

**Third International Meeting on the
Implementation of the Declaration of Principles for International Election
Observation**

Maputo, Mozambique, October 23-24, 2008

Summary of Proceedings

Table of Contents

- I. **Executive Summary**
- II. **Opening Remarks**
- III. **Session One: Recent Elections and Experiences in the Use of the Declaration**
Facilitator: Angela Bargellini - United Nations Electoral Assistance Division (UNEAD)
Presenters: Belinda Musanhu – Electoral Institute of Southern Africa (EISA) on Zimbabwe, Gerald Mitchell OSCE-Office of Democratic Institutions and Human Rights (ODIHR) on the Caucasus, Miguel de Brito (EISA) on Mozambique
- IV. **Session Two: Developing a Strategic Vision for the Declaration**
Facilitator: Titi Pitso (EISA)

Working Group One: *Effective Follow-up to Election Observation Missions* led by Belinda Musanhu (EISA)
Working Group Two: *Effective Monitoring of Women’s Participation* led by Julia Brothers of the National Democratic Institute (NDI)
Working Group Three: *More Effective Election Observation Based on the Declaration of Principles* led by Avery Davis-Roberts of The Carter Center (TCC)
Working Group Four: *Effective Facilitation of Communication, Coordination and Harmonization among Endorsing Organizations* led by Angela Bargellini (UNEAD)
- V. **Session Three: International Obligations for Democratic Elections**
Facilitator: Julia Brothers (NDI)
Presenters: David Carroll (TCC) and Avery Davis-Roberts (TCC)
- VI. **Session Four: Working Group Reports and Discussion**
Facilitator: Belinda Musanhu (EISA)
- VII. **Session Five: Future Plans and Next Steps**
Facilitators: Gerald Mitchell (ODIHR) and Angela Bargellini (UNEAD)

I. Executive Summary

From October 23-24, 2008, representatives of election observation organizations gathered in Maputo, Mozambique for the Third International Meeting of the Declaration of Principles for International Election Observation. The Electoral Institute of Southern Africa (EISA) convened the meeting, which included a number of international and regional organizations that have endorsed the *Declaration of Principles for International Election Observation*, potential endorser organizations and domestic monitoring organizations from the southern Africa region. Participants took part in five sessions, which included, among other issues, discussion of recent electoral events, the development of a strategic vision for the Declaration, improvements in observation methodology and the use of international legal commitments in observation. Attendees were able to share diverse experiences and best practices through session presentations and working groups. Participants agreed to a Fourth Implementation Meeting of the Declaration of Principles to be hosted by the OSCE Office of Democratic Institutions and Human Rights (ODIHR) in Warsaw, Poland in 2009.

II. Opening Remarks

Mr. Denis Kadima, Executive Director of EISA, welcomed participants to the Third International Meeting of the Declaration of Principles, expressing hopes that the meeting would allow groups to consider whether organizations are meeting the goals of the Declaration and would provide a sense of solidarity for the global community of observers. He commenced the meeting by encouraging a fruitful discussion to help take the Declaration to the next level.

Following Mr. Kadima's remarks, Secretary General Anders Johnsson, of the Inter-Parliamentary Union (IPU) thanked EISA for hosting the event. International observation, he said, is an expression of the international community's support of the principle that the will of the people shall be the basis for government. Johnsson noted the increase in election observation activities over the last decade as evidence of the international community's commitment to democratic governance. However, he urged participants to remain cognizant of new challenges, such as the emergence of electronic technologies and the advent of mass postal voting. Observers must also be aware of the need to formalize tools to ensure minority representation and gender equity in political systems.

Johnsson remarked that the Declaration helps tie observers together through a common understanding and framework for carrying out their work. While common standards or criteria for assessment have not been formalized, observer groups are developing and sharing their own standards for democratic elections. Johnsson discussed three general approaches to determining the integrity of an election: the first assesses a transfer of power and assumes that a loss by an incumbent signals a fair election; the second focuses on general issues of equality, studying institutional factors that may affect an election; the third utilizes the international and regional legal commitments of the state as a standard

for qualifying the electoral process. This final approach is advantageous, he noted, because it bases electoral standards on rights that the state has promised its citizens and concrete obligations to which a state has committed itself. Because these laws and commitments are not self-regulating, it is appropriate that monitors—including election observers and other actors, like the judiciary—track compliance. Johnsson concluded by noting that observers should continue the discourse and development of commitment-based standards, focusing in particular on the rule of law and the inclusion of women and minorities.

