission was informed that civic and voter education was in progress. The Mission was, however, unable to verify the extent and impact of such voter civic education. In its interaction with the NDI and with the *Le Comité National pour l'Observation des Elections*, the Mission got the impression that greater effort should be made, additional resources availed and new strategies developed to enhance citizens' awareness of their rights and responsibilities as voters. This is especially important in relation to the participation of women in politics in general and elections in particular.

### **Funding of Political Campaigns and Political Parties**

Malagasy law makes no provision for the regulation of funding of political campaigns and the funding of political parties from public resources. Candidates and political parties are not required to disclose their sources of election or other funding.

### **Polling Stations and Centre**

In keeping with regional electoral norms, standards and guidelines, all the polling stations visited by the Mission were situated in neutral places such as schools. Based on the turnout at the different polling stations visited, the Mission held the view that the number of polling stations set up for the elections appeared adequate to afford as many voters as possible the opportunity to cast their ballots. The Mission, however, noted with concern that polling stations were not clearly marked.

### **Party/Candidate Agents and Observers**

The Mission found representatives/agents of some but not all the candidates at most of the polling stations. Local observers were only located at selected polling stations. In fact, in a number of instances, international observers tended to outnumber local observers.

### **Good Practices Observed**

# CHAPTER 9:

## CONCLUSIONS AND RECOMMENDATIONS

- (a) Peaceful campaign and calm atmosphere before and during the election and in the immediate post election period;
- (b) Computerization of the voters' register. This should enable the authorities to regularly update and audit the voters' register to ensure its accuracy, comprehensiveness and timely delivery to electoral stakeholders;
- (c) The use of transparent ballot boxes;
- (d) The counting of ballots at each of the polling stations in the presence of candidate agents/representatives and observers and
- (e) Signing of polling station result sheets by electoral officials, candidate agents/representatives and observers.

### **Recommendations**

The Mission made the following key recommendations:

- (a) The government, political parties and civil society organisations, among other stakeholders should work together to ensure comprehensive reforms to establish a single independent elections management body. Such an institution should be responsible for the organisation and management of elections and be empowered to undertake registration of voters and compilation of voters' rolls, conducting voter education, registration of candidates for elections, recruiting and training its own core (electoral) staff, organising and regulating the conduct of elections, developing and enforcing electoral codes of conduct, printing and distribution of ballot papers, announcement of provisional election results, among other issues. The assistance of sister electoral commissions under the auspices of the SADC Electoral Commissions' Forum (ECF) in this regard cannot be over-emphasized;
- (b) Authorities should seriously consider dispensing with the current requirement for candidates to organise and foot the bill for the printing of their own ballot papers. This responsibility should rest with the envisaged independent elections management body. The Mission noted with concern that in some areas, the ballot papers for some of the candidates were not available, raising questions about the fairness of the current system;
- (c) To further enhance accountability and secrecy of the vote, authorities should seriously consider introducing a single ballot paper with serial numbers. This is especially important in the event of any of the contestants challenging the legitimacy of the election results;
- (d) There must be a well publicised and legally binding election time table, on the basis of which issues relating to the date of elections, registration of voters and the issuance of voters' cards – including replacement of lost/missing cards – are addressed well in advance of the date of voting;
- (e) Enhancement of civic and voter education, and the active involvement of government, the

envisaged independent elections management body, political parties and civil society in this regard;

- (f) The voters roll should be organised in a user-friendly manner for ease of reference on voting day and whenever voters are called upon to verify their names in preparation for elections;
- (g) In order to ensure impartiality at all stages of the electoral process, only trained and duly accredited election officials and not party cadres, candidate and/or agents or members of the public should be involved in the counting of ballots;
- (h) In line with existing practices across the region, consideration should be made for sealing of ballot boxes before the commencement of voting. The current practice where padlocks are used does not avail stakeholders the opportunity of using their own seals as a way of assuring themselves of the security of ballots;
- (i) Legal and institutional mechanisms should be put in place to regulate the coverage of elections by the media. Madagascar stands to benefit from the experiences of other SADC Member States such as Mauritius and South Africa, where independent broadcasting authorities charged with the responsibility of ensuring balanced media coverage of elections, among other broadcasting issues, have been established. The attention of the Malagasy authorities is also drawn to the Media Institute of Southern Africa (MISA)/Southern African Broadcasting Association (SABA) Guidelines and Principles for Broadcast Coverage of Elections in the SADC Region<sup>1</sup>; and
- (j) In order to stem the undue influence of economic power on the electoral process, it is highly recommended that even where public funding is not available for political parties, the expenditure of candidates and/or parties in this regard should be regulated.

