



MINUTES OF THE SADC PF STANDING COMMITTEE ON DEMOCRATISATION, GOVERNANCE AND HUMAN RIGHTS VIRTUAL MEETING HELD UNDER THE THEME “TOWARDS ACCELERATED DOMESTICATION OF THE SADC MODEL LAW ON ELECTIONS: THE ROLE OF SADC PF AND NATIONAL PARLIAMENTS IN PROMOTING ELECTORAL AND TRANSITIONAL JUSTICE IN SOUTHERN AFRICA” ON 7TH AND 8TH JULY 2020, AHEAD OF THE 47TH PLENARY ASSEMBLY SESSION

PRESENT

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| 1. Hon. Wavel Ramkalawan, Chairperson | Seychelles |
| 2. Hon. Josefina P. Diakité (Chairing), Vice-Chairperson | Angola |
| 3. Hon. Leepeetswe Lesedi | Botswana |
| 4. Hon. Mabulala Maseko | Eswatini |
| 5. Hon. Aahley Ittoo | Mauritius |
| 6. Hon. Darren Bergman | South Africa |
| 7. Hon. Dought Ndiweni | Zimbabwe |

ABSENT WITH APOLOGY

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| 1. Hon. Balamage Nkolo Boniface | DRC |
| 2. Hon. Maimane. P. Maphathe | Lesotho |
| 3. Hon. Angele Solange | Madagascar |
| 4. Hon. Lingson Belekanyama | Malawi |
| 5. Hon. Jerónima Agostinho | Mozambique |
| 6. Member not designated after 2019 General Elections | Namibia |
| 7. Parliament Dissolved for Elections | Tanzania |
| 8. Hon. Chushi Caroline Kasanda | Zambia |

OBSERVERS

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| Stanley Nyamanhindi | CEO SADC Lawyers Association |
| Stephen Goneso | ECF SADC |
| Hilda Modisane | ECF SADC |
| Taona E Mwanyisa | |
| Dr. Kundidzora | Zimbabwe Electoral Commission |
| Annah Moyo | Centre for the Study Conflict and Violence |
| Sammy Alfandika | Malawi |
| Tlotlego Chabalala | GIZ |
| Dr Adane Ghebremeskel | GIZ |
| Fiona Mosothwane | Principal State Counsel Botswana |

Hon. Duke Lefhoko	Botswana's High Commissioner to Kenya
Hon. Christian Greeff	Botswana
Advocate Norman Tjombe	Namibia
Advocate Phelex Charamba	Zimbabwe
Justice Oagile Dingake	Botswana
Senelisiwe Ntshangase	UNDP Eswatini
David Owolabi	UNDP Turkey
Vicente Manjate	Conselheiro Nacional, Mozambique
David Takawira	USAID Zimbabwe
Ernest Moloji	
Pablo Valenzela	
Martinho Chachiua	
Paulina Kanguatjivi	
Webster Zambara	
Soatsara Benandrasana	
Taona E Mwanyisa	
Kaelo More	

IN ATTENDANCE

Boemo Sekgoma	Secretary General
Sheuneni Kurasha, Committee Secretary	SADC PF Secretariat
Veronica Ribeiro, Staff	Angola
Nomonde Nkayi, Staff	South Africa
Chawapiwa Mahlaya	Botswana
Natalie Leibrandt-Loxton, Staff	South Africa
Geraldina Utchavo Bonifácio, Staff	Mozambique
Nomfundo Sonjica, Staff	South Africa
Monusi Kraai, Staff	Botswana
Jaime Numaio, Staff	Mozambique
Gwakwara Cleophas, Staff	Zimbabwe
Maria Mombola, Staff	Namibia
Moses Magadza	Media Specialist
Mompoloki Mosheti, Staff	Botswana

Day 1

The meeting was called to order at 13:00 hours with the Chairperson, Hon. Wavel Ramkalawan chairing.