III. Session One

In Session One, presenters discussed case studies from four elections held in 2008 and the challenges those elections created for international observers – especially those endorsing the Declaration – and domestic monitors.

Zimbabwe: Belinda Musanhu of EISA presented the organization’s experience in the March 2008 Zimbabwe harmonized elections. Although other regional organizations, including the Pan-African Parliament (PAP) and Southern Africa Development Community Parliamentary Forum (SADC-PF) sent teams of observers, EISA saw the need for additional international perspectives. Despite many appeals to the Zimbabwean government and others, EISA was not accredited as an observer delegation. EISA chose to continue its plans for observation, however, to ensure that a credible analysis of the historical election could occur. The delegation, deployed as a “mission awaiting accreditation,” was not able to conduct all activities as normal: delegates entered the country using business and tourist visas; not all stakeholders—specifically, the ruling party and the election commission—would meet with the delegation and no press conferences were held. Despite these challenges, the group was able to meet with other relevant stakeholders; to observe on election day, and to release a preliminary statement electronically and to remain engaged in the process. Due to severe violence and a tense political environment, EISA was not able to field a full delegation for the runoff election in June, but they managed to stay engaged through staff member presence in other missions where EISA was providing technical assistance.

Participants noted that the Declaration expresses the importance of adapting methodology to best meet the specific local context, which EISA was able to do in Zimbabwe. The Declaration mandates a transparent approach to election observation, including the accreditation of observers; at the same time, some participants said, it obliges observers to be proactive and be able to contribute to the process. As observer groups are increasingly under siege, adaptive methodology will be of growing importance. For example, groups may better utilize their relationship with domestic monitoring organizations to obtain information on an election process or may be required to observe uninvited.

Participants considered the importance of receiving an invitation to observe. Often, some noted, states planning to commit fraud will not issue invitations to observers, which in

itself may warrant the observers' presence. Some groups - especially intergovernmental organizations - are bound by issues of state sovereignty and can only participate when an official invitation is issued. Other groups, however, may be able to observe without an official invitation. Discussions focused on striking a necessary balance between the distinct mandates of election observers to serve as witnesses to particularly contentious elections (even when an invitation may not be forthcoming) and maintaining transparency in observation activities. While all agreed that conducting observation in a transparent manner was paramount to the success of the work, many recognized that observers do often play a role of documenting and giving record to election activities. In this role, some participants wondered if engagement in problematic processes – even without formal accreditation – was a worthy way of giving testimony to an important process. Participants recognized that while the Declaration serves as a common basis among endorsing organizations, there is strength in the diversity of endorsers, allowing for creativity and adaptability in problematic processes.

The Caucasus: Mr. Gerald Mitchell of the OSCE-ODIHR discussed his organization's experience in the Caucasus in 2008, where ODIHR observed elections in Armenia, Georgia and Azerbaijan in joint delegations with parliamentary observer groups, including the OSCE Parliamentary Assembly (OSCE-PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP).^{*} In Georgia, the organizations had difficulty reaching agreement on the content of the statement, with some members of the delegation desiring a more positive statement than the facts on the ground would warrant. At the press conference following the election, the spokesperson for the joint delegation contradicted the tone of the statement, issuing a more positive assessment of the election. In Armenia, the delegation heard numerous accounts of voter intimidation, most of which they were unable to substantiate. They ultimately could not determine the accuracy of these accounts, which limited their ability to expose the seemingly endemic problem in a statement. In Azerbaijan, the joint delegation faced difficulties in coming to consensus on the statement. Some members of the delegation didn't want to include any negative assessment in the statement, despite the fact that the election was problematic. Ultimately, the press conference was delayed due to the inability to form consensus around the statement.

Mr. Mitchell noted that joint delegations - particularly with parliamentary organizations – have many advantages, including an increased public profile, an enhanced degree of political expertise and complementary roles of short and long term observers. However, joint delegations - especially with organizations that are not endorsers of the Declaration, or with organizations that may face political pressure - can also prove challenging in certain circumstances. When organizations in a joint delegation do not follow the same methodology, or when differing priorities inform analysis of an election, it can be difficult to speak with a single voice and the credibility of the overall assessment may be weakened.

^{*} Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) are endorsers of the Declaration of Principles for International Election Observation

Participants discussed aspects of the Declaration that could guide endorsing organizations that take part in joint delegations, especially in terms of methodological considerations, such as timing the press conference and issuing post-election reports. Some participants noted that there are occasional difficulties in working with parliamentary groups, which at times can face internal political pressure, and there was a general consensus that such problems tend to be generated by a few individuals who are hesitant to consider actual observations on the ground. Participants also noted that parliamentarians and other political leaders, including those no longer holding office, play a crucial role in election observation by identifying signs of political manipulation and fraud, adding different perspectives to statements and helping to publicize observations and findings.