Based on its evaluation of the constitutional and legal framework governing elections in the Republic

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<sup>1</sup>The Guidelines and Principles for Broadcast Coverage of Elections in the SADC Region were developed by the Media Institute of Southern Africa and the Southern African Broadcasting Association (SABA) and were adopted by Chief Executives of public broadcasting services in the SADC region during the SABA Annual General Meeting held in Arusha, Tanzania in September,

# CONCLUSION

of Madagascar, and an assessment of the organisation and conduct of the electoral process during the period 30<sup>th</sup> November, 2006 to 6<sup>th</sup> December, 2006, the SADC Parliamentary Forum's Election Observer Mission concluded that the 3<sup>rd</sup> December, 2006 Presidential Elections were **conducted in a free and transparent manner and afforded the Malagasy people the opportunity to freely elect leaders of their choice. With a few exceptions, the just ended process largely complied with the Norms and Standards for Elections in the SADC Region.**

The Mission expressed the hope that the HCC would announce the final results as soon as possible to forestall any speculation that might arise from undue delays.

The Mission further pledged that upon the Parliament of Madagascar joining the Forum, the Forum would work closely with that parliament, as it has done with other national parliaments, to facilitate capacity building and relevant legal reforms to further strengthen the legal framework governing elections in the Republic of Madagascar.

## **TERMS OF REFERENCE FOR THE OBSERVATION OF ELECTIONS IN MADAGASCAR**

# APPENDIX 1:

## Terms of Reference

### 1. FRAMEWORK

The SADC Parliamentary Forum Observer Mission to Madagascar was guided primarily by the following terms of reference, which were approved by the Executive Committee of the SADC Parliamentary Forum on the recommendation of the Steering Committee<sup>2</sup>:

- a) The national constitution of the countries
- b) The relevant Acts of Parliament and other rules and regulations governing the electoral process
- c) SADC Parliamentary Forum Norms and Standards for Elections (2001)
- d) SADC Declaration on Gender and Development (1997)
- e) SADC Principles and Guidelines Governing Democratic Elections (2004)
- f) OAU/AU Declaration on the Principles Governing Democratic Elections in Africa – AHG/DECL.1 (XXXVIII)
- g) Relevant provisions of the SADC Treaty (1992)
- h) Relevant United Nations instruments to which SADC Member States have acceded including the Universal Declaration for Human Rights (1948)

### 2. TERMS OF REFERENCE

The specific Terms of Reference (TOR) of the Missions were to:

- 2.1 Analyze the constitutional and legal framework within which elections are conducted
- 2.2 Assess the historical, socio-economic and political environment within which elections are taking place
- 2.3 Assess the extent to which the elections are conducted in line with the constitutional and legal framework provisions of each of the countries and in relation to the Norms and Standards for Elections in the SADC Region, SADC Principles and Guidelines Governing Democratic Elections (2004) and OAU/AU Declaration on the Principles Governing Democratic Elections in Africa – AHG/DECL.1 (XXXVIII)
- 2.4 Assess the gender trends and voter turnout in relation to previous elections
- 2.5 Assess the organizational arrangements of the electoral process by examining the following:
  - a. Independence, impartiality and accountability of electoral institutions, including stakeholders' confidence in the election authorities
  - b. Secrecy of the ballot and the transparency and legitimacy of the electoral process
  - c. Voter registration and the state of the voters roll paying special attention to the inclusiveness and availability of voters roll to stakeholders,
  - d. The campaign process and the conduct of political parties with reference to codes of conduct,
  - e. Publication of the election calendar, preparation and distribution of voting materials,
  - f. Civic and voter education including the quality of the education, the role of the electoral commission, civil society organizations and political parties,
  - g. Role of security forces,

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<sup>2</sup>At its meeting in Lusaka, Zambia on 21<sup>st</sup> January 2005, the Steering Committee adopted, with amendments indicated in 3.2, these terms of reference for election observation missions.