AGENDA

- 1) Credentials of Delegates and Apologies.
- 2) Adoption of Agenda.
- 3) Welcome Remarks by the Chairperson.
- 4) Consideration of Minutes from the previous Meeting held at Southern Sun Hotel O. R. Tambo, Johannesburg, South Africa on 23rd May 2019, ahead of the 47th Plenary Assembly Session.
- 5) Matters Arising from the Minutes of the previous Meeting, held at Southern Sun Hotel O. R. Tambo, Johannesburg, South Africa on 2nd of November 2019, ahead of the 46th Plenary Assembly Session.

- 6) Presentation on Trends in Electoral Justice in the SADC Region: Unpacking the SADC Model Law on Elections.
- 7) Presentation on Lessons and Implications from the Malawi Constitutional Court Judgement on the 2019 Presidential Elections.
- 8) Presentation on the role of SADC PF and National Parliaments in Promoting Transitional Justice in the Region.
- 9) Nomination and Election of new Committee Chairperson and Vice Chairperson for 2020 to 2022
- 10) Closing remarks

1.0 CREDENTIALS OF DELEGATES AND APOLOGIES

Quorum for the meeting was confirmed for the meeting to proceed.

2.0 ADOPTION OF AGENDA

The agenda was adopted on a motion by South Africa, seconded by Angola.

3.0 WELCOME REMARKS BY THE CHAIRPERSON, HON. WAVEL RAMKALAWAN

Honourable Ramkalawan opened the meeting with the sombre observation that the Committee was meeting during very extra ordinary circumstances due to covid-19. He thanked the SADC PF Secretariat for their innovation in facilitating the Committee to meet virtually.

The Chairperson reiterated the critical role of parliament in crisis management and called on Members to use of legislative and oversight functions to bring to life the hopes and aspirations of the people they represent. He reminded the Members that they were duty-bound to ensure that government regulation of covid-19 was within the confines of national constitutions and international law by balancing health safety measures with the entitlement to other human rights during times of pandemic.

Hon. Ramkalawan also implored SADC PF to guard against any possible erosion of the gains the SADC region has made towards strengthening of electoral democracy, guided by its mandate in Article 6 (c) of the SADC PF Constitution, which enjoins the institution “*to promote the principles of human rights, democracy, peace and security, regional integration, human and social development, economic governance and gender equality through collective responsibility within the SADC Region.*”

Turning to the theme of the meeting, Hon. Ramkalawan reiterated SADC PF’s mandate to promote electoral and transitional justice through accelerated implementation of the SADC Model Law on Elections by Member States. In this regard he applauded the pioneering and trendsetting role played by SADC PF in mainstreaming the role of parliamentarians in promoting democratic elections since 1999, including through regional leadership in developing norms and standards for democratic governance and electoral democracy. He singled out the Norms and Standards for Elections in the SADC Region and the SADC Model Law on Elections as part of the sterling work done by the SADC PF.

The Chairperson noted that the Covid-19 pandemic had exacerbated the recurrent and emerging electoral challenges that were undermining the integrity and credibility of elections in the SADC region. In this regard, he hailed the Malawi electoral result as a beacon of credible and democratic elections. He also emphasised that SADC PF wields a unique convening capacity as a critical regional platform for stakeholder engagement to find sustainable local solutions on the various challenges that were affecting electoral and transitional justice in the region.

In conclusion, Hon. Ramkalawan thanked the resource persons for prioritising engagement with the Committee, the SADC PF Secretariat for organising the meeting and GIZ and Austrian Development Agency (ADA) for the financial support.

4.0 CONSIDERATION OF MINUTES FROM THE PREVIOUS MEETING HELD AT SOUTHERN SUN HOTEL O. R. TAMBO, JOHANNESBURG, SOUTH AFRICA ON 2ND OF NOVEMBER 2019, AHEAD OF THE 46TH PLENARY ASSEMBLY SESSION.

The minutes were unanimously adopted without amendments.

5.0 MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING, HELD AT SOUTHERN SUN HOTEL O. R. TAMBO, JOHANNESBURG, SOUTH AFRICA ON 2ND OF NOVEMBER 2019, AHEAD OF THE 46TH PLENARY ASSEMBLY SESSION.

There were no matters arising from the minutes.