Discussions also focused on Azerbaijan as an example of an election in which a boycott by the opposition party threatened to damage the credibility of the election by effectively reducing the number of contesting parties and removing a real choice. Participants discussed the possible repercussions of engaging in countries where elections are not legitimately competitive.. There is a fear that observation in such states would be construed as acceptance or endorsement of a severely flawed process. However, it was noted that even in such countries, there is a strong need for the electoral process to be effectively and impartially documented. Observer organizations may choose to work in such states precisely for the purpose of reporting on the flawed process and possibly improving it.

Mozambique: Mr. Miguel de Brito of EISA commented on recent changes to the Mozambican election law and their potential effect on international and domestic election monitoring organizations. He expressed concerns with the composition of the Election Commission; it is now less transparent, and many believe designated nonpartisan positions are filled by those with a bias towards the government. Problematic changes include the restriction of observer access to a specific constituency, an unclear and more difficult accreditation process for observers, the required disclosure of observer coverage areas to the EC, and the requirement that observers only issue a public statement *after* official election results are announced. The changes also provide for the possibility that the Election Commission may monitor and even accompany observers in their deployment.

Participants noted that legal restrictions on observers—both domestic and international—are a growing trend. Observer organizations should advocate strongly for fair, inclusive rules and closely monitor reforms to the election code and observer guidelines. Decisions about engagement in electoral observation may be based in whole or in part upon the implementation of overtly restrictive codes so their effect on international and domestic observers may be assessed. Where possible, international observers should reinforce the efforts of domestic observer organizations, especially in those countries where government legislation seeks overt control of civil society groups and the limitation of their observation activities.

IV. Session Two

During Session Two, participants broke into working groups to discuss the topics listed below. Each group presented its findings to meeting participants during Session Four.

Working Group One: *Effective Follow-up to Election Observation Missions* led by Belinda Musanhu (EISA)

Working Group Two: *Effective Monitoring of Women's Participation* led by Julia Brothers (NDI)

Working Group Three: *More Effective Election Observation Based on the Declaration of Principles* led by Avery Davis-Roberts (TCC)

Working Group Four: *Effective Facilitation of Communication, Coordination and Harmonization among Endorsing Organizations* led by Angela Bargellini (UNEAD)

V. Session Three

Mr. David Carroll and Ms. Avery Davis-Roberts presented the Carter Center's [collaborative efforts to articulate criteria for assessing elections based on public international law.](#) While many organizations consider international and regional obligations in their election analysis, the Carter Center is working to create a systematic method of analysis that utilizes indicators for democratic elections based on international and regional standards and legal obligations. Drawing from international standards, such as the Universal Declaration on Human Rights and the International Covenant for Civil and Political Rights, and relevant regional conventions, they relate each obligation to a constituent aspect of the electoral process. Their preliminary work shows that observer groups already analyze most major areas of electoral issues relevant to obligations in international law. Ultimately, they hope to provide a basis for identifying common criteria for evaluating elections and help harmonize assessment criteria. In electoral processes where countries are not obligated by commitments, either because laws do not exist or because countries have not adopted commitments, observers can still make recommendations based on best practices.

Recurring throughout the discussion was the role of best practices in the assessment of elections. Participants agreed that best practices are often illustrative of the actions election administrators could take in more successfully implementing their mandates. However, Ms. Davis-Roberts warned against confusing best practices with state-based obligations, as such obligations have been self-selected by states and represent commitments on the part of governments. Participants commented that areas like media and campaign finance may be more difficult to relate to international or regional law; assessments of such areas might need to be supplemented by applicable best practices. Mr. Carroll expressed his agreement with this point but reaffirmed that an obligation-based approach will help observer groups to distinguish between state obligations, which

can be considered state-accepted criteria for credible elections, and international best practices, which can be considered recommendation points for improved conduct of elections. One participant noted that organizations may face difficulties utilizing this methodology in countries that have not yet implemented obligations, particularly in emerging democracies. Participants discussed how to practically apply this tool within observer delegations, asking if it would necessitate recruiting observers with a legal background. Mr. Carroll responded, noting the importance of expertise within the core team to help utilize this tool and method of analysis, and the need to better train observers to understand these tools.

