



REPORT OF THE REGIONAL PARLIAMENTARY MODEL LAWS OVERSIGHT COMMITTEE (RPMLOC) TO THE 53rd PLENARY ASSEMBLY SESSION

THEME: “PROGRESS ON THE DOMESTICATION OF THE SADC MODEL LAW ON ELECTIONS: USING ELECTORAL SYSTEM DESIGN TO ACHIEVE INCLUSIVE GOVERNANCE, SPECIFICALLY WOMEN, YOUTH AND MINORITY GROUPS PARTICIPATION AND REPRESENTATION AS WELL AS POLITICAL FINANCING REGULATION”

Mr President, I beg to move that this Plenary Assembly do adopt the Report of the Regional Parliamentary Model Laws Oversight Committee to the 53rd Plenary Assembly Session of the SADC Parliamentary Forum, laid on the table on 4 July, 2023.

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1.0 COMPOSITION OF THE COMMITTEE

The Committee consisted of the following Members:

1. Hon. Ishmael Ndaila Onani, MP, Malawi (**Chairperson**)
2. Hon. Shally Josepha Raymond MP, Tanzania (**Vice-Chairperson**)
3. Hon. Regina Esparon, MP, Seychelles
4. Hon. Ramarosoia Emiline Rakotobe MP, Madagascar
5. Hon. Rosie Bistoquet, MP, Seychelles
6. Hon. Kassim Hassan, MP Tanzania
7. Hon. Dought Ndiweni, MP, Zimbabwe
9. Hon. Paula Kooper, MP, Namibia
10. Hon. Ramarosoia Emiline Rakotobe MP, Madagascar
11. Hon. Hawa Subira Mwaifunga, MP, Tanzania.
12. To be advised, Lesotho
13. To be advised, Lesotho

2.0 TERMS OF REFERENCE

The Regional Parliamentary Model Laws Oversight Committee is guided by its mandate in Article 17(4) of the Constitution of the SADC Parliamentary Forum. Article 17(4) provides for the functions of the RPMLOC as, *inter alia*, monitoring and evaluation of progress made by SADC Member States in domesticating SADC Model Laws and implementing related laws and policies; and facilitating awareness on specific issues in the Model Law by engaging with appropriate authorities, grassroots and community-based organisations and the private sector, including the media and encouraging National Parliaments and appropriate authorities to establish a desk/focal person or subcommittees to co-ordinate actions on the various Model Laws. Further, according to Rule 20 of the SADC PF Rules of Procedure, the RPMLOC reports directly to the Plenary Assembly.

3.0 NUMBER OF MEETINGS HELD AND MEETING DATES

The Regional Parliamentary Model Laws Oversight Committee held one meeting to deliberate on the theme “Progress on the Domestication of the SADC Model Law on Elections: Using Electoral System Designing to Achieve Inclusive Governance, specifically Women, Youth and Minority Groups participation and representation as well as Political Financing Regulation”.

4.0 BACKGROUND

The SADC Model Law on Elections which was adopted by the SADC Parliamentary Forum at its 44th Plenary Assembly on 4th December 2018 held

in Maputo, Mozambique, provides for two important features of the electoral process, namely, electoral system design and political financing. These features, if adequately domesticated and implemented, would give to citizens confidence in representative democracy. Against this background, the Forum realised that both features needed to be tackled at the same time to heighten confidence in Parliaments based on the electoral process and in representative democracy.

The SADC Model Law on Elections seeks to regulate the electoral process based on best international practices aimed at ensuring that elections are free, fair, regular and accessible to all citizens of voting age. In addition, over the years, the Forum has consistently underscored the necessity for SADC Member States to regulate the limitations for political financing, with a view to ensure that corruptive practices and vote buying do not distort the electoral process.

With recent developments in the SADC region relating to contested elections, election petitions, and allegations of over-financing of political parties, it was imperative for the Forum to reconsider both the themes of electoral systems design and political financing as there is an election wave imminent in the region with ten general elections and one presidential election expected in the next two years.

SADC PF as a Regional Parliamentary body subscribes to the basic principles of democratic parliaments: namely that a democratic parliament is one that is representative, open and transparent, accessible, accountable and effective. In this regard, it was apposite for the Regional Parliamentary Model Laws Oversight Committee (RPMLOC), meeting prior to the 53rd Plenary Assembly, to delve into domestication strategies for the SADC Model Law on Elections with particular focus on Electoral Systems Design and the issue of Political Financing in a comprehensive manner.