6.0 PRESENTATION ON THE ROLE OF SADC PF AND NATIONAL PARLIAMANENTS IN PROMOTING ELECTROAL JUSTICE IN THE SOUTHERN AFRICAN REGION BY DR. VICTOR SHALE

Dr. Shale began by emphasising that electoral and transitional justice are concepts that are entrenched within the SADC Model Law on Elections. By way of example he pointed out that section 16 speaks to electoral dispute resolution, section 23 focused on electoral justice directly and section 89 articulates election dispute resolution and articulates the structures and processes that Member States must put in place. He also indicated that another critical provision of the Model Law is section 92 which deals with judicial mechanisms and the phenomenon of election tribunals and the electoral court.

Dr Shale underscored that in developing the Model Law, the SADC PF was alive to the fact that the region had different legal systems, economic conditions and that the law cannot be one size fits all. In this regard he noted that the Model Law encapsulated the aspect of legislative flexibility for various mechanisms that can be applied in delivering electoral justice. All this, he said, was in pursuit of the right to an effective remedy before the electoral court.

Dr Shale also explained that electoral justice as espoused in the Model Law ensured that justice is done in accordance with the law and any deviations

are addressed in terms of known and predictable mechanisms. He indicated that this was critical for legitimacy which would lead to political stability, a key condition for human and economic development. Dr Shale also explained that an ineffective electoral justice system would lead to conflict, including violence.

Dr Shale emphasised the importance of the formal and informal components of electoral dispute resolution which form the core of electoral justice. He added that both components must be recognised and interchangeably used for greater efficacy in the interests of electoral justice.

Dr. Shale's presentation also revealed that there has been a rise in judicial involvement in addressing electoral disputes in SADC and Africa and this had been done with mixed outcomes. In some cases, there has been judicial minimalism as the courts seemed to act cautiously while in other cases the courts have ensured that electoral justice was served. In this regard, he called for capacity building of judicial officials on electoral processes, including familiarisation with the Model Law on Elections. He implored SADC PF, working with stakeholders, to address this gap within the context of the domestication of the Model Law.

7.0 PRESENTATION ON LESSONS AND IMPLICATIONS FOR SADC PF ELECTIONS OBSERVATION AND DOMESTICATION OF THE MODEL LAW FROM THE MALAWI CONSTITUTIONAL COURT JUDGEMENT ON THE 2019 PRESIDENTIAL ELECTIONS BY JUSTICE OAGILE KEY DINGAKE

7.1 Presentation

The Justice Dingake started by congratulating the SADC PF for the groundbreaking work in developing the SADC Model Law on Elections which he said was a bulwark for the rule of law in the region. He added that the Model Law, by encapsulating universal adult suffrage and equality before the law, was an effective instrument for democratisation.

In giving the context for the Malawi Constitutional Court ruling, Justice Dingake prefaced his presentation by quoting the former Chief Justice of Kenya, Willy Mutunga who in 2011, while presiding over the swearing in of members of Kenya's Electoral Commission, remarked that: *"There is no higher crime an individual, an institution, or group of people can commit than one that subverts the sovereign will of the people, whether through incompetence, negligence, or design make the expression of that will inarticulate."*

Justice Dingake outlined that the Malawi Constitutional court had annulled the 2019 Malawi Presidential elections and ordered a re-run based on wide irregularities. Part of these irregularities was alteration of results through tipexing, leading to the term, "Tipex elections." Thus the Supreme Court had found that about a quarter of the results were verified and concluded in a grossly irregular manner. The Constitutional Court upheld this position and ordered a fresh presidential election.

Justice Dingake submitted that the decision and implementation of the orders of the Malawi Supreme Court as upheld by the Constitutional Court must count as a triumph for democracy on the continent. In this regard, Justice Dingake narrated that the process leading to the judgement, which included extra ordinary scenes with judges being escorted by the military wearing bullet proof vests. He submitted that credible, free and fair elections form a solid foundation for democracy.

The Judge noted that Malawi followed Kenya to nullify Presidential elections. Kenya in 2017, nullified the Presidential Election results and ordered a new vote after claims from the opposition that the election system was hacked and rigged.

In that regard, he pointed out that the court's duty to protect the vote and not unduly disenfranchise the people is essential and the courts must only act along the logic and imperatives of the rule of law. He however, lamented the role of illicit money, manipulation and corruption in destroying electoral democracy on the continent.