- h. Gender mainstreaming in political activities and manifestos, electoral systems, practices and processes, including the management and administration of elections,
- i. Role of the media with respect to fair and balanced media reporting and coverage on election activities,
- j. Polling stations with reference to adequacy, location and voters' access to information on polling stations,
- k. Polling arrangements with reference to opening of polling stations, availability of voting materials, secrecy of the ballot, and related administrative arrangements,
- l. Counting, reconciliation, verification, tabulation and announcement of results as well as the legitimacy of results by stakeholders,
- m. Conflict resolution mechanisms in place with reference to the working relationship between the IEC, Government and political parties

### 3. INTERIM STATEMENT/REPORT

- 3.1 At the end of the observation process, each of the missions is expected to issue **an interim statement on the overall conduct of the electoral process**. The statement covered the following among other issues: good practices, challenges, recommendations and a conclusion.
- 3.2 The statement would also make a determination as on whether or not the process was: free and fair/substantially free and fair, not free and fair, **a reflection of the will of the people<sup>3</sup>**, credible and legitimate, in accordance or not in accordance with the Norms and Standards for Elections in the SADC Region, SADC Principles and Guidelines Governing Democratic Elections (2004) and OAU/AU Declaration on the Principles Governing Democratic Elections in Africa – AHG/DECL.1 (XXXVIII)

### 4. FINAL/COMPREHENSIVE REPORT

The comprehensive mission report would be produced and published not more than ninety (90) days after the official winding up of the mission. The report will be submitted to the policy organs of the SADC Parliamentary Forum.

#### MADAGASCAR ELECTIONS DECEMBER 2006

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<sup>3</sup>The phrase "will of the people" to be used in conjunction with a definitive statement on the electoral process.

# APPENDIX 2:

## Composition of the Election Observer Mission

### SADC PARLIAMENT FORUM ELECTIONS OBSERVER TEAM

COUNTRY		TITLE	NAME	POLITICAL AFFILIATION	GENDER
Botswana	1.	Hon	Gobopang Duke LEFHOKO, MP, (Mission Leader)	BDP	M
	2.	Hon	Nehemia MODUBULE, MP	BNF	M
Mauritius	3.	Hon	Jean Francios CHAUMIERE, MP	Labour Party	M
	4.	Hon	Bedwantee JUGGOO, MP	Labour Party	F
	5.	Hon	Purmanund JHUGROO, MP	MSM	M
Mozambique	6.	Hon	Ernesto Cassimuca LIPAPA	FRELIMO	M
South Africa	7.	Hon	Joel SIBIYA, MP	ANC	M
Swaziland	8.	Hon	Bella KATAMZI, MP		F
Zambia	9.	Hon	Regina Muzya MUSOKOTWANE, MP	UPND/UDA	F
Zimbabwe	10.	Hon	Tsitsi Veronica MUZENDA, MP	ZANUPF	F
Botswana	11.	Ms.	Keabe TSHUKUDU	Staff	F
Lesotho	12.	Ms.	Mamonaheng MAHOBE	Staff	F
Mozambique	13.	Ms.	Maria DE LURDES GOMES	Staff	F
Zambia	14.	Mr.	Tonny MSUMBA	Staff	M
	15.	Mr.	Francis Shandumba NABULYATO	Staff	M
Zimbabwe	16.	Mr.	Edison PARADZA	Staff	M
Secretariat	17.	Mr.	Takawira MUSAVENGANA	Secretariat	M
	18.	Ms.	Samueline KAUVÉE	Secretariat	F
	19.	Ms.	Agnes ZIUNYE	Secretariat	F
	20.	Ms.	Tina Ntumba	Secretariat	F
South Africa	21.	Dr.	Gaston Djilio KALOMBO	Rapporteur	M
DRC	22.	Ms.	Michel MWEZA	Interpreter	M
Malawi	23.	Dr.	Allan LIPENGA	Interpreter	M
Malawi	24.	Mr.	Yohanne CHIVWARA	Interpreter	M
DRC	25.	Mr.	Kadima WAKALONJI	Interpreter	M
Mozambique	26.	Ms.	Josefina MENETTE	Interpreter	F

### SADC PARLIAMENT FORUM ELECTION OBSERVER MISSION TO

# APPENDIX 3:

## Orientation Workshop Programme and Briefing Meetings

**MADAGASCAR**  
3<sup>rd</sup> DECEMBER 2006  
**PROGRAMME**

**29<sup>th</sup> NOVEMBER, 2006**

- Arrivals
- Check at the respective hotels

**30<sup>th</sup> NOVEMBER, 2006**

08h30	Departure for Hilton Hotel (Room 1408)
09h00 – 09h10	Introductions and Administrative Announcements
09h10 – 09h20	Mission Leader's Welcome Remarks
09h20 – 10h00	Programmes Design and Mission's Terms of Reference
10h00 – 10h20	Tea Break
10h20 – 11h00	The Electoral Environment: Ms. Kelly Jones, Country Director, National Democratic Institute for International Affairs (NDI)
11h00 – 12h00	SADC Election Observer Mission: Hotel Pallisendre
12h00 – 13h00	Accreditation
13h00 – 14h15	Lunch Break
14h15 – 14h50	Le Comité Nationale pour l'Observation des Elections (CNOE)
15h00	UNDP Briefing
18h00	Deployment Plan