VI. Session Four

In Session Four, spokespersons for the Session Two working groups presented the discussants' findings to meeting participants.

Working Group One: *Effective Follow-Up to Election Observation Missions*

Presented by Steven Griner of the Organization of American States (OAS)

In order to make observation follow-up more effective, discussants suggested that organizations increase institutional cross-coordination between election observers and implementers of reform – whether they are other observer organizations or technical assistance organizations. This coordination could include better utilization of existing observer reports by and technical advisors, as well as the tracking of recommendations of other observation and domestic monitoring organizations. Also, groups should move towards a more comprehensive approach focusing on the electoral cycle, rather than singular electoral events, to better focus on long term reforms. Organizations should consider the wider dissemination of observer reports and post-election dialogue with electoral actors as a necessary part of the observation process. Discussants also noted the importance of sharing reports with a broader audience, suggesting the formation of an online clearinghouse for statements and reports produced by endorsing organizations.

Post-election activities are usually challenging due to limited financial and human resources. To compensate for these limitations, many groups cited specialized projects - such as EISA's Electoral Barometer, which in essence tracks, assesses and publicly reports on whether or not recommendations from past statements (including the EMB's own report) have been implemented, ODIHR's post election legal reviews, and electoral dispute resolution - as examples of less resource-intensive post election activities. Observer organizations and technical assistance organizations should also utilize international or regional mechanisms when implementing or proposing electoral reforms.

Some participants noted that follow-up activities are a way to contribute to the process, moving beyond simply criticizing or praising an election to providing direct assistance to stakeholders. Other participants countered, however, that the role of international observers is not necessarily that of technical advisors. Bearing record and documenting the process are in and of themselves valuable contributions of election observation. One

participant stated that both approaches are worthwhile: in a developing political system, the role of watcher is important; once a political system becomes more developed, recommendations and follow-up become more valuable.

Working Group Two: *Effective Monitoring of Women's Participation*

Presented by Julia Brothers of the National Democratic Institute (NDI)

Discussants began by exploring existing methods for effective monitoring of women's participation and electoral rights of women. These methods include ensuring a gender-balanced delegation, including gender equality advocates in mission briefings, employing handbooks and trainings on women's participation, and analyzing gender issues through core team experts, long-term observers, and specialized questions on election day checklists. However, use of these methods is often limited by a lack of resources, a narrower scope of observation activities, competing criteria in delegate selection that supersedes gender-balance and a general reluctance of international observers to prioritize gender

When assessing barriers to women's participation in elections, observers should take all obstacles into account, whether they be socio-economic, traditional, religious, structural, or legal. The group recommended that observer organizations institutionalize a gendered perspective by including a gender analyst in all missions; incorporating gender materials and speakers in briefings, providing trainings on monitoring participation, and generally sensitizing observers to the importance of monitoring women's participation. Additionally, organizations should make better use of existing resources on gender issues, as a wealth of information already exists in domestic observer reports and monitoring manuals. Organizations in general should take a rights-based approach in accordance with regional and international standards and should extend observation missions to better observe pre-election conditions that can impact women's participation.

ODIHR representatives explained that their gender specialists cooperate closely with media and legal experts, analyzing the data they collect from a gender perspective. Participants generally agreed that making gender and women's issues more prominent in the statement would assist local stakeholders to implement reforms and introduce activities that would promote women's participation. Many indicated a desire to increase women's participation within delegations, especially in leadership positions. Additionally, participants suggested that observers develop strategies to assess political participation of other excluded groups, such as minorities and people with disabilities, and suggested that discussions on the participation of such groups are addressed in future meetings.

Working Group Three: *More Effective Election Observation Based on the Declaration of Principles*

Presented by Avery Davis-Roberts of the Carter Center (TCC)

Discussants presented their findings on more effective election observation, based on the Declaration of Principles, specifically through the use of human rights mechanisms and the strategic implementation of targeted observation missions. The group recommended that observer organizations submit findings to treaty monitoring bodies or regional and international mechanisms or institutions, submitting joint reports when appropriate. While discussants acknowledged the benefits of using human rights mechanisms, they recognized that political sensitivities, fear of violence or retribution (in the case of domestic monitors), and a general lack of familiarity with such mechanisms could impede their efforts.

Participants then expanded upon the possibility of submitting observer reports to human rights monitoring groups or international courts. They noted that the procedure and rules for submission will vary and international organizations may not always have standing with certain courts. Some participants questioned the legal implications of directly submitting reports to international courts or courts of law, speculating that an observer organization may then be summoned as an official witness in related court proceedings.