In the wake of the nullification of the Malawi Presidential elections in 2020 and Kenya Presidential elections in 2017, after being given thumps up by the regional and international election observers, Judge Dingake questioned the sufficiency of the current practice in selecting observers, training them and the methodologies used by such missions. He noted that the AU and other observer missions were viewed as eager to declare elections as free, fair and credible even in situations where there was evidence to the contrary. Thus given the turnout of events in Malawi, there was a big credibility crisis hanging over the heads of the observer missions that deployed their observers in Malawi.

Justice Dingake also went into detail in addressing the test for determination of irregularities for the purposes of declaring a rerun in an election. He indicated that while disputes are inherent in elections, for many years the yardstick was whether the margin of irregularities raised by petitioners could affect the outcome of the elections. This is the quantitative test. In exemplifying the quantitative test, Judge Dingake cited the English case of *Morgan v Simpson*, wherein Simpson and others petitioned the court alleging that there were irregularities that denied Simpson some of his votes. The electoral office had not stamped 44 papers and the winner won with the majority of twenty, but if the 44 had been included, the win would have been by 11. The court ruled that the irregularities were not substantial and could not have affected the outcome. However, the court of appeal found that the irregularity in the circumstances would have affected the final result.

The other test highlighted was the qualitative test. This is concerned with the authenticity of the elections, whether they were inherently free, fair and credible as was the case in Kenya. The test does not necessarily zoom on quantity but quality. In the case of *Raila Odinga v the Electoral Commission*

in Kenya, Ibunga J explained that the quantitative test is focused on numbers but the qualitative test is more suitable where the entire process is to be interrogated.

Justice Dingake explained, however, that in Malawi both tests were applied. He submitted that the best approach in his view is the qualitative test. He then proceeded to highlight the exact nature irregularities that led to nullification of results from the court's perspective in Malawi.

In Malawi the complaint was that that the Malawi Electoral Commission (MEC) had used discretion in circumstances where the law did provide for such liberties. MEC was supposed to follow the dictates of the law, yet it departed fundamentally from the prescriptions of the law. The law required that the result sheet must be mandatorily signed by polling officers, yet the court found that the MEC had used tally sheets that had not been signed. The same tally sheets must be guarded and taken to the District Commissioner's tally sheet for compilation. However, the MEC ignored this and unprocedurally created constituency tally centres where massive tempering of original tally sheets occurred and the originals replaced were not being kept. Hence there was an avalanche of irregularities.

Justice Dingake also explained that in some instances, improper tally sheets were used and accepted by the MEC in compiling the national result and all this was not permissible in terms of the law. At this stage, issues of verification came up. At the national tally centre the MEC was supposed to resolve all outstanding disputes before compiling results but it lied that it had resolved them by delegating the task to the Chief Elections Officer which was not permissible at law. The MEC then purported to announce the results before complying with this requirement. Justice Dingake pointed out that this was found to be grave and hence the elections were annulled.

Justice Dingake hailed the Malawi judgment as a masterpiece of pure brilliance in terms of the constitutional reasoning adopted. He observed that for the courts to make independent determinations in electoral disputes, there was need for Member States to enact an enabling legal framework. He thus lamented that some constitutional frameworks are still archaic and deficient to the point of crippling the capacity to implement electoral justice. By contrast, Justice Dingake observed that, in Malawi the electoral law was amended to expand the democratic space and re-enforce the power of the courts to uphold the rule of law in electoral disputes.

Justice Dingake underscored that electoral justice lies at the intersection of law and politics and courts are institutional actors that enable electoral justice. He therefore, highlighted the major lessons from Malawi as follows:

- i) Elections are an important pillar of democracy;
- ii) The need for an independent fearless and courageous judiciary; and
- iii) The importance of competent and knowledgeable judiciary.

He emphasised that without knowledge we can fall into a case of judicial adventurism wherein judgments are not anchored on law or justice. He also singled out the need for a credible EMB, indicating that in the case of Malawi, a new chair was appointed to run the fresh elections and he came with the credentials of impartiality and independence.