**1<sup>st</sup> DECEMBER, 2006**

08h00	Departure for Electoral Commission Offices
08h30	Consultations with the Electoral Commission

- Teams Depart for Provinces

**MADAGASCAR ELECTIONS OBSERVER MISSION**

# APPENDIX 4:

## Deployment Plan

	PROVINCE	COUNTRY	G	P	TOWN	DEP	HOTEL	VEHICLE
1	<b>MISSION LEADER</b> Hon. Duke Lefhoko (Mission Leader) ( <i>Mobile: 034422094</i> ) Ms. Keabe Tshukudu ( <i>Mobile: 0324459972</i> ) Dr. Allan Lipenga	Botswana Botswana Malawi	M F M	R - -	<b>Antananarivo</b>	-	Colbert	CAR 1
2	<b>ANAMALANGA</b> Hon. Bedwantee Juggoo ( <i>Mobile: 0324459973</i> ) Mr. Francis Nabulyato ( <i>Mobile: 03302907</i> )	Mauritius Zambia	F M	R -	<b>Antananarivo</b>	-	Colbert	CAR 2
3	<b>ATSINANANA</b> Hon. Jean Francios Chaumere Hon. Tsitsi Muzenda Mr. Tonny Msumba ( <i>Mobile: 0330290718</i> ) Mr. Kadima Wakalonj <b>Sattelite Phone:</b> <b>00 881 631 229 999</b>	Mauritius Zimbabwe Zambia South Africa	M F F M	R R - -	<b>Toamasina</b>	1 <sup>st</sup> Dec.	Generation 0205332105	CAR 2 By road
4	<b>BOENY</b> Hon. Enersto C. Lipapa Hon. Purmanund Jhugroo Ms. Lurdes Gomes ( <i>mobile: 02344599750</i> ) Ms. Josefina Menette <b>Sattelite Phone:</b> <b>00 881 631 529 944</b>	Mozambique Mauritius Mozambique Mozambique	M M F F	R O - -	<b>Mahajanga</b>	1 <sup>st</sup> Dec.	Piscine 0206223781	CAR 4
5	<b>DIANA</b> Hon. Regina Musokotwane Hon. Nehemiah Modubule Mr. Edison Paradza ( <i>Mobile: 0324459976</i> ) Mr. Yohane Chivwara (0330207961) <b>Sattelite Phone:</b> <b>00 881 631 529 955</b>	Zambia Botswana Zimbabwe Malawi	F M M M	O O - -	<b>Diego</b>	1 <sup>st</sup> Dec.	Colbert 020 82323289 OR 032076613	By Air CAR 5 (Supplied in Diego)

6	<b>MENABE</b> Hon. Bella Katamzi Hon. Joel Sibiya Ms. Mamonaheng Mahobe <i>(Mobile: 0324459974)</i> Mr. Michel Mweza <b>Satellite Phone:</b> <b>00 881 631 529 95</b>	Swaziland South Africa Lesotho DRC	F M F M	- R - -			
7	<b>SECRETARIAT</b> <b>Hilton Hotel</b> <b>Secretariat Satellite Phone:</b> <b>00 881 631 529 948</b> Mr. Takawira Musavengana (Mission Coordinator) <b>0324422098</b> Ms. Samueline Kauvee (Finance & Logistics) <b>0324422092</b> Ms. Agnes Lilungwe (Secretarial) <b>0324422093</b> Ms. Tina Ntumba (Interpreter) <b>0324444262</b> Gaston Djilio Kalombo (Rapporteur) <b>0320238581</b>						CAR 7 GEORGE: Mobile: 0331495280  CAR 8 JAO: Mobile: 0331103605
8	<b>DRIVERS</b> LUCIEN: <i>Mobile: 0324010017</i> JAO: <i>Mobile: 033110305</i> DIDIER: <i>Mobile: 0320771077</i> DODO: <i>Mobile: 0320233603</i> SETA: <i>Mobile: 0331157478</i> MISA: <i>Mobile: 032020314</i> GEORGE: <i>Mobile:</i> <i>0331495280</i>						
9	<b>TECHNICIANS</b> NAINA: <i>Mobile: 0331293172</i> TAHIRA: <i>Mobile: 0331460290</i>						
	<b>LOCAL SUPPORT STAFF</b> NELLA : <i>Mobile: 0331247605</i>						

