

**ASSEMBLY OF HEADS OF STATE
AND GOVERNMENT
Thirty-Eighth Ordinary Session
of the Organization of African Unity
8 July 2002
Durban, SOUTH AFRICA**

**AHG/Decisions 171-184(XXXVIII)
AHG/Decl. 1-2 (XXXVIII)**

DECISIONS AND DECLARATIONS

OAU/AU DECLARATION ON THE PRINCIPLES GOVERNING DEMOCRATIC ELECTIONS IN AFRICA

I. PREAMBLE

We, the Heads of State and Government of the Organization of African Unity, meeting in Durban, South Africa, at the 38th Ordinary Session of the Assembly of the OAU, have considered the Report of the Secretary General on strengthening the role of the OAU in election observation and monitoring and the advancement of the democratization process.

Considering the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union, particularly in its Articles 3 and 4;

Reaffirming the Algiers Decision of July 1999 and the Lomé Declaration of July 2000 on the Framework for an OAU response to unconstitutional changes of government, which laid down a set of common values and principles for democratic governance;

Considering the CSSDCA Solemn Declaration adopted by the Assembly of Heads of State and Government of the OAU in Lomé, Togo, in July 2000, which underpins the OAU's agenda of promoting democracy and democratic institutions in Africa;

Considering the New African Initiative (NAI) now referred to as the New Partnership for the African's Development (NEPAD) adopted by the Assembly of the Heads of State and Government in Lusaka, Zambia, in July 2001, by which, through the Democracy and Political Governance Initiative, African Leaders undertook to promote and protect democracy and human rights in their respective countries and regions, by developing clear standards of accountability and participatory governance at the national and sub-regional levels;

Reaffirming the importance of the Universal Declaration of Human Rights adopted in December 1948, as well as the International Covenant on Civil and Political Rights adopted in December 1966, which recognized the will of the people expressed through free and fair elections as the basis of the authority of government;

Reaffirming also the significance of the African Charter on Human and Peoples' Rights adopted in Nairobi, Kenya, in June 1981, which recognized the right of every citizen to participate freely in the government of his or her country whether directly or through democratically elected representatives;

Recalling the Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the Political and Socio-economic Situation in Africa and the Fundamental Changes Taking Place in the World, adopted in Addis Ababa, Ethiopia, in July 1990 wherein OAU Member States undertook to continue with the democratization of African societies and the consolidation of the democratic institutions;

Recalling further the African Charter for Popular Participation in Development adopted in Addis Ababa, Ethiopia, in July 1990, which emphasized the need to involve the people of Africa in the spheres of economic and political governance;

Referring to the Cairo Agenda for Action adopted in Cairo, Egypt, in 1995, which stressed the imperative of ensuring good governance through popular participation based on the respect for human rights and dignity, free and fair elections, as well as on the respect of the principles of freedom of the press, speech, association and conscience;

Cognizant of the fact that each Member State has the sovereign right to choose its political system in accordance with the will of its people and in conformity with the Constitutive Act of the African Union and the universally accepted principles of democracy;

Considering the ever-growing role already played by the OAU in the observation/monitoring of elections and the need to strengthen the Organization's efforts in advancing democracy in Africa;

Agree and endorse the following Principles Governing Democratic Elections in Africa:

II. PRINCIPLES OF DEMOCRATIC ELECTIONS

1. Democratic elections are the basis of the authority of any representative government;
2. Regular elections constitute a key element of the democratization process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development;
3. The holding of democratic elections is an important dimension in conflict prevention, management and resolution;

4. Democratic elections should be conducted:
 - a) freely and fairly;
 - b) under democratic constitutions and in compliance with supportive legal instruments;
 - c) under a system of separation of powers that ensures in particular, the independence of the judiciary;
 - d) at regular intervals, as provided for in National Constitutions;
 - e) by impartial, all-inclusive competent accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics;

III. RESPONSIBILITIES OF THE MEMBER STATES

We commit our Governments to:

- a) take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of our respective countries;
- b) establish where none exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters, compilation of voters' registers, etc would be addressed;
- c) establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- d) safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes;
- e) promote civic and voters' education on the democratic principles and values in close cooperation with the civil society groups and other relevant stakeholders;
- f) take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices

throughout the whole electoral process, in order to maintain peace and security,;

- g) ensure the availability of adequate logistics and resources for carrying out democratic elections, as well as ensure that adequate provision of funding for all registered political parties to enable them organise their work, including participation in electoral process.;
- h) ensure that adequate security is provided to all parties participating in elections;
- i) ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and/other observers/monitors;
- j) encourage the participation of African women in all aspects of the electoral process in accordance with the national laws.