On the implications of the outcome of the Malawi electoral process on international observers, Judge Dingake observed that in the Malawi judgment, there was no featured mention of observer missions in any manner that could have been decisive to the verdict of the court. In the case of *Raila Odinga v EC of Kenya* though, it becomes clear that the court did not think much about the input of observer missions. He decried the fact that international observers were often too quick to endorse elections as free and fair. In this regard he called for appointed observers to have a record of impartiality in observing elections and for the missions to be built on integrity and impartiality.

In conclusion Judge Dingake reiterated that the Kenyan and Malawian Constitutional Court rulings were a source of hope that going forward, Africa may see a situation in which a truly independent judiciary sides with justice. He also emphasised that the critical standard in determining election petitions must and should always be quality over quantity.

7.2 Deliberations and Recommendations

In its deliberations on the presentations, the Committee made the following resolutions and recommendations:

- i) Reiterated that the SADC Model Law on Elections is a valid roadmap toward electoral integrity in SADC countries and emphasised that various electoral institutions such as the judiciary and EMBs should be capacitated to implement the Model Law;
- ii) Emphasised the importance of ensuring the EMBs are truly independent and capable of implementing the decision of the courts as was the case with the Malawi Electoral Commission (MEC);
- iii) Reiterated that SADC PF, through the Model Law, should promote the development of minimum provisions for the independence of institutions of governance such as the judiciary and EMBs;
- iv) Reiterated the need for SADC and AU observer missions to do more to redeem their credibility in view of the contradictions arising from endorsing electoral processes and outcomes that are later reversed by the courts on account of irregularities;
- v) Reiterated the importance of reforming observer missions in order to ensure that they are composed of trained personnel with the requisite skills sets, for the appointed observers to have verifiable integrity and for the observers to be deployed in the field on time in order to observe all the phases of the election cycle and be able to observe and report objectively;
- vi) Emphasised the need to develop a clear threshold for objective judgements by the courts and for the judges to develop electoral justice

- jurisprudence further in order to enrich capacity for the judiciary in the SADC region to handle electoral disputes effectively;
- vii) Underscored the need for the SADC PF and other regional observation missions to draw lessons from the Malawi case study and reflect on the quality and impact of election observation by reviewing the methodology and duration of election observation missions;
 - viii) Emphasised that while questions are being raised regarding the efficacy of observation missions, the question of whether or not elections should be observed should never arise since observation is critical for tracking progress and documenting the gaps, but attention should rather be given to who is observing, who is being observed, why and who is financing the missions;
 - ix) Reiterated the question regarding the political economy of elections in general and observer missions in particular, adding that there was no point in having democracy support groups that observe elections with a preconceived outcome since observation should be about objectivity, accuracy and comprehensiveness;
 - x) Reaffirmed that SADC PF's momentum in election observation should be maintained, anchored on the Model Law; and
 - xi) Regretted the fact that SADC PF has recently failed to consistently observe all elections in Member States due to financial constraints, thereby missing the opportunity to promote the domestication of the SADC Model Law on Elections and to leverage its influence to promote electoral legal reforms through national Parliaments.

Day 2

The meeting resumed at 09:30 with Chairperson, Hon. Ramkalawan in the chair.

8.0 REMARKS BY THE CHAIRPERSON

The Chairperson welcomed everyone to the webinar which was focusing on the role of the SADCPF and national Parliaments in promoting transitional justice in the SADC region. He also profoundly appreciated the presence of the resource persons for the session namely, Dr Webster Zambara from the Institute for Justice and Reconciliation (IJR) and Miss Annah Moyo from the Centre for the Study of Violence and Reconciliation (CSVr). The Chair also invited the Committee to observe a moment of silence in honour of Hon. Lucien Malala, a member of SADC PF from Madagascar who had passed on 7th July 2020.

9.0 THE ROLE OF SADC PF AND NATIONAL PARLIAMENTS IN PROMOTING TRANSITIONAL JUSTICE IN SOUTHERN AFRICA

9.1 A History of Injustices in Southern Africa by Dr Webster Zambara

Dr Zambara highlighted that the Committee was considering the issue of transitional justice at a time when there were major developments in the world linked to this subject matter. These include the Black Lives Matter movement, Covid-19 related lockdown which had seen a surge in gender-based violence

cases and the recent letter written by the King of Belgium to the people of the Democratic Republic of Congo regretting the atrocities of the past. He pointed out that the King of Belgium, while regretting the atrocities of the past, did not apologise in any way and Belgium was not talking of any compensation to the Congolese and yet Belgium is one of the richest countries in the world because of plundering the economies of the Congo basin.