# APPENDIX 5:

## INTERIM STATEMENT

ELECTION OBSERVER MISSION TO THE PRESIDENTIAL ELECTIONS IN THE REPUBLIC OF  
MADAGASCAR  
3<sup>RD</sup> DECEMBER, 2006

### INTERIM STATEMENT

***This preliminary statement marks the end of the election observation activities of the SADC Parliamentary Forum (Forum) in respect of the 3<sup>rd</sup> December, 2006 Madagascar Presidential Elections. The statement covers the Mission's observations, findings and recommendations for the period since the arrival of the Mission on 29<sup>th</sup> November, 2006, up to and including voting, counting of votes and only part of the compilation of election results. The Mission is unable to pronounce itself on the final compilation of results which is currently in progress. A more detailed and final statement will be compiled and published not later than 90 days from the date of this statement. For this reason, the observations, findings and recommendations made in this statement should be considered preliminary.***

***It is important to emphasize that as a matter of principle and practice, the Forum is concerned with the organization and integrity of the electoral process and not the outcome thereof, which is the sole responsibility of the people of the Republic of Madagascar. This statement makes no comparison between the just ended elections and those before it, as this is the first time that the Forum has had the opportunity to observe elections in Madagascar.***

#### 1. INTRODUCTION

- 1.1 The 20<sup>th</sup> Election Observer Mission of the Forum since 1999 arrived in Antananarivo on Wednesday 29<sup>th</sup> November, 2006. The arrival of the Mission was at the invitation of the Ministry of the Interior and Administrative Reform by copy of letter dated 27<sup>th</sup> November, 2006; Reference No. 7026 – MIRA/SG/DPROD. The participation of the Forum in the 3<sup>rd</sup> December, 2006 Presidential Elections follows the formal admission of the Republic of Madagascar as a member of the Southern African Development Community (SADC) in August, 2005. The Parliament of Madagascar is expected to become a member of the Forum in due course.
- 1.2 The 25-member Election Observer Mission included ten Members of Parliament and was under the leadership of the immediate past Vice Chairperson of the Forum, who is also a Member of Parliament (MP) from Botswana, Honourable Gobopang Duke Lefhoko. The Members of Parliament were drawn from the parliaments of Botswana, Mauritius, Mozambique, South Africa, Swaziland, Zambia and Zimbabwe. The Mission was supported by three officials from the Windhoek-based Secretariat as well as technical staff and parliamentary officials.

#### 2. METHODOLOGY

- 2.1 Upon arrival, the Mission benefited from briefing sessions with, among others, the National Electoral Council (CNE), the United Nations Development Programme Elections Coordinating Office, the National Democratic Institute for International Affairs (NDI) and *Le Comité Nationale pour l'observation des Elections (CNOE)*.
- 2.2 During the period 1<sup>st</sup> December, 2006, to 5<sup>th</sup> December, 2006, the Mission deployed six teams comprising MPs and support staff to five of the six provinces in the Republic of Madagascar as follows: Antananarivo (Anamalanga); Toamasina (Atsinanana); Mahajanga (Boeny); Diego (Diana) and Morondova (Menabe). The teams observed the campaign, voting and vote counting and compilation of results in the above-mentioned areas. A total of 56 polling stations across the country were visited by the teams on voting day.
- 2.3 In addition to its own code of conduct as articulated in the Norms and Standards for Elections in the SADC Region as well as the MPs Guide for Election Observation, the work of the Mission was also guided by the Declaration of Principles for International Election Observation and Code of Conduct for International Observers, which the Forum, alongside other regional and international election observation organisations, has signed up to. The Forum brought into these elections many years of experience in assessing the legitimacy and credibility of elections in the SADC region. It will be recalled that in 2001, the Forum became the first organisation in Africa to develop norms and standards for the elections for the SADC region.