5.0 SUMMARY OF PRESENTATIONS

A synopsis of the key issues raised in the presentations made during the meeting is set out below.

- a) The Committee noted that inclusiveness in elections meant meaningful inclusion and representation of all citizens in society.
- b) The Committee noted that there were four countries which were going for elections in 2023, namely, Zimbabwe (July/August); Eswatini (September); Madagascar (parliamentary in November/December) and DRC (December) and seven countries in 2024, these being Botswana, Comoros, Madagascar (Presidential), Mauritius, Mozambique, Namibia and South Africa.

- c) The Committee noted that the key hallmarks of representative democracy and the principles of free and fair elections were freedom, representation, accountability, inclusiveness and constitutional order. This lent credence to the meeting's focus on inclusiveness of vulnerable and marginalized groups such as women, youth and persons with disabilities.
- d) The Committee was informed that most of the electoral systems of SADC Member States were inherited from the colonial times and were out of context. Therefore, they needed to be reformed and reform initiatives rested on Parliaments. Such reforms should not wait until there was a crisis but should be undertaken periodically. Further, they should be informed by nationally and internationally recognized election standards, in particular those contained in the SADC Model Law on Elections.
- e) Members further noted that the 2018 SADC Model Law on Elections was the first ever Model Law on Elections globally. The Model Law provided that member countries should adopt positive measures such as diversity management, affirmative action, including quotas for women, youth, persons with disabilities, the elderly, minority ethnic groups and other disadvantaged groups as part of electoral systems.
- f) Further, the Model Law proposed that Member States should put in place mechanisms to ensure the enforcement of affirmative action and other positive measures to enhance political participation in the electoral process. In this regard, the members also noted that the election statistics for each of the SADC Member countries showing the extent of participation by the focus groups of the meeting were not encouraging. On the contrary, the statistics revealed declining voter turnout, especially amongst the youth, and this pointed to the need to ensure inclusiveness.
- g) The Committee further noted inclusiveness strategies that could be employed to address the issue of declining voter turnout, ranging from affirmative action to providing for voluntary and legislated gender quotas to providing funding for these groups.
- h) The Committee noted the Normative Frameworks for Electoral System Reforms, provided for in the Model Law on Elections. In particular, the Committee noted that the Model Law provided that member countries' Constitutions should provide for electoral systems that ensured broad participation of citizens, especially marginalized groups, and promote and protect fundamental human rights as well as the secrecy of the ballot.
- i) The Committee further noted the rationale for electoral reforms. In so doing, the members were informed that electoral reforms were intended to ensure a representative parliament and inclusive government, to make

elections accessible and meaningful and provide incentives for conciliation of political disputes. The Committee noted that electoral reforms were also aimed at facilitating transparent and efficient government, government accountability and responsiveness.

- j) The Committee appreciated that through effective electoral reforms, parliamentarians could be held accountable and responsive. Further the Committee noted that whilst electoral reforms encouraged cross-cutting political parties, legislative opposition and oversight, they made the election process cost-effective and sustainable and enabled international and regional norms and standards to be taken into account.
- k) The Committee was further informed that electoral systems were expected to facilitate the inclusion of marginalized and vulnerable social groups in society, especially women and the youth who constituted generally more than 50 per cent (women) and over 60 per cent (youth) of populations, respectively. In addition, the Committee was informed that with adequate political commitment, electoral systems could promote meaningful inclusion, participation and representation of persons with disabilities.
- l) The Committee noted further the importance of political party funding in elections and that this has to be regulated in order to avoid corrupt practices and misuse of public funding. The Committee also heard that private funding, which in most cases was not regulated, could result in a number of problems, ranging from kick-backs to perpetration of illicit financial flows and in some instances, state capture.

6.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Based on the presentations, the Committee:

1. **Emphasised** that inclusiveness was crucial in ensuring that vulnerable and marginalized groups such as women, youth, and persons with disabilities could participate and have a voice in national affairs.
2. **Reaffirmed** that electoral systems must promote the meaningful inclusion and participation of marginalized and vulnerable groups, especially women, and persons with disabilities.
3. **Reiterated** that electoral systems must consider the accessibility of polling stations and the provision of necessary support for accessing polling stations for persons with disabilities.
4. **Realised** that inclusive electoral system design should not be overlooked since it was a critical aspect of representative democracy.