Dr Zambara commended SADC PF, through the Standing Committee on Democratisation, Governance and Human Rights, for putting transitional justice to the fore, adding that this could be what is missing in the current political discourse. He pointed out that the region was currently struggling with the negative effects of the unwanted trinity of slavery, colonialism and apartheid and their many forms of violence – social and economic, and its negative impact on the majority of people in the region. He cited the Herero – Nama genocide in Namibia where indigenous people were not only killed but were also dispossessed of their land, wealth, identity and dignity. Colonial oppression is what triggered the liberation struggles in search of justice and equality and such just wars are at the core of transitional justice. In the same vein, Dr Zambara lamented the betrayal of the ideals of the liberation struggles by some authoritarian regimes that were treating political opponents in same manner that natives were treated during colonialism and through undermining the rule of law, especially during elections.

Dr Zambara also explained that there were some cultural systems and beliefs that dehumanise other human beings, especially women, children and the disabled. The violation of the rights of persons with albinism was also cited as a case in point. He therefore, implored for SADC and the entire African continent to pursue justice, peace, reconciliation and prosperity for all citizens in line with the principles of transitional justice.

9.2 Defining Transitional Justice by Miss Annah Moyo

In her presentation, Miss Moyo explained that transitional justice was an effective way to address some of the historical legacies of conflict, authoritarianism and human rights violations in Southern Africa, underscoring that this has to be done in a sustainable manner. She called for measures to be put in place to ensure non-recurrence of conflicts, mis-governance and violence in the future. Miss Moyo, therefore, welcomed the ongoing analysis of the SADC peace, security, governance and democracy architecture which was meant to identify any gaps and how transitional justice could be used to effectively address some of these occurrences.

Miss Moyo observed that the peace and security approach was static and piecemeal and often does not address the root causes of the conflict and violence and the effects thereof. By focusing on the heavy securitised and militarised approach to addressing conflict, the peace and security approach does not offer any reprieve for the victim. In this regard, there are no victim-centred processes that enable victims to come to terms with the violence, the crisis, the tensions, and gross human rights violations that are attendant in such circumstances. There are also no guarantees of non-recurrence of the

tensions, the crisis and the conflicts. Furthermore, issues of collective trauma and the much-needed healing for individual victims and the communities negatively affected by violence and conflicts are also usually left unaddressed.

Miss Moyo noted that the African Union transitional justice policy was comprehensive and goes over and beyond the mainstream transitional justice that is offered by the United Nations when it comes to defining transitional justice. It took into account contextual realities and experiences of African people in their interaction and experiences of violent conflicts and many other challenges and the instances that bring about gross human rights violations. She explained some of the critical components of transitional justice which include the fact that these should culminate in policy measures and institutional mechanisms adopted to overcome past violations, divisions and inequalities. These measures and mechanisms are meant to create conditions for both security, democratic and socio-economic transformation in society. The adoption and implementation of these measures must be done through an inclusive and consultative process.

Miss Moyo underscored the importance of going beyond retributive justice which focuses on the perpetrator by embracing aspects of traditional justice approaches or restorative justice which focuses more on the victim and emphasises conciliation and reconciliation, community participation. She also emphasised the importance of transformative justice in the quest for transitional justice. Transformative justice seeks to address the victim's structural and systemic vulnerabilities through the improvement of their circumstances and their political and social empowerment. It was also reiterated that retributive justice is still important in ending impunity and ensuring deterrence on the part of the perpetrators.

Miss Moyo highlighted that one of the critical components of transitional justice is a peace process which is usually realised through a peace agreement signed by the former belligerent parties. It was critical for peace processes to address the root causes of conflict in order to avoid recurrence. Equally important is the protection and security guarantees for civilians in conflict and in violence affected areas. Accordingly, the negotiation and mediation processes should from the onset, include victims and affected communities and the implementation process should also be inclusive in order to have legitimacy.