### **3. FINDINGS AND OBSERVATIONS**

#### **3.1 Constitutional and Legal Environment**

- (a) The Constitution of the Republic of Madagascar (1992) provides for the election of the president by direct universal suffrage. The mandate of the president is for five years, limited to two consecutive terms. The winning candidate must attain an absolute majority (50% + 1) of the votes cast, failing which a second round of voting, in which the two top candidates from the first round of voting are eligible to participate. The Republic of Madagascar has a bi-cameral legislature comprising the National Assembly and the Senate. The country is divided into six provinces, 22 regions, 160 constituencies and 110 districts.
- (b) In addition to the provisions of the Constitution, elections in Madagascar are governed by a number of legal provisions, chief among which are the Organic Laws No. 2000/014 and 2001/02. Put together, these instruments underscore the secrecy of the ballot, equality of opportunities for candidates and parties in the electoral process, transparency of the electoral process and the neutrality of the election management bodies.

#### **3.2 Election Management Bodies**

- (a) The responsibilities of election administration, supervision and oversight are divided among three distinct institutions, namely the Ministry of the Interior and Administrative Reform (MIRA), the High Constitutional Court (HCC) and the National Electoral Council (CNE). The elections are organised and run by the MIRA. The MIRA is responsible for the material and technical organisation of the electoral process, including planning, implementation, training of polling officials, voter registration, compilation of the voters' roll, issuance of voters' cards and compilation of election results for consideration by the HCC, also rest with the MIRA.
- (b) The CNE on the other hand, is defined in the law as being responsible for the supervision of

the operational aspects of the electoral process. It comprises seven members each of whom is nominated by a number of entities including the head of state, the Interior Minister, the Order of Lawyers, the Order of the Journalists, the first President of the Supreme Court and the Attorney-General. The CNE is accountable to the Prime Minister, who is the head of government.

- (c) The Mission finds the institutional arrangements for elections in Madagascar to be inconsistent with regional election instruments. Regional election instruments provide that elections should be organized and managed by institutions that are independent from either the state, political parties or other partisan interests. In order to further enhance stakeholder confidence in the electoral process in Madagascar and bring the organizational and institutional arrangements more in line with regional election instruments, there is need to ensure that the state is not directly involved in organizing and running elections. Once the writ of elections is issued, the mandate to organize and manage elections should, by law, rest solely with an independent electoral institution.

### 3.3 Political Environment and the Campaign

The Mission witnessed a largely quiet and peaceful campaign. While in the country, the Mission did not witness any incidents of election-related violence or intimidation. In most cases, it was difficult to discern any evidence of electioneering taking place. In the period immediately before the elections, citizens went about their daily routine as if there were no elections. Campaign posters for some of the presidential candidates were few and far apart.

### 3.4 Voter Registration and the Voters' Roll

- (a) The Mission was made to understand that for the first time in the election history of the country, a computerized voters' roll had been prepared. Voters were afforded the opportunity to inspect the voters' rolls albeit for a very short time. Copies of the voters' roll were available at all polling stations visited by the Mission on voting day. It was observed however that the names of voters were not listed in alphabetical order, a situation that brought unnecessary confusion and delays. In some cases, names of registered voters did not appear on the voters roll. The affected voters were, however, allowed to vote by way of an *Ordinance*, issued by a District Court.
- (b) On the day of voting, registered voters who were not in possession of their voters' card but whose names were on the voters' register, were allowed to vote using their identity cards. The Mission finds these arrangements to be anomalous and open to abuse. Ideally, replacement of lost or missing voters' cards should not be done on the day of voting. There is no guarantee that District Courts will always be available in the vicinity of all polling stations.

### 3.5 Voting Arrangements

- (a) Malagasy presidential elections are organized on the basis of multiple ballot papers. On voting day, voters collect all the ballot papers available at the polling station, seal the ballot of their preferred candidate in an envelop, deposit in the ballot box and dispose of the rest of the ballot papers. Madagascar is the only country in the SADC, where presidential candidates are required by law, to print their own ballot papers. Provided that they hand over the ballot papers to the MIRA within the specified period, the MIRA takes responsibility for distributing the ballot papers to the candidates' preferred polling districts.
- (b) The Mission finds this practice to be out of step with the practices in the whole of the SADC region. The current system gives the economically powerful candidates unfair advantage over their less wealthy competitors. Regular elections are an important national process and one of the means through which citizens participate in governance and public policy making.

For this reason, public and not private resources should be deployed in the printing and distribution of election materials, including ballot papers.

### **3.6 Gender Representation and Participation**

The Mission observed with concern that in spite of the fact that the majority of voters are women, at most of the polling stations visited by the Mission, only a few women were employed as polling officials. Further, only one of the 14 presidential candidates was a woman. This raises serious challenges about the extent to which Madagascar will be able to meet the SADC and African Union commitments with regard to gender equality.