5. **Noted** that democracy should incorporate five core principles/values: freedom, representation, accountability, inclusiveness, and constitutional order.
6. **Reiterated** that the SADC Model Law on Elections required the adoption of positive measures, including quotas for disadvantaged groups, as part of electoral systems to ensure their enforcement.
7. **Noted** with regret that many SADC countries inherited electoral systems from their colonial rulers which did not take into account the unique socio-cultural and political-economic contexts of the colonized countries. Since few of these countries had reformed their electoral systems, their systems were fraught with flaws and were in dire need of comprehensive reforms.
8. **Recognised** the need for countries to be guided in their quest to develop inclusive electoral systems by various global, continental and regional frameworks which spelt out election norms and standards, and these included the Universal Declaration of Human Rights, the African Charter on Democracy, Elections and Governance, and the SADC Principles and Guidelines Governing Democratic Elections.
9. **Recalled** that electoral system reform could lead to a representative parliament and inclusive government, facilitate transparent, accountable, responsive and efficient leadership, and encourage cross-cutting political parties and legislative opposition and oversight.

Now, therefore, the Regional Parliamentary Model Laws Oversight Committee resolves and recommends to the 53rd Plenary Assembly to:

- i) **Urge** SADC Member States to ensure regular reforms of the electoral systems guided by the seven main pillars of electoral reforms, in particular inclusion of marginalized groups and electoral integrity.
- ii) **Implore** SADC Parliaments to advocate for the development and enactment of legislation ensuring that reforms of the electoral system are premised on broad-based representation of all segments of society, including vulnerable and marginalized social groups through stakeholder consultations, genuine national dialogue and consensus.
- iii) **Encourage** SADC Member States to explore ways in which young people and the youth can be motivated to participate in elections in order to address youth voter apathy and declining trust in institutions including political parties.

- iv) Authorize and direct** the Secretariat to proceed to engage with international and regional parliamentary bodies for a platform to present reports on the Forum's activities and programmes and on the domestication and implementation of the SADC PF Model Laws as a measure to give the Forum prominence and to ensure that its value is appreciated by the member countries which constitute those bodies.

7.0 CONCLUSION

Given its constitutional mandate, RPMLOC is enjoined to ensure that Member countries are encouraged to domesticate and implement the provisions of section 27 of the SADC PF Model Law which provides for electoral systems design and principles that should guide member countries on what standards they should follow and on how the architecture of their electoral systems should look like.

Electoral reform in relation to the participation of women, youth and minority groups should focus on political finance systems as it is often the case that women, youth and marginalized candidates have more difficulty raising funds to compete in elections or winning party nominations, hence the consideration of public funding is crucial. Coupled with lack of funding for these groups are the cultural and political barriers that impede their participation in politics which is one of the shortcomings that member countries have to address in their electoral systems.

The RPMLOC also has the responsibility to advocate that member countries enact laws and put in place mechanisms to domesticate the provisions of section 39 of the SADC Model Law to regulate political financing so as to combat political corruption and promote integrity in political financing systems.

In view of the above, the domestication of the SADC Model Law on Elections by SADC Member States is, therefore, vital for the strengthening of electoral legal frameworks, systems and practices, which augurs well for the integrity, credibility, transparency, freeness and fairness of elections in the SADC region.

Hon. Ishmael ONANI
CHAIRPERSON

Thoko GUMEDZE
COMMITTEE SECRETARY

8.0 APPENDICES

Appendix II – List of Officials

Ms Boemo Sekgoma, Secretary General
Ms Yapoka Mungandi, Director –Finance and Corporate Services
Ms Clare Musonda, Director – Corporate Governance
Mr. Sheuneni Kurasha, Programme Manager – DGHR
Ms Agnes Lilungwe, Executive Assistant to the Secretary General
Mr Ronald Windwaai, Webmaster
Ms Paulina Kanguatjivi, Assistant Procedural Officer and Coordinator
Ms Thoko Gumedze Committee Secretary

Appendix III – List of Staff from Member Parliaments

Mr Mompoloki Mosheti, Botswana
Mr Dennis Gondwe, Malawi

Appendix III - Resource Person

Dr Khebele Matlosa, Visiting Professor at the Centre for African Diplomacy and Leadership at the University of Johannesburg.