Truth telling is also another critical component of transitional justice as was witnessed in South Africa through the Truth and Reconciliation Commission. Through investigations of past violations of human rights, victims may begin to get satisfaction, reprieve and some form of justice by just telling their stories and knowing that, through a follow-on process, perpetrators do not get away with it. Similar experiences in Seychelles and Zimbabwe were also cited. Some of the challenges regarding truth commissions include how far back should they go in addressing some of these concerns.

The presentation also covered other critical components of transitional justice such as reconciliation, reparations and the critical question of justice and accountability in order to ensure that perpetrators are held accountable and that there is a guarantee of non-recurrence due in part to impunity. The importance of utilising both formal and traditional justice mechanisms was also reiterated. This was critical given that formal justice mechanisms usually do not address all the violations as well as the conciliation issues important for harmonious living of affected communities which is embedded in traditional justice mechanisms.

Another important aspect of transitional justice that was covered in the presentation is diversity management which addresses the group dimensional conflicts and violations where violence is organised and perpetrated along ethnic, religious originating from any of these lines. Of equal importance is redistributive justice which is about the socio-economic and development measures designed to rectify structural inequalities and contributing to prevent a re-occurrence of violence and conflicts.

9.3 Recommendations on the Role of SADC PF and National Parliaments in Promoting Transitional Justice

In deliberating on the presentation, the Committee resolved and recommended as follows:

- i) Parliamentarians have a critical role in strengthening transitional justice framework and mechanisms at national level;
- ii) Parliaments should play a leading role in creating the regulatory frameworks and monitoring mechanisms for all transitional justice processes in Member States;
- iii) Parliaments should draw lessons from the experiences of some Member States that have adopted regulatory frameworks on the role and capacity Peace or Truth and Reconciliation statutory bodies to ensure the creation of minimum standards through experience sharing;
- iv) Parliaments should introduce legislation that provides psycho-social support to mental health of victims in post-conflict communities, including how societies can improve from a difficult painful past towards a harmonious living;
- v) Parliaments should uphold and promote indigenous knowledge systems and values that enforce transitional justice at local and national level as part of addressing post-conflict situations in order to enable peace, justice and reconciliation;
- vi) SADC PF should lead the discourse on the formulation of the regional transitional justice framework and mechanisms to guide transition from conflict to post-conflict justice and reconciliation processes in Southern Africa;
- vii) SADC PF should engage civil society and other stakeholders in exploring how to build a transitional justice regulatory framework in the SADC region; and
- viii) SADC PF should facilitate effective implementation of the African Union transitional justice policy in the SADC region.

10.0 VOTE OF THANKS BY THE COMMITTEE CHAIRPERSON

The Chairperson of the Committee, Hon. Ramkalawan concluded the session by thanking all the Members and attendees who contributed to the robust deliberations on electoral and transitional justice in the SADC region. He also expressed his appreciation for the support that he as Chairperson and the Vice Chairperson received from the membership. He reiterated the great strides made by the Committee during his tenure, towards the domestication of the SADC Model Law on Elections. He thus implored the incoming Chairperson and Vice to continue to accelerate the implementation of the Model Law on Elections in order to contribute towards more credible elections which aid to democratic consolidation.

11.0 ELECTIONS OF THE COMMITTEE CHAIRPERSON AND THE VICE CHAIRPERSON FOR 2020 TO 2022

Guided by the Constitution and the Rules of Procedure, the Committee elected Hon. Jerónima Agostinho from Mozambique as the Chairperson for 2022 on a unanimous vote while Hon. Darren Bergman from South Africa was elected as the Vice Chairperson.

12.0 CLOSING REMARKS BY THE NEWLY ELECTED VICE CHAIRPERSON

The newly elected Vice Chairperson, Hon. Bergman thanked the Members for the trust they bestowed on him and the Chairperson and expressed commitment to carry forward the mandate of the Committee.

There being no further business, the meeting was adjourned *sine die* at 14h16.

Hon. Jerónima Agostinho
CHAIRPERSON

Sheuneni Kurasha
COMMITTEE SECRETARY