### **3.7 The Media**

The conditions exist for free and vibrant media, both print and electronic. While in the country, the Mission was informed that some of the presidential candidates had an interest in or owned certain sections of the media. In the absence of legal and institutional mechanisms for monitoring the conduct of the media during elections as well as ensuring balanced coverage of contestants, the Mission is unable to pronounce itself on the media's adherence with the relevant provisions of Norms and Standards for Elections in the SADC Region.

### **3.8 Civic and Voter Education**

At the time of its arrival, the Mission was informed that civic and voter education was in progress. The Mission was however unable to verify the extent and impact of such voter civic education. In its interaction with the NDI and with the *Le Comite Nationale pour l'observation des Elections*, the Mission got the impression that greater effort should be made, additional resources availed and new strategies developed to enhance citizens' awareness of their rights and responsibilities as voters. This is especially important in relation to the participation of women in politics in general and elections in particular.

### **3.9 Funding of Political Campaigns and Political Parties**

Malagasy law makes no provision for the regulation of funding of political campaigns and the funding of political parties from public resources. Candidates and political parties are not required to disclose their sources of election or other funding.

### **3.10 Polling Stations and Centre**

In keeping with regional electoral norms, standards and guidelines, all the polling stations visited by the Mission were situated in neutral places such as schools. Based on the turnout at the different polling stations visited, the Mission is of the view that the number of polling stations set up for the elections appeared adequate to afford as many voters as possible the opportunity to cast their ballots. The Mission, however, notes with concern that polling stations were not clearly marked.

### **3.11 Party/Candidate Agents and Observers**

The Mission found representatives/agents of some but not all the candidates at most of the polling stations. Local observers were only located at selected polling stations. In fact, in a number of instances, international observers tended to outnumber local observers.

### **3.12 The Poll**

Voting generally commenced on time and proceeded smoothly although some of the polling officials were not professional in their conduct. Voters were organised into different streams at each polling centre. In some cases, the arrangement of ballot papers at polling stations seemed to suggest some sort of preference for one candidate over others, the secrecy of the ballot was generally secure.

### **3.13 The Count**

- (a) As provided in the law, counting of ballots took place at each of the polling stations at the end of voting. The Mission observed the counting of ballots at selected polling stations in five provinces and is satisfied that the process proceeded smoothly and the results that were announced, at the polling stations visited, reflected the wishes of voters.
- (b) The counting of ballots was witnessed by candidate agents, observers, and interested members of the public. The active participation of party/candidate agents and members of the public in the actual counting of ballots was a cause for concern.
- (c) It is significant to note that the law does not envisage a role for the CNE in the processing of the ballots and announcement of results. Once the results are announced and the relevant papers signed at the polling stations, such results are forwarded to the MIRA, through the District Office, and to the district magistrate. By law, the magistrate is expected to verify the polling station results for consideration by the HCC. On its part, the MIRA is empowered to publish, at its premises, provisional results as they are received from the districts offices. These results remain provisional until they are confirmed by the HCC for official publication. At all stages of the processes outlined above, the Mission was unable to establish the 'supervisory' role of the CNE as envisaged in instruments under which it is established.

## **4. GOOD PRACTICES OBSERVED**

- (a) Peaceful campaign and calm atmosphere before and during the election and in the immediate post election period;
- (b) Computerisation of the voters' register. This should enable the authorities to regularly update and audit the voters' register to ensure its accuracy, comprehensiveness and timely delivery to electoral stakeholders;
- (c) The use of transparent ballot boxes;
- (d) The counting of ballots at each of the polling stations in the presence of candidate agents/representatives and observers and
- (e) Signing of polling station result sheets by electoral officials, candidate agents/representatives and observers.