Discussants addressed the strategic use of targeted observation missions – such as a specialized observation on media or voter registration – agreeing that adaptability in the scope, duration, and size of a delegation can be valuable for organizations. That being said, organizations must be transparent regarding the scope and duration of the mission – as well as the criteria used to determine number of observers on mission – in order to manage public expectations and perception.

Working Group Four: Effective Facilitation of Communication, Coordination and Harmonization among Endorsing Organizations

Presented by Steve Griner of the Organization of American States (OAS)

The Group presented on effective methods of communication, coordination and harmonization among endorsing organizations, introducing the idea of an online, publicly accessible clearinghouse for election observation statements and reports. Discussants suggested partnering with the ACE Project – and ACE regional partners – to house and maintain the online clearinghouse. In accordance with ACE's preferences, the website could include either the reports of endorsing organizations only or those of all international observers. Eventually, ACE may be used as a forum for communication among endorsing organizations to coordinate plans in specific countries.

Additionally, the group agreed that annual meetings should continue for now as they facilitate communication and support among endorsers. Discussants emphasized the importance of the informal structure of the Declaration community, which makes participation of intergovernmental groups possible. The group said that new membership should be encouraged, with limited requirements such as endorsing the Declaration and possibly subjecting election statements for peer review. Finally, discussants agreed that the next meeting would be hosted by the ODIHR. The Carter Center, NDI, and UNEAD

will continue to assist in the organization and administration of meetings, working closely with the host organization.

Participants addressed the idea of joint statements, with endorsing groups coming together to express solidarity over problematic elections or restrictive treatment of international or domestic observers such as the statements released in reaction to the election in Zimbabwe, by the Carter Center and EISA, and in reaction to the restrictions ODIHR faced in Russia. While participants agreed that solidarity statements were an important tool for the community of international observers, some endorsers - especially intergovernmental organizations - would find it difficult to participate in such statements,.

VII. Session Five

In Session Five, Mr. Gerald Mitchell of ODIHR summarized general topics of previous and ongoing discussions among the endorsing organizations during implementation meetings, including:

- The Declaration as a living document.
- The use of the Declaration as a minimalist document versus a maximalist document
- The better promotion of the Declaration to the public and the media
- The value of periodic implementation meetings
- Support and solidarity among the endorsing organizations during problematic situations and elections
- The engagement of election commissions in the Declaration implementation process
- The centralization of endorsing organizations' election reports
- The role of domestic monitors in the Declaration process and whether a parallel Declaration should exist
- The exchange of best practices and lessons learned among endorsing organizations
- The inclusion of new organizations in the Declaration process and the related process of statement peer review
- The relationship with the United Nations, particularly the UN Human Rights Committee
- The opportunity to invite representatives of fellow endorsing organizations to participate in observation missions
- The possibility of organizations implementing training programs for observers

Participants confirmed that the Declaration is of value and that the practice of regularly bringing together the community of observers is especially valuable. All endorsing organizations should be encouraged to attend implementation meetings. To garner more publicity for the Declaration, external groups, such as donors, media, domestic monitoring organizations and other interested parties may be invited to future

implementation meetings. Many noted the importance of moving the agenda forward, focusing on important issues such as gender and human rights. Participants committed to prioritizing the observation of gender and human rights issues and to share advances in such methodology in future implementation meetings.

Some participants expressed concern over the recent trend of power-sharing arrangements, calling it ‘government not through election, but through negotiation.’ As a community of observers, many said, endorsing organizations should discourage this trend and try to identify warning signs in the pre-election period. Some participants questioned how organizations can move from the role of observer to the role of conflict manager and diplomat. One participant suggested that observer groups can play a more active role while still remaining ‘watchers’ by sharing information and analysis with groups possessing more political capital, such as intergovernmental organizations. These influential groups would be more capable of implementing observer recommendations and utilizing their information.

For future topics of discussion, many participants supported the idea of continuing working groups and examining case studies, which demonstrate the varying perspectives and experiences of endorsing organizations. There is also a strong interest in directly addressing technical issues like campaign finance, electoral disputes, repression of observers and post-election monitoring. Participants also suggested holding further discussion on the mandates and roles of observers groups—exploring whether they are record keepers, activists, or negotiators—especially in volatile and quickly evolving environments, such as Kenya.

In closing, Mr. Mitchell suggested that next year’s meeting include discussions of the multifaceted nature of election observation, focusing particularly on the additional activities observers can utilize in problematic elections, such as drawing attention to early warnings signs or mediating electoral disputes.