IV. ELECTIONS: RIGHTS AND OBLIGATIONS

We reaffirm the following rights and obligations under which democratic elections are conducted:

1. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law.
2. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according to the laws of the country and as guaranteed by the Constitution, without any kind of discrimination.
3. Every citizen shall have the right to free association and assembly in accordance with the law.
4. Every citizen shall have the freedom to establish or to be a member of a political party or Organization in accordance with the law.
5. Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions

with full access to the media and information within the limits of the laws of the land.

6. Individual or political parties shall have the right to appeal and to obtain timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country.
7. Candidates or political parties shall have the right to be represented at polling and counting stations by duly designated agents or representatives.
8. No individual or political party shall engage in any act that may lead to violence or deprive others of their constitutional rights and freedoms. Hence all stakeholders should refrain from, among others, using abusive language and/or incitement to hate or defamatory allegations and provocative language. These acts should be sanctioned by designated electoral authorities.
9. All stakeholders in electoral contests shall publicly renounce the practice of granting favours, to the voting public for the purpose of influencing the outcome of elections.
10. In covering the electoral process, the media should maintain impartiality and refrain from broadcasting and publishing abusive language, incitement to hate, and other forms of provocative language that may lead to violence.
11. Every candidate and political party shall respect the impartiality of the public media by undertaking to refrain from any act which might constrain or limit their electoral adversaries from using the facilities and resources of the public media to air their campaign messages.
12. Every individual and political party participating in elections shall recognize the authority of the Electoral Commission or any statutory body empowered to oversee the electoral process and accordingly render full cooperation to such a Commission/Body in order to facilitate their duties.
13. Every citizen and political party shall accept the results of elections proclaimed to have been free and fair by the competent national bodies as provided for in the Constitution and the electoral laws and accordingly respect the final decision of the competent Electoral Authorities or, challenge the result appropriately according to the law.

V. ELECTION OBSERVATION AND MONITORING BY THE OAU

We request the OAU to be fully engaged in the strengthening of the democratization process, particularly by observing and monitoring elections in our Member States, according to the following guidelines:

1. The observation and monitoring of elections shall be undertaken subject to a memorandum of understanding between the OAU General Secretariat and the host country in accordance with the principles enshrined in this Declaration and the laws of the host country.
2. In performing their obligations, the election observers or monitors shall be guided by detailed guidelines to be prepared by the General Secretariat drawing inspiration from the essential thrust of this declaration, the specific mandates and terms of reference determined by the particular case in question as well as the wider legal framework of the country staging elections.
3. Member States should ensure that invitations to the OAU to participate in election observation or monitoring are sent at least two months before the date of the election.
4. Member States should refrain from imposing any fees and/or charges on OAU observers i.e. registration/accreditation fees etc and facilitate easy access of observers/monitors to locations of electoral events/activities and unhindered in the performance of their tasks.
5. The General Secretariat shall have the right to decline invitations to monitor elections which in its considered opinion, do not measure up to the normative standards enunciated in this Declaration.

VI. ROLE AND MANDATE OF THE GENERAL SECRETARIAT

Further request the OAU Secretary General to take all necessary measures to ensure the implementation of this Declaration by undertaking, in particular, the following activities:

- a) Strengthen its role in the observation and monitoring of elections within the legal framework of the host country, in

accordance with the memorandum of understanding reached with that country;

- b) Mobilize extra-budgetary funds to augment the General Secretariat resource base so as to facilitate the implementation of this Declaration;
- c) Undertake a feasibility study on the establishment of a Democratization and Electoral Assistance Fund, to facilitate a successful implementation of this Declaration.
- d) Undertake a feasibility study on the establishment within the OAU General Secretariat of a Democratization and Election Monitoring Unit that will also discharge issues on good governance;
- e) Compile and maintain a roster of African Experts in the field of election observation and monitoring and democratization in general in order to deploy competent and professional observers and to avail itself of their services whenever necessary. Member States on their part are requested to assist by making the names of their experts available to the General Secretariat;
- f) Work out better standards of procedures, preparations and treatment for personnel selected to serve on OAU observer missions.
- g) Promote cooperation and work in partnership with African Organizations and International Organizations, as well as national institutions, non-governmental Organizations and civil society groups involved in the elected monitoring and observation work.
- h) Publish and make the General Secretariat Reports on the observation/monitoring of elections and other related activities open to all Member States and the public at large, as a means of consolidating electoral and democratic processes on the continent.