## **5. RECOMMENDATIONS**

- (a) The government, political parties and civil society organisations, among other stakeholders should work together to ensure comprehensive reforms to establish a single independent elections management body. Such an institution should be responsible for the organisation and management of elections and be empowered to undertake registration of voters and compilation of voters' rolls, conducting voter education, registration of candidates for elections, recruiting and training its own core (electoral) staff, organising and regulating the conduct of elections, developing and enforcing electoral codes of conduct, printing and distribution of ballot papers,

announcement of provisional election results, among other issues. The assistance of sister electoral commissions under the auspices of the SADC Electoral Commissions' Forum (ECF) in this regard cannot be over-emphasized;

- (b) Authorities should seriously consider dispensing with the current requirement for candidates to organise and foot the bill for the printing of their own ballot papers. This responsibility should rest with the envisaged independent elections management body. The Mission noted with concern that in some areas, the ballot papers for some of the candidates were not available, raising questions about the fairness of the current system;
- (c) To further enhance accountability and secrecy of the vote, authorities should seriously consider introducing a single ballot paper with serial numbers. This is especially important in the event of any of the contestants challenging the legitimacy of the election results;
- (d) There must be a well publicised and legally binding election time table, on the basis of which issues relating to the date of elections, registration of voters and the issuance of voters' cards – including replacement of lost/missing cards – are addressed well in advance of the date of voting;
- (e) Enhancement of civic and voter education, and the active involvement of government, the envisaged independent elections management body, political parties and civil society in this regard;
- (f) The voters roll should be organised in a user-friendly manner for ease of reference on voting day and whenever voters are called upon to verify their names in preparation for elections;
- (g) In order to ensure impartiality at all stages of the electoral process, only trained and duly accredited election officials and not party cadres, candidate and/or agents or members of the public should be involved in the counting of ballots;
- (h) In line with existing practices across the region, consideration should be made for sealing of ballot boxes before the commencement of voting. The current practice where padlocks are used does not avail stakeholders the opportunity of using their own seals as a way of assuring themselves of the security of ballots;
- (i) Legal and institutional mechanisms should be put in place to regulate the coverage of elections by the media. Madagascar stands to benefit from the experiences of other SADC Member States such as Mauritius and South Africa, where independent broadcasting authorities charged with the responsibility of ensuring balanced media coverage of elections, among other broadcasting issues, have been established. The attention of the Malagasy authorities is also drawn to the Media Institute of Southern Africa (MISA)/Southern African Broadcasting Association (SABA) Guidelines and Principles for Broadcast Coverage of Elections in the SADC Region<sup>4</sup>; and
- (j) In order to stem the undue influence of economic power on the electoral process, it is highly recommended that even where public funding is not available for political parties, the expenditure of candidates and/or parties in this regard should be regulated.

Based on its evaluation of the constitutional and legal framework governing elections in the Republic

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<sup>4</sup>The Guidelines and Principles for Broadcast Coverage of Elections in the SADC Region were developed by the Media Institute of Southern Africa and the Southern African Broadcasting Association (SABA) and were adopted by Chief Executives of public broadcasting services in the SADC region during the SABA Annual General Meeting held in Arusha, Tanzania in September,

# CONCLUSION

of Madagascar, and an assessment of the organisation and conduct of the electoral process during the period 30<sup>th</sup> November, 2006 to 6<sup>th</sup> December, 2006, the SADC Parliamentary Forum's Election Observer Mission concludes that the 3<sup>rd</sup> December, 2006 Presidential Elections were **conducted in a free and transparent manner and afforded the Malagasy people the opportunity to freely elect leaders of their choice. With a few exceptions, the just ended process largely complied with the Norms and Standards for Elections in the SADC Region.**

The Mission hopes that the HCC will announce the final results as soon as possible to forestall any speculation that might arise from undue delays.

Upon the Parliament of Madagascar joining the Forum, the Forum pledges its commitment to work closely with that parliament, as it has done with other national parliaments, to facilitate capacity building and relevant legal reforms to further strengthen the legal framework governing elections in the Republic of Madagascar.

*Done at Antananarivo this 7<sup>th</sup> day of December, 2006 in English, French and Portuguese,*

*all texts being equally authentic.*

Hon. Gobopang Duke LEFHOKO, MP  
LEADER, SADC PARLIAMENTARY FORUM OBSERVER MISSION  
**BOTSWANA**

Hon. Nehemiah MODUBULE, M.P.  
**BOTSWANA**

Hon. Jean Francois CHAUMIERE, M.P.  
**MAURITIUS**

Hon. Bedwantee JUGGOO, MP  
**MAURITIUS**

Hon. Purmanund JHUGROO, MP  
**MAURITIUS**

Hon. Ernesto Cassimuca LIPAPA, MP  
**MOZAMBIQUE**

Hon. Joel SIBIYA, MP  
**SOUTH AFRICA**

Hon. Senator Bella KATAMZI  
**SWAZILAND**

Hon. Regina MUSOKOTWANE, MP  
**ZAMBIA**

Hon. Senator Tsitsi V.MUZENDA  
**ZIMBABWE**



